

**U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC**

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In the matter of:)	
)	
American Honda Motor Company, Inc.,)	SETTLEMENT AGREEMENT
)	AED/MSEB # 7189
Respondent.)	
)	
)	

This Administrative Settlement Agreement is made and entered into by and between the United States Environmental Protection Agency (“EPA”) and American Honda Motor Company, Inc. (“Honda”), regarding compliance by Respondent with the requirements of the Clean Air Act (“the Act”) and the regulations promulgated thereunder at 40 C.F.R. Part 90.

Purpose

1. The purpose of this Administrative Settlement Agreement (“Agreement”) is to resolve and remediate any and all claims by EPA under the Act and 40 C.F.R. Part 90 (EPA’s “Nonroad Regulations”), arising out of the importation of 4,329 spark ignition (“SI”) nonroad engines and the equipment containing those engines, as described in Paragraph 9 of this Agreement (“Subject Engines”), while ensuring that future violations are avoided.

Definitions

2. For purposes of this Agreement, the following definitions apply:
 - a. *Applicable regulation and dates:* 40 C.F.R. Part 90 is applicable to nonroad spark-ignition engines with a gross power output at or below 19 kilowatts, built after the 1997 model year.

- b. *This matter*: as used in this Agreement, “this matter” means the Respondent’s importation of the 4,329 Subject Engines and any civil liability that may apply to such alleged violations of the Act and the implementing regulations at 40 C.F.R. Part 90.
- c. *Certificate of Conformity*: the document issued by EPA to an engine manufacturer of nonroad spark-ignition engines under 40 C.F.R. § 90.106, after EPA determines that the manufacturer’s application is complete and that the engine family meets the applicable requirements of 40 C.F.R. Part 90 and the Act. Issuance of the Certificate of Conformity permits production and introduction into commerce of engines built in accordance with the manufacturer’s application after the date of the Certificate and before expiration of the covered model year.
- d. *Certified engine*: a nonroad engine built after the applicable date of the regulations, and covered by a Certificate of Conformity.
- e. *Uncertified engine*: a nonroad engine built after the applicable date of the regulations but which is not covered by a Certificate of Conformity issued by EPA.

Statutory Authority

- 3. Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), prohibit the sale, offering for sale, introduction, or delivery for introduction into commerce, or the importation of any nonroad engines, including engines contained in nonroad equipment or nonroad vehicles, unless the engine or vehicle is covered by a Certificate of Conformity issued and in effect.

Nonroad SI Engine Regulatory Authority

- 4. 40 C.F.R. § 90.1003(a)(1)(ii) prohibits the following acts and the causation thereof: “The importation into the United States [of] any new nonroad [SI] engine manufactured after the applicable effective date under this part unless such engine is covered by a certificate of conformity....”

5. 40 C.F.R. § 90.1003(a)(4)(ii) prohibits the sale, introduction, or delivery into commerce by an engine manufacturer of a nonroad SI engine manufactured after the applicable effective date of the regulations, unless a label is affixed to the engine in accordance with 40 C.F.R. § 90.114.
6. 40 C.F.R. § 90.3 defines an engine manufacturer as any person engaged in the manufacturing or assembling of new nonroad SI engines or importing such engines for resale, or a person acting for, and under the control of, such person.
7. 40 C.F.R. § 90.114 requires the original engine manufacturer to affix, at the time of manufacture of a certified nonroad SI engine, a permanent and legible label identifying each nonroad engine. The label must be legible and readily visible to the average person after the engine is installed in the equipment.

Violations

8. On February 18, 2005, Respondent voluntarily self-reported to EPA the importation of 4,272 uncertified nonroad SI Subject Engines into the United States in that the Subject Engines were identical to engines certified to the requirements in 40 C.F.R. Part 90 in all respects but did not have the required EPA label.
9. Honda provided additional information concerning these alleged violations to EPA on June 17, 2005, in response to EPA's Request for Information Pursuant to Section 208 of the Clean Air Act, dated April 20, 2005. Honda's Response stated that 3,974 pieces of equipment containing the Subject Engines, described in the Table below, had been sold.

Subject Engines Table

Subject Engine Model & Type	Quantity	Serial Numbers
GX610K1	1,285	2011765-2027977
GX670BXF	53	1007105-1015693
GX22 TA	2,560	1236784-1237925
GX22 SA	76	1241641-1243339

10. The Subject Engines have a rated power below 19 kilowatts and thus are subject to and regulated by 40 C.F.R. Part 90.
11. As a result of the foregoing investigation into Respondent's compliance with the Nonroad Regulations, EPA has determined that: Respondent is the importer of the Subject Engines; none of the Subject Engines were certified as required pursuant to 40 C.F.R. § 90.106 because none of the Subject Engines were equipped with the permanent, legible identification labels required pursuant to 40 C.F.R. § 90.114.
12. Based upon the foregoing, EPA has determined that Respondent is liable for a minimum of 3,974 violations of Sections 203(a) and 213(d) of the Act, resulting from 3,974 violations of 40 C.F.R. § 90.1003(a)(1)(ii) and 40 C.F.R. § 90.1003(a)(4)(ii) of the Nonroad Regulations.

Corrective Action

13. Honda has taken a number of appropriate steps to prevent future occurrences of nonconformity with federal regulations. Honda has overhauled its ordering and inventory systems and has put in place a computerized coding system.
14. In remediation, Respondent agrees to provide full warranty coverage for the Subject Engines for an additional two years, starting January 1, 2008, and ending December 31, 2009. Notice is to be provided via
 - a. letter to dealers, and
 - b. website for owners.

Audit Policy Determination

15. Honda self-disclosed the violations at issue in this matter and has asserted that EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," 65 Fed. Reg. 19,618 (Apr. 11, 2000) ("Audit Policy") applies.
16. EPA issued the Audit Policy to encourage regulated entities to conduct voluntary compliance evaluations and to disclose and promptly correct violations. As an incentive for

companies to undertake self-policing, self-disclosure, and self-correction of violations, EPA may substantially reduce or eliminate gravity-based civil penalties; however, EPA retains its discretion to recover any economic benefit gained as a result of non-compliance.

17. Upon consideration of relevant information about Honda's self-disclosed violations, EPA concludes that Honda has not satisfied all of the conditions set forth in the Audit Policy, in particular, that the disclosure was not prompt in that it was several years outside the 21- day disclosure time specified in the Audit Policy. EPA has, however, taken Honda's cooperation in self-disclosing the violations into consideration in determining the penalty in this matter.

Civil Penalty

18. Respondent shall pay to the United States a civil penalty of two hundred and ten thousand dollars (\$210,000) ("EPA penalty") in satisfaction of the alleged violations described herein, provided Respondent successfully completes the terms of this Agreement.

19. Respondent agrees to pay the \$210,000 civil penalty to the United States of America within thirty (30) calendar days of the effective date of this Agreement ("penalty due date"), but not before the effective date. Late payment of the EPA penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. Respondent agrees to pay the amount by either:

- a. Certified check or cashier's check payable to the "United States of America," and mailed via United States Postal Service to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
ATTN: AED/MSEB # 7189

Simultaneously, a photocopy of the check shall be faxed to 202/564-0015 to the attention of Angela E. Fitzgerald. This check shall be identified with the case number and Respondent's name; or

- b. Respondent may make an online payment through the Department of the Treasury by

visiting WWW.PAY.GOV. In the "Search Public Form" field, enter "SFO 1.1, click "EPA Miscellaneous Payments - Cincinnati Finance Center" and complete the "SFO Form Number 1.1." Within twenty-four hours of payment, Respondent shall fax a copy of the online payment receipt to Angela E. Fitzgerald at 202/564-0015.

Notice

20. A copy of all correspondence and certifications to EPA concerning this Agreement shall be sent to either:

(By Regular Mail)

Angela E. Fitzgerald
U.S. EPA
Mail Code 2242A
1200 Pennsylvania Ave., NW
Washington, DC 20460
Attn: AED/MSEB # 7189

(By Courier Service)

Angela E. Fitzgerald
U.S. EPA
Ariel Rios South, Room 1117A
1200 Pennsylvania Ave., NW
Washington, DC 20004

General Provisions

21. This Agreement becomes effective upon the date executed by EPA (effective date of the Agreement), after which a copy will be returned to Respondent.
22. Notwithstanding any other provision of this Agreement, the parties agree that upon default or failure of Respondent to comply with the terms of this Agreement, EPA may refer this matter to the United States Attorney General for collection pursuant to Section 205(c)(6) of the Act, 42 U.S.C. § 7524(c)(6), commence an action to enforce this Agreement or to recover the civil penalty pursuant to Section 205 of the Act, or pursue any other remedies available to it. Respondent expressly waives its right to assert that such engines are certified or exempt from the certification requirements, or that such action is barred by 28 U.S.C. § 2462, other statutes of limitation, or other provisions limiting actions as a result of passage of time.
23. The parties represent that the individual or individuals executing this Agreement on behalf of Respondent are authorized to do so on behalf of Respondent and that such execution is intended and is sufficient to bind Respondent, its agents, assigns, or successors.
24. Respondent waives its rights, if any, to a hearing, trial or any other proceeding on any issue of

fact or law relating to the matters consented to herein.

25. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
26. This Settlement is contingent upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to EPA under this Agreement and the prompt and complete remediation of any alleged violations in accordance with this Agreement.

Stipulated Penalties

27. For failure to comply with the terms of this Agreement on a timely basis Respondent shall pay stipulated penalties to the United States as follows:
 - a. For failure to pay the penalty, or provide proof thereof, pursuant to Paragraphs 18 and 19, \$250.00 per day; and
 - b. For failure to provide remediation as described in Paragraphs 13 and 14, \$250.00 per day.
28. All stipulated penalties under Paragraph 27 of this Agreement shall begin to accrue on the day after performance is due, and shall continue to accrue until the day compliance is achieved. Nothing herein shall prevent simultaneous accrual of separate stipulated penalties for separate violations of this agreement. All stipulated penalties shall be paid in accordance with Paragraph 19 and shall be paid within thirty (30) calendar days of written demand by EPA. Stipulated penalties shall not be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedy or sanction available by virtue of Respondent's violation of this Agreement or of the statutes or regulations upon which the Agreement is based.

Effect of Agreement

29. Upon completion of the terms of this Agreement, the alleged violations involved in this matter shall be deemed terminated and resolved. Nothing herein shall limit the right of EPA to proceed against Respondent in the event of default or noncompliance with this Agreement; for violations of Section 203 or 213 of the Act, 42 U.S.C. §§ 7522 or 7547, which are not the subject matter of this Agreement; or for other violations of law; or with respect to other matters not within the scope of the Agreement. This Agreement in no way affects or relieves

Respondent of responsibility to comply with other state, federal or local laws or regulations.

The following agree to the terms of this Agreement:

American Honda Motor Company, Inc.

By: Akimasa Yasuoka
Typed or Printed Name:
Typed or Printed Title:

Date: 12/11/2007

Settlement Agreement In the Matter of American Honda Motor Company, Inc.
AED/ MSEB # 7189

U.S. Environmental Protection Agency

By: Adam M. Kushner

Adam M. Kushner, Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance

Date: 10/25/07