

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )
Honda Development & )
Manufacturing of America, LLC )
Lincoln, Talladega County, Alabama ) CONSENT ORDER NO. 25- -CAP
ADEM Air Facility ID No. 309-0050 )

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("Department" or "ADEM") and Honda Development & Manufacturing of Alabama, LLC ("Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-17, as amended, the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

- 1. The Permittee operates an automobile manufacturing plant, Air Division Facility No. 309-0050 ("Facility"), located in Talladega County in Lincoln, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to Ala. Code §§ 22-22A-4(n), as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, as amended. In addition, the Department is authorized to administer and enforce the

provisions of the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, *as amended*.

4. On March 10, 2023, the Department issued the current Major Source Operating Permit No. 309-0050 (“MSOP”) to the Permittee, subject to certain conditions and requirements. The Motor Vehicle Assembly Plant with Water Curtains, RTO Fluidized Bed Carbon Adsorption System with RTO2 and Low NOx Burners (Plant No. 2) (“FBCA”) was identified in the current MSOP as Emission Unit No. 10. The Plastic Parts Coating Line with Fluidized Carbon Adsorption System with RTO2 (7056) (Plant No. 2) (“FBCA”) was identified in the current MSOP as Emission Unit No. 11.

5. Permit Proviso Section No. 2.6 for Unit No. 10 states, in part, that “This source is subject to the Best Achievable Control Technology (BACT) limits below: FBCA shall achieve a 95% Removal Efficiency for Volatile Organic Compounds (VOC).”

6. Permit Proviso Section No. 2.5 for Unit No. 11 states, in part, that “This source is subject to the Prevention of Significant Deterioration (PSD) Synthetic Minor limits below: FBCA shall achieve a 95% Removal Efficiency for VOC.”

#### *DEPARTMENT'S CONTENTIONS*

7. On April 26, 2023, the Permittee was scheduled to complete a three-year retest of the FBCA to determine compliance with the BACT requirement in the MSOP. Due to instrumental data indicating the FBCA adsorption system was not operating at the required removal efficiency, the performance test was not started. The Department considers the instrumental data that indicated the FBCA adsorption system was not meeting the required removal efficiency and the Permittee’s subsequent decision to not perform the scheduled stack test to be indicative of a violation of the permit limit.

8. The Permittee submitted a letter on April 26, 2023, that described the reasons for not completing the required testing and possible causes of why the control system was not operating correctly. In this letter, the Permittee stated that the bead density in the FBCA was above the manufacturer suggested range as the main reason for poor destruction efficiency.

9. A subsequent test was conducted on May 23, 2023, after a carbon change on the FBCA which indicated a destruction efficiency of 99.8%.

10. A Notice of Violation (“NOV”) was issued to the Permittee on October 25, 2023, for the failure to test and indications of the control device not meeting the required destruction efficiency. The Department received the response to the NOV from the Permittee dated November 17, 2023.

11. The Permittee also installed a temporary on-site trailer monitoring station for the period of January 13, 2024, through April 17, 2024.

12. The Permittee performed additional testing on the FBCA on April 5, 2024, which showed a destruction efficiency of 92.5%, and on May 21, 2024, which showed a destruction efficiency of 76.2%, in order to gather information, develop a temporary monitoring plan, and formulate options to achieve compliance with the MSOP.

13. The Permittee submitted a monitoring plan (Monitoring Plan) for the FBCA dated June 27, 2024, stating its plans to conduct quarterly testing.

14. Pursuant to Ala. Code § 22-22A-5(18) c., *as amended*, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such

person's efforts to minimize the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Department considers the Permittee's failure to maintain the required destruction efficiency and complete the required testing to be a serious violation.

B. THE STANDARD OF CARE: The Permittee did not exhibit the required standard of care by intermittently maintaining the required destruction efficiency since the incomplete test of April 26, 2023.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is not aware of any economic benefits the Permittee may have gained as a result of the violations referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIROMENT: The Permittee initiated a monitoring plan at the beginning of 2024 to gather stack emission information and formulate options to come into continuous compliance with the MSOP.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department previously issued the Permittee Consent Order No. 18-046-CAP to the Permittee on March 1, 2018, for a separate incident for a different regenerative thermal oxidizer (RTO) not maintaining the required minimum operational temperature.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty to resolve this matter amicably without incurring the unwarranted expense of litigation.

15. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty is appropriate (*See* “Attachment A”, which is hereby made a part of Department’s Contentions).

16. The Department neither admits nor denies Permittee’s Contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without unwarranted expenditure of State resources in prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

#### *PERMITTEE’S CONTENTIONS*

17. The Permittee neither admits nor denies the Department’s contentions.

18. Prior to the events of April 26, 2023, described herein, the Permittee believed that the FBC was being operated in accordance with OEM operational recommendations and its permit obligations with regard to operation and monitoring of the equipment. Since April 26, 2023, the Permittee has engaged in significant activities to return to and remain in compliance

with its permit obligations. In order to resolve the alleged violations cited herein, the Permittee consents to abide by the terms of this Consent Order and pay the civil penalty assessed herein.

*ORDER*

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$45,000.00 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

Or, in the alternative, payment of the civil penalties assessed herein shall be made in the form of a wire transfer payable to the Alabama Department of Environmental Management pursuant to the wire transfer instructions to be provided to the Permittee by the Department.

C. The Permittee has submitted an Engineering Plan approved by the Department that identifies the steps necessary for the Permittee to remain in compliance with the Permit. The Permittee shall submit modifications to the Engineering Plan, if required, so that they are received by the Department no later than thirty days after the Permittee becomes aware a modification is necessary.

D. The Permittee shall abide by the Monitoring Plan submitted on June 27, 2024, until a replacement control device is issued an Air Permit, installed according to Department regulations and the Air Permit, becomes operational, and is shown to be capable of achieving the requirements of the issued Air Permit. The results of any testing required by this Monitoring Plan shall be submitted to the Department within sixty days of any required testing.

E. If the Permittee fails to achieve the required 95% destruction efficiency during any test performed as required by the Monitoring Plan, the frequency of testing shall be increased to once per six weeks. Upon achieving the required 95% destruction efficiency for two consecutive six-week testing cycles, the Permittee may return to the quarterly testing cycle outlined in the Monitoring Plan.

F. The Permittee agrees that, after the effective date of this Consent Order, it will pay stipulated civil penalties for each occurrence it fails to meet any milestone requirements set forth in the Monitoring Plan or for each failed test. The stipulated civil penalty for each occurrence shall be \$50,000.

G. The parties agree that the cumulative stipulated penalties described in Paragraph F shall not exceed \$250,000. Once stipulated penalties of \$50,000 are due to the Department and violations continue to occur, or should violations continue to occur 730 days after the effective date of this Consent Order, whichever comes first, then the Department shall be free to issue additional orders or to file suit against the Permittee in the Circuit Court of Montgomery County or in another court of competent jurisdiction to enforce compliance of this Order.

H. The Permittee agrees to submit to the Department, payment of stipulated penalties due so that they are received no later than thirty days following the date of realization that a stipulated penalty is due.

I. The Permittee agrees to comply with all other requirements of ADEM Administrative Code Div. 335-3 and the MSOP immediately upon the effective date of this Order and continuing every day thereafter.

J. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

K. The parties agree that, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

L. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.



M. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increase costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

N. The Department and the Permittee agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances reference herein. Should additional facts and circumstances be discovered

in the future concerning the Facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if future orders, litigation, or other enforcement action addresses new matters not raised in this Consent Order.

O. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of the same.

P. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

Q. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

R. The Department and the Permittee agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

S. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.


T. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit

under Federal, State, or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

HONDA DEVELOPMENT &  
MANUFACTURING OF AMERICA, LLC

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

  
\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
Lance R. LeFleur  
Director

Lamar Whitaker  
\_\_\_\_\_  
(Printed Name)

Vice President - Plant Lead  
\_\_\_\_\_  
(Printed Title)

9/26/24  
\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date Executed)

**Attachment A**

**Honda Development & Manufacturing  
of America, LLC  
Lincoln, Talladega County  
ADEM Air Facility ID No. 309-0050**

<b>Violation*</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violations*</b>	
Failure to maintain required destruction efficiency	3	\$11,000	\$3,000	\$1,000	
<b>TOTAL PER FACTOR</b>		<b>\$33,000</b>	<b>\$9,000</b>	<b>\$3,000</b>	<b>\$45,000</b>

<b>Adjustments to Amount of Initial Penalty</b>	
Mitigating Factors* (-)	
Ability to Pay* (-)	
Other Factors* (+/-)	
<b>Total Adjustments (+/-)</b> <i>Enter at Right</i>	<b>\$0</b>

<b>Economic Benefit* (+)</b>	\$0
<b>Amount of Initial Penalty</b>	\$45,000
<b>Total Adjustments (+/-)</b>	\$0
<b>FINAL PENALTY</b>	\$45,000

Footnote:

*\*See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.*