

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

In the Matter of:

Suzuki Motor of America, Inc. and  
Suzuki Motor Corporation.

Respondents.

Docket No.

CAA-HQ-2016-8274

**CONSENT AGREEMENT**

**Preliminary Statement**

1. This is a civil administrative penalty assessment proceeding instituted under section 205(c)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7524(c)(1). The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
2. Complainant in this matter is the United States Environmental Protection Agency (“EPA”). On the EPA’s behalf, Phillip A. Brooks, Director, Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, is authorized by lawful delegation to institute and settle civil administrative penalty assessment proceedings under section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1). EPA Delegation 7-6-A (Aug. 4, 1994); Office of Enforcement and Compliance Assurance Redeflegation 7-6-A (March 5, 2013); Office of Civil Enforcement Redeflegation 7-6-A (March 5, 2013).
3. Respondents in this matter are Suzuki Motor of America, Inc. (“SMAI”) and Suzuki Motor Corporation (“SMC”). Respondent SMAI is an American corporation organized under the laws of the State of California, with a corporate campus at 3251 E. Imperial

Highway, Brea, California, 92821-6795. Respondent SMC is a Japanese corporation with headquarters in Shizuoka, Japan. Respondent SMAI imports and distributes highway motorcycles and other vehicles into the United States as a distributor for Respondent SMC. On April 1, 2013, pursuant to the Fifth Amended Plan of Liquidation Under Chapter 11 of the Bankruptcy Code of American Suzuki Motor Corporation (“ASMC”), SMAI acquired certain assets of ASMC. Prior to April 1, 2013, ASMC was the importer and distributor of highway motorcycles and other vehicles into the United States for Respondent SMC. Model Year (“MY”) 2012 Class III motorcycles manufactured by SMC, which were imported into the United States and sold, failed to meet the manufacturer fleet average EPA emission standard for on-highway motorcycles for that model year.

4. The EPA and Respondents, having agreed to settle this action, consent to the entry of this Consent Agreement and the attached Final Order before taking of additional testimony and without adjudication of any issues of law or fact herein, and agree to comply with the terms of this Consent Agreement and the attached Final Order.

#### **Jurisdiction**

5. This Consent Agreement is entered into under section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1), and the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Consolidated Rules”).
6. The EPA may administratively assess a civil penalty if the penalty sought is less than \$320,000. CAA § 205(c)(1); 42 U.S.C. § 7524(c)(1); 40 C.F.R. § 19.4.

7. The Administrator and the Attorney General jointly determined that this matter, although it involves a penalty amount greater than \$320,000, is appropriate for administrative penalty assessment. CAA § 205(c)(1), 42 U.S.C. § 7524(c)(1); 40 C.F.R. § 19.4.
8. The Environmental Appeals Board is authorized to issue consent orders memorializing settlements between the EPA and Respondents resulting from administrative enforcement actions under the CAA, and to issue final orders assessing penalties under the CAA. 40 C.F.R. § 22.4(a)(1); EPA Delegation 7-41-C.
9. The Consolidated Rules provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order. 40 C.F.R. §§ 22.13(b), 22.18(b).

#### **Governing Law**

10. This proceeding arises under Part A of Title II of the CAA, CAA §§ 202–219, 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including hydrocarbons, oxides of nitrogen (“NOx”), and particulate matter (“PM”). The Alleged Violations of Law, stated below, regard motor vehicles, specifically Class III motorcycles, and violations of section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), which prohibits a manufacturer from selling, offering for sale, introducing, or delivering for introduction into commerce a new motor vehicle unless such vehicle is covered by a certificate of conformity, and section 203(a)(2) of the CAA, 42 U.S.C. § 7522(a)(2), which prohibits failure to submit records to EPA. What follows is a summary of the law that governs these allegations.
11. Definitions:

- (a) “Motor vehicle” is defined in section 216(2) of the CAA, 42 U.S.C. § 7550(2), as “any self-propelled vehicle designed for transporting persons or property on a street or highway.”
  - (b) “Person” includes individuals, corporations, partnerships, associations, states, municipalities, and political subdivisions of a state. 42 U.S.C. § 7602(e).
12. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity; see also 40 C.F.R. § 86.407-78 (motorcycles).
  13. EPA issues certificates of conformity to vehicle manufacturers under section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles conforms to applicable EPA requirements governing motor vehicle emissions.
  14. Under section 202 of the CAA, 42 U.S.C. § 7521, EPA promulgated emission standards for PM, NO<sub>x</sub>, and other pollutants applicable to motor vehicles and motor vehicle engines.
  15. To obtain a certificate of conformity, an application must be submitted to EPA demonstrating compliance with the applicable emissions standards. The applicable requirements for on-highway motorcycles are codified at 40 C.F.R. Part 86, Subparts E and F.
  16. Specifically, 40 C.F.R. § 86.410-2006 establishes the emissions standards for 2006 and later MY motorcycles, including the applicable Hydrocarbons plus Oxides of Nitrogen (HC+NO<sub>x</sub>) standards for Class III Motorcycles. See 40 C.F.R. § 86.410-2006(a)(2).

17. For Class III motorcycles, EPA established an emissions limit of 1.4 g/km for HC+NOx for MY 2006 through MY 2009, and a limit of 0.8 g/km for MY 2010 and later. See 40 C.F.R. § 86.410-2006(a)(2).
18. Pursuant to 40 C.F.R. § 86.449, averaging may be used to comply with applicable HC+NOx emissions standards in 40 C.F.R. § 86.410-2006, according to the equation provided in 40 C.F.R. § 86.449(d)(1).
19. Vehicle manufacturers have the option of combining multiple engine families into an averaging set, certifying each engine family to a family emission limit (“FEL”), rather than the applicable HC+NOx emissions standard, and averaging the FEL of each of those engine families using the production volume of each engine family to meet (or be less than) the HC+NOx emissions standard. 40 C.F.R. § 86.449.
20. No emission credits may be banked for use in later model years, except as specified in 40 C.F.R. § 86.449(j).
21. Pursuant to 40 C.F.R. § 86.449(g), an end-of-year (“EOY”) report must be sent to EPA, which specifies the average emission level and any emission credits based on actual production volumes, and, if the average emission level is above the allowable average standard, the source of credits needed to offset any credit deficit. These reports must be sent to the Designated Compliance Officer within 120 days of the end of the model year. 40 C.F.R. § 86.449(g)(3).
22. A manufacturer who generates credits for banking purposes under 40 C.F.R. § 86.449(j), but does not timely submit its EOY reports may not use those banked credits until EPA receives and reviews those reports. 40 C.F.R. § 86.449(g)(4).

23. A manufacturer may correct an EOY report to increase its credit balance only if the discovery of the error and submission of the correction to the EPA occurs within 180 days of EPA's receipt of the original EOY report. 40 C.F.R. § 86.449(g)(5).
24. EPA may void a certificate *ab initio* for an emission family that relies on averaging if an EOY report is not submitted by the deadline. 40 C.F.R. § 86.449(g)(3).
25. EPA may also void a certificate *ab initio* for an emission family that relies on averaging if the manufacturer does not maintain the required records or provide information to EPA when EPA asks for that information. 40 C.F.R. § 86.449(i).
26. EPA may also void a certificate *ab initio* for an emission family in any case in which a manufacturer knowingly submits false or inaccurate information, or knowingly renders inaccurate or invalid any test data, or commits any fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity. 40 C.F.R. § 86.442-78(c).
27. A certificate that is voided *ab initio* is one that is considered never to have been granted and all engines or vehicles introduced into commerce under that certificate are considered noncompliant. 40 C.F.R. § 1068.30.
28. No additional new engines or vehicles may be introduced into commerce using a voided certificate, and the manufacturer or importer who imports, sells or introduces into commerce into the United States new engines or vehicles under the voided certificate is liable for such violations. CAA §§ 203, and 205, 42 U.S.C. §§ 7522, and 7524; 40 C.F.R. §§ 86.407-78, 1068.30, 1068.101, and 1068.125.

29. Persons violating section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), are subject to a civil penalty of up to \$37,500 for each violation. CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4.
30. Consumers who own a vehicle covered by a voided certificate may continue to use the vehicle.
31. Rather than referring a matter to the United States Department of Justice (“DOJ”) to commence a civil action, the EPA may assess a civil penalty through its own administrative process if the penalty sought is less than \$320,000 or if the EPA and DOJ jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment. CAA § 205(c), 42 U.S.C. § 7524(c); 40 C.F.R. § 19.4.

#### **Stipulated Facts**

32. Respondent SMAI is a California corporation with a primary office located at 3251 E. Imperial Highway, Brea, California, 92821-6795.
33. Respondent SMC is a Japanese corporation headquartered in Shizuoka, Japan.
34. Respondents are persons, as that term is defined in section 302(e) of the CAA, 42 U.S.C. § 7602(e).
35. Respondents or ASMC imported, distributed, and sold MY 2012 Class III highway motorcycles into the U.S.
36. Respondent SMC or ASMC chose to use the averaging provisions in 40 C.F.R. § 86.449 to certify multiple engine families for MY 2012.
37. Respondent SMC or ASMC selected FELs for each engine family in the averaging set and included these FELs in their certification application submitted to EPA.

38. Respondent SMC or ASMC, in the certification application, also submitted an averaging projection with estimated production volumes for the MY 2012 Class III motorcycle engine families.
39. Pursuant to section 206 of the CAA, 42 U.S.C. § 7525, and 40 C.F.R. Part 86, EPA issued the following 19 certificates of conformity to ASMC for MY 2012 Class III motorcycles:
- (1) Certificate Number CSKXC.398VR1-001 (issued April 14, 2011);
  - (2) Certificate Number CSKXC.398VR1-001-R01 (issued May 19, 2011);
  - (3) Certificate Number CSKXC.400VC1-009 (issued June 29, 2011);
  - (4) Certificate Number CSKXC.638VD1-013 (issued July 27, 2011);
  - (5) Certificate Number CSKXC.644VR1-012 (issued July 18, 2011);
  - (6) Certificate Number CSKXC.645VC2-011 (issued July 13, 2011);
  - (7) Certificate Number CSKXC.652VR1-004 (issued June 16, 2011);
  - (8) Certificate Number CSKXC.750VD2-008 (issued June 24, 2011);
  - (9) Certificate Number CSKXC.750VD2-008-R01 (issued June 24, 2011);
  - (10) Certificate Number CSKXC.805VA2-002 (issued June 8, 2011);
  - (11) Certificate Number CSKXC.805VD1-003 (issued June 8, 2011);
  - (12) Certificate Number CSKXC.996VA1-007 (issued June 21, 2011);
  - (13) Certificate Number CSKXC.996VA1-007-R01 (issued June 21, 2011);
  - (14) Certificate Number CSKXC.996VA1-007-R02 (issued June 21, 2011);
  - (15) Certificate Number CSKXC.999VD3-014 (issued November 2, 2011);
  - (16) Certificate Number CSKXC1.26VD1-010 (issued July 1, 2011);
  - (17) Certificate Number CSKXC1.34VD1-005 (issued June 16, 2011);

(18) Certificate Number CSKXC1.34VD1-005-R01 (issued June 16, 2011);  
and

(19) Certificate Number CSKXC1.78VA2-006 (issued June 16, 2011).

40. On September 16, 2013, Respondent SMAI submitted a MY 2012 EOY report for Class III motorcycles manufactured by Respondent SMC (“first MY 2012 EOY report”).
41. Respondent SMAI submitted the first MY 2012 EOY report to EPA approximately four months after the regulatory deadline of May 1, 2013.
42. The first MY 2012 EOY report stated that the average emissions rate for HC+NOx exceeded the HC+NOx emissions standard, and that the exceedance would be offset with banked HC+NOx credits to achieve compliance with the MY 2012 HC+NOx emissions standard.
43. Respondents and ASMC had not timely participated in an early banking program that ended in MY 2009, and did not have banked credits for use in MY 2010 and later model years.
44. On March 28, 2014, Respondent SMAI submitted to EPA another EOY report for MY 2012 (“second MY 2012 EOY report”), removing the claim to banked credits that had been included in the first MY 2012 EOY report as a means of demonstrating compliance with the HC+NOx emissions standard.
45. The second MY 2012 EOY report included modified production numbers for several engine families, showing increased sales of “cleaner” motorcycles and a corresponding increase in the averaging credits for MY 2012, which Respondent SMAI asserted was sufficient to demonstrate compliance with the HC+NOx emissions standard.

46. In a March 28, 2014 email to EPA, Respondent SMAI's certification representative stated that the information contained in the first MY 2012 EOY report was a "mistake" due to a computer error that "did not count all of the units" produced.
47. On September 17, 2014, after review of information that Respondents and ASMC had submitted to EPA since 2012, EPA verbally informed representatives of SMAI of concerns regarding the compliance of MY 2012 Class III motorcycles with EPA emission standards.
48. On October 7, 2014, counsel for Respondents contacted EPA to disclose a "compliance matter," and on October 13, 2014, Respondents submitted a self-disclosure letter to EPA addressing possible violations of the Act and applicable regulations thereunder.
49. Respondents' October 13, 2014 letter stated that the second MY 2012 EOY report was inaccurate, reporting "production values for certain low-emitting motorcycle models that were higher than previously reported (in the first MY 2012 EOY report) and higher than the actual production values."
50. On December 4, 2014, Respondent SMAI submitted a third MY 2012 EOY report that indicated that the average emissions level for Class III motorcycles did not meet the HC+NO<sub>x</sub> emissions standard.
51. On December 10, 2014, Respondents met with EPA to report on the results of an internal investigation. Respondents asserted that an employee, Respondent SMAI's certification representative, had altered production numbers in Respondents' second MY 2012 EOY report, to demonstrate compliance with emission standards for MY 2012 Class III motorcycles, and submitted falsified information to EPA.

52. Respondents asserted that the employee acted independently of his management, and is no longer employed by Respondent SMAI. The employee has never been employed by Respondent SMC.
53. On December 10, 2014, Respondents stated that the average FEL for the MY 2012 Class III motorcycle engine families exceeded the emission standard for HC+NO<sub>x</sub> emissions.
54. Pursuant to EPA's administrative subpoena authority, 42 U.S.C. § 7607(a), EPA deposed Respondent SMAI's Director and Division Head, Government Relations, and Department Manager, Government Relations, on April 1 and 2, 2015.
55. The deposition testimony, and documents submitted pursuant to EPA requests during the deposition, did not reveal whether the employee was directed to falsify documents by Respondents' management.
56. Respondents' and ASMC's MY 2012 Class III motorcycle fleet exceeded the HC+NO<sub>x</sub> emission standard of 0.8 g/km by 0.061 g/km, based on certified levels.
57. EPA alleges that Respondents and ASMC failed to provide their first MY 2012 EOY report meeting the requirements of 40 C.F.R. § 86.449(g) before the expiration of the 120-day deadline, and that Respondent SMAI submitted false or inaccurate first and second MY 2012 EOY reports to demonstrate compliance with certification requirements. On these bases, EPA asserts that it may void *ab initio* certificates of conformity for all of Respondents' MY 2012 Class III motorcycles.
58. Respondents have completed an internal investigation and submitted documentation to EPA regarding the alleged violations.
59. Using a proportional approach, EPA's Office of Transportation and Air Quality ("OTAQ") will void a single certificate of conformity for Certificate Number

CSKXC.652VR1, immediately following ratification of the Final Order; the FEL for the Highway Motorcycle engine family CSKXC.652VR1 (Model LS650) is 1.9 g/km, which is the highest FEL in the MY 2012 Class III motorcycles set. Voiding of this certificate of conformity restores the averaging balance for the remaining 13 engine families (18 certificates of conformity) to meet the MY 2012 Class III motorcycle emissions standard.

#### **Alleged Violations of Law**

60. EPA alleges that Respondents have violated section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), which prohibits a manufacturer from selling, offering for sale, introducing, or delivering for introduction into commerce, or importing (or causing the foregoing with respect to) a new motor vehicle unless such vehicle is covered by a certificate of conformity.
61. EPA alleges that Respondents have committed 1,599 violations of section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), by selling, offering for sale, introducing, or delivering into commerce, or importing (or causing the foregoing with respect to) MY 2012 Class III motorcycles in the engine family designated CSKXC.652VR1 (Model LS650).
62. EPA alleges that Respondents have violated section 203(a)(2) of the CAA, 42 U.S.C. § 7522(a)(2), by submitting, or causing the submission of, incorrect EOY reports for MY 2012 Class III motorcycles to EPA on Sept. 16, 2013, and March 28, 2014.

#### **Terms of Agreement**

63. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondents: admit that the EPA has jurisdiction over this matter as stated above; admit to the stipulated facts stated above; neither admit nor deny the alleged violations of law stated above; consent to the assessment of a civil penalty as stated below; consent to the issuance of any specified compliance or corrective action order; consent to any conditions

specified in this Consent Agreement; waive any right to contest the alleged violations of law; and waive their rights to appeal the Final Order accompanying this Consent Agreement.

64. For the purpose of this proceeding, Respondents:
- (a) agree that this Agreement states a claim upon which relief may be granted against Respondents;
  - (b) waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);
  - (c) waive any rights they may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to enforce this Agreement or Order, or both, and to seek an additional penalty for such noncompliance, and agree that federal law shall govern in any such civil action;
  - (d) consent to personal jurisdiction in any action to enforce this Agreement or Order, or both, in the United States District Court for the District of Columbia;
  - (e) agree that Respondents may not delegate duties under this Consent Agreement to any other party without the written consent of the EPA, which may be granted or withheld at EPA's unfettered discretion. If the EPA so consents, the Consent Agreement is binding on the party or parties to whom the duties are delegated;
  - (f) acknowledge that this Agreement constitutes an enforcement action for purposes of considering Respondents' compliance history in any subsequent enforcement actions;

- (g) acknowledge that this Consent Agreement and attached Final Order will be available to the public and agree that it does not contain any confidential business information or personally identifiable information;
- (h) acknowledge that their tax identification number may be used for collecting or reporting any delinquent monetary obligation arising from this Agreement (see 31 U.S.C. § 7701);
- (i) certify that the information they have supplied after October 7, 2014, concerning this civil enforcement matter, except for minor errors as subsequently corrected and explained to EPA in writing, was at the time of submission true, accurate, and complete, to the best of Respondents' knowledge, information and belief; and
- (j) acknowledge that there are significant penalties for knowingly submitting false, fictitious, or fraudulent information, including the possibility of fines and imprisonment. See 18 U.S.C. § 1001.

65. For purposes of this proceeding, the parties each agree that:

- (a) this Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof;
- (b) this Consent Agreement may be signed in any number of counterparts, each of which will be deemed an original and, when taken together, constitute one agreement; the counterparts are binding on each of the parties individually as fully and completely as if the parties had signed one single instrument, so that the rights and liabilities of the parties will be unaffected by the failure of any of the undersigned to execute any or all of the counterparts; any signature page and any

- copy of a signed signature page may be detached from any counterpart and attached to any other counterpart of this Consent Agreement;
- (c) its undersigned representative is fully authorized by the Party whom he or she represents to bind that Party to this Consent Agreement and to execute it on behalf of that Party;
  - (d) each party's obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other party's obligations under this Consent Agreement and attached Final Order; and
  - (e) each party will bear their own costs and attorney fees in the action resolved by this Consent Agreement and attached Final Order.
66. Respondents agree to pay to the United States a civil penalty of \$2,054,924 ("the Civil Penalty").
67. Respondents agree to pay the Civil Penalty to the United States within 30 calendar days following the issuance of the attached Final Order (i.e., the effective date of this Consent Agreement and attached Final Order).
68. Respondents agree to pay the Civil Penalty in the manner specified below:
- (a) Pay the Civil Penalty using any method provided on the following website:  
<http://www2.epa.gov/financial/additional-instructions-making-payments-epa>;
  - (b) identify each and every payment with "Docket No. CAA-HQ-2016-8274"; and
  - (c) within 24 hours of payment, email proof of payment to Kathryn P. Caballero at [caballero.kathryn@epa.gov](mailto:caballero.kathryn@epa.gov) ("proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to

demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with “Docket No. CAA-HQ-2016-8274”).

69. As a condition of settlement, Respondents agree to the following:
- (a) Respondents agree not to sell, or offer for sale, introduce, or deliver for introduction into commerce, any and all MY 2012 Class III motorcycles in the engine family designated CSKXC.652VR1 (Model LS650).
  - (b) Respondents agree not to contest the voiding, *ab initio*, by EPA OTAQ of the EPA-issued certificate of conformity for Respondents’ MY 2012 Class III motorcycle engine family designated CSKXC.652VR1 (Model LS650), and to waive any administrative hearings, proceedings, or review associated with the voiding action.
  - (c) Respondents agree to implement changes to corporate procedures for managing, tracking and recording EPA submissions, and to improve corporate communications to ensure such submissions are timely and accurate. A report detailing the changes Respondents have made to management, tracking, and recordkeeping of Respondents’ EPA submissions, to track Respondent SMC production of vehicles subject to EPA requirements, and to improve internal company communications to ensure timeliness and accuracy in such submissions, shall be submitted within one hundred twenty (120) calendar days following the issuance of the attached Final Order to EPA, to Kathryn P. Caballero, at [caballero.kathryn@epa.gov](mailto:caballero.kathryn@epa.gov).
  - (d) If Respondents violate any of the non-penalty conditions in this Paragraph, Respondents shall pay \$10,000 for the first day of the violation, and each day the

violation continues. In the case of any such violation, Respondents agree to pay the stipulated penalties to the EPA in the manner specified by Paragraph 68, not more than 30 days after receipt of written demand by the EPA for such penalties.

70. Respondents agree that the time period from the effective date of this Agreement until their completion of the non-penalty conditions stated in the previous Paragraph (the “Tolling Period”) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims (the “Tolled Claims”) set forth in the Alleged Violations of Law section of this Consent Agreement. Respondents shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

#### **Effect of Consent Agreement and Attached Final Order**

71. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and attached Final Order resolves only Respondents’ liability for federal civil penalties for the violations and facts specifically alleged above.
72. Failure to pay the full amount of the penalty assessed under this Consent Agreement may subject Respondents to a civil action to collect any unpaid portion of the proposed civil penalty and interest. In order to avoid the assessment of interest, administrative costs, and late payment penalty in connection with such civil penalty, as described in the following Paragraph of this Consent Agreement, Respondents must timely pay the penalty.
73. If Respondents fail to timely pay any portion of the penalty assessed by the attached Final Order, the EPA may:

- (a) request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
- (b) refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- (c) collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds (see 40 C.F.R. Part 13, Subparts C and H); and
- (d) suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondents from doing business with the EPA or engaging in programs the EPA sponsors or funds. 40 C.F.R. § 13.17.

74. Penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes. 28 U.S.C. § 162(f).

75. This Consent Agreement and attached Final Order apply to and are binding upon the Complainant and the Respondents. Successors and assigns of Respondents are also bound if they are owned, in whole or in part, directly or indirectly, or otherwise controlled by Respondents. Nothing in the previous sentence adversely affects any right of the EPA under applicable law to assert successor or assignee liability against Respondents' successors or assignees.

76. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with all applicable provisions of the CAA or other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
77. The EPA reserves the right to revoke this Consent Agreement and accompanying settlement penalty if and to the extent the EPA finds, after signing this Consent Agreement, that any information provided by Respondents was or is materially false or inaccurate, and the EPA reserves the right to pursue, assess, and enforce legal and equitable remedies for the Alleged Violations of Law. The EPA shall give Respondents written notice of such termination, which will be effective upon mailing.
78. The Parties agree to submit this Consent Agreement to the Environmental Appeals Board with a request that it be incorporated into a Final Order.
79. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondents. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Environmental Appeals Board and filing with the Hearing Clerk.



The foregoing Consent Agreement, In the Matter of Suzuki Motor of America, Inc. and Suzuki Motor Corporation, Docket No. CAA-HQ-2016-8274, is Hereby Stipulated, Agreed, and Approved for Entry.

**For Suzuki Motor of America, Inc.:**

\_\_\_\_\_  
Signature Date

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Respondent's Federal Tax Identification Number: \_\_\_\_\_

**For Suzuki Motor Corporation:**

伊藤 正俊  
Signature Date

NOVEMBER 4, 2016

Printed Name: MASAYOSHI ITO

Title: EXECUTIVE GENERAL MANAGER, MOTORCYCLE OPERATIONS

Address: 300 TAKATSUKA, MINAMI-KU, HAMAMATSU-SHI, SHIZUOKA, JAPAN

Respondent's Federal Tax Identification Number: 98-0353193

The foregoing Consent Agreement, In the Matter of Suzuki Motor of America, Inc. and Suzuki Motor Corporation, Docket No. CAA-HQ-2016-8274, is Hereby Stipulated, Agreed, and Approved for Entry.

**For Complainant:**



9/30/2016

Phillip A. Brooks, Director  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460-0001

Date

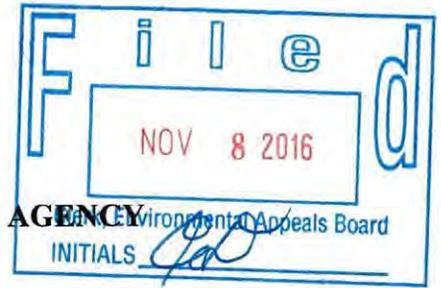


9/30/2016

Kathryn Pineda Caballero, Attorney Adviser  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460-0001

Date

**ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**



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In re: )  
Suzuki Motor of America, Inc. and ) Docket No. CAA-HQ-2016-8274  
Suzuki Motor Corporation )  
\_\_\_\_\_)

**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA’s Consolidated Rules of Practice, the attached Consent Agreement resolving this matter that was submitted to the Board on November 4, 2016, is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.<sup>1</sup>

Dated: 11/8/2016

**ENVIRONMENTAL APPEALS BOARD**  
*Mary Beth Ward*  
\_\_\_\_\_  
Mary Beth Ward  
Environmental Appeals Judge

<sup>1</sup> The three-member panel ratifying this matter is composed of Environmental Appeals Judges Mary Kay Lynch, Kathie A. Stein, and Mary Beth Ward.

**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing "Consent Agreement" and "Final Order" in the matter of *Suzuki Motor of America, Inc. and Suzuki Motor Corporation*, Docket No. CAA-HQ-2016-8274, were filed and copies of the same were sent to the following persons in the manner indicated:

**By First Class Certified Mail/  
Return Receipt Requested:**

Mr. Takeshi Hayasaki  
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Dated: NOV - 8 2016



Annette Duncan  
Administrative Specialist