

U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In the Matter of:)
)
Frontier Refining Inc.)
)
Respondent.)
_____)

SETTLEMENT AGREEMENT
AED/MSEB No. 7028

THIS AGREEMENT is made and entered into by and between the United States Environmental Protection Agency ("EPA") and Frontier Refining Inc., which is located at 2700 E. Fifth Street, Cheyenne, Wyoming ("Frontier" or "Respondent").

Preliminary Statement

1. On July 23, 2004, EPA issued a Notice of Violation (NOV) to Respondent alleging that Respondent violated section 211 of the Clean Air Act (CAA), 42 U.S.C. § 7545, and the regulations promulgated thereunder at 40 C.F.R. Part 80 (Fuels Regulations). The Fuels Regulations require conventional gasoline to meet certain emission standards and impose a number of quality assurance, recordkeeping, and reporting requirements on refiners.
2. After considering the gravity of the violations, Respondent's history of compliance with the regulations, and the size of Respondent's business, EPA proposed in the NOV a civil penalty of \$48,000.
3. The parties, desiring to settle and resolve this matter, in consideration of the mutual covenants and agreements contained herein, which consideration is acknowledged by the parties to be adequate, agree as set forth herein.

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Terms of Agreement

4. The parties stipulate and agree to the matters identified in this Paragraph 4. It is further agreed that these stipulations are applicable to this settlement agreement (Agreement) and any enforcement or penalty arising out of this Agreement or the subject matter of this Agreement:
- a. The parties agree that the settlement of this matter is in the public interest and that this Agreement is the most appropriate means of resolving the matter;
 - b. Jurisdiction to settle this matter exists pursuant to section 211 of the CAA, 42 U.S.C. § 7545, 40 C.F.R. Part 80 and other provisions of law;
 - c. At all relevant times, Respondent was a refiner within the meaning of 40 C.F.R. § 80.2(i).
 - d. EPA alleged in the NOV, dated July 23, 2004, that on or about May 31, 2001, Batch 164, totaling 2,178,582 gallons of conventional gasoline was sold to Kaneb Pipeline, Dupont Terminal ("Kaneb"). This gasoline had a Reid vapor pressure ("RVP") of 9.17 pounds per square inch ("psi") when the maximum allowed RVP was 9.0 psi.
 - e. EPA alleges this constitutes one violation of 40 C.F.R. § 80.27(a)(2)(i). EPA further alleges that as the refiner that sold, offered for sale, dispensed, supplied, offered for supply or transported gasoline whose volatility exceeds the applicable standard, Frontier is liable for the alleged violation pursuant to 40 C.F.R. § 80.28. Frontier neither admits nor denies the violations alleged by EPA, and reserves all

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of its rights and defenses relative to such alleged violations should they be reasserted in any future proceedings.

- f. Information developed during cooperative negotiations to settle the matter and to understand the conditions that caused the alleged RVP violation allegedly revealed on-going problems with Respondent's laboratory procedures, including improper sampling, failure to properly prepare samples for testing, ignoring round robin results and use of a non-regulatory method to determine sulfur levels for gasoline.
- g. In order to prevent future violations of this type, commencing in calendar year 2005, and ending in calendar year 2009, Respondent will participate for five years in ASTM's statistical quality assurance program, also known as "reformulated gasoline (RFG) inter-laboratory crosscheck program" for all test methods used by Frontier to test gasoline and ultra low sulfur diesel fuel for parameters required to be tested under 40 C.F.R. Part 80.
- h. In order to further prevent future violations of this type, Respondent has voluntarily committed to hire a consultant to conduct a series of three annual fuels laboratory audits, beginning in 2005 and ending at the end of calendar year 2007. The purpose of these audits is to evaluate Frontier's compliance with all aspects of the sampling and testing requirements and the record keeping requirements of Title II of the Act, as listed in the attached "Fuels Laboratory Audit Outline."

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Upon discovery that any test method/instrument is operating outside of control standards or biased, Frontier will

- (1) Discontinue use of that method/instrument,
- (2) Conduct an investigation into the cause and restore the method's/instrument's performance to within statistical control,
and
- (3) Re-analyze all samples taken using the suspect method/instrument.

The audits will address all fuels manufactured by Frontier at its Cheyenne refinery that are subject to the requirements of Title II of the Act.

5. After considering the gravity of the violations, Respondent's history of compliance with the Fuels Regulations, the terms of this Agreement, and other facts presented by the Respondent, EPA has determined the civil penalty for the violations identified in the July 23, 2004, NOV is \$48,000, subject to successful completion of the terms of this Agreement. Respondent agrees to pay \$48,000 to the United States of America within sixty days from the date that this Agreement is executed by EPA and returned to Respondent (due date). Late payment of the civil penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. The civil penalty shall be paid by check made payable to the "United States of America," and the payment shall be mailed to:

U.S. Environmental Protection Agency
Washington Accounting Operations
P.O. Box 360277M
Pittsburgh, Pennsylvania 15251
Attn: AED/MSEB - 7028

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A photocopy of the check shall be telefaxed mailed simultaneously to:

Angela Fitzgerald, Attorney
U.S. Environmental Protection Agency
202/564-0015

6. Time is of the essence to this Agreement. Respondent agrees to pay the following stipulated penalties:
 - a. For failure to timely pay the penalty, or provide proof thereof, pursuant to paragraph 5, \$1,000 per day; and
 - b. For failure to participate in ASTM's crosscheck program pursuant to paragraph 4 (g), \$250 per day.
7. The parties further agree that upon default or failure to comply, EPA may refer this matter to the United States Attorney General for collection pursuant to section 211(d) of the CAA, 42 U.S.C. § 7545(d), commence an action to enforce this Agreement or to recover the civil penalty pursuant to section 211 of the CAA; or pursue any other remedies available to it. Respondent specifically agrees that in the event of such default or failure to comply, EPA may proceed in an action based on the allegations set forth herein, and Respondent expressly waives its right to assert that any action based upon the allegations set forth herein is barred by 28 U.S.C. § 2462, other statutes of limitation, or other provisions limiting actions as a result of passage of time.
8. This Agreement becomes effective upon the date signed by the EPA, after which time a copy will be forwarded to the Respondent.

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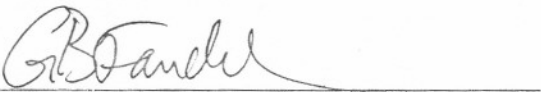
9. Respondent hereby represents that the individual executing this Agreement on behalf of Respondent is authorized to do so and that such execution is intended and is sufficient to bind the party and, as applicable, its officers, agents, directors, owners, heirs, assigns, and successors. This Agreement shall also inure to the benefit of Frontier Refining & Marketing Inc. and Respondent's other corporate affiliates.
10. Respondent waives its rights, if any, to a hearing, trial or any other proceeding on any issue of fact or law relating to matters agreed to herein.
11. The terms of this Agreement are contractual and not a mere recital. If any provision or provisions of this Agreement are held to be invalid, illegal or unenforceable, the remaining provisions shall not in any way be affected or impaired thereby.
12. The validity, enforceability and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
13. The effect of the settlement described in paragraph 14, below, is conditional upon the truthfulness, accuracy and completeness of Respondent's
 - a. Disclosures and representations to EPA, based upon Respondent's knowledge, information and belief, as memorialized in the emails, correspondence and laboratory results that Respondent provided to EPA from January 25, 2005, through May 11, 2005, and
 - b. Commitment to conduct fuels audits as described in Paragraph 4 (h).
14. Upon completion of the terms of this Agreement, this matter shall be deemed terminated and resolved. Nothing herein shall limit the right of EPA to proceed against Respondent

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in the event of default or noncompliance with this Agreement; for violations of section 211 of the CAA, 42 U.S.C. § 7545, 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 law or regulations.

The following agree to the terms of this Agreement:

Frontier Refining Inc.

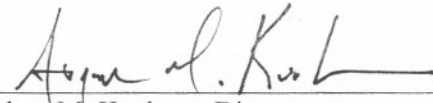
by: 
Gerald B. Faudel
Vice President, Government Relations
and Environmental Affairs

Date: 01/05/2006

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Administrative Settlement Agreement
In the Matter of: Frontier Refining Inc.
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United States Environmental Protection Agency

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

Date: 1/19/06

FRONTIER REFINING INC.
FUEL LABORATORY AUDIT
OUTLINE

1. Sampling
 - a. Methodology
 - b. Apparatus
 - c. Containers
 - d. Labeling
 - e. Chain of Custody
 - f. Laboratory Log-In and Container Handling
 - g. Training
 - h. Homogeneity

2. Laboratory
 - a. Lims
 - b. Test Methods
 - i. Distillation
 - ii. Sulfur
 - iii. Aromatics
 - iv. Oxygenates
 - v. Benzene
 - vi. RVP
 - vii. Olefins
 - viii. API Gravity
 - ix. Performance-Based Measurement System and Statistical Quality Control for Diesel Sulfur (when applicable)
 - c. Quality Assurance Program
 - i. Adherence to Test Methods
 - ii. Calibration and Maintenance
 - iii. Quality Control Program
 - iv. Sample Management
 - v. Data and Record Management
 - vi. Audits
 - vii. Corrective and Preventative Action
 - viii. Training
 - ix. Quality Manager
 - x. Chain of Custody
 - xi. Audit Trail
 - xii. Authority to make changes
 - d. Quality Manual and Updates

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- e. Storage and Disposal
- f. Health and Safety
- g. Interlaboratory Testing
- h. Rounding
- i. Discarding Test Results
- j. Sample Management
- k. Log Books
- l. Certificate of Analysis Preparation and Laboratory Manager Certification
- m. Outsourced Lab Analysis – Sample Handling and Results
- n. Record Retention
- o. Sample Retention
- p. Batch Certification – Homogeneity
- q. Sample Compositing