

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

In the Matter of:

The Premcor Refining Group Inc.

Respondent.

SETTLEMENT AGREEMENT  
AED/MSEB - 7022A

**THIS AGREEMENT** is made and entered into by and between the United States Environmental Protection Agency (EPA) and The Premcor Refining Group Inc., 1700 East Putnam, Suite 400, Old Greenwich, Connecticut 06870 (Respondent or Premcor).

**Preliminary Statement**

1. On April 22, 2004, a Notice of Violation was issued to Respondent for violation of § 211(k) of the Clean Air Act (CAA), 42 U.S.C. § 7545(k), and the fuels regulations promulgated thereunder at 40 C.F.R. Part 80 (Fuels Regulations). See Attached Notice of Violation. The Fuels Regulations require reformulated gasoline to meet certain emission reduction standards and impose on refiners a number of quality assurance, recordkeeping, and reporting requirements. For violations committed before March 14, 2004, violators of the Fuels Regulations are subject to a maximum civil penalty of \$27,500 per day for each violation and the amount of the economic benefit or savings resulting from the violation.
2. After considering the gravity of the alleged violations, Respondent's history of compliance with the Fuels Regulations, and the size of Respondent's business, EPA proposed in the Notice of Violation a civil penalty of \$152,000 (the proposed penalty).
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.

**Terms of Agreement**

4. The parties agree that the settlement of this matter is in the public interest and that this Settlement Agreement (Agreement) is the most appropriate means of resolving the matter.
5. By entering into this Agreement, Respondent does not admit that it is in any way

responsible for the alleged violation or that any violations have occurred.

6. The parties stipulate and agree to the following matters. It is further agreed that these stipulations are applicable to this Agreement and any enforcement or penalty proceeding arising out of this Agreement or the subject matter of this Agreement:
  - (a) At all relevant times, Respondent was a refiner as defined within the meaning of 40 C.F.R. § 80.2.
  - (b) On December 5, 2002, EPA conducted an audit of Pemcor's Reformulated Gasoline Program Toxics Emissions Performance Averaging Report that it submitted to EPA on February 19, 2002.
  - (c) As a result of the audit, EPA alleged that the reformulated gasoline produced at Pemcor's Blue Island Refinery, located in Blue Island, Illinois, did not have an annual average emissions performance toxic reduction of at least 21.5 percent in 2001. This constitutes an apparent violation of 40 C.F.R. § 80.41(f).
7. Respondent disputed the allegations, asserting that it had no previous violations of this nature, that the violation addresses production produced for only one winter month, after which the facility was permanently shutdown, and the product at issue displayed typical results for January production which otherwise would have resulted in compliant annual averaging.
8. EPA has, based on the relevant facts and circumstances of this case, determined that a civil penalty of \$152,000 is appropriate, subject to the successful completion of the terms of this Agreement. This penalty is also conditional upon the accuracy of the Respondent's Reformulated Gasoline Toxics Emissions Performance Averaging Report submitted to EPA on February 19, 2002.

Respondent agrees to pay \$152,000 to the United States of America within thirty (30) days from the date that this Agreement is executed by EPA and returned to Respondent by certified mail return receipt requested (the due date). Late payment of the civil penalty is subject to interest and fees as specified in 31 U.S.C. § 3717.

Respondent agrees to pay the amount by check made payable to the "United States of America," and to mail the payment to:

U.S. Environmental Protection Agency  
Washington Accounting Operations  
P.O. Box 360277M  
Pittsburgh, Pennsylvania 15251  
Attn.: AED/MSEB - 7022

A photocopy of the check shall be mailed simultaneously to:

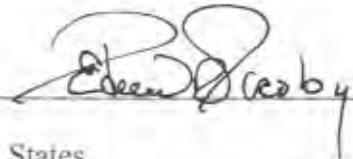
J. L. Adair, Attorney/Advisor  
U.S. Environmental Protection Agency  
AED/MSEB (2242A)  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
Attn.: AED/MSEB - 7022

9. Time is of the essence to this Agreement. Upon failure to timely perform pursuant to paragraph 8 of this Agreement, Respondent agrees to pay a stipulated penalty of \$152,000. This stipulated penalty is in addition to the settlement penalty. Upon such default this amount shall be immediately due and owing. The parties further agree that upon such default or failure to comply, EPA may refer this matter to the United States Attorney General for collection pursuant to § 211(d) of the Clean Air Act, 42 U.S.C. § 7545(d), commence an action to enforce this Agreement or to recover the civil penalty pursuant to § 211 of the Clean Air Act; 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 original claim of violation of § 211 of the Clean Air Act, 42 U.S.C. § 7545, and Respondent expressly waives its right to assert 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.
10. EPA agrees to provide a written notice to Respondent before finding Respondent in default of this Agreement. EPA agrees to send the notice by certified mail, return receipt requested. Respondent shall have five (5) business days to receive the notice in the mail. Thereafter, Respondent shall have ten (10) business days to cure the default. The notice shall be sent to Respondent at its last known business address.
11. This Agreement becomes effective upon the date executed by EPA, at which time a copy will be returned to Respondent.
12. Respondent hereby represents that the individual or individuals executing this Agreement on behalf of Respondent are authorized to do so and that such execution is intended and is sufficient to bind Respondent.
13. 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.

14. 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.
15. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
16. The effect of settlement described in Paragraph 17 below is conditional upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to EPA as memorialized in Paragraph 7 of this Agreement and in documents submitted by Respondent in this matter.
17. Upon completion of the terms of this Agreement, this civil 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 § 211 of the Clean Air Act, 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:

The Premcor Refining Group Inc.

by: 

Date: 10-18-04

United States  
Environmental Protection Agency

by:   
Adam M. Kushner  
Acting Director  
Air Enforcement Division  
Office of Regulatory Enforcement

Date: 10-21-04

ATTACHMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

April 22, 2004

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

CT Corporation System  
Registered Agent for Premcor, Inc.  
One Commercial Plaza  
Hartford, CT 06103

Re: File No. AED/MSEB - 7022  
NOTICE OF VIOLATION OF THE CLEAN AIR ACT

Dear Registered Agent:

Authorized representatives of the U.S. Environmental Protection Agency (EPA) conducted an audit of the Reformulated Gasoline and Anti-Dumping reports of Premcor, Inc. (Premcor) to determine compliance with Section 211 of the Clean Air Act (the Act), 42 U.S.C. § 7545(k), and the regulations issued thereunder, found at 40 C.F.R. Part 80.

Where inappropriate fuels are used in internal combustion engines the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with misfueling of vehicles.

As a result of the audit, EPA has determined that in 2001 the reformulated gasoline produced at Premcor's Blue Island Refinery, located in Blue Island, Illinois did not have an annual average emissions performance toxic reduction of at least 21.5 percent. This constitutes an apparent violation of 40 C.F.R. § 80.41(f).

This Notice of Violation is issued to Premcor pursuant to Sections 205 and 211 of the Act, 42 U.S.C. §§ 7524 and 7545, for the violations identified above. Sections 205 and 211 of the Act authorize EPA to assess a civil penalty of up to \$27,500 for every day of each such violation and the economic benefit or savings resulting from each violation. In determining the appropriate penalty for violations such as this, we consider the gravity of the violations, the economic benefit

or savings (if any) resulting from the violations, the size of your business, your history of compliance with the Act, actions taken by you to remedy the violations and prevent future violations, the effect of the penalty on your ability to continue in business and other matters as justice may require. Based on these factors, we propose a civil penalty of \$152,000 for the violation alleged in this Notice of Violation.

We encourage early settlement of matters such as this. The settlement process provides substantial flexibility for reducing the proposed penalty. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

Please contact the EPA attorney identified below regarding this Notice of Violation.

**(By regular mail)**

Jocelyn L. Adair  
U.S. EPA, OECA/AED  
Ariel Rios Building South (2242A)  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
Facsimile: 202/564-0069  
Telephone: 202/564-1011

**(By courier service )**

Jocelyn L. Adair  
U.S. EPA, OECA/AED  
Ariel Rios Building South (Room 1109A)  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Let me emphasize that we take our obligation to enforce these requirements seriously. However, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,



Adam M. Kushner  
Acting Director  
Air Enforcement Division