

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

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<b>In the Matter of:</b>		)
		)
<b>QuikTrip Corporation</b>		)
		)
<b>Respondent.</b>		)
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**SETTLEMENT AGREEMENT  
AED/MSEB - 6061**

**THIS AGREEMENT** is made and entered into by and between the United States Environmental Protection Agency ("EPA") and QuikTrip Corporation located at 901 North Mingo Road, P.O. Box 3475, Tulsa, OK 74101-3475 ("Respondent")

**Preliminary Statement**

1. On August 9, 2001, Respondent informed EPA that it may have violated the reformulated gasoline regulations found at 40 CFR § 80.78 by selling conventional gasoline ("CG") from QuikTrip Store #612, which is located in a reformulated gasoline ("RFG") covered area. Respondent requested that the EPA apply its policy on "Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations" (65 FR 19618, April 11, 2000) ("Audit Policy") to this violation.
2. On February 6, 2002, EPA issued a Notice of Violation ("Notice") to Respondent for violation of § 211(k) of the Clean Air Act ("Act"), 42 U.S.C. § 7545, and the RFG regulations promulgated thereunder at 40 CFR Part 80 ("regulations"). See Attachment 1. In the Notice, EPA concluded that QuikTrip did not meet the conditions required for application of the Audit Policy.
3. The regulations prohibit any person from selling gasoline for use in RFG covered area unless the gasoline meets the standards specified for RFG. See 40 CFR § 80.78. Violators of this law are subject to a maximum civil penalty of twenty seven thousand five hundred dollars (\$27,500) per day for each violation and the amount of the economic benefit or savings resulting from the violation.
3. After considering the gravity of the alleged violations, Respondent's history of compliance with the regulations, and the size of Respondent's business, EPA proposed in the Notice a civil penalty of four thousand four hundred dollars (\$4,400) ("proposed penalty").
4. 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**

5. 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.

6. By entering into this Agreement, Respondent does not admit or deny that it is in any way responsible for the alleged violations or that any violations have occurred.

7. 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 retailer as defined within the meaning of 40 CFR § 80.2.

b. EPA alleged in its February 6, 2001, Notice that Respondent sold conventional gasoline, which did not meet the RFG standards, for use in an RFG covered area.

c. Jurisdiction to settle this matter exists pursuant to § 211 of the Clean Air Act, 42 U.S.C. § 7545, 40 CFR Part 80, and other provisions of law.

d. Respondent has taken and will continue to take actions that are designed to prevent future violations of the regulations. These actions include, but are not limited to:

1. Requiring its carrier to implement a plan to prevent future misdeliveries of conventional gasoline to RFG covered areas,

2. Reprimanding store managers for failing to follow corporate procedures that are designed to prevent violations of the RFG regulations,

3. Ordering store management teams in the St. Louis RFG covered area to personally inspect product transfer documents or Bills of Lading for each gasoline delivery to ensure that the proper type of gasoline is delivered and requiring store management teams to take specific steps to prevent the sale of gasoline that does not meet the RFG requirements in the event that a misdelivery has occurred, and

4. Investigating the feasibility of requiring its carrier to use color coded product transfer documents as an additional measure to prevent the accidental delivery and sale of conventional gasoline in RFG covered areas.

8. After considering the gravity of the alleged violations, Respondent's history of compliance with the regulations, the economic benefit or savings resulting from the violations, Respondent's size of business, and actions taken to remedy the violations, EPA has determined to mitigate the civil penalty to two thousand six hundred forty dollars (\$2,640) subject to successful completion of the terms of this Agreement.

9. Respondent agrees to pay two thousand six hundred forty dollars (\$2,640) 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 - 6061

A photocopy of the check shall be mailed simultaneously to:

Jeffrey A. Kodish, Attorney  
U.S. Environmental Protection Agency  
Mobile Sources Enforcement Branch  
12345 West Alameda Parkway, Suite 214  
Denver, CO 80228

10. Time is of the essence to this Agreement. Upon failure to timely perform pursuant to paragraph 9 of this Agreement, Respondent agrees to pay a stipulated penalty of twenty seven thousand five hundred dollars (\$27,500). This stipulated penalty is in addition to the proposed 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.

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. 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 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:

QuikTrip Corporation

by: Richard L. Call

Date: 3-14-02

Print Name: Richard L. Callahan

Print Title: VP Petroleum Supply

United States  
Environmental Protection Agency

by: Richard Buckheit

Date: 4/3/02

Bruce C. Buckheit, Director  
Air Enforcement Division  
Office of Enforcement and Compliance Assurance