

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

<b>In the Matter of:</b>	)	
	)	
<b>Carroll Independent Fuel Company</b>	)	Administrative Settlement
	)	Agreement
<b>Respondent.</b>	)	AED/MSEB # 7835
	)	

This Administrative Settlement Agreement (ASA) is made and entered into by and between the United States Environmental Protection Agency (EPA) and Carroll Independent Fuel Company (Respondent), regarding Respondent's compliance with the requirements of the Clean Air Act (the Act) and the diesel sulfur regulations promulgated thereunder at 40 C.F.R. Part 80, Subpart I (regulations).

**Purpose:**

1. The purpose of this ASA is to resolve alleged noncompliance by Respondent with the requirements of the Act and the regulations.

**Statutory and Regulatory Authority:**

2. EPA promulgated the diesel fuel sulfur rules pursuant to section 211(c) of the Act, 42 U.S.C. § 7545(c).
3. The diesel sulfur regulations are part of a comprehensive national program that greatly reduces emissions from diesel engines by integrating engine and fuel controls.
4. 40 C.F.R. § 80.510(a) and 40 C.F.R. § 80.524 subject nonroad, locomotive, or marine (NRLM) diesel fuel sold or dispensed in the northeast mid-atlantic area (NEMA) to a per-gallon maximum sulfur content of 500 parts per million (ppm).

5. The fuel delivery in this case was made in Maryland, which is part of the NEMA of the United States, as defined in 40 C.F.R. § 80.510(g)(1).
6. 40 C.F.R. § 80.610(a)(3) prohibits any person from producing, importing, selling, offering for sale, dispensing, supplying, offering for supply, storing, or transporting heating oil for use in any nonroad diesel engine.

**Background**

7. On June 10, 2009, EPA issued a Notice of Violation File No. AED/MSEB #7835 (NOV) to Respondent alleging that Respondent violated section 211 of the Act, 42 U.S.C. § 7545, and the regulations promulgated thereunder at 40 C.F.R. Part 80.
8. EPA alleged in the NOV that Respondent violated the following regulations:
  - a. 40 C.F.R. § 80.610(a)(1) by supplying and or transporting 249.1 gallons of NRLM diesel fuel that failed to comply with the 500 ppm sulfur content standard set forth in 40 C.F.R. § 80.510(a); and
  - b. 40 C.F.R. § 80.610(a)(3) by supplying and or transporting 249.1 gallons of heating oil for use in nonroad diesel engines and or equipment.
9. EPA and the Respondent (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 the Agreement and Civil Penalty:**

10. In any enforcement or penalty action arising out of this ASA or the subject matter of this ASA:
  - a. The Parties agree that the settlement of this matter is in the public interest and that this ASA is the most appropriate means of resolving the matter; and

b. The Parties further agree that jurisdiction to settle this matter exists pursuant to section 211 of the Act, 42 U.S.C. § 7545, 40 C.F.R. Part 80 and other provisions of law.

11. By entering into this ASA, Respondent neither admits nor denies that any violations have, in fact, occurred.

12. Respondent shall develop and implement a comprehensive compliance plan and procedures to ensure compliance with the fuels regulations in the future.

13. Respondent shall pay a civil penalty of \$10,000 to the United States of America within thirty (30) calendar days of the effective date of this Agreement (penalty due date), but not before the effective date. Late payment of the penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. Respondent shall pay the amount by either:

a. Certified check or cashier's check payable to the "United States of America," and mailed via the United States Postal Service to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
ATTN: AED/MSEB # 7835

Simultaneously, Respondent shall fax a photocopy of the check to (303) 312-6003 to the attention of Natalie Firestine. Respondent shall identify the check with the case number and Respondent's name; or

b. Respondent may make an online payment through the Department of the Treasury by visiting [WWW.PAY.GOV](http://WWW.PAY.GOV). In the "Search Public Forms" field, enter "SFO 1.1", click "EPA Miscellaneous Payments - Cincinnati Finance Center" and complete the "SFO Form Number 1.1." Within twenty-four hours of payment, Respondent shall fax a copy of the online payment receipt to Natalie Firestine at (303) 312-6003.

**Stipulated Penalties:**

14. Respondent shall pay stipulated penalties of \$1,000 per day for failure to timely pay the penalty, or provide proof thereof, pursuant to Paragraph 14.

**General Provisions:**

15. This ASA becomes effective upon the date executed by EPA (effective date of the ASA), at which time a copy will be returned to Respondent.

16. Notwithstanding any other provision of this ASA, upon default or failure of Respondent to comply with the terms of this ASA, EPA may refer this matter to the United States Attorney General for collection pursuant to section 205(c) of the Act, 42 U.S.C. § 7524(c), commence an action to enforce this ASA or to recover the civil penalty pursuant to section 205 of the Act, or pursue any other remedies available to it. 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 the passage of time. Respondent acknowledges that its tax identification number may be used for the purpose of collecting or reporting any delinquent monetary obligation arising from this ASA. (See 31 U.S.C. § 7701.)

17. The Respondent represents that the individual or individuals executing this ASA on behalf of Respondent are authorized to do so and that such execution is intended and is sufficient to bind Respondent, its agents, assigns, or successors.

18. 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.

19. The validity, enforceability, and construction of all matters pertaining to this ASA shall be determined in accordance with applicable federal law.

20. This ASA is contingent upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to EPA under this ASA.

**Effect of Agreement:**

21. Upon completion of the terms of this ASA, the alleged violations described in this ASA shall be deemed resolved. Nothing herein shall limit the right of EPA to proceed against Respondent in the event of default or noncompliance with this ASA for violations of section 211 of the Act, 42 U.S.C. § 7545, which are not the subject matter of this ASA, for other violations of law, or with respect to other matters not within the scope of the ASA. This ASA in no way affects or relieves Respondent of its responsibility to comply with other state, federal, or local laws or regulations.

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The following agree to the terms of this Agreement:

**Carroll Independent Fuel Company**

By:  \_\_\_\_\_ Date: 3-18-10

Typed or Printed Name: ERIC BAUMGART

Typed or Printed Title: SAFETY DIRECTOR

Federal Tax Identification Number: 52-0265090

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**United States Environmental Protection Agency**

By: *Matthew W. Harrison*  
for Phillip A. Brooks  
Director  
Air Enforcement Division

Date: 5/6/10