

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

In the Matter of:)	
)	
HOVENSA, LLC.)	Administrative Settlement
)	Agreement and Audit Policy
Respondent.)	Determination
)	
)	AED/MSEB # 7266

This Administrative Settlement Agreement is made and entered into by and between the United States Environmental Protection Agency (EPA) and HOVENSA, LLC (Respondent), regarding Respondent's compliance with the requirements of the Clean Air Act (CAA) and the regulations promulgated thereunder at 40 C.F.R. Part 80 (Fuels Regulations).

Purpose:

1. The purpose of this Administrative Settlement Agreement is to resolve alleged noncompliance by Respondent with the requirements of CAA section 211(h), 42 U.S.C. § 7545(h), and the Fuels Regulations.

Statutory and Regulatory Authority:

2. Section 211(h) of the CAA, 42 U.S.C. § 7545(h), required EPA to promulgate regulations prohibiting the sale of gasoline that exceeds certain volatility limits. The regulations that EPA promulgated under this section, known as the volatility regulations, are at 40 C.F.R. §§ 80.27 and 80.28.
3. 40 C.F.R. § 80.27(a)(2) states that during the 1992 and later regulatory control periods no person, including any refiner, shall sell, offer for sale, dispense,

supply, offer for supply, transport or introduce into commerce gasoline whose Reid vapor pressure (RVP) exceeds the applicable standard. The term “regulatory control period,” as used in this section of the regulations, is defined as the period from May 1 through September 15 of any calendar year.

4. 40 C.F.R. § 80.27(b) provides that compliance with the volatility limits shall be determined using the test methodology specified at 40 C.F.R. § 80.46(c).

Background:

5. On August 8, 2005, Respondent informed EPA that between June 12, 2005, and July 11, 2005, the HOVENSA refinery in St. Croix, U.S.V.I. calculated RVP for 39 batches of gasoline using the incorrect equation. Upon recalculation, batch 05-264 was found to exceed the volatility standard of 9.0 psi required pursuant to 40 C.F.R. § 80.27(a)(2).
6. Based upon the information set forth in Respondent’s self-disclosure, EPA alleges that Respondent violated the following regulations:
 - a. 40 C.F.R. § 80.27(a)(2) by producing and distributing 2,895,060 gallons of gasoline (batch 05-264) on or about June 20, 2005, from the HOVENSA refinery in St. Croix, U.S.V.I., that failed to comply with the gasoline volatility regulations.
 - b. 40 C.F.R. § 80.46(c) by failing to utilize the appropriate equation in calculating RVP for 39 batches of gasoline between June 12, 2005, and July 11, 2005.

Audit Policy Determination

7. Respondent requested that EPA apply its Final Policy Statement entitled “Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations” 65 FR 19618, April 11, 2000 (“Audit Policy”).

8. EPA issued the Audit Policy to encourage regulated entities to conduct voluntary compliance evaluations and to disclose and promptly correct violations. As an incentive for companies to undertake self-policing, self-disclosure, and self-correction of violations, EPA may substantially reduce or eliminate gravity-based civil penalties; however, EPA retains its discretion to recover any economic benefit gained as a result of non-compliance.
9. Where the disclosing party establishes that it satisfies all of the conditions set forth in the Audit Policy, EPA will not seek gravity-based civil penalties. Where the disclosing party establishes that it satisfies all of the conditions except for the first condition, systematic discovery, the disclosing party is eligible for a seventy five percent (75%) reduction of the gravity-based civil penalties.
10. Upon consideration of relevant information about Respondent's self-disclosed violations, EPA concludes that it has satisfied all of the conditions set forth in the Audit Policy, except for systematic discovery of the violations.

Civil Penalty:

11. Respondent agrees to pay a civil penalty of \$105,000 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 agrees to 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 # 7266

Simultaneously, a photocopy of the check shall be faxed to (303) 312-6007 to the attention of Jeff Kodish. This check shall be identified 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. 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 Jeff Kodish at (303) 312-6007.

Stipulated Penalties:

12. Respondent agrees to pay stipulated penalties of \$1,000 per day for failure to timely pay the penalty, or provide proof thereof, pursuant to Paragraph 11.

General Provisions:

13. This Agreement becomes effective upon the date executed by EPA (effective date of the Agreement), at which time a copy will be returned to Respondent.
14. Notwithstanding any other provision of this Agreement, the parties agree that upon default or failure of Respondent to comply with the terms of this Agreement, EPA may refer this matter to the United States Attorney General for collection pursuant to CAA section 205(c), 42 U.S.C. § 7524(c), commence an action to enforce this Agreement or to recover the civil penalty pursuant to CAA section 205, 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 agreement. (See 31 U.S.C. ' 7701)

15. The parties represent 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, its agents, assigns, or successors.
16. 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.
17. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
18. This Settlement is contingent upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to EPA under this Agreement, including but not limited to representations described in Paragraph 5 of this Agreement.

Effect of Agreement:

19. Upon completion of the terms of this Agreement, the alleged violations described 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 CAA section 211, 42 U.S.C. § 7545, which are not the subject matter of this Agreement, 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 laws or regulations.

Administrative Settlement Agreement – In the Matter of HOVENSA, LLC
AED/MSEB # 7266

The following agree to the terms of this Agreement:

HOVENSA

By: Tim Manning Date: 5/18/2010

Typed or Printed Name: Tim Manning

Typed or Printed Title: VP, Environmental, Health, + Safety

Federal Tax Identification Number: 980191354

Administrative Settlement Agreement – In the Matter of HOVENSA, LLC
AED/MSEB # 7266

United States Environmental Protection Agency

By: *Matthew W. Thompson*
for Phillip A. Brooks, Director
Air Enforcement Division
Office of Civil Enforcement

Date: 6/2/10