

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

In the Matter of:)))))
BP Products North America Inc.))))	Administrative Settlement
))))	Agreement
Respondent.))))	AED/MSEB # 7993

This Administrative Settlement Agreement (ASA) is made and entered into by and between the United States Environmental Protection Agency (the EPA) and BP Products North America Inc. (Respondent or BP), 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, Subpart L (Gasoline Benzene regulations).

Purpose:

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

Statutory and Regulatory Authority:

2. The EPA promulgated the Gasoline Benzene regulations pursuant to Section 211(c) of the CAA, 42 U.S.C. § 7545(c).
3. The Gasoline Benzene regulations are part of a comprehensive national program designed to limit the benzene content of gasoline and reduce toxic emissions from passenger vehicles and gas cans.
4. 40 C.F.R. § 80.1275(a) requires that for each averaging period, as noted in 40 C.F.R. § 80.1275(b), in which a refinery plans to generate early credits, its average gasoline benzene concentration, calculated according to 40 C.F.R. § 80.1238(a), must be at least 10% lower than its benzene baseline concentration approved under 40 C.F.R. § 80.1280.

5. 40 C.F.R. § 80.1275(b) provides that the early credit averaging periods are as follows: (1) for 2007, the seven-month period from June 1, 2007 through December 31, 2007; (2) for 2008, 2009, and 2010, the 12-month calendar year.
6. 40 C.F.R. § 80.1275(c) provides that the number of early benzene credits generated shall be calculated for each applicable averaging period by: (1) taking the baseline benzene concentration of gasoline produced at a refinery during the averaging period, per 40 C.F.R. § 80.1280(a); (2) subtracting the average benzene concentration of gasoline produced at the refinery during the averaging period, per 40 C.F.R. § 80.1238; (3) dividing the results from steps 1 and 2 by 100; and (4) multiplying the results from step 3 by the total volume of gasoline produced at the refinery during the averaging period.
7. 40 C.F.R. § 80.1347(a)(1) provides that the sampling and testing requirements in 40 C.F.R. Part 80, Subpart D for reformulated gasoline shall continue to apply to reformulated gasoline, and shall be extended to conventional gasoline for the purpose of complying with the benzene requirements of 40 C.F.R. Part 80, Subpart L, except as modified by subsequent paragraphs of Subsection 80.1347(a).
8. 40 C.F.R. § 80.1347(a)(2)(iv) requires refiners to collect a representative sample from each batch of gasoline produced, according to the earliest applicable date in the following schedule:
Beginning June 1, 2007, for any refinery planning to generate early credits for the averaging period specified at 40 C.F.R. § 80.1275(b)(1).
9. 40 C.F.R. § 80.1347(a)(2)(v) requires refiners to collect a representative sample from each batch of gasoline produced, according to the earliest applicable date in the following schedule:
Beginning January 1 of each averaging period specified at 40 C.F.R. § 80.1275(b)(2) or (b)(3) for which the refinery plans to generate early credits.

10. 40 C.F.R. § 80.1347(a)(3)(i) requires that each sample shall be tested in accordance with the methodology specified at § 80.46(e) to determine its benzene concentration for compliance with the requirements of this subpart.
11. 40 C.F.R. § 80.1350(b)(1)(iii) requires that beginning with the earliest applicable date specified in 40 C.F.R. § 80.1347(a)(2), any refiner, for each of its refineries, shall keep records that include the following information, as applicable: The number of early benzene credits generated under 40 C.F.R. § 80.1275, separately by year of generation.
12. 40 C.F.R. § 80.1354(a) requires that beginning with the earliest applicable date specified in 40 C.F.R. § 80.1347(a)(2), any refiner for each of its refineries, shall submit to the EPA an Annual Gasoline Benzene Report.
13. 40 C.F.R. § 80.1354(b)(1) – (13) provides the information that the Annual Gasoline Benzene Report shall contain, which includes, but is not limited to: (1) the benzene volume percent and volume of any reformulated gasoline (RFG), Reformulated Blendstock for Oxygenate Blending (RBOB), and conventional gasoline, separately by batch, produced by the refinery or imported, and the sum of the volumes and the volume-weighted benzene concentration, in volume percent; (2) the annual average benzene concentration, per 40 C.F.R. § 80.1238; (3) the maximum average benzene concentration per 40 C.F.R. § 80.1240(b); (4) the number of banked benzene credits from the previous reporting period; (5) the number of benzene credits generated under 40 C.F.R. § 80.1275, if applicable; and (6) the number of banked benzene credits.
14. 40 C.F.R. § 80.1354(d)(3) provides that the Annual Gasoline Benzene Report shall be signed and certified as correct by the owner or a responsible corporate officer of the refiner.
15. 40 C.F.R. § 80.1356(c)(1) – (4) provides that the following procedures shall be completed for a refinery that generates early benzene credits per 40 C.F.R. § 80.1275: (1) obtain the baseline benzene concentration and gasoline volume from paragraph (a)(4) of this section; (2) obtain the annual benzene report per 40 C.F.R. § 80.1354; (3) if the benzene value under paragraph (c)(2)

of this section is at least 10 percent less than the value in paragraph (c)(1) of this section, compute and report as a finding the difference according to § 80.1275; (4) compute and report as a finding the total number of benzene credits generated by multiplying the value calculated in paragraph (c)(3) of this section by the volume of gasoline listed in the report specified in paragraph (c)(2) of this section, and agree this number with the number reported to the EPA.

16. 40 C.F.R. § 80.1358(a)(2) states that no person shall fail to meet any other requirements of 40 C.F.R. Part 80, Subpart L.
17. 40 C.F.R. § 80.1360(b) provides that any person who violates 40 C.F.R. § 80.1358 is liable for the violation.
18. 40 C.F.R. § 80.1361(b) provides that any person liable under 40 C.F.R. § 80.1360(b) for a failure to fulfill any requirement of credit generation, transfer, use, banking or deficit carry-forward correction is subject to a separate violation for each and every day in the averaging period in which invalid credits are generated, banked, transferred, or used.

Background:

19. Respondent's Whiting Refinery is located at 2815 Indianapolis Boulevard in Whiting, Indiana.
20. Respondent self-disclosed to the EPA that, between June 1, 2007 and December 31, 2007, it produced 302 batches of reformulated gasoline, and 557 batches of conventional gasoline, and that it did not test individually a representative sample from each of the 557 batches of conventional gasoline produced.
21. Respondent self-disclosed to the EPA that, between January 1, 2008 and December 31, 2008, it produced 550 batches of reformulated gasoline, and 927 batches of conventional gasoline, and that it did not test individually a representative sample from each of the 927 batches of conventional gasoline produced.
22. Respondent self-disclosed to the EPA that, between January 1, 2009 and December 31, 2009, it produced 605 batches of reformulated gasoline, and 1,056 batches of conventional gasoline, and

that it did not test individually a representative sample from 1,040 of the 1,056 batches of conventional gasoline produced.

23. Respondent self-disclosed to the EPA that, between January 1, 2010 and December 31, 2010, it produced 547 batches of reformulated gasoline, and 1,222 batches of conventional gasoline, and that it did not test individually a representative sample from 730 of the 1,222 batches of conventional gasoline produced.
24. Respondent self-disclosed to the EPA that, between June 1, 2007 and December 31, 2010, it collected on-line analyzer benzene data for all conventional gasoline shipments and conducted composite sampling for all conventional gasoline produced.
25. Respondent informed the EPA that since 2005 it made operational improvements in benzene control technology to reduce benzene levels by reconfiguring the naphtha splitter thereby reducing the benzene precursors to the reformer.
26. Based upon the information Respondent provided, the EPA alleges that between June 1, 2007 and December 31, 2010, Respondent violated 40 C.F.R. § 80.1347(a)(2), 40 C.F.R. § 80.1347(a)(3)(i) and 40 C.F.R. § 80.1358(a)(2) by failing to test individually a representative sample from 3,254 batches of conventional gasoline, which, together with 2,512 batches of gasoline that were tested individually, it used to generate 36,937,292 benzene credits at its Whiting Refinery.
27. Based upon the information Respondent provided, the EPA alleges that between June 1, 2007 and December 31, 2010, Respondent violated 40 C.F.R. § 80.1350(b)(1)(iii) and 40 C.F.R. § 80.1358(a)(2) by failing to meet the applicable recordkeeping requirements relating to early benzene credits generated under the Gasoline Benzene regulations.
28. Based upon the information Respondent provided, the EPA alleges that between June 1, 2007 and December 31, 2010, Respondent violated 40 C.F.R. § 80.1354, 40 C.F.R. § 80.1356, and 40

C.F.R. § 80.1358(a)(2) by failing to meet the applicable reporting requirements relating to early benzene credits generated under the Gasoline Benzene regulations.

29. The 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:

30. 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.
31. Respondent agrees to surrender to the EPA and never use, bank, or transfer to another refinery or importer within the company, or another refiner or importer outside of the company 6,400,000 benzene credits that it generated at its Whiting Refinery between June 1, 2007 and December 31, 2010, on the effective date of this ASA.
32. Respondent agrees that between the effective date of this ASA and July 1, 2013, it will only use the remaining 30,537,292 benzene credits that it generated at its Whiting Refinery between June 1, 2007 and December 31, 2010, for compliance at the Whiting Refinery or at other BP owned facilities (including any facilities owned by a joint venture in which BP has at least a 50 percent interest), that have a benzene credit deficit.
33. Beginning July 1, 2013, BP may transfer to any entity, in accordance with the Gasoline Benzene regulations, any of the remaining benzene credits that it generated at its Whiting Refinery between June 1, 2007 and December 31, 2010.
34. Respondent agrees to submit a written notification to the EPA within five days of surrendering the credits in Paragraph 31. The notification should include the following information: (1) the number of credits surrendered; (2) the date that they were surrendered; and (3) the contact

name(s) and phone number(s) of the person(s) at the EPA who BP worked with to surrender the credits. Respondent should send the notification to the following address:

United States Environmental Protection Agency
Attn: Air Enforcement Division Director
1200 Pennsylvania Avenue, NW, Mail Code – 2242A
Washington, DC 20460

35. Respondent agrees to meet all recordkeeping and reporting requirements under 40 C.F.R. Part 80, Subpart L, by no later than the effective date of this ASA.

36. Respondent agrees to pay a civil penalty of \$294,000 to the United States of America within thirty (30) calendar days of the effective date of this ASA (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 # 7993

Simultaneously, a scanned copy of the check shall be e-mailed to Tahani Rivers at rivers.tahani@epa.gov. 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 e-mail a scanned copy of the online payment receipt to Tahani Rivers at rivers.tahani@epa.gov.

Stipulated Penalties:

37. Respondent shall pay stipulated penalties of \$1,000 per day for failure to timely pay the penalty, or provide proof thereof, pursuant to Paragraph 36, or for failure to comply with the benzene

credit requirements and limitations in Paragraphs 31 - 33, or provide proof thereof, pursuant to Paragraph 34.

General Provisions:

38. This ASA becomes effective upon the date executed by both Parties (effective date of the ASA), at which time a copy will be returned to Respondent.
39. Notwithstanding any other provision of this ASA, upon default or failure of Respondent to comply with the terms of this ASA, the 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 ASA 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 ASA. *See* 31 U.S.C. § 7701.
40. The Parties represent 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.
41. 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.
42. The validity, enforceability, and construction of all matters pertaining to this ASA shall be determined in accordance with applicable federal law.
43. This ASA is contingent upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to the EPA relating to its compliance with the Gasoline Benzene regulations.

Effect of ASA:

44. Upon completion of the terms of this ASA, the alleged violations described shall be deemed terminated and resolved. Nothing herein shall limit the right of the EPA to proceed against Respondent in the event of default or noncompliance with this ASA, for violations of CAA Section 211, 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 responsibility to comply with other state, federal, or local laws or regulations.

Administrative Settlement Agreement – In the Matter of BP America, Inc.
AED/MSEB # 7993

The following agree to the terms of this ASA:

BP Products North America Inc.

By: Steve R. Cornell Date: Feb 6, 2012

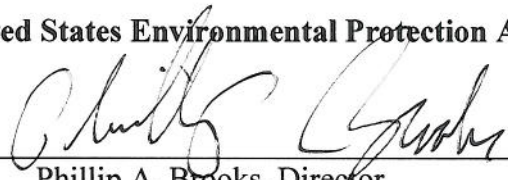
Typed or Printed Name: Steve R. Cornell

Typed or Printed Title: President, BP Products North America Inc.

Federal Tax Identification Number: 36-2440313

Administrative Settlement Agreement – In the Matter of BP America, Inc.
AED/MSEB # 7993

United States Environmental Protection Agency

By:  _____

Phillip A. Brooks, Director
Air Enforcement Division
Office of Civil Enforcement

Date: 2/21/12