

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-1454-AIR-E **TCEQ ID:** RN100218130 **CASE NO.:** 36508  
**RESPONDENT NAME:** Houston Refining LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Houston Refining, 12000 Lawndale Street, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Refinery</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There are four additional pending enforcement actions regarding this facility location, Docket Nos. 2010-0211-AIR-E, 2010-0028-AIR-E, 2009-1158-AIR-E, and 2009-0779-AIR-E.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 17, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8931; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Thomas Phillips, Environmental Specialist, Houston Refining LP, 12000 Lawndale Street, Suite 14, Houston, Texas 77017  <b>Mr. James R. Daniel,</b> Manager, Houston Refining LP, 12000 Lawndale Street, Suite 14, Houston, Texas 77017  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 20, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 8, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to prevent unauthorized emissions during Incident No. 112203. Specifically, during the August 6, 2008 emissions event, the following unauthorized emissions were released from Flare Nos. 1 and 2 over a period of 50 minutes: 2,192.53 pounds ("lbs") of volatile organic compounds, 1,993.80 lbs of carbon monoxide, 1,377.20 lbs of sulfur dioxide, 129.80 lbs of nitrogen dioxide, and 15 lbs of hydrogen sulfide. Since the emissions event could have been avoided by preventing failure of the emergency power-off buttons and the subsequent shut-down of the Uninterruptible Power Supply, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 2167 and PSD-TX-985, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.715(a), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$10,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$4,000</p> <p>On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.</p> <p>(The remaining \$6,000 due pending the outcome of bankruptcy proceedings.)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as Incident No. 112203; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): HG0048L

**Penalty Calculation Worksheet (PCW)**

Policy Revision 2 (September 2002) PCW Revision June 12, 2008

<b>TCEQ</b> DATES	Assigned	10-Sep-2008	Screening	10-Sep-2008	EPA Due	N/A
	PCW	10-Sep-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Houston Refining LP		
Reg. Ent. Ref. No.	RN100218130		
Facility/Site Region	12-Houston	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36508	No. of Violations	1
Docket No.	2008-1454-AIR-E	Order Type	1860
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	\$5,000
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	411.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i> \$20,550

Notes: Penalty enhancement due to 12 NOVs issued for same or similar violations, three NOVs issued for unrelated violations, eight self-reported effluent discharge violations, four agreed orders with a denial of liability, nine agreed orders without a denial of liability, and one final judgement with a denial of liability. Penalty reduction due to four notices of intended audits and one disclosure of violations submitted.

Culpability	No 0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$416	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$10,000		

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	\$25,550
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* \$25,550

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	\$10,000
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<b>DEFERRAL</b>	0.0%	<i>Adjustment</i>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:  Deferral not offered since this is a pre-bankruptcy petition case.

<b>PAYABLE PENALTY</b>	\$10,000
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Screening Date 10-Sep-2008

Docket No. 2008-1454-AIR-E

PCW

Respondent Houston Refining LP

Policy Revision 2 (September 2002)

Case ID No. 36508

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100218130

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	12	60%
	Other written NOVs	11	22%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	9	225%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	4	-4%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 411%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to 12 NOVs issued for same or similar violations, three NOVs issued for unrelated violations, eight self-reported effluent discharge violations, four agreed orders with a denial of liability, nine agreed orders without a denial of liability, and one final judgement with a denial of liability. Penalty reduction due to four notices of intended audits and one disclosure of violations submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 411%

<b>Screening Date</b> 10-Sep-2008	<b>Docket No.</b> 2008-1454-AIR-E	<b>PCW</b>
<b>Respondent</b> Houston Refining LP		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 36508		<small>PCW Revision June 12, 2008</small>
<b>Reg. Ent. Reference No.</b> RN100218130		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Rebecca Johnson		
<b>Violation Number</b> 1		
<b>Rule Cite(s)</b>	Air Permit No. 2167 and PSD-TX-985, Special Condition No. 1, 30 Tex. Admin. Code § 116.715(a), and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to prevent unauthorized emissions during Incident No. 112203. Specifically, during the August 6, 2008 emissions event the following unauthorized emissions were released from Flare Nos. 1 and 2 over a period of 50 minutes: 2,192.53 pounds ("lbs") of volatile organic compounds, 1,993.80 lbs of carbon monoxide, 1,377.20 lbs of sulfur dioxide, 129.80 lbs of nitrogen dioxide, and 15 lbs of hydrogen sulfide. Since the emissions event could have been avoided by preventing failure of the emergency power-off buttons and the subsequent shut-down of the uninterruptible power supply, the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.	
	<b>Base Penalty</b>	\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
	<b>Harm</b>	
<b>OR</b>	Release	Major    Moderate    Minor
	Actual	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>
	Potential	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	<b>Percent</b>	50%
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification	Major    Moderate    Minor
	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	<b>Percent</b>	0%
<b>Matrix Notes</b>	Human health or the environment in the Houston-Galveston-Brazoria ozone nonattainment area were exposed to a significant amount of pollutants that did not exceed protective levels as a result of the violation.	
	<b>Adjustment</b>	\$5,000
		\$5,000
<b>Violation Events</b>		
	Number of Violation Events	1
		1 Number of violation days
<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
	<b>Violation Base Penalty</b>	\$5,000
One monthly event is recommended.		
<b>Good Faith Efforts to Comply</b>		
	0.0% Reduction	\$0
	Before NOV    NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
	<b>Violation Subtotal</b>	\$5,000
<b>Economic Benefit (EB) for this violation</b>		
	<b>Estimated EB Amount</b>	\$416
<b>Statutory Limit Test</b>		
	<b>Violation Final Penalty Total</b>	\$25,560
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$10,000

## Economic Benefit Worksheet

**Respondent** Houston Refining LP  
**Case ID No.** 36508  
**Reg. Ent. Reference No.** RN100218130  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	6-Aug-2008	6-Jun-2009	0.83	\$416	n/a	\$416

**Notes for DELAYED costs**  
 Estimated cost to implement measures designed to prevent the recurrence of emissions events due to emergency power-off button failure. Date required is the date of the emissions event. Final date is the projected date all corrective measures will be completed.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** **TOTAL**

\$10,000	\$416
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### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

#### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

**Effective Date:** 12/05/2003

**COURT ORDER**

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
30 TAC Chapter 116, SubChapter G 116.715(a)

Rqmt Prov: SC 1 PERMIT

Description: Emissions of sulfur dioxide and hydrogen sulfide into the air at such concentration as to adversely affect human health or welfare or as to interfere with the reasonable use and enjoyment of property.

**Effective Date:** 07/01/2004

**ADMINORDER 2003-1418-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Allowed an unauthorized release of SO<sub>2</sub>, H<sub>2</sub>S, and SO<sub>3</sub> from the Sulfur Recovery Complex. Specifically, an emissions event occurred on December 19, 2002 which resulted in excess emissions of 85,009 lbs of SO<sub>2</sub>, 1,869 lbs of H<sub>2</sub>S, and 2,426 lbs of SO<sub>3</sub>.

**Effective Date:** 04/10/2005

**ADMINORDER 2004-0866-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PSD-TX-985, Special Condition 1 PERMIT

Description: Exceeded VOC emissions limit for TCEQ Flexible Permit #2167 during an emissions event.

**Effective Date:** 08/07/2005

**ADMINORDER 2004-2002-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failed to comply with permitted emissions limits.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit the initial report for the reportable emission event that occurred on September 1, 2004 in a timely manner.

**Effective Date:** 12/15/2005

**ADMINORDER 2005-1172-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Flexible Permit No. 2167, SC #1. PERMIT

Description: Failed to comply with permitted emissions limits.

**Effective Date: 02/05/2006**

**ADMINORDER 2005-0754-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.716(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 1 PERMIT

Description: Failed to comply with permitted emissions limits.

**Effective Date: 02/20/2006**

**ADMINORDER 2005-0359-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(1)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Flexible Permit #2167, SC #2 PA

Flexible Permit #2167, SC#26 PA

Description: Failed to limit the hydrogen sulfide ("H2S") concentration in the fuel gas to no more than 160 parts per million ("ppm") on a three-hour rolling average basis.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Flexible Permit #2167, SC #44B PA

Description: Failed to operate the Wet Gas Scrubber (EPN 732 COB) at a minimum pressure drop across the scrubber of 0.91 pounds per square inch ("psi") and at a minimum liquid-to-gas ratio ("L/G") of 16.0 gallons per 1,000 actual cubic feet.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.103(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Flexible Permit #2167, SC #2 PA

Description: Failed to maintain a maximum hourly average carbon monoxide ("CO") concentration of no more than 500 parts per million volume ("ppmv") from the FCCU Catalyst Regenerator Stack (EPN 732-COB)

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 47 PERMIT

Description: Failed to note daily flare observations in the Flare Observation Log and failed to maintain monitoring records for a flare's pilot flame.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 115, SubChapter D 115.352(2)  
30 TAC Chapter 116, SubChapter G 116.715(a)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.171(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Flexible Permit #2167, SC #14.I PA

Description: Failed to repair three valves within 15 days of leak detection

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Flexible Permit #2167, SC #37 PA

Description: Failed to maintain the sulfur dioxide ("SO<sub>2</sub>") concentration in the exhaust gas of the #435 and #440 Tail Gas Thermal Oxidizers (EPNs TGU-ICN and TGU-ICN2) below 235 ppmv on a one-hour average basis.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 115, SubChapter B 115.114(a)(1)

30 TAC Chapter 115, SubChapter B 115.114(a)(2)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(2)(i)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(b)(1)(iii)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Flexible Permit #2167, SC #4 PA

Description: Failed to conduct the required inspections for three storage tanks.

**Effective Date: 05/28/2006**

**ADMINORDER 2005-1985-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Flexible Permit #2167, SC #1 PERMIT

Description: Failed to prevent unauthorized emissions.

**Effective Date: 06/15/2006**

**ADMINORDER 2005-2073-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Permit #2167, SC#1 PERMIT

Description: Failed to prevent unauthorized emissions.

**Effective Date: 02/05/2007**

**ADMINORDER 2006-0811-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: TCEQ Permit #2167, SC#1 PERMIT

Description: Failed to prevent unauthorized emissions on March 21, 2006.

**Effective Date: 08/10/2007**

**ADMINORDER 2007-0440-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 10,494 pounds ("lbs") of sulfur dioxide, 126 lbs of carbon monoxide and 22 lbs of hydrogen sulfide were released from the Magnaformer Unit and the Sulfur Recovery Complex during an emissions event that began January 4, 2007 and lasted nine hours and 45 minutes.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 1,431 pounds ("lbs") of propane, 510 lbs of propylene and 11 lbs of butenes were released from Unit 234 during an avoidable emissions event that began January 9, 2007 and lasted eight hours.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 8,205 pounds of the Highly Reactive Volatile Organic Compound ethylene were released from the Paraxylene Recovery Unit during an avoidable emissions event that began January 16, 2007 and lasted one hour and 55 minutes.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to properly report the amount of ethylene emissions. Specifically, the final notification reported 7,650 lbs of ethylene were released as a result of the January 16, 2007 emissions event and the investigation determined that the actual emissions released were 8,205 lbs of ethylene.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 189 lbs of propane, 530 lbs of propylene, 821 lbs of butanes, 1,064 lbs of butenes, 3,154 lbs of pentanes, 2,589 lbs of pentenes and 13,734 lbs of C6+ Hazardous Air Pollutants ("HAP") were released from the 732 Fluid Catalytic Cracking Unit ("FCCU") during

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 72 lbs of ethylene, 2,195 lbs of propane, 7,057 lbs of propylene, 11,000 lbs of butanes, 8,990 lbs of butenes, 4,110 lbs of pentanes and 23,328 lbs of C6+ HAPs were released from the 732 FCCU during an avoidable emissions event that began March 5, 2007

**Effective Date: 10/04/2007**

**ADMINORDER 2007-0713-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, Houston Refining released 1,830 lbs of SO2 from the Sulfur Recovery Complex during an avoidable emissions event that began April 3, 2007 and lasted one hour and 30 minutes.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, Exxon released 54,320 lbs of sulfur dioxide, 700 lbs of sulfur trioxide, 596 lbs of hydrogen sulfide, 304 lbs of ammonia and 76 lbs nitric oxide from the Sulfur Recovery Unit during an avoidable emissions event that began April 21, 2007 and lasted 16 hours and 45 minutes.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to submit an initial notification within 24 hours of the discovery of the April 21, 2007 emissions event. Specifically, the report, which was due April 22, 2007, was not submitted until April 26, 2007.

**Effective Date: 12/20/2007**

**ADMINORDER 2006-1948-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Flexible Permit #2167, SC#1 PERMIT  
Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Flexible Permit #2167, SC #1 PERMIT  
Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: TCEQ Flexible Permit #2167, SC #1 PERMIT  
Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: TCEQ Flexible Air Permit #2167, SC #1 PERMIT  
Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: TCEQ Flexible Permit No. 2167, SC #1 PERMIT  
Description: Failed to prevent unauthorized emissions on October 2, 2006, when a console operator inadvertently opened the wrong valve, resulting in an emissions event that released 2,608.50 pounds of sulfur dioxide and lasted for one hour ( Incident No. 82077)

**Effective Date: 07/21/2008**

**ADMINORDER 2007-1954-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)  
30 TAC Chapter 116, SubChapter G 116.715(c)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: TCEQ Flexible Permit No. 2167, SC #1 PERMIT  
Description: Failed to prevent unauthorized emissions.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CEEDS Inv. Track. No.)

1	01/05/2004	(252510)
2	02/03/2004	(252543)
3	02/23/2004	(4691)
4	02/29/2004	(262038)
5	05/14/2004	(264609)
6	05/27/2004	(143412)
7	08/24/2004	(271493)
8	09/01/2004	(276631)
9	10/15/2004	(282886)
10	11/18/2004	(340059)
11	11/18/2004	(340059)
12	11/22/2004	(341679)
13	12/07/2004	(341250)
14	03/29/2005	(375273)
15	05/20/2005	(381195)
16	05/25/2005	(379525)
17	05/26/2005	(337173)
18	05/26/2005	(337173)
19	08/18/2005	(404363)
20	11/23/2005	(435308)
21	02/28/2006	(457235)
22	04/20/2006	(437368)
23	04/27/2006	(439800)
24	05/31/2006	(480494)
25	05/31/2006	(480504)
26	05/31/2006	(480503)
27	05/31/2006	(480500)
28	05/31/2006	(480494)
29	05/31/2006	(480504)
30	05/31/2006	(480503)
31	05/31/2006	(480500)
32	05/31/2006	(480504)
33	05/31/2006	(480494)
34	05/31/2006	(480503)
35	05/31/2006	(480494)
36	05/31/2006	(480506)
37	05/31/2006	(480503)
38	05/31/2006	(480506)
39	05/31/2006	(480500)
40	05/31/2006	(480506)
41	06/14/2006	(479843)
42	06/15/2006	(481316)
43	06/15/2006	(481316)
44	06/30/2006	(469140)
45	07/17/2006	(485790)
46	07/28/2006	(463199)
47	08/08/2006	(489220)
48	09/11/2006	(489202)
49	09/11/2006	(489202)
50	10/06/2006	(489212)
51	10/30/2006	(511654)
52	01/09/2007	(532009)
53	02/02/2007	(435323)
54	02/02/2007	(511662)
55	02/02/2007	(435323)

	56	02/02/2007	(511662)
	57	02/05/2007	(536476)
	58	02/08/2007	(512678)
59		02/22/2007	(510814)
60		03/21/2007	(539194)
61		03/21/2007	(539192)
62		03/21/2007	(539188)
63		03/21/2007	(539192)
64		03/21/2007	(539188)
65		03/21/2007	(539192)
66		03/21/2007	(539194)
67		03/21/2007	(539188)
68		03/21/2007	(539194)
69		04/04/2007	(554809)
70		04/04/2007	(554793)
71		04/04/2007	(554809)
72		04/04/2007	(554793)
73		04/04/2007	(554809)
74		04/04/2007	(554793)
75		04/20/2007	(556941)
76		04/24/2007	(557537)
77		05/04/2007	(556720)
78		05/29/2007	(559572)
79		07/03/2007	(563761)
80		07/25/2007	(566621)
81		08/17/2007	(570286)
82		08/28/2007	(570635)
83		10/17/2007	(567541)
84		10/18/2007	(566919)
85		10/25/2007	(596179)
86		11/09/2007	(599574)
87		12/21/2007	(610028)
88		01/15/2008	(612806)
89		01/28/2008	(616032)
90		01/29/2008	(611265)
91		03/03/2008	(616148)
92		05/30/2008	(670616)
93		08/22/2008	(688646)
94		08/27/2008	(687290)
95		08/27/2008	(687290)
96		08/27/2008	(687290)
97		09/09/2008	(701172)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**Date:** 02/03/2004 (252543)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 2167, Special Condition #1

Description: Lyondell failed to comply with the Special Conditions of permit 2167. Improper trim adjustment on a control valve caused temperature and pressure to increase above the PSV setpoint.

**Date:** 02/29/2004 (262038)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT TCEQ FLEXIBLE AIR PERMIT #2167, SC #1

Description: Lyondell exceeded permit limits during an emissions event.

Date: 05/14/2004 (264609)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT Permit #2167, Special Condition #1  
Description: Exceeded VOC permit limit during an emissions event.

Date: 08/16/2004 (260585)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT TCEQ FLEXIBLE AIR PERMIT 2167, SC #1  
Description: Exceeded VOC permit limit during an avoidable emissions event.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)  
Description: Failure to submit an administratively complete final emissions event report.

Date: 08/16/2004 (260979)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)

Description: Failure to comply with emissions events reporting requirements.

Date: 08/18/2004 (261725)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT TCEQ Flexible Air Permit #2167, SC #1  
Description: Failure to submit an administratively complete final emissions event report.

Date: 11/14/2004 (271509)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT Flexible No. 2167 and PSD-TX-985, S.C. 1  
Description: Exceeded VOC permit limits during an avoidable emissions event.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)  
Description: Failure to submit a final report within 14 days of the end of an emissions event.

Date: 11/30/2004 (351822)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 12/09/2004 (342162)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)

Rqmt Prov: PA Special Condition #1  
Description: Failure to control unauthorized emissions.

Date: 05/02/2005 (372107)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(10)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to record the times of operation for testing and maintenance for diesel

engines subject to the restriction on hours of operation.

**Date:** 05/26/2005 (379525)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failure to control knockout pot level on south compressor.

**Date:** 07/06/2005 (379524)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Rqmt Prov: PERMIT Special Condition 15E  
Description: Failed to keep a cap or plug on open-ended line ID # 501010 and open-ended valve # 614862.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6  
5C THC Chapter 382, SubChapter A 382.085(b)  
Rqmt Prov: PERMIT Special Condition 15E  
Description: Failed to keep a cap or plug on open-ended valves ID # 501010 and # 270505.

**Date:** 07/31/2005 (440650)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

**Date:** 06/13/2006 (479843)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: PERMIT TCEQ Flexible Permit #2167, SC #1  
Description: Lyondell failed to prevent the "Y Train" from overpressuring.

**Date:** 06/30/2006 (520029)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

**Date:** 07/31/2006 (520030)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

**Date:** 08/01/2006 (463199)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
Rqmt Prov: PA 2167 and PSD-TX-985, SC 15E  
Description: Failure to cap/plug open-ended line

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(2)  
Description: Leaking plug associated with valve #802412.

Self-Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 115, SubChapter D 115.354(2)(C)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)  
Rqmt Prov: PA 2167 and PSD-TX-985, SC 15F  
Description: Failure to monitor valves

Date: 08/09/2006 (489220)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: PERMIT TCEQ Flexible Permit #2167, SC#1  
Description: Failure to prevent the disconnection of a pressure indication instrument.

Date: 08/18/2006 (396831)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Rqmt Prov: PERMIT Flexible Permit No. 2167, SC #1.  
Description: The RE failed to prevent unauthorized emissions from a leaking pipe.

Date: 10/31/2006 (544277)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2007 (601491)

Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (619398)

Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2008 (689825)

Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

Notice of Intent Date: 01/05/2004 (263563)  
No DOV Associated

Notice of Intent Date: 08/15/2007 (574133)  
No DOV Associated

Notice of Intent Date: 09/05/2007 (595042)  
Disclosure Date: 02/13/2008

Viol. Classification: Major

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 115, SubChapter H 115.783(5)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

Rqmt Prov: PERMIT 2167 SC 14E, 15E,

Description: Failure to provide seals for open ended lines that contain VOCs.

Disclosure Date: 04/03/2008

Viol. Classification: Major<sup>1</sup>

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)

30 TAC Chapter 115, SubChapter H 115.783(5)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

Rqmt Prov: PERMIT 2167 SC 14E, 15E,

Description: Failure to provide seals for open ended lines that contain VOCs.

Notice of Intent Date: 10/04/2007 (598208)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HOUSTON REFINING LP  
RN100218130**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2008-1454-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Houston Refining LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a refinery at 12000 Lawndale Street in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 13, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. On January 6, 2009, the Respondent, together with certain other subsidiaries and affiliates of Lyondell Chemical Company, filed with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "Code"). In re Lyondell Chemical Company, et al., Case No. 09-10023

(REG) (Chapter 11) (Bankr. S.D.N.Y.) (the "Bankruptcy Case"). The automatic stay imposed by the Code (specifically, 11 U.S.C. § 362 (a)) does not apply to the commencement or continuation of an action or a proceeding by a governmental unit to enforce such governmental unit's police and regulatory power, including the enforcement of a judgment other than a money judgment obtained in such action or proceeding, by virtue of the exception provided in 11 U.S.C. § 362 (b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 U.S.C. § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations, including the assessment of Respondent of the administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as provided in Section I, Paragraph 7 and Section IV, Paragraph 1 below. TCEQ shall not seek to collect such penalty except in accordance with applicable Bankruptcy law. The Respondent agrees to stipulate that, in accordance with this Agreed Order, TCEQ shall have an allowed general unsecured claim in the amount of Six Thousand Dollars (\$6,000), which shall be paid in accordance with the terms prescribed in the plan of reorganization approved by the Bankruptcy Court or liquidation.

7. An Administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Dollars (\$4,000) of the administrative penalty.
8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions during Incident No. 112203, in violation of Air Permit No. 2167 and PSD-TX-985, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.715(a), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 20, 2008. Specifically, during the August 6, 2008 emissions event the following unauthorized emissions were released from Flare Nos. 1 and 2 over a period of 50 minutes: 2,192.53 pounds ("lbs") of volatile organic compounds, 1,993.80 lbs of carbon monoxide, 1,377.20 lbs of sulfur dioxide, 129.80 lbs of nitrogen dioxide, and 15 lbs of hydrogen sulfide. Since the emissions event could have been avoided by preventing failure of the emergency power-off buttons and the subsequent shut-down of the Uninterruptible Power Supply, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent be assessed an administrative penalty as set forth in Section I, Paragraph 7 above. The assessment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Subject to the provisions of Section I, Paragraph 6 above, which are expressly incorporated herein, TCEQ shall have an allowed general unsecured claim in the Respondent's bankruptcy case.
2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as Incident No. 112203; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Szellin  
\_\_\_\_\_  
For the Executive Director

4/23/2010  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein.

I also understand that failure to comply with the Ordering Provisions, if any, in this order may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

James R. Daniel  
\_\_\_\_\_  
Signature

3/12/2010  
Date

James R. Daniel  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Houston Refining LP

Manager  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order to the Financial Administration Division, Revenues Section.

