

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0779-AIR-E TCEQ ID: RN100218130 CASE NO.: 37710
RESPONDENT NAME: Houston Refining LP

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Houston Refining, 12000 Lawndale Street, Houston, Harris County</p> <p>TYPE OF OPERATION: Petroleum refinery</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: 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 2008-1454-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 17, 2010. Comments were received on May 12, 2010 from Mr. Arturo J. Blanco, Chief, Bureau of Air Quality Control, Environmental Health Division, Houston Department of Health and Human Resources, 8000 N. Stadium Drive, Houston, Texas 77054-1823.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Tom Phillips, Senior Environmental Compliance Specialist, Houston Refining LP, 12000 Lawndale, Houston, Texas 77252 Mr. James R. Daniel, Manager, Houston Refining LP, 12000 Lawndale, Houston, Texas 77252 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 26, May 5, and May 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 29, June 23, and July 10, 2009 (NOE)</p> <p>Background Facts: These were routine investigations.</p> <p>AIR</p> <p>1) Failure to comply with permitted emissions limits. Specifically, hydrogen sulfide emissions from barge loading at the dock, Emissions Point No. ("EPN") LL19DOCKD, are limited to 7.79 pounds per hour, but those emissions were reported at 11.63 pounds per hour [New Source Review Flexible Air Permit ("NSRFAP") No. 2167/PSD-TX-985, Special Condition ("SC") 1, 30 TEX. ADMIN. CODE §§ 116.715(a) and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to submit an emissions event report to the State of Texas Environmental Electronic Reporting System ("STEERS") within 24 hours of a reportable emissions event (Incident No. 123442). Specifically, the event occurred on January 7 and 8, 2007, but the STEERS report was not submitted until April 27, 2009 [30 TEX. ADMIN. CODE § 101.201(a)(1), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to comply with permitted emissions limits and the allowable site-wide hourly emissions cap for highly reactive volatile organic compounds ("HRVOC"). Specifically, during an emissions event (Incident No. 123442) on January 7 and 8, 2007, an improperly set</p>	<p>Total Assessed: \$10,000</p> <p>Total Deferred: \$2,000 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>On or about January 6, 2009, the Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code now pending in the U.S. Bankruptcy Court.</p> <p>(The remaining \$8,000 due pending outcome of bankruptcy proceedings.)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Has initiated a sulfur degassing project at the Sulfur Recovery Complex designed to ensure that hourly hydrogen sulfide emissions at the dock comply with permitted limits;</p> <p>b. Reset the pressure relief valve EPN 938PSV0049] in the Paraxylene Recovery Unit, added a pressure indicator to the console graphics, added a high pressure alarm, revised operating instructions, and on January 8, 2008, shut the unit down, and removed the hydrocarbons from the unit;</p> <p>c. On December 2, 2008, implemented improvements to the emissions event reporting system; and</p> <p>d. On April 27, 2009, submitted an emissions event report to STEERS for the emissions event that occurred on January 7, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Return to compliance with the permitted emissions limits for hydrogen sulfide from barge loading at the dock, EPN LL19DOCKD; and</p> <p>ii. In order to address the causes that led to the emissions event that occurred on May 8, 2009, implement improvements to maintenance practices.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a.i. and a.ii.</p>

<p>pressure relief valve (EPN 938PSV0049) in the Paraxylene Recovery Unit released 4,500 pounds of ethylene over a 6.4 hour period. Since these emissions could have been avoided by better design and/or operational practices, the emissions are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11) [NSRFAP No. 2167/PSD-TX-985, SC 1, 30 TEX. ADMIN. CODE §§ 116.715(a), 115.722(c)(1), and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure to comply with permitted emissions limits and the allowable site-wide hourly emissions cap for HRVOC. Specifically, during an emissions event (Incident No. 124005) on May 8, 2009, an improperly open valve and a failed level indicator caused the # 2 Debutanizer Tower (EPN 732T0007) and a pressure relief valve (EPN 732PSV0337) in the Fluid Catalytic Cracking Unit to emit 3,753 pounds of volatile organic compounds (including 2,471 pounds of HRVOC), 0.3 pound of sulfur dioxide, and 23 pounds of hydrogen sulfide over a three minute period. Since these emissions could have been avoided by better maintenance practices, the emissions are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11) [NSRFAP No. 2167/PSD-TX-985, SC 1, 30 TEX. ADMIN. CODE §§ 116.715(a), 115.722(c)(1), and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): HG0048L

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Bryan W. Shaw, Ph.D., Chairman
Buddy Garcia, Commissioner
Carlos Rubinstein, Commissioner
Les Trobman, General Counsel

Date: June 14, 2010

Thru: ^{WDR} Bryan Sinclair, Director, Enforcement Division

From: Michael De La Cruz, Manager, Enforcement Division

Subject: Response to Comments Received Concerning Proposed Agreed Enforcement Orders
Houston Refining LP, Houston, Harris County
RNI00218130
Enforcement Case Nos. 37710 and 36508
Docket Nos. 2009-0779-AIR-E and 2008-1454-AIR-E

In response to a publication in the *Texas Register* April 16, 2010, comments have been received regarding two proposed agreed enforcement orders requiring certain actions of Houston Refining LP. The comments were received within the thirty-day public comment period.

Proposed order, Docket No. 2009-0779-AIR-E, resolves violations of: New Source Review Flexible Air Permit ("NSRFAP") No. 2167/PSD-TX-985, Special Condition ("SC") 1, 30 TEX. ADMIN. CODE §§ 116.715(a) and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b) for failing to comply with permitted emissions limits; 30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b) for failing to submit an emissions event report to the State of Texas Environmental Electronic Reporting System within 24 hours of a reportable emissions event; NSRFAP No. 2167/PSD-TX-985, SC 1, 30 TEX. ADMIN. CODE §§ 116.715(a), 115.722(c)(1), and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b) for failing to comply with permitted emissions limits and the allowable site-wide hourly emissions cap for highly reactive volatile organic compounds. The violations were documented during an investigation conducted on May 21, 2009. TCEQ staff and Houston Refining LP agreed on the terms of the proposed order on March 17, 2010. The order would assess a Ten Thousand Dollar (\$10,000) penalty.

Proposed order, Docket No. 2008-1454-AIR-E, resolves violations of: NSRFAP No. 2167/PSD-TX-985, SC 1, 30 TEX. ADMIN. CODE § 116.715(a), and TEX. HEALTH & SAFETY CODE § 382.085(b) for failing to prevent unauthorized emissions during Incident No. 112203. This violation was documented during an investigation conducted on August 20, 2008. TCEQ staff and Houston Refining LP agreed on the terms of the proposed order on March 15, 2010. The order would assess a Ten Thousand Dollar (\$10,000) penalty.

A copy of the comments, and the staff response to the comments, are attached for your consideration. In summary, the commentor is expressing concern that there are no ordering provisions for two alleged violations, that the ordering provisions are too vague, and that the penalties are too low. Staff's position, as reflected in the response, are:

One, regarding no ordering provisions for two alleged violations, the Respondent had already completed responsive corrective actions for those alleged violations. Therefore, no ordering provisions were needed.

Two, regarding vague ordering provisions, TCEQ staff does not believe that the provisions are vague. The TCEQ's wording of these ordering provisions puts the burden and expense on Houston Refining to conduct their own research based on their own root cause analyses to formulate and implement measures that are directly related to correcting the deficiencies which caused the alleged violations.

Three, regarding low penalties, TCEQ staff has reviewed the penalty assessments and concluded that these penalties were applied consistently with the penalty policy, with determinations made in previous cases, and by taking into consideration the Respondent's bankruptcy proceedings.

Accordingly, the Enforcement Division recommends that you adopt these proposed orders.

Attachments

cc: Jason Harris, Manager, Air Section, Houston Regional Office
Manuel Bautista, Manager, Air Section, Houston Regional Office
Terry Murphy, Coordinator, Enforcement Division
Rebecca Johnson, Coordinator, Enforcement Division
Central Records, MC 213, Building E, 1st Floor, HG0048L
Enforcement Division Reader File



CITY OF HOUSTON

Department of Health and Human Services

Annise D. Parker

Mayor

Stephen L. Williams, M.Ed., M.P.A.
Director
Houston Department of Health
and Human Services
8000 N. Stadium Drive
Houston, Texas 77054-1823

T. 713.794.9311
F. 713.798.0862
www.houstonhealth.org

May 12, 2010

Via Facsimile at (512) 239-2550

Texas Commission on Environmental Quality
c/o Ms. Rebecca Johnson and Mr. Terry Murphy, Enforcement Coordinators
Enforcement Division
P.O. Box 13087
Austin, Texas 78711-3087

Re: Houston Refining LP (Refinery), Formerly Lyondell-Citgo Refining LP
Docket Nos. 2008-1454-AIR-E and 2009-0779-AIR-E
Comments on Proposed Agreed Orders

Dear Ms. Johnson and Mr. Murphy:

The City of Houston's Bureau of Air Quality Control (BAQC) is taking this opportunity to comment on the above noted proposed agreed orders between Houston Refining LP (Refinery) and the Texas Commission on Environmental Quality (TCEQ). In the spirit of helping to further improve air quality enforcement with consequent results in actual reductions of air emissions, BAQC makes the following comments:

1) No Ordering Provisions for Two Alleged Violations

In reference to proposed Agreed Order Docket No. 2009-0779-AIR-E, there are no ordering provisions for two alleged violations listed. In the first case, Alleged Violation No. 2 in the said docket states that no State of Texas Environmental Electronic Reporting System (STEERS) report was submitted within 24 hours for an emission event which took place on January 7 and 8, 2007. In fact, a STEERS report for the emission event was submitted more than two years late on April 27, 2009 (Incident No. 123442) according to proposed Agreed Order Docket No. 2009-0779-AIR-E and a review of STEERS. TCEQ should address this significant delay in reporting by including specific and enforceable ordering provisions to require that the Refinery detect and report events in a timely manner, in an effort to ensure that the violation is not repeated.

No ordering provisions were included either for Alleged Violation No. 3 listed in proposed Agreed Order Docket No. 2009-0779-AIR-E. Alleged Violation No. 3 is for

Re: Houston Refining LP (Refinery), Formerly Lyondell-Citgo Refining LP
Docket Nos. 2008-1454-AIR-E and 2009-0779-AIR-E
Comments on Proposed Agreed Orders

unauthorized emissions during an emissions event (Incident No. 123442) that took place on January 7 and 8, 2007, which was caused by an improperly set pressure relief valve, Emissions Point Number (EPN) 938SV0049 in the Paraxylene Recovery Unit (PRU). The event resulted in 4,500 pounds of unauthorized ethylene emissions from EPN 938SV0049, and 1,822 pounds of volatile organic compounds (VOC) and 1,459 pounds of sulfur dioxide emissions (among other emissions) from Flare #1, EPN 338K0001 and Flare #2, EPN 338K0002. Although Stipulation 9(b) listed in proposed Agreed Order Docket No. 2009-0779-AIR-E states that the Refinery shutdown the PRU on January 8, 2008, there is not an indication in the proposed agreed order or emissions event final record that the PRU shutdown is permanent and there are no enforceable ordering provisions that specifically apply to the PRU or to Alleged Violation No. 3. TCEQ should include specific and enforceable ordering provisions to be carried out by the Refinery to avoid recurrence of the emissions event.

2) Ordering Provisions Too Vague

Both of the above noted proposed agreed orders include ordering provisions that are vague and lack enforceable specific steps to ensure future compliance and prevent unauthorized emissions. For example, Ordering Provision No. 2(a) of Agreed Order Docket No. 2008-1454-AIR-E states that the Refinery must "implement measures to prevent the recurrence of emissions events due to the same cause as Incident No. 112203." The ordering provision merely restates an existing regulatory requirement that the Refinery must prevent recurring emissions events (30 TEX ADMIN. CODE §101.222(b)(9)). TCEQ should include ordering provisions that are more specific and enforceable to ensure that the Refinery takes action to avoid recurrence of the emissions event and include adequate stipulated penalties for repeated violations of requirements that are merely restated.

In the case of proposed Agreed Order Docket No. 2009-0779-AIR-E, there are only two ordering provisions, Ordering Provision Nos. 2(a)(i) and 2(a)(ii). Ordering Provision 2(a)(i) requires the Refinery to "Return to compliance with the permitted emissions limits for hydrogen sulfide from barge loading at the dock, EPN No. LL19DOCKD." TCEQ should include ordering provisions in the proposed agreed order that will require that the Refinery to sustain compliance by implementing specific corrective actions that will prevent recurrence of the violation and include adequate stipulated penalties for repeated violations.

Ordering Provision No. 2(a)(ii) listed in proposed Agreed Order Docket No. 2009-0779-Air-E requires that the Refinery implement improvements to maintenance practices to avoid future emissions event after a May 8, 2009 event (Incident No. 124005). The May 8, 2009 event was caused when a valve was left open improperly and a level indicator failed, resulting in overfilling of the #2 Debutanizer Tower (EPN

Re: Houston Refining LP (Refinery), Formerly Lyondell-Citgo Refining LP
Docket Nos. 2008-1454-AIR-E and 2009-0779-AIR-E
Comments on Proposed Agreed Orders

732T0007) and a pressure relief valve (EPN 732PSV0337) releasing 3,753 pounds of VOC and other air contaminants to the atmosphere over a three minute period. The ordering provision to improve maintenance practices is vague and should include specific enforceable improvements that are required, like ensuring level indicators are in good working order and valves are properly operated, to achieve the desired results of preventing future emissions events like the one which occurred on May 8, 2009.

Therefore, TCEQ should revise proposed Agreed Order Docket Nos. 2008-1454-AIR-E and 2009-0779-Air-E to include ordering provisions that require the Refinery to adopt well documented best management practices directly related to the deficiencies which caused the alleged violations. The proposed agreed orders should include ordering provisions that are specific regarding the corrective measures, their implementation and the expected results, and include adequate stipulated penalties for repeated violations.

3) Penalties Too Low

TCEQ proposes a total penalty of \$10,000 each for the two agreed orders. The Refinery is a major source so the statutory maximum administrative penalty per violation per day is \$10,000. TCEQ should re-assess the penalty amount in the proposed agreed orders for the following reasons, so that they accurately reflect the seriousness of the violations and so that the penalty amounts are consistent from one agreed order to the next.

- In the case of proposed Agreed Order Docket No. 2009-0779-Air-E, there are four listed alleged violations. Alleged Violation Nos. 3 and 4 should be considered by TCEQ as causing major harm because a significant amount of highly reactive volatile organic compounds (HRVOC) were released during associated Incident Nos. 123442 and 124005, and the amounts released were above the levels that are considered protective. The combined penalty amount for Alleged Violation Nos. 3 and 4 alone, of Agreed Order Docket No. 2009-0779-Air-E, should therefore be at least \$20,000. Alleged Violation No. 2 of Agreed Order Docket No. 2009-0779-Air-E is a major programmatic violation and the TCEQ Penalty Policy allows for a penalty of \$2,500. Alleged Violation No. 1 of Agreed Order Docket No. 2009-0779-Air-E is for exceeding the permitted hydrogen sulfide emissions limit at the dock, EPN No. LL19DOCKD, for which the TCEQ penalty policy allows for a \$5,000 penalty (actual release, moderate harm, assuming one day of violation). Based on BAQC's evaluation of the proposed penalty for Agreed Order Docket No. 2009-0779-Air-E, TCEQ should propose a penalty of \$27,500 instead of just \$10,000.

Re: Houston Refining LP (Refinery), Formerly Lyondell-Citgo Refining LP
Docket Nos. 2008-1454-AIR-E and 2009-0779-AIR-E
Comments on Proposed Agreed Orders

- Proposed Agreed Order Docket No. 2008-1454-AIR-E has one listed alleged violation for an emission event on August 6, 2008 when 5,820 pounds of unauthorized emissions, including (among other emissions), 2,203 pounds of VOC, 807 pounds of HRVOC, 2,010 pounds of carbon monoxide and 1,378 pounds of sulfur dioxide were released to the atmosphere from Flare #1, EPN 338K0001 and Flare #2, EPN 338K0002. TCEQ proposed a \$10,000 penalty for this one violation indicating that the actual release caused major harm. A major harm designation for this incident (Incident No. 112203) is appropriate because a significant amount of HRVOC and VOC emissions were released to the atmosphere in a severe nonattainment area during ozone season and the amounts released were above the levels considered protective for ozone formation.
- Alleged Violation Nos. 3 and 4 of proposed Agreed Order Docket No. 2009-0779-Air-E include violations for unauthorized emissions, in violation of New Source Review Flexible Air Permit (NSRFAP) No. 2167/PSD-TX-985, Special Condition (SC) 1, 30 TEX ADMIN. CODE §§116.715(a) and 101.20(3) and for exceeding the site wide hourly HRVOC cap of 1,200 pounds, in violation of 30 TEX ADMIN. CODE §115.722(c)(1). TCEQ should include separate penalties for the unauthorized emissions and for exceeding the hourly HRVOC cap. The unauthorized emissions are a violation of a New Source Review permit and exceeding the hourly HRVOC cap is a State Implementation Plan (SIP) violation of a regulation implemented to address the Houston area's severe non-attainment status for ozone pollution. Additionally, if there was more than one instance of exceeding the HRVOC hourly cap for Alleged Violation No. 3, which lasted for more than 6 hours, each instance should count as a separate violation of the hourly cap for penalty calculation purposes.
- The alleged violation of proposed Agreed Order Docket No. 2008-1454-AIR-E addresses the unauthorized emissions associated with Incident No. 112203. However, an obvious emissions event reporting violation associated with Incident No. 112203 was not addressed. The final record for Incident No. 112203 indicates the cause of the emissions event was a "Process upset" and the corrective actions taken to correct the emissions event and minimize the emissions were "Made necessary operational changes to mitigate issues." The proposed agreed order fails to address the obvious violations of 30 TEX ADMIN. CODE §101.201(b)(1)(J), (K) and (L), which require emissions event final records to include "(J) the best known cause of the emissions event at the time of reporting; (K) the action taken, or being taken, to correct the emissions event and minimize the emissions; and (L) any additional information necessary to evaluate the emissions event." Failing to address obvious emissions event reporting violations perpetuate the practices of improper emissions event reporting. TCEQ

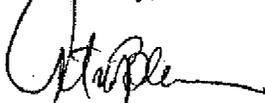
Re: Houston Refining LP (Refinery), Formerly Lyondell-Citgo Refining LP
Docket Nos. 2008-1454-AIR-E and 2009-0779-AIR-E
Comments on Proposed Agreed Orders

should address obvious emissions event reporting violations by including penalties for reporting violations in proposed orders to encourage proper reporting and to facilitate future emissions events investigations. Addressing these types of reporting violations will also increase the agreed order penalty amounts proposed by TCEQ.

TCEQ should reassess the penalties associated with the proposed agreed orders by consistently applying the TCEQ Penalty Policy, by assessing separate penalties for permit violations and SIP regulation violations and by addressing all obvious emissions event reporting violations.

The violations associated with the proposed agreed orders show the Refinery's failure to comply with environmental rules and regulations, which should have been considered when the TCEQ decided to renew the Refinery's NSRFAP No. 2167/PSD-TX-985. BAQC appreciates the opportunity to offer TCEQ comments and looks forward to seeing the suggested improvements incorporated in the proposed agreed orders.

Sincerely,



Arturo J. Blanco, Chief
Bureau of Air Quality Control
Environmental Health Division
Houston Department of Health and Human Services

Cc: Paulette Wolfson, Special Counsel-Air, City of Houston Legal Department

Michelle Roberson, Manager, Health, Safety, Security, Environmental, Houston
Refining LP

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 14, 2010

Mr. Arturo Blanco, Chief
Bureau of Air Quality Control
Environmental Health Division
Department of Health and Human Services
City of Houston
8000 N. Stadium Drive
Houston, Texas 77054-1823

Re: Comment Received, Proposed Agreed Enforcement Orders
Houston Refining LP
RN100218130
Docket No. 2009-0779-AIR-E; Enforcement Case No. 37710
Docket No. 2008-1454-AIR-E; Enforcement Case No. 36508

Dear Mr. Blanco:

On May 12, 2010, we received your letter concerning the proposed agreed enforcement orders for Houston Refining LP's refinery in Harris County, Texas. I have forwarded your letter to our Houston Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality (TCEQ) staff and Houston Refining LP agreed on the terms of the proposed orders on November 13, 2009 and March 15, 2010.

Your May 12, 2010 letter raised a number of issues connected with these two agreed orders, and we are addressing those concerns as follows:

1) No Ordering Provisions for Two Alleged Violations.

With regard to Alleged Violation No. 2 in Agreed Order Docket No. 2009-0779-AIR-E, no technical requirement for emissions event reporting was recommended because Houston Refining has had no further emissions event reporting violations subsequent to certifying compliance with a corresponding technical requirement (2008-0674-MLM-E) on December 2, 2008. Alleged Violation No. 2 arose from an emissions event on January 7, 2007; that is, prior to the implementation of the technical requirement in the 2008-0674-MLM-E order.

Mr. Arturo Blanco
Page 2

With regard to Alleged Violation No. 3 in Agreed Order Docket No. 2009-0779-AIR-E, no technical requirement was recommended, since Houston Refining had already implemented corrective actions for this alleged violation. Although you point out that there is no record of a permanent shutdown of the Paraxylene Recovery Unit, please see the entirety of Jurisdiction and Stipulations No. 9.b. wherein the TCEQ recognizes that Houston Refining "reset the pressure relief valve [Emissions Point Number (EPN) 938PSV0049] in the Paraxylene Recovery Unit, added a pressure indicator to the console graphics, added a high pressure alarm, revised operating instructions, and on January 8, 2008, shut the Unit down and removed the hydrocarbons from the Unit." This corrective action was reviewed by TCEQ technical staff and found to be appropriate, regardless of the temporary or permanent shutdown status of the unit.

2) Ordering Provisions Too Vague

With regard to Ordering Provision No. 2(a) in Agreed Order Docket No. 2008-1454-AIR-E, the TCEQ does not believe that the provision is vague because it specifically references Incident No. 112203. The TCEQ's wording of this provision puts the burden and expense on Houston Refining to conduct their own research based on their own root cause analysis to formulate and implement measures that are directly related to correcting the deficiencies which caused the alleged violation. The provision is enforceable because the corrective actions claimed by Houston Refining in response to the agreed order are subject to review and approval for adequacy by TCEQ technical staff. If the corrective actions are deemed inadequate to implement measures to prevent recurrence of a future event due to the same causes, Houston Refining could be cited for violation of the agreed order. With regard to the issue of stipulated penalties for repeated violations of the requirements, there is no need to stipulate penalties because every future occurrence of emissions events must be reported by Houston Refining and will be reviewed by the TCEQ. Any future events that meet criteria for enforcement and do not demonstrate that an affirmative defense can be claimed may be pursued by the TCEQ in a separate enforcement action.

With regard to the Ordering Provisions in Agreed Order Docket No. 2009-0779-AIR-E, the above comments also apply.

3) Penalties Too Low

With regard to alleged Violation Nos. 3 and 4 in Agreed Order Docket No. 2009-0779-AIR-E, we determined these events to have caused moderate harm. We stand by this assessment, as we consider those determinations to be consistent with determinations made in similar cases. For alleged Violation No. 1, we stand by our assessment of minor harm, based on the same consistency considerations.

You have also commented that Violation Nos. 3 and 4 in Agreed Order Docket No. 2009-0779-AIR-E should include separate penalties for permit violations and for violations of the highly reactive volatile organic compounds ("HRVOC") cap. However, we have consistently treated these violations as one violation for penalty purposes, but we do take the HRVOC cap violation into consideration as a factor when making a determination of harm.

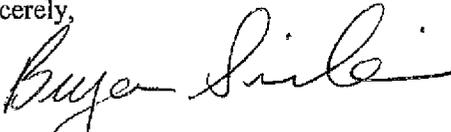
Please note that the penalty amounts for alleged Violation Nos. 1, 2, and 3 in Agreed Order Docket No. 2009-0779-AIR-E are uncollectable due to bankruptcy proceedings, and therefore only alleged Violation No. 4 is collectable and enters into the final assessed penalty amount.

Mr. Arturo Blanco
Page 3

With regard to alleging a reporting violation for Incident No. 11203, the TCEQ determined that the reporting for Incident No. 112203 in Agreed Order Docket No. 2208-1454-AIR-E adequately met the requirements. The TCEQ has no documented evidence that the cause and corrective action indicated on the final report was not the best information available at the time the report was submitted. The final report contained information necessary to evaluate the emissions event according to TCEQ rules. Minor omissions or inaccuracies in final reports are allowed under 30 TEX. ADMIN. CODE § 101.222(b)(1), and the TCEQ is allowed under 30 TEX. ADMIN. CODE § 101.201(f) to request any additional information we would like to see in order to evaluate the event. TCEQ took advantage of this provision for Incident No. 112203. The final report was submitted to the TCEQ on August 19, 2008. The TCEQ requested detailed additional information in order to assess the event on August 20, 2008 and Houston Refining submitted all of the requested information by the requested deadline on September 3, 2008. The additional information is contained as an attachment to the investigation report and is therefore part of the public record.

We appreciate your input into the enforcement actions currently pending against Houston Refining LP. The proposed agreed orders are expected to be considered at the Commission's Agenda on August 11, 2010. Your name has been added to the mailing list to receive a copy of the final order, should the Commission adopt it. Mr. Terry Murphy is the Enforcement Coordinator assigned to Agreed Order Docket No. 2009-0779-AIR-E and Ms. Rebecca Johnson is the Enforcement Coordinator assigned to Agreed Order Docket No. 2208-1454-AIR-E. If you have further concerns or comments related to these orders, please do not hesitate to call Mr. Terry Murphy at (512) 239-5025 or Ms. Rebecca Johnson at (361) 825-3420. For complaints related to Houston Refining LP's current operating conditions or procedures, you should continue to contact our Houston Regional Office at (713) 767-3500.

Sincerely,



Bryan Sinclair, Director
Enforcement Division
Texas Commission on Environmental Quality

BS/tm

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Page 4

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Central Records, MC 213, Building E, 1st Floor, HG0048L
Enforcement Division Reader File



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	18-May-2009	Screening	27-May-2009	EPA Due	20-Mar-2010
	PCW	7-Oct-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Houston Refining LP		
Reg. Ent. Ref. No.	RN100218130		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	37710	No. of Violations	4
Docket No.	2009-0779-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Terry Murphy
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 27-May-2009
 Respondent Houston Refining LP
 Case ID No. 37710
 Reg. Ent. Reference No. RN100218130
 Media [Statute] Air
 Enf. Coordinator Terry Murphy

Docket No. 2009-0779-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

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)	6	120%
	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 judgements or consent decrees meeting criteria)	0	0%
	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%
Please Enter Yes or No			
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced by 12 similar and 11 dissimilar NOVs, six 1660-style and nine findings agreed orders. The penalty was reduced by four NOAs and one DOV.

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

Screening Date 27-May-2009 **Docket No.** 2009-0779-AIR-E **PCW**
Respondent Houston Refining LP *Policy Revision 2 (September 2002)*
Case ID No. 37710 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100218130
Media [Statute] Air
Enf. Coordinator Terry Murphy
Violation Number 1
Rule Cite(s) New Source Review Flexible Air Permit ("NSRFAP") No. 2167/PSD-TX-985, Special Condition ("SC") 1, 30 Tex. Admin. Code §§ 116.715(a) and 101.20(3), and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to comply with permitted emissions limits, as documented during an investigation conducted on January 26, 2009. Specifically, hydrogen sulfide emissions from barge loading at the dock, Emissions Point No. ("EPN") LL19DOCKD, are limited to 7.79 pounds per hour, but those emissions were reported to be have been 11.63 pounds per hour.
Base Penalty \$0

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				x	25%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors.

Adjustment \$0

Violation Events

Number of Violation Events 4 365 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$0

Four quarterly events are recommended for the period July 1, 2007 to the end of the period in which exceedances were reported (June 30, 2008). However, due to the bankruptcy determination, there is to be no penalty assessment for violations occurring prior to January 6, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EOPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,264,422

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Houston Refining LP
 Case ID No. 37710
 Reg. Ent. Reference No. RN100218130
 Media Air
 Violation No. 1

Percent Interest	5.0
Years of Depreciation	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$30,000,000	1-Jul-2007	1-Jan-2010	2.51	\$250,685	\$5,013,699	\$5,264,384
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	\$1,000	1-Jul-2007	7-Apr-2008	0.77	\$38	n/a	\$38
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to design, construct, and authorize emissions from two new sulfur degassing units that will reduce the amount of hydrogen sulfide emitted at the dock. The Date Required is the first day of the period in which emissions exceedances began at the dock. The Final Date for the completion of the engineering/construction project is the date the new units are expected to become fully operational. The Final Date for the permit costs is the date the Permit by Rule was registered. However, due to the bankruptcy determination, there is to be no penalty assessment for violations occurring prior to January 6, 2009, and this includes enhancing the penalty for economic benefits associated to violations during that period.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

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

\$30,001,000

TOTAL

\$5,264,422

Screening Date 27-May-2009
 Respondent Houston Refining LP
 Case ID No. 37710
 Reg. Ent. Reference No. RN100218130

Docket No. 2009-0779-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Media [Statute] Air
 Enf. Coordinator Terry Murphy
 Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(1) and Tex. Health & Safety Code § 382.066(b)

Violation Description Failed to submit an emissions event report to the State of Texas Environmental Electronic Reporting System ("STEERS") within 24 hours of a reportable emissions event (Incident No. 123442), as documented during an investigation conducted on January 28, 2009. Specifically, the event occurred on January 7 and 8, 2007, but the STEERS report was not submitted until April 27, 2009.

Base Penalty \$0

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes

The Respondent failed to comply with 100% of the requirement.

Adjustment \$0

Violation Events

Number of Violation Events 1 Number of violation days 841

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$0

One single event is recommended based on the one report. However, due to the bankruptcy determination, there is to be no penalty assessment for violations occurring prior to January 6, 2009.

Good Faith Efforts to Comply

25.0% Reduction \$0

Extraordinary	Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Ordinary	x	
N/A	(mark with x)	

Notes The Respondent returned to compliance on April 27, 2009 and the NOE is dated April 29, 2009.

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$533

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Houston Refining LP
 Case ID No. 37710
 Reg. Ent. Reference No. RN100218130
 Media Air
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

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	\$5,000	8-Jan-2007	2-Dec-2008	1.90	\$475	n/a	\$475
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)	\$500	8-Jan-2007	27-Apr-2009	2.30	\$58	n/a	\$58

Notes for DELAYED costs

Estimated costs to prepare and submit an emissions event report and make improvements to the emissions event reporting system. The Date Required is 24 hours after the emissions event. The Final Dates are the dates the Respondent submitted the emissions event report (April 27, 2009) and implemented improvements to the emissions event reporting system (December 2, 2008). However, due to the bankruptcy determination, there is to be no penalty assessment for violations occurring prior to January 6, 2009, and this includes enhancing the penalty for economic benefits associated to violations during that period.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

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

\$5,500

TOTAL

\$533

Screening Date 27-May-2009 Docket No. 2009-0779-AIR-E PCW
 Respondent Houston Refining LP Policy Revision 2 (September 2002)
 Case ID No. 37710 PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100218130

Media [Statute] Air

Enf. Coordinator Terry Murphy

Violation Number 3

Rule Cite(s)

NSRFAP No. 2167/PSD-TX-985, SC 1, 30 Tex. Admin. Code §§ 116.715(a), 115.722(c)(1), and 101.20(3), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with permitted emissions limits and the allowable site-wide hourly emissions cap for highly reactive volatile organic compounds ("HRVOC"), as documented during an investigation conducted on May 5, 2009. Specifically, during an emissions event (Incident No. 123442) on January 7 and 8, 2007, an improperly set pressure relief valve (EPN 938PSV0049) in the Paraxylene Recovery Unit released 4,500 pounds of ethylene over a 6.4 hour period. Since these emissions could have been avoided by better design and/or operational practices, the emissions are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty \$0

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual			X		60%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to significant amounts of pollutants not exceeding levels protective of human health or environmental receptors.

Adjustment \$0

Violation Events

Number of Violation Events 1 Number of violation days 2

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

One monthly event is recommended, based on the January 7 and 8, 2007 emissions event. However, due to the bankruptcy determination, there is to be no penalty assessment for violations occurring prior to January 6, 2009.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent returned to compliance before January 2008, and the NOE is dated June 23, 2009.

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$372

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Houston Refining LP
 Case ID No. 37710
 Reg. Ent. Reference No. RN100218130
 Media Air
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	7-Jan-2007	30-Jan-2008	1.06	\$18	\$354	\$372
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)				0.00	\$0	N/A	\$0

Notes for DELAYED costs

Estimated costs to improve equipment and operational procedures. The Date Required is the date of the emissions event, and the Final Date is the last day in the month that the unit was shut down. However, due to the bankruptcy determination, there is to be no penalty assessment for violations occurring prior to January 6, 2009, and this includes enhancing the penalty for economic benefits associated to violations during that period.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

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

\$5,000

TOTAL

\$372

Screening Date 27-May-2009
 Respondent Houston Refining LP
 Case ID No. 37710
 Reg. Ent. Reference No. RN100218130
 Media [Statute] Air
 Enf. Coordinator Terry Murphy

Docket No. 2009-0779-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2009

Violation Number

Rule Cite(s) NSRFAP No. 2167/PSD-TX-985, SC 1, 30 Tex. Admin. Code §§ 116.715(a), 115.722(c)(1), and 101.20(3), and Tex. Health & Safety Code § 382.085(b).

Violation Description Failed to comply with permitted emissions limits and the allowable site-wide hourly emissions cap for HRVOC, as documented during an investigation conducted on May 21, 2009. Specifically, during an emissions event (Incident No. 124005) on May 8, 2009, an improperly open valve and a failed level indicator caused the # 2 Debutanizer Tower (EPN 732T0007) and a pressure relief valve (EPN 732PSV0337) in the Fluid Catalytic Cracking Unit to emit 3,753.1 pounds of volatile organic compounds (including 2,470.5 pounds of HRVOC), 0.3 pound of sulfur dioxide, and 23.2 pounds of hydrogen sulfide over a three minute period. Since these emissions could have been avoided by better maintenance practices, the emissions are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		X		<input type="text" value="50%"/>
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				<input type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants not exceeding levels protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	X
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One monthly event is recommended, based on the May 8, 2009 emissions event.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Houston Refining LP
 Case ID No. 37710
 Reg. Ent. Reference No. RN100218130
 Media Air
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	8-May-2009	1-Feb-2010	0.74	\$12	\$246	\$258
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to improve maintenance practices. The Date Required is the date of the emissions event, and the Final Date is the date improvements are expected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

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	\$5,000	TOTAL	\$258
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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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

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: 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 SO2, H2S, and SO3 from the Sulfur Recovery Complex. Specifically, an emissions event occurred on December 19, 2002 which resulted in excess emissions of 85,009 lbs of SO2, 1,869 lbs of H2S, and 2,426 lbs of SO3.

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 ("SO₂") concentration in the exhaust gas of the #435 and #440 Tail Gas Thermal Oxidizers (EF 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: No. 2167, SC #1 PERMIT

Description: Failed to prevent unauthorized emissions on November 7, 2005.

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, 2005.

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 Cor 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 lb hydrogen sulfide, 304 lbs of ammonia and 76 lbs nitric oxide from the Sulfur Recovery Unit during an avoidable emissions event that began April 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.

Effective Date: 10/23/2008

ADMINORDER 2008-0894-AIR-E

Classification: Moderate

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

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1 PERMIT

SC 26 PERMIT

Description: As owner and operator of the Plant, the Respondent is alleged to have failed to prevent excess hydrogen sulfide in the refinery fuel gas and prevent unauthorized emissions during an April 28, 2008 emissions event.

Effective Date: 11/06/2008

ADMINORDER 2008-0674-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.764(a)(3)

30 TAC Chapter 115, SubChapter H 115.764(a)(6)

30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: FOP #O-01372, STC #1.H.(iv) OP

Description: Failed to operate six cooling tower heat exchange system HRVOC analyzers for the minimum 95% of the required operating time from April 1, 2006 through January 31, 2007.

Classification: Minor

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

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)

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

Rqmt Prov: FOP# O-01372, SC# 12F OP

Description: Failed to perform daily/zero span checks on the sulfur dioxide analyzer on the 435 Unit when Houston Refining ran out of calibration gas and the repair exceeded the maximum of five days from November 25, 2005 through December 2, 2005

Classification: Minor

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

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)

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

Rqmt Prov: FOP# O-01372, SC #1A OP

FOP# O-01372, SC# 28 OP

NSR Permit # 2167, SC#29 PA

Description: Failed to demonstrate that flares were operated with a continuously operating pilot light. Specifically, sensor monitoring data indicated that the pilot lights were out on Plant Flare No. 2 (338K002) on November 7, 2005, January 4, 2006, February 21, 2006, March 10, 2006; the Houston Street Flare (338K0005) on September 19, 2005; Plant Flare No. 3 (338K0007) on November 17, 2005, December 1, 2005; and Plant Flare No. 4 (338K0008) on September 15, 2005.

Classification: Minor

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

30 TAC Chapter 115, SubChapter D 115.352(4)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

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

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

Rqmt Prov: FOP # O-01372, SC # 28 OP

FOP # O-01372, SC #1A OP

NSR Permit # 2167, SC #14E PA

Description: Failed to cap 13 open-ended valves/lines with either a cap, plug, blind flange or other sealing device.

Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT QQQ 60.692-2(a)(2)

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

Rqmt Prov: FOP # O-01372, SC # 1A OP

FOP # O-01372, SC# 13B OP

Description: Failed to perform monthly visual inspections to individual drain systems. Specifically, during September and October 2005, one or more drain inspections was missed, respectively

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: FOP # O-01372, SC #28 OP
NSR Permit # 2167, SC # 44B PA

Description: Failed to operate the wet gas scrubber with a minimum pressure drop across the scrubber of 0.91 pound per square inch ("psi") and minimum liquid to-gas ratio ("L/G") of 16.0 gallons per 1000 actual cubic feet ("16.0 gal/1000 ft³"). Specifically, on December 10 and 13, 2005, the L/G fell below 16.0 gal/1000 ft³, and the minimum pressure drop fell below 0.91 psi, from May 25 through 27, 2006.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.354(d)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP# O-01372, SC #1A OP

Description: Failed to change out the carbon from a carbon canister immediately after breakthrough was discovered on November 21, 2005.

Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.213(g)(1)(B)(ii)(i)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: FOP# O-01372, SC #1A OP

Description: Failed to operate a continuous run-time meter for the firewater pump at Dock A from July 1, 2005 through January 10, 2006

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.144(2)(C)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: FOP# O-01372, SC# 1A OP

Description: Failed to perform the required semi-annual seal inspection on volatile organic compound ("VOC") storage tanks. Specifically, Hous Refining failed to do semi-annual seal inspections on Tank No. 137TK0412 from June 8, 2005 to August 3, 2005 and 32TK0854 from December 2004 to July 7, 2005.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(1)(ii)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP# O-01372, SC# 1A OP
FOP# O-01372, SC# 28 OP
NSR Permit #2167, SC# 20D PA

Description: Failed to perform the required seal gap inspection on Tank No. 137TK0890 within 60 days of tank refilling. Specifically, the tank was back into service on August 24, 2005 after being out of service more than two years for extensive repairs and a seal gap inspection was not conducted by October 23, 2005.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 115, SubChapter D 115.354(2)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.163(b)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP# O-01372, SC# 1A OP

Description: Failed to perform routine LDAR monitoring on the Tank 669 East transfer pump from July 1, 2005 through November 15, 2005 and two pumps in the 734 Benzene Toluene Unit during the first and second quarters of 2005.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-8(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP# O-01372, SC# 1A OP
FOP# O-01372, SC# 28 OP
NSR Permit# 2167, SC# 14I & 15H PA

Description: Failed to repair eight individual component leaks found during AVG inspections within 15 calendar days from July 26, 2005 through December 31, 2005.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(f)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP# O-01372, SC# 1A OP
FOP# O-021372, SC# 28 OP
NSR Permit# 2167, SC# 14I & 15H PA

Description: Failed to repair two leaking valves in Hazardous Organic National Emission Standards for Hazardous Air Pollutants ("HON") service within 15 calendar days. Specifically, the valves were found leaking on August 11, 2005 and were repaired on September 12, 2005.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 115, SubChapter D 115.354(2)(C)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(f)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP# O-01372, SC# 1A OP
FOP# O-01372, SC# 28 OP
NSR Permit # 2167, SC# 15F PA

Description: Failed to conduct routine quarterly LDAR monitoring from July 1, 2005 through June 30, 2006. Specifically, Houston Refining failed to monitor 71 valves on the 135 Unit and 44 valves on the 938 Unit from January 1, 2006 through June 20, 2006; two valves on the 732 Unit from February 15, 2006 through June 30, 2006; and 58 valves in the South Tank Farm, five valves in the FCCU, and three valves in the 536, 537, and 736 Units from July 1, 2005 through December 31, 2005.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.781(b)(3)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP# O-01372, SC#1.H(v) OP

Description: Failed to perform initial monitoring of approximately 651 connectors in HRVOC service. Specifically, approximately 350 Black Lake Unit and Propane/Propylene Treater connectors were not monitored from April 1, 2006 to June 30, 2006 and 301 connectors in fuel gas service at the Boiler House were not monitored from April 24, 2006 to May 24, 2006.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.781(g)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP#O-01372, SC#1.H(v) OP

Description: Failed to record all the required monitoring data for 236 HRVOC-service valves in July 2005 on the 736 Unit. Specifically, due to data logger failure, the same date and time of monitoring was recorded for 236 valves instead the exact date and time of the monitoring of each valve. Non-leaking valves were given the same default readings but leaking valves had the correct readings.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.782(b)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP #O-01372, SC # 1.H.(v) OP

Description: Failed to repair three valves and two connectors in HRVOC service within seven days. Specifically, Houston Refining failed to repair the following within seven days: valve tag no. 2300956 found leaking in the 938 Unit on March 8, repaired March 16, 2006; two connectors found leaking in the 234 Unit on April 11, 2006, repaired April 24, 2006; valve tag no. 602111 and tag no. 214696 found leaking in the 936 Unit on May 1 and May 3, 2006, respectively, both repaired May 16, 2006.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 115, SubChapter D 115.354(2)(C)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(d)(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: FOP# O-01372, SC# 1A OP
FOP# O-01372, SC# 28 OP
NSR Permit# 2167, SC# 15F PA

Description: Failed to monitor 406 valves on the Para-xylene Recovery Unit ("PRU"), including valves in

HON-service, during first quarter 2005, 551 HON-service valves on the PRU during the second quarter 2005, and 26 HON-service valves on the Unit during the third quarter 2005.

Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: FOP# O-01372, SC# 3(B)(i) OP

Description: Failed to prevent visible emissions from a stationary vent for approximately 25 minutes on January 15, 2006 when the 536 F-1B ID. failed causing the heater oxygen to fail causing visible smoke from the heater stack.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.725(a)(4)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: FOP# O-01372, SC# 1.H.(ii) OP

Description: Failed to complete a written monitoring plan for continuous monitoring systems by December 31, 2005.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.725(a)(1)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: FOP #O-01372, SC #1.H(ii) OP

FOP #O-01372, SC 1.H(i) OP

Description: Failed to test 32 HRVOC analyzers on 32 HRVOC service heater stacks by January 30, 2006.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EFFLUENT LIMITS PERMIT

Description: Failed to comply with the permitted effluent limits (Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A, Nos. 1 for Outfall 002A, and No. 1 for Outfall 003A)

Classification: Minor

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

Description: Failed to submit the initial notification for the May 28, 2007 emissions event in a timely manner. Specifically, the report, which was due May 29, 2007 was not submitted until May 31, 2007.

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 2,781 pounds of nitrogen oxide ("NOx") from the Catalytic Cracking Unit ("FCCU") during an avoidable emissions event that began May 28, 2007 and lasted 10 hours. Since this emissions event was improperly reported, Houston Refining failed to meet the demonstrations necessary to present an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

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 unauthorized NOx emissions released as a result of the May 28, 2007 emissions event

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 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, Houston Refining released 1,500 lbs of VOC, including 1,019 lbs of the HF propylene, from the Butane Recovery Unit during an emissions event that began October 9, 2007 and lasted two hours. Since these emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

Classification: Moderate

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

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, during a March 19, 2008 emissions event the following unauthorized emissions were released from Flare Nos. 1, 2, and 3 over a period of six hours: 3,061 lbs of sulfur dioxide, 1,902 lbs of VOC, 1,079 lbs of carbon monoxide, 154 lbs of NOx, and 33 lbs of hydrogen sulfide. Since the emissions event was avoidable, the demonstration criteria for an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 were not met.

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. (CCEDS Inv. Track. No.)

1	05/27/2004	(143412)	66	08/25/2005	(404773)	133	05/15/2007	(574925)
2	06/14/2004	(351816)	67	09/19/2005	(440651)	134	05/29/2007	(559572)
3	07/22/2004	(351817)	68	10/10/2005	(431795)	135	06/14/2007	(574926)
4	08/11/2004	(286666)	69	10/10/2005	(468144)	136	07/03/2007	(563761)
5	08/11/2004	(287948)	70	10/28/2005	(432450)	137	07/12/2007	(619397)
6	08/11/2004	(288389)	71	10/31/2005	(432333)	138	07/20/2007	(561274)
7	08/16/2004	(260585)	72	11/07/2005	(468145)	139	07/25/2007	(566621)
8	08/16/2004	(260979)	73	11/23/2005	(435308)	140	08/13/2007	(601490)
9	08/16/2004	(351818)	74	12/02/2005	(431511)	141	08/17/2007	(570286)
10	08/19/2004	(261725)	75	12/28/2005	(434541)	142	08/23/2007	(570387)
11	08/24/2004	(271493)	76	01/19/2006	(468146)	143	08/28/2007	(570635)
12	08/31/2004	(271505)	77	02/01/2006	(468142)	144	09/07/2007	(573978)
13	08/31/2004	(289666)	78	02/25/2006	(456998)	145	09/14/2007	(601491)
14	08/31/2004	(292409)	79	02/25/2006	(457004)	146	09/27/2007	(595742)
15	09/01/2004	(276631)	80	02/25/2006	(457020)	147	10/08/2007	(619398)
16	09/15/2004	(351819)	81	02/28/2006	(457235)	148	10/10/2007	(594976)
17	10/15/2004	(282886)	82	03/17/2006	(468143)	149	10/17/2007	(567541)
18	10/18/2004	(351820)	83	04/10/2006	(498011)	150	10/18/2007	(566919)
19	10/19/2004	(335898)	84	04/20/2006	(437368)	151	10/19/2007	(598478)
20	10/19/2004	(336015)	85	04/27/2006	(439800)	152	10/25/2007	(596179)
21	11/11/2004	(290238)	86	05/10/2006	(498012)	153	11/06/2007	(619399)
22	11/11/2004	(291091)	87	05/31/2006	(480494)	154	11/09/2007	(599574)
23	11/11/2004	(292704)	88	05/31/2006	(480500)	155	12/04/2007	(600555)
24	11/14/2004	(271509)	89	05/31/2006	(480503)	156	12/10/2007	(619400)
25	11/18/2004	(340059)	90	05/31/2006	(480504)	157	12/21/2007	(610028)
26	11/18/2004	(351821)	91	05/31/2006	(480506)	158	01/15/2008	(612806)
27	11/22/2004	(341679)	92	06/14/2006	(479843)	159	01/15/2008	(671905)
28	12/03/2004	(269989)	93	06/15/2006	(461559)	160	01/18/2008	(609373)
29	12/07/2004	(341250)	94	06/15/2006	(481316)	161	01/25/2008	(613320)
30	12/09/2004	(342162)	95	06/15/2006	(498013)	162	01/28/2008	(616032)
31	12/14/2004	(342195)	96	06/29/2006	(458901)	163	01/29/2008	(611265)
32	12/16/2004	(285369)	97	06/30/2006	(469140)	164	02/11/2008	(671904)
33	12/27/2004	(351822)	98	07/17/2006	(485790)	165	03/03/2008	(616148)
34	12/28/2004	(278159)	99	07/26/2006	(520029)	166	03/24/2008	(689825)
35	01/18/2005	(381702)	100	07/28/2006	(463199)	167	04/07/2008	(617770)
36	01/28/2005	(345654)	101	08/08/2006	(489220)	168	04/08/2008	(595524)
37	02/02/2005	(347718)	102	08/11/2006	(520030)	169	04/14/2008	(689826)
38	02/15/2005	(381700)	103	08/18/2006	(396831)	170	04/22/2008	(639660)
39	03/16/2005	(347527)	104	09/11/2006	(489202)	171	04/22/2008	(640670)
40	03/21/2005	(381701)	105	09/11/2006	(574927)	172	05/15/2008	(689827)
41	03/29/2005	(375273)	106	10/06/2006	(489212)	173	05/30/2008	(670616)
42	04/14/2005	(372794)	107	10/12/2006	(544276)	174	06/23/2008	(710583)
43	04/14/2005	(378977)	108	10/30/2006	(511654)	175	07/11/2008	(710584)
44	04/18/2005	(419493)	109	11/21/2006	(544277)	176	08/14/2008	(710585)
45	04/19/2005	(376798)	110	12/11/2006	(574928)	177	08/18/2008	(699930)
46	04/22/2005	(349552)	111	01/08/2007	(574929)	178	08/22/2008	(688646)
47	05/02/2005	(372107)	112	01/09/2007	(532009)	179	08/27/2008	(687046)
48	05/03/2005	(376226)	113	01/25/2007	(512685)	180	08/27/2008	(687290)
49	05/20/2005	(381195)	114	02/02/2007	(435323)	181	09/09/2008	(701172)

50	05/24/2005	(419494)	115	02/02/2007	(511662)	182	09/23/2008	(710586)
51	05/25/2005	(379525)	116	02/05/2007	(536476)	183	10/08/2008	(702275)
52	05/26/2005	(337173)	117	02/08/2007	(512678)	184	10/23/2008	(710587)
53	05/26/2005	(349881)	118	02/16/2007	(574922)	185	10/29/2008	(686547)
54	06/07/2005	(395018)	119	02/22/2007	(510814)	186	11/17/2008	(727381)
55	06/20/2005	(419495)	120	02/23/2007	(511960)	187	11/26/2008	(709085)
56	06/21/2005	(379593)	121	03/16/2007	(574923)	188	12/08/2008	(709767)
57	07/07/2005	(379524)	122	03/21/2007	(539188)	189	12/15/2008	(721107)
58	07/22/2005	(400281)	123	03/21/2007	(539192)	190	12/18/2008	(727382)
59	07/25/2005	(419496)	124	03/21/2007	(539194)	191	02/04/2009	(709615)
60	08/15/2005	(404916)	125	04/04/2007	(554793)	192	02/04/2009	(721393)
61	08/18/2005	(404331)	126	04/04/2007	(554809)	193	03/16/2009	(738275)
62	08/18/2005	(404363)	127	04/13/2007	(574924)	194	03/25/2009	(737507)
63	08/24/2005	(405556)	128	04/20/2007	(556941)	195	03/25/2009	(737734)
64	08/24/2005	(405604)	129	04/24/2007	(557537)	196	04/28/2009	(703271)
65	08/24/2005	(440650)	130	04/30/2007	(554360)	197	05/12/2009	(741579)
			131	05/04/2007	(556720)	198	05/14/2009	(743937)
			132	05/09/2007	(554980)	199	05/21/2009	(705709)

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

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)

TCEQ FLEXIBLE AIR PERMIT 2167, SC #1 PERMIT

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)

TCEQ Flexible Air Permit #2167, SC #1 PERMIT

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)

Flexible No. 2167 and PSD-TX-985, S.C. 1 PERMIT

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)

Special Condition #1 PA

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)
 Special Condition 15E PERMIT
 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)
 Special Condition 15E PERMIT
 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)
 TCEQ Flexible Permit #2167, SC #1 PERMIT
 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: 2167 and PSD-TX-985, SC 15E PA
 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)
 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: 2167 and PSD-TX-985, SC 15F PA
 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)
 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)
 TCEQ Flexible Permit #2167, SC#1 PERMIT
 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)
 Flexible Permit No. 2167, SC #1. PERMIT
 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
 Date: 11/26/2008 (709085)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THSC Chapter 382 382.085(b)
 Special Condition 1 06/30/2008 PERMIT
 Description: Failure to present an affirmative defense for the unauthorized emissions associated with Incident #114224, which was caused by ex
 corrosion on a dead leg pipe, resulting in butene / butane emissions from a pinhole leak.
 Date: 11/30/2008 (727382)
 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: 04/29/2009 (703271)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(1)
 5C THSC Chapter 382 382.085(b)
 SC 26 PA
 STC 28 CP
 Description: Failed to meet the 3-hour H2S limit at the fuel gas mixing pot 338D0408 on 24 instances from January 20 through June 17, 2008. F
 01372; NSR 2167
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.103(a)
 5C THSC Chapter 382 382.085(b)
 STC 1A OP
 Description: Failed to meet the hourly CO concentration limit at the Fluid Catalytic Cracking Unit (FCCU) Wet Gas Scrubber (WGS) 732D0063 or
 instances from July 2, 2007 through February 26, 2008. FOP O-01372; NSR 2167
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 32 PA
STC 28 OP
Description: Failed to meet the hourly CO concentration limit at the thermal oxidizer 440F2002 for 3 hours on October 31, 2007. FOP O-01372; NSR 2167
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(2)(I)
5C THSC Chapter 382 382.085(b)
SC 37 PA
STC 1A OP
STC 28 OP
Description: Failed to meet the hourly SO2 concentration limit at the thermal oxidizer 435F1402 on 36 instances from August 6, 2007 through May 28, 2008. FOP O-01372; NSR 2167
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.725(a)(2)(D)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
STC 1 J (i) OP
Description: Failed to operate 3 heaters within the allowable HRVOC operating limits from July 1 through January 7, 2007 and again from January 7 through March 14, 2008. FOP O-01372; NSR 2167
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(4)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
STC 1 J (i) OP
Description: Failed to take a sample at the Houston Street Flare 338K005 when the HRVOC analyzer was offline for approximately 24 hours from November 2 through November 3, 2007. FOP O-01372; NSR 2167
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.764(a)(6)
30 TAC Chapter 115, SubChapter H 115.764(b)(6)
5C THSC Chapter 382 382.085(b)
Description: Failed to catch a sample when the HRVOC analyzer at cooling tower 736CT3701 was out-of-order for 24 hours from August 12 through August 13, 2007, and failed to complete and record lab analysis on sample caught when the HRVOC analyzer in cooling tower 736CT3701 was out-of-order for more than 24 hours from May 30 through June 2, 2008. FOP O-01372; NSR 2167
Self Report? NO Classification: Moderate

Citation: 2167 SC 25B PA
30 TAC Chapter 115, SubChapter H 115.764(a)(6)
30 TAC Chapter 115, SubChapter H 115.764(b)(6)
5C THSC Chapter 382 382.085(b)
Description: Failed to complete the semi-annual calibration required by TCEQ HRVOC Cooling Tower Guidance (Appendix P) on the strippable air rotameter, water rotameter, and temperature meter on the strippable VOC analyzer on cooling towers
732CT3701, 233CT3701, 343CT3701, 430CT3701, 430CT3791, 533CT3701, 536CT3701, 537CT3701, 635CT3701, 637CT3701, 732CT3701, 736CT3701, 737CT3701. FOP O-01372; NSR 2167
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.726(a)(1)
30 TAC Chapter 115, SubChapter H 115.726(c)(4)
30 TAC Chapter 115, SubChapter H 115.766(a)(2)
5C THSC Chapter 382 382.085(b)
Description: Failed to keep some of the records required for calibration of HRVOC meters on some PSVs, cooling tower flow meters, and some flare purges from January 1 through June 30, 2008. FOP O-01372; NSR 2167
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 115, SubChapter H 115.782(b)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(d)
5C THSC Chapter 382 382.085(b)
Description: Failed to meet the first attempt requirements for 4 connectors in HAP, VOC, and HRVOC service at 732-UNIT, 934-UNIT, and 940-UNIT; the leaking connectors were discovered on July 19, 2007 but did not receive first attempt until 6 days later on July 25, 2007. FOP O-01372; NSR 2167
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(f)(2)
 5C THSC Chapter 382 382.085(b)
 STC 1A OP

Description: Failed to meet the first attempt requirements for 1 leaking valve (Tag # 703911) in HAP service at the 933-UNIT; the leaking valve was discovered on July 26, 2007 but did not received first attempt as required due to an abnormality in the fugitive component database. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.169(c)(2)
 5C THSC Chapter 382 382.085(b)
 STC 1A OP

Description: Failed to meet the first attempt requirements for 1 leaking plug (Tag # 1483.1) in HAP service at the 137-UNIT; the leaking plug was discovered on December 31, 2007 and was monitored and repaired 12 days later. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)
 30 TAC Chapter 115, SubChapter H 115.781(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(a)
 5C THSC Chapter 382 382.085(b)
 SC 15G PA
 STC 1A OP
 STC 28 OP

Description: Failed to monitor 1 pump (234P002B) in VOC and HRVOC service at the 234-UNIT service which had been taken out of service and removed from fugitive monitoring database on July 1, 2007. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-2(a)
 5C THSC Chapter 382 382.085(b)
 SC 15G PA
 STC 1A OP
 STC 28 OP

Description: Failed to monitor 1 pump (732P0037A) in VOC service at the 732-UNIT service which had been taken out of service and removed from fugitive monitoring database on July 1, 2007. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 SC 18 PA
 SC 19A PA
 STC 28 OP

Description: Failed to conduct NH3 and H2S AVO walkthroughs from October 15 through December 25, 2007. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 115, SubChapter H 115.783(5)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 1, SubChapter C, PT 61, SubPT V 61.242-6(a)(1)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(b)
 5C THSC Chapter 382 382.085(b)
 SC 14E PA
 SC 15E PA
 STC 1A OP
 STC 28 OP

Description: Failed to cap open-ended lines. FOP-O-01372; NSR 2167

Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.119(a)(1)
 5C THSC Chapter 382 382.085(b)
 STC 1A OP

Description: Failed to meet the control requirements at atmospheric tank 613 at the 134-UNIT when the vapor pressure of storage material exceed

11 psia from July 12 through August 16, 2007. FOP O-01372; NSR 2167

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 63, Subpart G 63.119(c)(2)
5C THSC Chapter 382 382.085(b)
STC 1A OP

Description: Failed to meet the control requirements for tank 137TK0803 when the roof vent was not repaired from March 24 through April 24, 2008. FOP O-01372; NSR 2167

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.348(a)(1)(I)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.354(a)(2)
5C THSC Chapter 382 382.085(b)
STC 1A OP

Description: Failed to maintain Benzene NESHAP strippers' bottoms temperature within the allowable limits for 3 hours on December 15, 2007. FOP O-01372; NSR 2167

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.354(d)
5C THSC Chapter 382 382.085(b)
STC 1A OP

Description: Failed to conduct inspections on primary and secondary canisters at Lift Stations #8 (438TK0001) and #7 (137TK0006) from July 1 through December 31, 2007. FOP O-01372; NSR 2167

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT QQQ 60.692-2
5C THSC Chapter 382 382.085(b)
STC 13B OP

Description: Failed to document inspections required by NSPS QQQ when the required initial inspections required under NSPS QQQ were not completed within 60 days of putting 536-UNIT equipment in service on March 21, 2008. FOP O-1372; NSR 2167

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)
SC 44B PA
STC 28 OP

Description: Failed to meet the pressure differential limits on the FCCU wet gas scrubber 732D0063 when the pressure drop across the scrubber dropped below the minimum limit of 0.91 psia from June 1, 2007 through December 31, 2007 and again from May 9, 2008 through June 12, 2008. FOP O-01372; NSR 2167

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 27 PA
STC 28 OP
STC 3A OP

Description: Failed to meet the opacity limit of heaters 735F0007A, 735F0007B when the heater 735F007 smoked for more than 6 minutes from 14:20 to 14:55 on March 26, 2008. FOP O-01372; NSR 2167

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
STC 1E OP

Description: Failed to revise Title V permit by June 15, 2007 to include 6 internal combustion engines to codify the applicable requirements of 40 CFR 63 Subpart ZZZZ (RICE MACT). FOP O-01372; NSR 2167

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
STC 7F OP

Description: Failed to conduct the required monthly inspections at the tank 361TK0002 for May, June, and July 2007. HRO did not maintain the Stage II vapor recovery system in proper operating condition, as required. FOP O-01372; NSR 2167

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)

Description: Failed to report all deviations when all deviations that occurred in the previous Title V reporting period were not reported as required HRO reported that there were 3 deviations that should have been reported in the second half of 2007 Title V deviation report but due to program error these events were left off of the deviation report and were subsequently reported in the deviation report for the first half of 2008. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.335(a)
 5C THSC Chapter 382 382.085(b)
 STC 1A OP

Description: Failed to conduct NOx/CO engine testing as required on engines 035P1904 and 035P1905 from June 1 through September 20, 2007. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)(1)
 5C THSC Chapter 382 382.085(b)
 STC 12F OP

Description: Failed to adjust SO2 analyzer on the thermal oxidizer 440F2002 from January 1, 2008 at 9:00 until January 2, 2008 at 13:30 when zero drift was exceeded 4 times the allowable limit. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 SC 43 PA
 STC 28 OP

Description: Failed to test coke stockpile at the 737 Unit for moisture. A sample that was taken on June 23, 2008 was not sent for analysis. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 STC 36 OP

Description: Failed to meet all Risk Management Plan (RMP) requirements from January 1 through June 30, 2008. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(d)
 5C THSC Chapter 382 382.085(b)
 STC 12F OP

Description: Failed to use proper concentration of drift calibration gas for oxygen at thermal oxidizer 435F1402 from January 9 through March 6, 2008. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.346(a)(3)
 5C THSC Chapter 382 382.085(b)
 STC 18A OP

Description: Failed to complete the repair of 4 drains (930-BNS, 931-BNS, 932-BNS, and 940-BNS) identified during the quarterly inspections from April 1 through April 28, 2008. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.764(a)(3)
 30 TAC Chapter 115, SubChapter H 115.764(b)(3)
 5C THSC Chapter 382 382.085(b)

Description: Failed to operate the monitoring systems on cooling towers 233CT3701, 343CT3701, 634CT3701, 732CT3701, 738CT3701, and 737CT3701 95% of the time from June 1 to December 31, 2007. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(3)
 5C THSC Chapter 382 382.085(b)

Description: Failed to operate the monitoring systems on flare systems 338K0001, 338K0002, 338K0005, 338K0007, 338K0008, and, 736K0101 95% of the time from June 1 to December 31, 2007. FOP O-01372; NSR 2167

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(C)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(b)
 5C THSC Chapter 382 382.085(b)
 NSR 2167 SC 15F PERMIT
 STC 1A OP
 STC 28 OP

Description: Failed to monitor 66 valves in VOC and HAP service at the 633-UNIT when it was discovered on February 6, 2008 that these components were not monitored. FOP O-01372; NSR 2167

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)(B)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.163(b)(1)
5C THSC Chapter 382 382.085(b)
NSR 2167 SC 15G PERMIT
STC 1A OP
STC 28 OP

Description: Failed to monitor 2 pumps in VOC and HAP service at the 633-UNIT when it was discovered on February 6, 2008 that these components were not monitored. FOP O-01372; NSR 2167

F. Environmental audits.

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 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

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 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

Notice of Intent Date: 09/10/2008 (598166)

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. 2009-0779-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 petroleum 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 May 4, June 28, and July 15, 2009.
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. 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"). On or about January 6, 2009, the Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code now pending in the U.S. Bankruptcy Court for the Southern District of

New York. Debtor remains as a debtor in possession and no trustee or examiner has been appointed. The Automatic Stay imposed by the Federal Bankruptcy Code [specifically, 11 USC § 362(a)] does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ [a governmental unit as defined under 11 USC § 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. These violations having been incurred post-petition are entitled to be treated as an administrative expense priority for purposes of the claims hierarchy of payment from the bankruptcy estate. So long as the Debtor's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however, not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where the Debtor's bankruptcy case is pending as necessary, after consultation with the Office of the Attorney General. Two Thousand Dollars (\$2,000) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. Any deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty upon approval by the bankruptcy court.

7. 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.
8. 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.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. Has initiated a sulfur degassing project at the Sulfur Recovery Complex designed to ensure that hourly hydrogen sulfide emissions at the dock comply with permitted limits;
 - b. Reset the pressure relief valve [Emissions Point Number ("EPN") 938PSV0049] in the Paraxylene Recovery Unit, added a pressure indicator to the console graphics, added a high pressure alarm, revised operating instructions, and on January 8, 2008, shut the unit down, and removed the hydrocarbons from the unit;
 - c. On December 2, 2008, implemented improvements to the emissions event reporting system; and
 - d. On April 27, 2009, submitted an emissions event report to the State of Texas Environmental Electronic Reporting System ("STEERS") for the emissions event that occurred on January 7, 2007.
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:

1. Failed to comply with permitted emissions limits, in violation of New Source Review Flexible Air Permit ("NSRFAP") No. 2167/PSD-TX-985, Special Condition ("SC") 1, 30 TEX. ADMIN. CODE §§ 116.715(a) and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 26, 2009. Specifically, hydrogen sulfide emissions from barge loading at the dock, EPN LL19DOCKD, are limited to 7.79 pounds per hour, but those emissions were reported at 11.63 pounds per hour.
2. Failed to submit an emissions event report to STEERS within 24 hours of a reportable emissions event (Incident No. 123442), in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 26, 2009. Specifically, the event occurred on January 7 and 8, 2007, but the STEERS report was not submitted until April 27, 2009.
3. Failed to comply with permitted emissions limits and the allowable site-wide hourly emissions cap for highly reactive volatile organic compounds ("HRVOC"), in violation of NSRFAP No. 2167/PSD-TX-985, SC 1, 30 TEX. ADMIN. CODE §§ 116.715(a), 115.722(c)(1), and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 5, 2009. Specifically, during an emissions event (Incident No. 123442) on January 7 and 8, 2007, an improperly set pressure relief valve (EPN 938PSV0049) in the Paraxylene Recovery Unit released 4,500 pounds of ethylene over a 6.4 hour period. Since these emissions could have been avoided by better design and/or operational practices, the emissions are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).
4. Failed to comply with permitted emissions limits and the allowable site-wide hourly emissions cap for HRVOC, in violation of NSRFAP No. 2167/PSD-TX-985, SC 1, 30 TEX. ADMIN. CODE §§ 116.715(a), 115.722(c)(1), and 101.20(3), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 21, 2009. Specifically, during an emissions event (Incident No. 124005) on May 8, 2009, an improperly open valve and a failed level indicator caused the # 2 Debutanizer Tower (EPN 732T0007) and a pressure relief valve (EPN 732PSV0337) in the Fluid Catalytic Cracking Unit to emit 3,753 pounds of volatile organic compounds (including 2,471 pounds of HRVOC), 0.3 pound of sulfur dioxide, and 23 pounds of hydrogen sulfide over a three minute period. Since these emissions could have been avoided by better maintenance practices, the emissions are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

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 6 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. However, the agreement by the Respondent to the assessment of a penalty is expressly not in lieu of or an alternative to compliance with all injunctive requirements in this Agreed order. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments when paid shall be made payable to "TCEQ" and sent with the notation "Re: Houston Refining LP, Docket No. 2009-0779-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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:
 - i. Return to compliance with the permitted emissions limits for hydrogen sulfide from barge loading at the dock, EPN LL19DOCKD; and
 - ii. In order to address the causes that led to the emissions event that occurred on May 8, 2009, implement improvements to maintenance practices.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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 77023-1486

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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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

Jale Zedler

For the Executive Director

5/26/2010

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 further acknowledge that the TCEQ is materially relying on such representation.

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

3/10/2010

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 at the address in Section IV, Paragraph 1 of this Agreed Order.