

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

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: Refinery</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-0790-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 January 12, 2009. 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 Services, 8000 N. Stadium Drive, Houston, Texas 77054-1823.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Thomas Phillips, Environmental Specialist, Houston Refining LP, 12000 Lawndale Street, Suite 14, Houston, Texas 77017 Mr. James B. Roecker, Divisional Vice President, Houston Refining LP, 12000 Lawndale Street, Suite 14, Houston, Texas 77017 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 20, 2008</p> <p>Date of NOV/NOE Relating to this Case: September 8, 2008 (NOE)</p> <p>-Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions during Incident No. 112203. Specifically, during the August 6, 2008 emissions event, the following unauthorized emissions were released from Flare Nos. 1 and 2 over a period of 50 minutes: 2,192.53 pounds ("lbs") of volatile organic compounds, 1,993.80 lbs of carbon monoxide, 1,377.20 lbs of sulfur dioxide, 129.80 lbs of nitrogen dioxide, and 15 lbs of hydrogen sulfide. Since the emissions event could have been avoided by preventing failure of the emergency power off buttons and the subsequent shut-down of the Uninterruptible Power Supply, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 2167 and PSD-TX-985, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.715(a), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$10,000</p> <p>Total Deferred: \$6,000 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,000</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 \$6,000 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>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent the recurrence of emissions events due to the same cause as Incident No. 112203; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>

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: ^{no for} ~~for~~ Bryan Sinclair, Director, Enforcement Division

From: Michael De La Cruz, Manager, Enforcement Division ~~MS~~

Subject: Response to Comments Received Concerning Proposed Agreed Enforcement Orders
Houston Refining LP, Houston, Harris County
RN100218130
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 commentator 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.

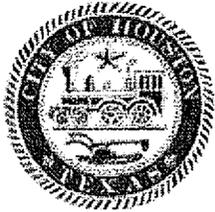
Two, regarding vague ordering provisions, TCEQ staff does not believe that the provisions are vague. The TCEQ's wording of these ordering provisions puts the burden and expense on Houston Refining to conduct their own research based on their own root cause analyses to formulate and implement measures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

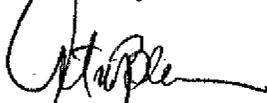
Re: Houston Refining LP (Refinery), Formerly Lyondell-Citgo Refining LP
Docket Nos. 2008-1454-AIR-E and 2009-0779-AIR-E
Comments on Proposed Agreed Orders

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.

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.

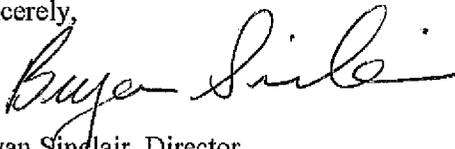
Please note that the penalty amounts for alleged Violation Nos. 1, 2, and 3 in Agreed Order Docket No. 2009-0779-AIR-E are uncollectable due to bankruptcy proceedings, and therefore only alleged Violation No. 4 is collectable and enters into the final assessed penalty amount.

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

cc: Mr. Les Trobman, General Counsel, TCEQ
Mr. Blas Coy, Public Interest Counsel, TCEQ
Ms. LaDonna Castañuela, Chief Clerk, TCEQ
Mr. Jason Harris, Manager, Air Section, Houston Regional Office, TCEQ
Mr. Manuel Bautista, Manager, Air Section, Houston Regional Office, TCEQ

Mr. Arturo Blanco

Page 4

bcc: Mr. Terry Murphy, Coordinator, Enforcement Division, MC 149
Ms. Rebecca Johnson, Coordinator, Enforcement Division, R14
Ms. Denise Hubert, Bankruptcy Program manager, MC 132
Central Records, MC 213, Building E, 1st Floor, HG0048L
Enforcement Division Reader File



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	10-Sep-2008	Screening	10-Sep-2008	EPA Due	N/A
	PCW	10-Sep-2008				

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.	36508	No. of Violations	1
Docket No.	2008-1454-AIR-E	Order Type	1000
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
---	------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	411.0% Enhancement	Subtotals 2, 3, & 7	\$20,550
---------------------------	--------------------	---------------------	----------

Notes

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

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	------------	-----

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply - Total Adjustments	Subtotal 5	\$0
--	------------	-----

Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
-------------------------	------------------	------------	-----

Total EB Amounts \$416
 Approx. Cost of Compliance \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$25,550
-----------------------------	----------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$25,550

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,000
-----------------------------------	------------------------	----------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	------	-----------	------------	-----

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

Notes

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

PAYABLE PENALTY	\$10,000
------------------------	----------

Screening Date 10-Sep-2008

Docket No. 2008-1454-AIR-E

PCW

Respondent Houston Refining LP

Policy Revision 2 (September 2002)

Case ID No. 36508

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100218130

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	12	60%
	Other written NOVs	11	22%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	9	225%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	4	-4%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%

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) 411%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

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

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

Screening Date 10-Sep-2008 **Docket No.** 2008-1454-AIR-E **PCW**
Respondent Houston Refining LP *Policy Revision 2 (September 2002)*
Case ID No. 36608 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN100218130
Media [Statute] Air
Enf. Coordinator Rebecca Johnson

Violation Number 1
Rule Cite(s) Air Permit No. 2167 and PSD-TX-985, Special Condition No. 1, 30 Tex. Admin. Code § 116.715(a), and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to prevent unauthorized emissions during Incident No. 112203. Specifically, during the August 6, 2008 emissions event the following unauthorized emissions were released from Flare Nos. 1 and 2 over a period of 50 minutes: 2,192.53 pounds ("lbs") of volatile organic compounds, 1,993.80 lbs of carbon monoxide, 1,377.20 lbs of sulfur dioxide, 129.80 lbs of nitrogen dioxide, and 15 lbs of hydrogen sulfide. Since the emissions event could have been avoided by preventing failure of the emergency power off buttons and the subsequent shut-down of the uninterruptible power supply, the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment in the Houston-Galveston-Brazoria ozone nonattainment area were exposed to a significant amount of pollutants that did not exceed protective levels as a result of the violation.

Adjustment \$5,000

Violation Events \$5,000

Number of Violation Events 1 **Number of violation days** 1
 mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000
 One monthly event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/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 \$5,000

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$416 **Violation Final Penalty Total** \$25,550
This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

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

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	6-Aug-2008	6-Jun-2009	0.83	\$416	n/a	\$416

Notes for DELAYED costs

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

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

\$10,000

TOTAL

\$416

Compliance History

Customer/Respondent/Owner-Operator:	CN601313083 HOUSTON REFINING, L.P.	Classification: AVERAGE	Rating: 9.18																																																																																																																								
Regulated Entity:	RN100218130 HOUSTON REFINING	Classification: AVERAGE	Site Rating: 9.18																																																																																																																								
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 30%;">ACCOUNT NUMBER</td> <td style="width: 20%;">HG0048L</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>1372</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>2167</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>3844</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>26987</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>31955</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>38735</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>44938</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>HG0048L</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>54769</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>55719</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>75386</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4820100040</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>EPA ID</td> <td>PSDTX985</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>71613</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>74743</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>76934</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>78506</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>80698</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>43445</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>46595</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>49678</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>50839</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>56586</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>71380</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>81566</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>85715</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>84563</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>84606</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>WQ0000392000</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>TPDES0003247</td> </tr> <tr> <td>WASTEWATER</td> <td>EPA ID</td> <td>TPDES0003247</td> </tr> <tr> <td>PUBLIC WATER SYSTEM/SUPPLY</td> <td>REGISTRATION</td> <td>1011570</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXD082688979</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>30092</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE STORAGE</td> <td>PERMIT</td> <td>50106</td> </tr> <tr> <td>WATER LICENSING</td> <td>LICENSE</td> <td>1011570</td> </tr> <tr> <td>IHW CORRECTIVE ACTION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>30092</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE</td> <td>PERMIT</td> <td>50106</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS</td> <td>PERMIT</td> <td>50106</td> </tr> </table>			AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0048L	AIR OPERATING PERMITS	PERMIT	1372	AIR NEW SOURCE PERMITS	PERMIT	2167	AIR NEW SOURCE PERMITS	PERMIT	3844	AIR NEW SOURCE PERMITS	PERMIT	26987	AIR NEW SOURCE PERMITS	PERMIT	31955	AIR NEW SOURCE PERMITS	PERMIT	38735	AIR NEW SOURCE PERMITS	PERMIT	44938	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0048L	AIR NEW SOURCE PERMITS	REGISTRATION	54769	AIR NEW SOURCE PERMITS	REGISTRATION	55719	AIR NEW SOURCE PERMITS	REGISTRATION	75386	AIR NEW SOURCE PERMITS	AFS NUM	4820100040	AIR NEW SOURCE PERMITS	EPA ID	PSDTX985	AIR NEW SOURCE PERMITS	REGISTRATION	71613	AIR NEW SOURCE PERMITS	REGISTRATION	74743	AIR NEW SOURCE PERMITS	REGISTRATION	76934	AIR NEW SOURCE PERMITS	REGISTRATION	78506	AIR NEW SOURCE PERMITS	REGISTRATION	80698	AIR NEW SOURCE PERMITS	REGISTRATION	43445	AIR NEW SOURCE PERMITS	REGISTRATION	46595	AIR NEW SOURCE PERMITS	REGISTRATION	49678	AIR NEW SOURCE PERMITS	REGISTRATION	50839	AIR NEW SOURCE PERMITS	REGISTRATION	56586	AIR NEW SOURCE PERMITS	REGISTRATION	71380	AIR NEW SOURCE PERMITS	REGISTRATION	81566	AIR NEW SOURCE PERMITS	REGISTRATION	85715	AIR NEW SOURCE PERMITS	REGISTRATION	84563	AIR NEW SOURCE PERMITS	REGISTRATION	84606	WASTEWATER	PERMIT	WQ0000392000	WASTEWATER	PERMIT	TPDES0003247	WASTEWATER	EPA ID	TPDES0003247	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011570	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD082688979	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30092	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50106	WATER LICENSING	LICENSE	1011570	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30092	INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE	PERMIT	50106	INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50106
AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0048L																																																																																																																									
AIR OPERATING PERMITS	PERMIT	1372																																																																																																																									
AIR NEW SOURCE PERMITS	PERMIT	2167																																																																																																																									
AIR NEW SOURCE PERMITS	PERMIT	3844																																																																																																																									
AIR NEW SOURCE PERMITS	PERMIT	26987																																																																																																																									
AIR NEW SOURCE PERMITS	PERMIT	31955																																																																																																																									
AIR NEW SOURCE PERMITS	PERMIT	38735																																																																																																																									
AIR NEW SOURCE PERMITS	PERMIT	44938																																																																																																																									
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0048L																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	54769																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	55719																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	75386																																																																																																																									
AIR NEW SOURCE PERMITS	AFS NUM	4820100040																																																																																																																									
AIR NEW SOURCE PERMITS	EPA ID	PSDTX985																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	71613																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	74743																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	76934																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	78506																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	80698																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	43445																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	46595																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	49678																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	50839																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	56586																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	71380																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	81566																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	85715																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	84563																																																																																																																									
AIR NEW SOURCE PERMITS	REGISTRATION	84606																																																																																																																									
WASTEWATER	PERMIT	WQ0000392000																																																																																																																									
WASTEWATER	PERMIT	TPDES0003247																																																																																																																									
WASTEWATER	EPA ID	TPDES0003247																																																																																																																									
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011570																																																																																																																									
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD082688979																																																																																																																									
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30092																																																																																																																									
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50106																																																																																																																									
WATER LICENSING	LICENSE	1011570																																																																																																																									
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30092																																																																																																																									
INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE	PERMIT	50106																																																																																																																									
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50106																																																																																																																									
Location:	12000 LAWDALE ST, HOUSTON, TX, 77017	Rating Date: 9/1/2008 Repeat Violator: NO																																																																																																																									
TCEQ Region:	REGION 12 - HOUSTON																																																																																																																										
Date Compliance History Prepared:	September 10, 2008																																																																																																																										
Agency Decision Requiring Compliance History:	Enforcement																																																																																																																										
Compliance Period:	September 10, 2003 to September 10, 2008																																																																																																																										
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History																																																																																																																											
Name:	Rebecca Johnson	Phone:	(713) 422-8931																																																																																																																								

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes

2. Has there been a (known) change in ownership of the site during the compliance period?
 3. If Yes, who is the current owner?

Yes

HOUSTON REFINING, L.P.
Arco Pipe Line Company

4. If Yes, who was/were the prior owner(s)?

N/A

5. When did the change(s) in ownership occur?

N/A

Components (Multimedia) for the Site :

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

- Effective Date: 12/05/2003 COURTORDER
 Classification: Major
 Citation: 30 TAC Chapter 101, SubChapter A 101.4
 30 TAC Chapter 116, SubChapter G 116.715(a)
 Rqmt Prov: SC 1 PERMIT
 Description: Emissions of sulfur dioxide and hydrogen sulfide into the air at such concentration as to adversely affect human health or welfare or as to interfere with the reasonable use and enjoyment of property.
- Effective Date: 07/01/2004 ADMINORDER 2003-1418-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: Special Condition No. 1 PERMIT
 Description: Allowed an unauthorized release of 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 #14.1 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 (EPNs TGU-ICN and TGU-ICN2) below 235 ppmv on a one-hour average basis.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 115, SubChapter B 115.114(a)(1)
30 TAC Chapter 115, SubChapter B 115.114(a)(2)
30 TAC Chapter 116, SubChapter G 116.715(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(2)(i)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(b)(1)(iii)
5C THC Chapter 382, SubChapter A 382.085(b)

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

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

Effective Date: 05/28/2006

ADMINORDER 2005-1985-AIR-E

Classification: Moderate

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

5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: TCEQ Flexible Permit #2167, SC #1 PERMIT
Description: Failed to prevent unauthorized emissions.
Effective Date: 06/15/2006 ADMINORDER 2005-2073-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: TCEQ Permit #2167, SC#1 PERMIT
Description: Failed to prevent unauthorized emissions.
Effective Date: 02/05/2007 ADMINORDER 2006-0811-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: TCEQ Permit #2167, SC#1 PERMIT
Description: Failed to prevent unauthorized emissions on March 21, 2006.
Effective Date: 08/10/2007 ADMINORDER 2007-0440-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, 10,494 pounds ("lbs") of sulfur dioxide, 126 lbs of carbon monoxide and 22 lbs of hydrogen sulfide were released from the Magnaformer Unit and the Sulfur Recovery Complex during an emissions event that began January 4, 2007 and lasted nine hours and 45 minutes.
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, 1,431 pounds ("lbs") of propane, 510 lbs of propylene and 11 lbs of butenes were released from Unit 234 during an avoidable emissions event that began January 9, 2007 and lasted eight hours.
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, 8,205 pounds of the Highly Reactive Volatile Organic Compound ethylene were released from the Paraxylene Recovery Unit during an avoidable emissions event that began January 16, 2007 and lasted one hour and 55 minutes.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to properly report the amount of ethylene emissions. Specifically, the final notification reported 7,650 lbs of ethylene were released as a result of the January 16, 2007 emissions event and the investigation determined that the actual emissions released were 8,205 lbs of ethylene.
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, 189 lbs of propane, 530 lbs of propylene, 821 lbs of butanes, 1,064 lbs of butenes, 3,154 lbs of pentanes, 2,589 lbs of pentenes and 13,734 lbs of C6+ Hazardous Air Pollutants ("HAP") were released from the 732 Fluid Catalytic Cracking Unit ("FCCU") during
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, 72 lbs of ethylene, 2,185 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

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

1	01/05/2004	(252510)
2	02/03/2004	(252543)
3	02/23/2004	(4691)
4	02/29/2004	(262038)
5	05/14/2004	(264609)
6	05/27/2004	(143412)
7	08/24/2004	(271493)
8	09/01/2004	(276631)
9	10/15/2004	(282886)
10	11/18/2004	(340059)
11	11/18/2004	(340059)
12	11/22/2004	(341679)
13	12/07/2004	(341250)
14	03/29/2005	(375273)
15	05/20/2005	(381195)
16	05/25/2005	(379525)
17	05/26/2005	(337173)
18	05/26/2005	(337173)
19	08/18/2005	(404363)
20	11/23/2005	(435308)
21	02/28/2006	(467236)
22	04/20/2006	(437388)
23	04/27/2006	(439800)
24	05/31/2006	(480494)
25	05/31/2006	(480504)
26	05/31/2006	(480503)
27	05/31/2006	(480500)
28	05/31/2006	(480494)
29	05/31/2006	(480504)
30	05/31/2006	(480503)
31	05/31/2006	(480500)
32	05/31/2006	(480504)
33	05/31/2006	(480494)
34	05/31/2006	(480503)
35	05/31/2006	(480494)
36	05/31/2006	(480506)
37	05/31/2006	(480503)
38	05/31/2006	(480506)
39	05/31/2006	(480500)
40	05/31/2006	(480506)
41	06/14/2006	(479843)
42	06/15/2006	(481316)
43	06/15/2006	(481316)
44	06/30/2006	(469140)
45	07/17/2006	(466790)
46	07/28/2006	(463199)
47	08/08/2006	(489220)
48	09/11/2006	(489202)
49	09/11/2006	(489202)
50	10/06/2006	(489212)
51	10/30/2006	(511654)
52	01/09/2007	(532009)
53	02/02/2007	(435323)
54	02/02/2007	(511662)
55	02/02/2007	(435323)
56	02/02/2007	(511662)
57	02/05/2007	(536476)
58	02/08/2007	(512678)

59 02/22/2007 (510914)
 60 03/21/2007 (539194)
 61 03/21/2007 (539192)
 62 03/21/2007 (539188)
 63 03/21/2007 (539192)
 64 03/21/2007 (539188)
 65 03/21/2007 (539192)
 66 03/21/2007 (539194)
 67 03/21/2007 (539188)
 68 03/21/2007 (539194)
 69 04/04/2007 (554809)
 70 04/04/2007 (554793)
 71 04/04/2007 (554809)
 72 04/04/2007 (554793)
 73 04/04/2007 (554809)
 74 04/04/2007 (554793)
 75 04/20/2007 (556941)
 76 04/24/2007 (557537)
 77 05/04/2007 (556720)
 78 05/29/2007 (559572)
 79 07/03/2007 (563761)
 80 07/25/2007 (566621)
 81 08/17/2007 (570286)
 82 08/28/2007 (570635)
 83 10/17/2007 (567541)
 84 10/18/2007 (566919)
 85 10/25/2007 (596179)
 86 11/09/2007 (599574)
 87 12/21/2007 (610028)
 88 01/15/2008 (612606)
 89 01/28/2008 (616032)
 90 01/29/2008 (611265)
 91 03/03/2008 (616148)
 92 05/30/2008 (670616)
 93 08/22/2008 (688646)
 94 08/27/2008 (687290)
 95 08/27/2008 (687290)
 96 08/27/2008 (687290)
 97 09/09/2008 (701172)

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

Date: 02/03/2004 (262543)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT 2167, Special Condition #1
 Description: Lyondell failed to comply with the Special Conditions of permit 2167. Improper trim adjustment on a control valve caused temperature and pressure to increase above the PSV setpoint.
 Date: 02/29/2004 (262038)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter A 382.085(a)
 Rqmt Prov: PERMIT TCEQ FLEXIBLE AIR PERMIT #2167, SC #1
 Description: Lyondell exceeded permit limits during an emissions event.
 Date: 05/14/2004 (264609)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT Permit #2167, Special Condition #1
 Description: Exceeded VOC permit limit during an emissions event.

Date: 08/16/2004 (280585)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT TCEQ FLEXIBLE AIR PERMIT 2167, SC #1
 Description: Exceeded VOC permit limit during an avoidable emissions event.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)
 Description: Failure to submit an administratively complete final emissions event report.
 Date: 08/16/2004 (280979)

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 (281725)

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT TCEQ Flexible Air Permit #2167, SC #1
 Description: Failure to submit an administratively complete final emissions event report.
 Date: 11/14/2004 (271509)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT Flexible No. 2167 and PSD-TX-985, S.C. 1
 Description: Exceeded VOC permit limits during an avoidable emissions event.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
 Description: Failure to submit a final report within 14 days of the end of an emissions event.
 Date: 11/30/2004 (351822)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/09/2004 (342162)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter G 116.715(a)
 Rqmt Prov: PA Special Condition #1
 Description: Failure to control unauthorized emissions.
 Date: 05/02/2005 (372107)

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(10)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to record the times of operation for testing and maintenance for diesel engines subject to the restriction on hours of operation.
 Date: 05/26/2005 (379525)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to control knockout pot level on south compressor.
 Date: 07/06/2005 (379524)

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

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter G 116.715(a)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT Special Condition 15E

Description: Failed to keep a cap or plug on open-ended valves ID # 501010 and # 270505.
Date: 07/31/2005 (440650)
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
Date: 06/13/2006 (479843)
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT TCEQ Flexible Permit #2167, SC #1
Description: Lyondell failed to prevent the "Y Train" from overpressuring.
Date: 06/30/2006 (520029)
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Description: Failure to meet the limit for one or more permit parameter
Date: 08/01/2006 (463199)
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter G 116.715(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
Rqmt Prov: PA 2167 and PSD-TX-985, SC 15E
Description: Failure to cap/plug open-ended line
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(2)

Description: Leaking plug associated with valve #802412.
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 115, SubChapter D 115.354(2)(C)
30 TAC Chapter 116, SubChapter G 116.715(a)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)
Rqmt Prov: PA 2167 and PSD-TX-985, SC 15F
Description: Failure to monitor valves
Date: 08/09/2006 (489220)
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT TCEQ Flexible Permit #2167, SC #1
Description: Failure to prevent the disconnection of a pressure indication instrument.
Date: 08/18/2006 (396831)
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT Flexible Permit No. 2167, SC #1.
Description: The RE failed to prevent unauthorized emissions from a leaking pipe.
Date: 10/31/2006 (544277)
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
Date: 08/31/2007 (601491)
Self Report? YES **Classification:** Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2007 (619398)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 02/29/2008 (689825)

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

F. Environmental audits.

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

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

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

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

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

Description: Failure to provide seals for open ended lines that contain VOCs.
Disclosure Date: 04/03/2008

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

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

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

Notice of Intent Date: 10/04/2007 (598208)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

I. JURISDICTION AND STIPULATIONS

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

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

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

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

II. ALLEGATIONS

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

III. DENIALS

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

IV. ORDERING PROVISIONS

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

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

The certification shall be submitted to:

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

with a copy to:

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallin

For the Executive Director

4/23/2010

Date

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

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

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

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

James R. Daniel

Signature

3/12/2010

Date

James R. Daniel

Name (Printed or typed)
Authorized Representative of
Houston Refining LP

Manager

Title

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

