

Executive Summary – Enforcement Matter – Case No. 35962
Western Refining Company, L.P.
RN100213016
Docket No. 2008-0890-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Western Refining El Paso All Sites, 6501 Trowbridge Drive, El Paso, El Paso County

Type of Operation:

Petroleum refinery

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket Nos. 2013-0439-AIR-E
and 2013-0841-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 8, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$211,038

Amount Deferred for Expedited Settlement: \$42,206

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$84,416

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$84,416

Name of SEP: Texas Association of Resource Conservation and Development
Areas, Inc.

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 29, 2004, December 29, 2004, January 31, 2006, September 29, 2006, January 9, 2007, December 27, 2007, April 22, 2008, and February 3, 2009

Date(s) of NOE(s): February 17, 2005, February 25, 2005, March 16, 2006, December 13, 2006, December 15, 2006, February 16, 2007, April 30, 2008, June 12, 2008, and March 20, 2009

Violation Information

1. Failed to prevent unauthorized emissions. Specifically, Respondent released 1,944 pounds (“lbs”) of volatile organic compounds (“VOC”), 1,129 lbs of sulfur dioxide (“SO₂”), 318 lbs of carbon monoxide (“CO”), 44 lbs of nitrogen oxides (“NO_x”), and 12 lbs of hydrogen sulfide (“H₂S”) from the North Main Flare in the Light Ends Recovery Unit during an emissions event (Incident No. 101331) that began on December 13, 2007, and lasted 15 hours. The emissions event occurred when a pressure relief device lifted due to ammonia carbonate build-up at Reflux Drum D-559. Since the emissions event could have been avoided through better operational and maintenance practices and was not properly reported, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE 101.222 [Federal Operating Permit (“FOP”) No. O1264, Special Terms and Conditions (“STC”) No. 21, New Source Review Permit (“NSRP”) No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to properly report Incident No. 101331. Specifically, the final report for the emissions event did not provide an agency established facility identification number, an accurate estimate of the duration of the event (a duration of eight hours and 28 minutes was reported but additional documentation submitted indicates a duration of 15 hours), and additional information about the event was not provided within the required timeframe established by the El Paso Regional Office (information was required to be submitted by January 23, 2008, but was not submitted until February 17, 2008) [TEX. ADMIN. CODE § 101.201(b)(1)(D), (b)(1)(F), and (f) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to prevent unauthorized emissions. Specifically, Respondent released 500 lbs of SO₂, 20 lbs of CO, 10 lbs of H₂S, 10 lbs of ammonia, 5 lbs of NO_x, and 2 lbs of VOC from the Sour Water Stripper (“SWS”) Flare during an emissions event (Incident No. 81269) that began on September 13, 2006, and lasted eighteen minutes. The emissions event occurred when the Amine Gas Feed Knockout Drum became unstable causing the South Sulfur Recovery Unity (“SRU”) to shut down. Since the emissions event could have been avoided through better operation practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264,

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STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to prevent unauthorized emissions. Specifically, Respondent released 14,316 lbs of SO₂, 962 lbs of liquefied petroleum gas, 566 lbs of CO, 152 lbs of H₂S, and 87 lbs of nitric oxide from the South Amine Acid Gas (“AAG”) Flare during an emissions event (Incident No. 81268) that began on September 13, 2006, and lasted 53 hours. The emissions event occurred when the C1601C Compressor System became plugged with solids and the system shut down. Since the emissions event could have been avoided through better operational and maintenance practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to conduct a stack test on the South SRU Incinerator by April 4, 2006. Specifically, a stack test was conducted on September 14, 2005; however, the test was deemed invalid and the South SRU Incinerator was not retested before it was removed from service [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions Nos. 37.D. and 39.C., 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6. Failed to prevent unauthorized emissions. Specifically, Respondent released 827 lbs of SO₂, 9 lbs of H₂S, 0.29 lb of NO_x, 0.24 lb of CO, and 0.02 lb of particulate matter (“PM”) from the SRU Tail Gas Incinerator (“TGI”) during an emissions event (Incident No. 105990) that began on April 7, 2008, and lasted nine hours and ten minutes. The emissions event occurred when the Tail Gas Unit Absorber plugged and gas had to be routed to the backup incinerator. Since the emissions event could have been avoided through better maintenance practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7. Failed to submit additional information to evaluate Incident No. 105990 within the time established in the April 25, 2008 additional information request. Specifically, additional information was required to be submitted by May 9, 2008; however, the information was not submitted until May 13, 2008 [30 TEX. ADMIN. CODE § 101.201(f) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

8. Failed to obtain proper authorization for the South AAG Flare. Specifically, the South AAG Flare was authorized to combust vent gases during process upsets and de minimis combustion exhaust from the flare pilot only; however, non-process upset vent streams were combusted by the flare continuously since July 21, 2003 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

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9. Failed to maintain the sulfur content of refinery fuel gas routed to the the Plant Emergency Flare below the permitted 0.1 grain of H₂S per dry standard cubic foot (“dscf”) prior to flaring [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 10, 40 CODE OF FEDERAL REGULATIONS (“CFR”) § 60.104(a), 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
10. Failed to install a Continuous Emission Monitoring System (“CEMS”) to monitor SO₂ and H₂S levels from the South AAG Flare and the Vacuum Unit Heater [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 10, 40 CFR § 60.105(a), 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
11. Failed to limit annual throughput of carbon black feed through the South Loading Rack to 5,195,000 gallons per year. Specifically, annual throughput for 2003 was 15,978,358 gallons and throughput for 2004 was 11,407,452 gallons [Voluntary Emissions Reduction Permit (“VERP”) No. 49075, Special Conditions No. 7, 30 TEX. ADMIN. CODE § 116.814(a), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
12. Failed to maintain monthly emissions records. Specifically, monthly emissions records documenting VOC emissions from Storage Tank No. 4064 were not being maintained [VERP No. 49075, Special Conditions No. 4.B., 30 TEX. ADMIN. CODE § 116.814(a), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
13. Failed to prevent visible emissions from the SRU TGI. Specifically, an opacity observation conducted on October 6, 2004 documented opacity of 4.58% averaged over a six-minute period [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 29, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
14. Failed to prevent excess opacity. Specifically, for a 72-hour period beginning on October 22, 2004 (Incident No. 48316), opacity from the SRU TGI was measured to be 30% averaged over a six-minute period. The excess opacity event occurred when actions were being taken to optimize operation of the SRU TGI and air flow through the incinerator was increased. Since this excess opacity event was avoidable and immediate maintenance and operational actions were not taken to minimize emissions, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 29, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

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15. Failed to prevent unauthorized emissions. Specifically, Respondent released 5,879 lbs of SO₂, 62 lbs of H₂S, 14 lbs of CO, and 2 lbs of NO_x from the South AAG Flare and 1,668 lbs of SO₂, 18 lbs of H₂S, 7 lbs of CO, 2 lbs of liquefied petroleum gas, and 1 lb of nitric oxide from the SWS Flare during an emissions event (Incident No. 49077) that began on November 4, 2004, and lasted three hours and 53 minutes. The emissions event occurred when the thermal reactor in the SRU shutdown due to a high liquid level in the knockout drum, resulting in an upset at the amine regenerator. Since the emissions event could have been avoided by better maintenance practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

16. Failed to prevent unauthorized emissions. Specifically, Respondent released 554 lbs of SO₂, 306 lbs of nitric oxide, 118 lbs of CO, 16 lbs of NO_x, 15 lbs of PM, and 6 lbs of H₂S from the South Main Flare and 54 lbs of SO₂, 1 lb of H₂S, 1 lb of CO, and 1 lb of ammonia from the SWS Flare during an emissions event (Incident No. 69527) that started on December 20, 2005 and lasted 16 minutes. The emissions event occurred when instrumentation problems caused the loss of the SRU air flow signal and acid gas streams had to be routed to the flares for combustion. Since the emissions event could have been avoided through better operational practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

17. Failed to prevent unauthorized emissions. Specifically, Respondent released 1,274 lbs of SO₂, 734 lbs of VOC, 608 lbs of nitric oxide, 230 lbs of CO, 32 lbs of NO_x, 30 lbs of PM, and 14 lbs of H₂S from the South Main Flare and 18 lbs of SO₂, 1 lb of H₂S, 1 lb of CO, and 1 lb of ammonia from the SWS Flare during an emissions event (Incident No. 69577) that started on December 21, 2005 and lasted one hour and six minutes. The emissions event occurred when instrumentation problems caused the loss of the SRU air flow signal and acid gas streams had to be routed to the flare for combustion. Since the emissions event could have been avoided by better operational practices, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

18. Failed to prevent unauthorized emissions. Specifically, analysis of ambient air collected between August 15 and 20, 2008 in a residential area located on Tampa Avenue and directly downwind from Storage Tank No. 4121 indicated concentrations of 2-methylpentane that exceeded the short-term odor-based reference value by three times [TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On November 6, 2004, conducted employee training on carbon black feed throughput limits to ensure compliance with permitted limits;
- b. On November 6, 2004, conducted employee training on record keeping requirements to ensure that monthly VOC emissions records for Tank No. 4064 are maintained;
- c. On November 6, 2004, reviewed and updated the SRU TGI operating and maintenance procedures and conducted employee training to prevent visible emissions from the SRU TGI, to ensure immediate maintenance and operational actions are taken to minimize emissions, and to prevent the recurrence of excess opacity events due to the same cause as Incident No. 48316;
- d. On November 18, 2004, reviewed and updated the SRU Amine Regenerator maintenance procedures and conducted employee training to prevent the recurrence of emissions events due to the same cause as Incident No. 49077;
- e. On April 4, 2005, obtained an amendment to NSRP No. 18897 that authorized the use of the South AAG Flare to combust non-upset vent streams, provided an extension to the requirement to install a flare gas recovery system to ensure that the sulfur content of the fuel gas being routed to the Plant Emergency Flare is below 0.1 grain of H₂S per dscf prior to flaring, and provided an extension to the requirement to install a CEMS for the South AAG Flare and the Vacuum Unit Heater or allowed the Respondent to obtain approval for an alternative monitoring plan;
- f. On January 4, 2006, reviewed and updated SRU air flow signal operating procedures and conducted employee training to prevent the recurrence of emission events due to the same cause as Incident Nos. 69527 and 69577;
- g. On September 30, 2006, reviewed and updated C1601C Compressor System operating procedures, reviewed compressor filter maintenance requirements, and conducted employee training to prevent the recurrence of emissions events due to the same cause as Incident No. 81268;
- h. On September 27, 2006, reviewed and updated Amine Unit operating procedures and conducted employee training to prevent the recurrence of emissions events due to the same cause as Incident No. 81269;

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- i. On or before November 29, 2006, implemented an approved alternative monitoring plan for the South AAG Flare and the Vacuum Unit Heater;
- j. On December 27, 2007, reviewed and updated Reflux Drum D-559 line maintenance and operating procedures and conducted employee training to prevent the recurrence of emissions events due to the same cause as Incident No. 101331;
- k. On or before June 30, 2007, installed a flare gas recovery system;
- l. On May 2, 2008, reviewed and updated solids management and maintenance requirements for the Tail Gas Unit Absorber and conducted employee training to prevent the recurrence of emissions event due to the same cause as Incident No. 105990;
- m. On May 13, 2008, conducted employee training on emissions event reporting requirements to ensure that emissions events are properly reported;
- n. On May 13, 2008, submitted additional information required to evaluate Incident No. 105990 and conducted employee training to ensure that additional information required to evaluate emissions events is submitted as required;
- o. On November 6, 2008, completed an internal floating roof inspection of Tank No. 4121, completed repairs to the tank support springs and primary seal, and implemented procedures to ensure that lower vapor pressure and temperature products are stored in the tank to prevent emissions from affecting off-site receptors; and
- p. On or before December 30, 2008, conducted training to ensure that stack tests are performed as required and conducted in accordance with the prescribed test method, and the South SRU Incinerator was removed from service.

Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Amancio Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Forrest B. Lauher, Vice President & Refinery Manager, Western Refining Company, L.P., 123 West Mills Avenue, Suite 200, El Paso, Texas 79901
Jeff A. Stevens, President & Chief Executive Officer, Western Refining Company, L.P., 123 West Mills Avenue, Suite 200, El Paso, Texas 79901

Respondent's Attorney: N/A

Attachment A
Docket Number: 2008-0890-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Western Refining Company, L.P.
Payable Penalty Amount:	One Hundred Sixty-Eight Thousand Eight Hundred Thirty-Two Dollars (\$168,832)
SEP Amount:	Eighty-Four Thousand Four Hundred Sixteen Dollars (\$84,416)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up
Location of SEP:	El Paso County, Rio Grande River Basin, Hueco-Mesilla Bolson Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Texas Association of Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Administrator and TCEQ. The Third-Party Administrator shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The

Western Refining Company, L.P.
Agreed Order - Attachment A

SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator named above and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Administrator. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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Agreed Order - Attachment A

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Compliance History Report

PUBLISHED Compliance History Report for CN601510191, RN100213016, Rating Year 2011 which includes Compliance History (CH) components from September 1, 2006, through August 31, 2011.

Customer, Respondent, or Owner/Operator:	CN601510191, Western Refining Company, L.P.	Classification: AVERAGE	Rating: 1.58
Regulated Entity:	RN100213016, WESTERN REFINING EL PASO ALL SITES	Classification: AVERAGE	Rating: 2.18
Complexity Points:	N/A	Repeat Violator: NO	
CH Group:	02 - Oil and Petroleum Refineries		
Location:	6501 TROWBRIDGE DR EL PASO, TX 79905-3401, EL PASO COUNTY		
TCEQ Region:	REGION 06 - EL PASO		

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER EE0015H
AIR OPERATING PERMITS PERMIT 2297
AIR OPERATING PERMITS ACCOUNT NUMBER EE0510P
AIR OPERATING PERMITS PERMIT 1264
AIR OPERATING PERMITS PERMIT 1264
AIR OPERATING PERMITS PERMIT 2298

AIR OPERATING PERMITS PERMIT 1348
AIR OPERATING PERMITS PERMIT 2298
AIR OPERATING PERMITS ACCOUNT NUMBER EE0082P
AIR OPERATING PERMITS PERMIT 901
AIR OPERATING PERMITS PERMIT 2297
POLLUTION PREVENTION PLANNING ID NUMBER P06427

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000036087

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 86385

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD007399025

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 36419

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD054256391

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50116

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 36419

INDUSTRIAL AND HAZARDOUS WASTE PERMIT PC036419

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30026

AIR NEW SOURCE PERMITS REGISTRATION 89789

AIR NEW SOURCE PERMITS PERMIT 525

AIR NEW SOURCE PERMITS REGISTRATION 12768

AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE0015H

AIR NEW SOURCE PERMITS PERMIT 18897

AIR NEW SOURCE PERMITS REGISTRATION 75519

AIR NEW SOURCE PERMITS REGISTRATION 76322

AIR NEW SOURCE PERMITS REGISTRATION 75854

AIR NEW SOURCE PERMITS AFS NUM 4814100004

AIR NEW SOURCE PERMITS REGISTRATION 71353

AIR NEW SOURCE PERMITS REGISTRATION 76517

AIR NEW SOURCE PERMITS REGISTRATION 76566

AIR NEW SOURCE PERMITS REGISTRATION 77266

AIR NEW SOURCE PERMITS REGISTRATION 78577

AIR NEW SOURCE PERMITS REGISTRATION 78328

AIR NEW SOURCE PERMITS REGISTRATION 79913

AIR NEW SOURCE PERMITS REGISTRATION 79810

AIR NEW SOURCE PERMITS REGISTRATION 80089

AIR NEW SOURCE PERMITS REGISTRATION 35579

AIR NEW SOURCE PERMITS REGISTRATION 47597

AIR NEW SOURCE PERMITS REGISTRATION 80309

AIR NEW SOURCE PERMITS REGISTRATION 80508

AIR NEW SOURCE PERMITS REGISTRATION 79813

AIR NEW SOURCE PERMITS REGISTRATION 79884

AIR NEW SOURCE PERMITS REGISTRATION 80553

AIR NEW SOURCE PERMITS REGISTRATION 82084

AIR NEW SOURCE PERMITS REGISTRATION 82097

AIR NEW SOURCE PERMITS REGISTRATION 81841

AIR NEW SOURCE PERMITS REGISTRATION 81718

AIR NEW SOURCE PERMITS REGISTRATION 83331

AIR NEW SOURCE PERMITS REGISTRATION 86373

AIR NEW SOURCE PERMITS REGISTRATION 83001

AIR NEW SOURCE PERMITS REGISTRATION 87861

AIR NEW SOURCE PERMITS REGISTRATION 90656

AIR NEW SOURCE PERMITS REGISTRATION 87848

AIR NEW SOURCE PERMITS REGISTRATION 91087

AIR NEW SOURCE PERMITS REGISTRATION 88327

AIR NEW SOURCE PERMITS REGISTRATION 92218

AIR NEW SOURCE PERMITS REGISTRATION 92330

AIR NEW SOURCE PERMITS REGISTRATION 93228

AIR NEW SOURCE PERMITS PERMIT 93546

AIR NEW SOURCE PERMITS REGISTRATION 95073

AIR NEW SOURCE PERMITS REGISTRATION 95780

AIR NEW SOURCE PERMITS REGISTRATION 95490

AIR NEW SOURCE PERMITS REGISTRATION 99151

AIR NEW SOURCE PERMITS REGISTRATION 99295

AIR NEW SOURCE PERMITS REGISTRATION 99045

AIR NEW SOURCE PERMITS REGISTRATION 99105

AIR NEW SOURCE PERMITS REGISTRATION 101081

AIR NEW SOURCE PERMITS REGISTRATION 100798

AIR NEW SOURCE PERMITS REGISTRATION 101232

AIR NEW SOURCE PERMITS REGISTRATION 98766

AIR NEW SOURCE PERMITS REGISTRATION 101519

AIR NEW SOURCE PERMITS REGISTRATION 102257
AIR NEW SOURCE PERMITS REGISTRATION 101869
AIR NEW SOURCE PERMITS REGISTRATION 101864
AIR NEW SOURCE PERMITS REGISTRATION 104300
AIR NEW SOURCE PERMITS REGISTRATION 102086
AIR NEW SOURCE PERMITS REGISTRATION 102428
AIR NEW SOURCE PERMITS REGISTRATION 103904
AIR NEW SOURCE PERMITS REGISTRATION 109307
AIR NEW SOURCE PERMITS REGISTRATION 104817
AIR NEW SOURCE PERMITS REGISTRATION 107222
AIR NEW SOURCE PERMITS REGISTRATION 106384
AIR NEW SOURCE PERMITS REGISTRATION 108064
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION
7854
STORMWATER PERMIT TXR15TX98

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION #
(SWR) 30605
AIR EMISSIONS INVENTORY ACCOUNT NUMBER EE1359L

AIR NEW SOURCE PERMITS PERMIT 103951
AIR NEW SOURCE PERMITS REGISTRATION 101781
AIR NEW SOURCE PERMITS REGISTRATION 103466
AIR NEW SOURCE PERMITS REGISTRATION 104301
AIR NEW SOURCE PERMITS REGISTRATION 104437
AIR NEW SOURCE PERMITS REGISTRATION 102724
AIR NEW SOURCE PERMITS REGISTRATION 107105
AIR NEW SOURCE PERMITS REGISTRATION 108054
AIR NEW SOURCE PERMITS REGISTRATION 105344
AIR NEW SOURCE PERMITS REGISTRATION 108264
AIR NEW SOURCE PERMITS REGISTRATION 105463
AIR NEW SOURCE PERMITS REGISTRATION 106700
STORMWATER PERMIT TXR05U187

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION #
(SWR) 86385
AIR EMISSIONS INVENTORY ACCOUNT NUMBER EE0015H

Compliance History Period: September 01, 2006 to August 31, 2011 **Rating Year:** 2011 **Rating Date:** 09/01/2011

Date Compliance History Report Prepared: June 05, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 05, 2008 to June 05, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Rebecca Johnson

Phone: (361) 825-3423

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

See Federal Addendum

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	July 25, 2008	(687294)
Item 2	August 07, 2008	(689055)
Item 3	August 19, 2008	(688846)
Item 4	September 19, 2008	(703028)
Item 5	October 01, 2008	(704368)
Item 6	October 24, 2008	(702842)
Item 7	October 27, 2008	(706182)
Item 8	November 20, 2008	(704038)
Item 9	February 13, 2009	(727052)
Item 10	February 24, 2009	(722703)
Item 11	March 19, 2009	(725744)

Published Compliance History Report for CN601510191, RN100213016, Rating Year 2011 which includes Compliance History (CH) components from June 05, 2008, through June 05, 2013.

Item 12	June 02, 2009	(741234)
Item 13	June 22, 2009	(748377)
Item 14	July 24, 2009	(763311)
Item 15	August 14, 2009	(765814)
Item 16	August 25, 2009	(762835)
Item 17	September 16, 2009	(775413)
Item 18	September 25, 2009	(776959)
Item 19	December 14, 2009	(784289)
Item 20	January 06, 2010	(787240)
Item 21	January 22, 2010	(784736)
Item 22	January 25, 2010	(789021)
Item 23	February 02, 2010	(790153)
Item 24	February 04, 2010	(788166)
Item 25	February 17, 2010	(788521)
Item 26	February 25, 2010	(791780)
Item 27	March 16, 2010	(795920)
Item 28	March 24, 2010	(795515)
Item 29	March 29, 2010	(794824)
Item 30	April 14, 2010	(794574)
Item 31	April 19, 2010	(798846)
Item 32	April 23, 2010	(800065)
Item 33	May 21, 2010	(803398)
Item 34	June 09, 2010	(803351)
Item 35	June 14, 2010	(825046)
Item 36	July 15, 2010	(830353)
Item 37	July 29, 2010	(842467)
Item 38	August 18, 2010	(843767)
Item 39	October 07, 2010	(860501)
Item 40	December 02, 2010	(872686)
Item 41	January 20, 2011	(891298)
Item 42	February 08, 2011	(891894)
Item 43	February 11, 2011	(892186)
Item 44	March 01, 2011	(901036)
Item 45	March 03, 2011	(901399)
Item 46	March 04, 2011	(892089)
Item 47	March 07, 2011	(901677)
Item 48	March 15, 2011	(895096)
Item 49	March 24, 2011	(899252)
Item 50	March 28, 2011	(907075)
Item 51	April 07, 2011	(900304)
Item 52	April 08, 2011	(908672)
Item 53	April 11, 2011	(893150)
Item 54	April 12, 2011	(912369)
Item 55	April 13, 2011	(912162)
Item 56	April 14, 2011	(905090)
Item 57	April 15, 2011	(901334)
Item 58	April 18, 2011	(907313)
Item 59	April 27, 2011	(914307)
Item 60	May 03, 2011	(908429)
Item 61	May 20, 2011	(900621)
Item 62	June 01, 2011	(914240)
Item 63	June 02, 2011	(908590)
Item 64	June 03, 2011	(922303)
Item 65	June 07, 2011	(915405)
Item 66	June 10, 2011	(914236)
Item 67	June 23, 2011	(922173)
Item 68	June 24, 2011	(934009)
Item 69	July 15, 2011	(935896)
Item 70	July 26, 2011	(935949)
Item 71	August 19, 2011	(944860)

Item 72	August 29, 2011	(950263)
Item 73	September 01, 2011	(944291)
Item 74	September 16, 2011	(956454)
Item 75	September 23, 2011	(949329)
Item 76	September 29, 2011	(957492)
Item 77	October 03, 2011	(944235)
Item 78	October 25, 2011	(956951)
Item 79	November 08, 2011	(962449)
Item 80	November 18, 2011	(963092)
Item 81	December 22, 2011	(975917)
Item 82	January 24, 2012	(981462)
Item 83	February 07, 2012	(977419)
Item 84	February 21, 2012	(977428)
Item 85	February 23, 2012	(977328)
Item 86	May 17, 2012	(996322)
Item 87	May 21, 2012	(1001404)
Item 88	May 24, 2012	(1006556)
Item 89	June 06, 2012	(1001705)
Item 90	June 20, 2012	(1003092)
Item 91	August 02, 2012	(1015927)
Item 92	August 14, 2012	(1023526)
Item 93	August 28, 2012	(1028200)
Item 94	December 11, 2012	(1049622)
Item 95	January 11, 2013	(1050258)
Item 96	January 28, 2013	(1051637)
Item 97	February 12, 2013	(1054373)
Item 98	March 21, 2013	(1059072)
Item 99	March 28, 2013	(1054894)
Item 100	June 03, 2013	(1094671)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 08/13/2008 (689192) Classification: Minor
Self Report? NO
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(c)
Description: Failure to postmark a written report within 30-days following the end of the reporting period per 40 CRF §60.7(c).

- 2 Date: 04/23/2009 (741826) CN601510191 Classification: Minor
Self Report? NO
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: Failure to include all deviations on the appropriate Semi-Annual Deviation and Certification Reports as required by Title 30 Texas Administrative Code (TAC) §122.145(2)(A).

- 3 Date: 06/01/2009 (739726) CN601510191 Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
40E PERMIT
Description: Failure to comply with any and all such conditions of the Flexible Permit; specifically, facility failed to perform a stack test within 120 days following daily activity level exceeding 110 percent of that demonstrated during the previous stack test in accordance with Flexible Permit No. 18897 Special Condition No. 40 E.

- 4 Date: 01/29/2010 (787788) CN601510191 Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085
Description: Failure to meet Special Condition 4E of TCEQ permit No.18897, as required by 30 TAC 116.715(a). Specifically, Western Refining Company, LP had 6 open ended

lines that were detected during the onsite investigation and had failed to equip the open-ended valve or lines with an appropriately sized cap, blind flange, plug, or a second valve at all times per 40 CFR § 63.167(a)(1).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.180(b)(1)
5C THSC Chapter 382 382.085

Description: Failure to meet Special Condition 4F of TCEQ permit No.18897, as required by 30 TAC 116.715(a). During the onsite investigation Western Refining Company, LP failed to alternately use zero gas between the specified calibration gases during calibration of the TVA device in accordance with Method 21 as required per 40 CFR § 63.180(b)(1).

Self Report? NO Classification: Moderate

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

Description: Failure to comply with Federal Operating Permit No.O-02298 Special Condition 13. Specifically, Western Refining Company, LP failed to meet Special Conditions 4E and 4F of TCEQ Permit No.18997 as required by 30 TAC 122.143(4).

5 Date: 09/13/2012 (1028290) CN601510191

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the Texas Commission on Environmental Quality (TCEQ) nuisance regulation 30 TAC §101.4 Nuisance.

6 Date: 03/04/2013 (1041472)

Self Report? NO Classification: Moderate

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

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 1(A). Specifically, Western Refining Company L.P. failed to comply with 30 TAC §115.354(11) by failing to check (within 30 days of being placed in volatile organic compound service) new connectors for leaks by monitoring with a hydrocarbon gas analyzer for components in light liquid and gas service and by using visual, audio, and/or olfactory means for components in heavy liquid service.

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)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 15 of TCEQ NSRP No. 18897, by failing to maintain H₂S levels below the permitted 162 ppm for a rolling 3 hour average as required.

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)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 14 of TCEQ NSRP No. 18897, as required by 30 TAC 122.143(4), by not maintaining the Thermal Oxidizer EPN PK-853 six-minute average temperature above the minimum one hour average temperature maintained during the last satisfactory stack test.

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)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 24(A) of TCEQ NSRP No. 18897, by allowing the FCCU and Wet Gas Scrubber (WGS) vent stack (EPN 111) to exceed the maximum allowable concentration of 65 ppmv for sulfur dioxide (SO₂) averaged over a one-hour period.

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)

Description: Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 1 of TCEQ NSRP No. 18897, by failing to prevent emissions from the North Relief Flare listed in the "Emission Sources - Maximum Allowable Emission Rates".

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b)		
Description:	Failure to comply with Federal Operating Permit No. O1348, Special Condition 1(A). Specifically, Western Refining Company L.P. failed to comply with 30 TAC §115.112 by failing to maintain working pressure sufficient at all times to prevent any vapor or gas loss to the atmosphere from tank no. T-4118 during times it held volatile organic compounds (VOCs).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b)		
Description:	Failure to comply with Federal Operating Permit No. O1348, Special Condition 31. Specifically, Western Refining Company L.P. failed to comply with 30 TAC §122.146 by failing to accurately complete section "Operating Permit Requirements for Which Deviations are Being Reported" on the Semi-Annual Deviation and Certification Report for Period March 6, 2012 through September 5, 2012. Multiple "Term & Condition No." and "Regulatory Requirement Citation" fields did not correspond to the proper perm		
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)		
Description:	Failure to comply with Federal Operating Permit No. O1348, Special Condition 26. Specifically, Western Refining Company L.P. failed to meet Special Condition 42 of TCEQ NSRP No. 18897, by failing to calculate, revalidate, track, and sum the emissions from applicable Attachments A and B.		

F. Environmental audits:

Notice of Intent Date: 04/26/2012 (1014096)
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

Addendum to Compliance History Federal Enforcement Actions

Reg Entity Name: WESTERN REFINING EL PASO ALL SITES

Reg Entity Add: 6501 TROWBRIDGE DR

Reg Entity City: EL PASO

Reg Entity No: RN100213016

Customer Name: Western Refining

Customer No: CN601510191

EPA Case No: 06-2002-3725

Order Issue Date (yyyymmdd): 20110902

Case Result: Final Order With Penalty

Statute: CAA

Sect of Statute: 111

Classification: Moderate

Program: National Emission Stand **Citation:** 40 CFR

Violation Type: Air Emissions Not Otherwise Specified

Cite Sect: 482-6(a)

Cite Part: 60

Enforcement Action: Consent Decree or Court Order Resolving a Civil



Penalty Calculation Worksheet (PCW)

DATES	Assigned	22-Feb-2005	Screening	11-Apr-2005	EPA Due	7-Nov-2005
	PCW	5-Apr-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	Western Refining Company, L.P. (PCW #4)
Reg. Ent. Ref. No.	RN100213016
Facility/Site Region	6-El Paso
Major/Minor Source	Major

CASE INFORMATION		No. of Violations	10
Enf./Case ID No.	35962	Order Type	1660
Docket No.	2008-0890-AIR-E	Government/Non-Profit	No
Media Program(s)	Air	Enf. Coordinator	Rebecca Johnson
Multi-Media		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**

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: Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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:

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	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	0	0%
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)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

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

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain proper authorization for the South Amine Acid Gas ("AAG") Flare. Specifically, the South AAG Flare was authorized to combust vent gases during process upsets and de minimis combustion exhaust from the flare pilot only; however, non-process upset vent streams were combusted by the flare continuously since July 21, 2003.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 21

623 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$52,500

Twenty-one monthly events are recommended from July 21, 2003 through the April 4, 2005 corrective action date.

Good Faith Efforts to Comply

	10.0% Reduction
	Before NOV NOV to EDPRP/Settlement Offer
Extraordinary	
Ordinary	x
N/A	(mark with x)

\$5,250

Notes The Respondent completed corrective actions on April 4, 2005, after the February 17, 2005 NOE.

Violation Subtotal \$47,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,134

Violation Final Penalty Total \$78,225

This violation Final Assessed Penalty (adjusted for limits) \$78,225

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$25,000	21-Jul-2003	4-Apr-2005	1.71	\$2,134	n/a	\$2,134
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit amendment to authorize the use of the South AAG Flare as a process flare, provide an extension to the permitting requirement to install a flare gas recovery system (Violation No. 2), and allow for an alternative monitoring method for the South AAG Flare and the Vacuum Unit Heater (Violation No. 3). The Date Required is the earliest occurrence of the violation. The Final Date is the date a permit modification was obtained.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$25,000

TOTAL

\$2,134

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The Economic Benefit for this violation is included in Violation No. 1 of PCW #4.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$0

TOTAL

\$0

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 3

Rule Cite(s)

FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 10, 40 CFR § 60.105(a), 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to install a Continuous Emissions Monitoring System ("CEMS") to monitor sulfur dioxide ("SO2") and H2S levels from the South AAG Flare and the Vacuum Unit Heater.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could have been exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 14 Number of violation days 623

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

Violation Base Penalty \$35,000

Fourteen quarterly events (seven for each CEMS) are recommended from the earliest documented date of non-compliance (July 21, 2003) through the date NSRP No. 18897 was amended (April 4, 2005) to allow for an alternative monitoring method.

Good Faith Efforts to Comply

10.0% Reduction

\$3,500

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

Notes The Respondent completed corrective actions on April 4, 2005, after the February 17, 2005 NOE.

Violation Subtotal \$31,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$52,150

This violation Final Assessed Penalty (adjusted for limits) \$52,150

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The Economic Benefit for this violation is included in Violation No. 1 of PCW #4.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$0

TOTAL \$0

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 4

Rule Cite(s)

Voluntary Emissions Reductions Permit ("VERP") No. 49075, Special Conditions No. 7, 30 Tex. Admin. Code § 116.814(a), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to limit annual throughput of carbon black feed through the South Loading Rack to 5,195,000 gallons per year. Specifically, annual throughput for 2003 was 15,978,358 gallons and throughput for 2004 was 11,407,452 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

730 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two annual events (one for each annual period) are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

Extraordinary

Ordinary

N/A

Notes

Before NOV NOV to EDPRP/Settlement Offer

x	
	(mark with x)

The Respondent completed corrective actions on November 6, 2004, prior to the February 17, 2005 NOE.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$6,700

This violation Final Assessed Penalty (adjusted for limits) \$6,700

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	31-Dec-2003	6-Nov-2004	0.85	\$11	n/a	\$11
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 cost implement training to ensure compliance with the annual throughput limit for carbon black feed. The Date Required is the earliest occurrence of the violation. The Final Date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$250

TOTAL

\$11

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 5

Rule Cite(s)

VERP No. 49075, Special Conditions No. 4.B., 30 Tex. Admin. Code § 116.814(a), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain monthly emissions records. Specifically, monthly emissions records documenting the volatile organic compound ("VOC") emissions from Storage Tank No. 4064 were not being maintained.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

164 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent completed corrective actions on November 6, 2004, prior to the February 17, 2005 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 5

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	9-Oct-2004	6-Nov-2004	0.08	\$1	n/a	\$1
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 cost to implement training to ensure that monthly emissions records for Storage Tank No. 4064 are maintained. The Date Required is the investigation date. The Final Date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$250

TOTAL \$1

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 6

Rule Cite(s) FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 29, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent visible emissions from the Sulfur Recovery Unit ("SRU") Tail Gas Incinerator ("TGI"). Specifically, an opacity observation conducted on October 6, 2004 documented opacity of 4.58% averaged over a six-minute period.

Base Penalty \$10,000

>> 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 which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$2,500

One single event is recommended for the documented opacity observation.

Good Faith Efforts to Comply

25.0% Reduction \$625

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

Notes The Respondent completed corrective actions on November 6, 2004, prior to the February 17, 2005 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Estimated EB Amount \$2

Statutory Limit Test

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)

Case ID No. 35962

Reg. Ent. Reference No. RN100213016

Media Air

Violation No. 6

Percent Interest 5.0
Years of Depreciation 15

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

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	\$250	6-Oct-2004	6-Nov-2004	0.08	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	6-Oct-2004	6-Nov-2004	0.08	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to implement training and update maintenance and operating procedures to prevent visible emissions from the SRU TGI. The Date Required is the date of the violation. The Final Date is the date corrective actions were 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

\$500

TOTAL

\$2

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 7

Rule Cite(s)

FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 29, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent excess opacity. Specifically, for a 72-hour period beginning on October 22, 2004 (Incident No. 48316), opacity from the SRU TGI was measured to be 30% averaged over a six-minute period. The excess opacity event occurred when actions were being taken to optimize operation of the SRU TGI and air flow through the Incinerator was increased. Since this excess opacity event was avoidable and immediate maintenance and operational actions were not taken to minimize emissions, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> 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 which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 3

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent completed corrective actions on November 6, 2004, prior to the February 17, 2005 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)

Case ID No. 35962

Reg. Ent. Reference No. RN100213016

Media Air

Violation No. 7

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				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

The Economic Benefit for this violation is included in Violation No. 6 of PCW #4.

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

\$0

TOTAL

\$0

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 8

Rule Cite(s) FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 5,879 pounds ("lbs") of SO2, 62 lbs of H2S, 14 lbs of carbon monoxide ("CO"), and 2 lbs of nitrogen oxides ("NOx") from the South AAG Flare and 1,668 lbs of SO2, 18 lbs of H2S, 7 lbs of CO, 2 lbs of liquified petroleum gas, and 1 lb of nitric oxide from the Sour Water Stripper ("SWS") Flare during an emissions event (Incident No. 49077) that began on November 4, 2004, and lasted three hours and 53 minutes. The emissions event occurred when the thermal reactor in the SRU shutdown due to a high liquid level in the knockout drum, resulting in an upset at the amine regenerator. Since the emissions event could have been avoided through better maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm		
		Major	Moderate	Minor
Actual				x
Potential				

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$625

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent completed corrective actions on November 18, 2004, prior to the February 25, 2005 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 8

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	4-Nov-2004	18-Nov-2004	0.04	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	4-Nov-2004	18-Nov-2004	0.04	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement training and update maintenance procedures to prevent the recurrence of emissions events caused by high liquid levels in the SRU knockout drum causing upset conditions at the amine regenerator. The Date Required is the date of the emissions event. The Final Date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$500

TOTAL \$1

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2003)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 9

Rule Cite(s)

FOP No. 01264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 554 lbs of SO2, 306 lbs of nitric oxide, 118 lbs of CO, 16 lbs of NOx, 15 lbs of particulate matter ("PM"), and 6 lbs of H2S from the South Main Flare and 54 lbs of SO2, 1 lb of H2S, 1 lb of CO, and 1 lb of ammonia from the SWS Flare during an emissions event (Incident No. 69527) that started on December 20, 2005 and lasted 16 minutes. The emissions event occurred when instrumentation problems caused the loss of the SRU air flow signal and acid gas streams had to be routed to the flares for combustion. Since the emissions event could have been avoided through better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm		
		Major	Moderate	Minor
Actual				x
Potential				

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent completed corrective actions on January 4, 2006, prior to the March 16, 2006 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 9

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	20-Dec-2005	4-Jan-2006	0.04	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	20-Dec-2005	4-Jan-2006	0.04	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to implement training and update operating procedures to prevent the recurrence of emissions events caused by the loss of the SRU air flow signal due to instrumentation problems. The Date Required is the date of the emissions event. The Final Date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$500

TOTAL

\$1

Screening Date 11-Apr-2005

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #4)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 10

Rule Cite(s) FOP No. 01264, STC No. 21, NSRP Permit No. 18897, Special Conditions No. 1, 30 Tex. Admn. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,274 lbs of SO2, 734 lbs of VOC, 608 lbs of nitric oxide, 230 lbs of CO, 32 lbs of NOx, 30 lbs of PM, and 14 lbs of H2S from the South Main Flare and 18 lbs of SO2, 1 lb of H2S, 1 lb of CO, and 1 lb of ammonia from the SWS Flare during an emissions event (Incident No. 69577) that started on December 21, 2005 and lasted one hour and six minutes. The emissions event occurred when instrumentation problems caused the loss of the SRU air flow signal and acid gas streams had to be routed to the flare for combustion. Since the emissions event could have been avoided through better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admn. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

Number of violation days 1

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent completed corrective actions on January 4, 2006, prior to the March 16, 2006 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #4)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 10

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The Economic Benefit for this violation is included in Violation No. 9 of PCW #4.

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 \$0

TOTAL \$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Feb-2007	Screening	6-Mar-2007	EPA Due	7-Nov-2005
	PCW	5-Apr-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Western Refining Company, L.P. (PCW #2)		
Reg. Ent. Ref. No.	RN100213016		
Facility/Site Region	6-El Paso	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	35962	No. of Violations	3
Docket No.	2008-0890-AIR-E	Order Type	1660
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**

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: Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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: Enhancement to capture the avoided costs of compliance associated with Violation No. 3.

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: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 6-Mar-2007

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #2)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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	0	0%
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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

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

Screening Date 6-Mar-2007

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #2)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Federal Operating Permit ("FOP") No. O1264, Special Terms and Conditions ("STC") No. 21, New Source Review Permit ("NSRP") No. 18897, Special Conditions No. 1, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 500 pounds ("lbs") of sulfur dioxide ("SO2"), 20 lbs of carbon monoxide ("CO"), 10 lbs of hydrogen sulfide ("H2S"), 10 lbs of ammonia, 5 lbs of nitrogen oxides ("NOx"), and 2 lbs of volatile organic compounds ("VOC") from the Sour Water Stripper Flare during an emissions event (Incident No. 81269) that began on September 13, 2006, and lasted eighteen minutes. The emissions event occurred when the Amine Gas Feed Knockout Drum became unstable causing the South Sulfur Recovery Unit ("SRU") to shut down. Since the emissions event could have been avoided through better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), Mark (x).

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$625

Table with columns: Extraordinary, Ordinary, N/A, Reduction (Before NOV, NOV to EDPRP/Settlement Offer).

Notes The Respondent completed corrective actions on September 27, 2006, prior to the December 13, 2006 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$5,067

This violation Final Assessed Penalty (adjusted for limits) \$5,067

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #2)

Case ID No. 35962

Reg. Ent. Reference No. RN100213016

Media Air

Violation No. 1

Percent Interest 5.0 | **Years of Depreciation** 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description 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	\$250	13-Sep-2006	27-Sep-2006	0.04	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	13-Sep-2006	27-Sep-2006	0.04	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement training and update operating procedures to prevent the recurrence of emissions events caused by the Amine Gas Feed Knockout Drum becoming unstable. The Date Required is the date of the emissions event. The Final Date is the date corrective actions were 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

\$500

TOTAL

\$1

Screening Date 6-Mar-2007

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #2)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 2

Rule Cite(s)

FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 14,316 lbs of SO2, 962 lbs of H2S, 566 lbs of CO, 152 lbs of H2S, and 87 lbs of nitric oxide from the South Amine Acid Gas Flare during an emissions event (Incident No. 81268) that began on September 13, 2006, and lasted 53 hours. The emissions event occurred when the C1601C Compressor System became plugged with solids and the system shut down. Since the emissions event could have been avoided through better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

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 has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 3

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

Violation Base Penalty \$5,000

One monthly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$1,250

	Before NOV		NOV to EDPRP/Settlement Offer	
	Extraordinary	Ordinary	(mark with x)	
		X		
N/A				

Notes The Respondent completed corrective actions on September 30, 2006, prior to the December 15, 2006 NOE.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$10,134

This violation Final Assessed Penalty (adjusted for limits) \$10,134

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #2)

Case ID No. 35962

Reg. Ent. Reference No. RN100213016

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				0.00	\$0	n/a	\$0
Training/Sampling	\$250	13-Sep-2006	30-Sep-2006	0.05	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	13-Sep-2006	30-Sep-2006	0.05	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to implement training and update operating and maintenance procedures to prevent the recurrence of emissions events caused by solids plugging the C1601C Compressor System. The Date Required is the date the emissions event began. The Final Date is the date corrective actions were 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 \$500

TOTAL \$1

Screening Date 6-Mar-2007

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #2)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 3

Rule Cite(s)

FOP O1264, STC No. 21, NSRP No. 18897, Special Conditions Nos. 37.D. and 39.C., 30 Tex. Admin. Code § 116.715(a), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct a stack test on the South SRU Incinerator by April 4, 2006. Specifically, a stack test was conducted on September 14, 2005; however, the test was deemed invalid and the South SRU Incinerator was not retested before it was removed from service.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential			X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could have been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1001

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$100

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent completed corrective actions on December 30, 2008, after the February 16, 2007 NOE.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Estimated EB Amount \$5,984

Statutory Limit Test

Violation Final Penalty Total \$2,254

This violation Final Assessed Penalty (adjusted for limits) \$2,254

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #2)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$500	4-Apr-2006	30-Dec-2008	2.74	\$69	n/a	\$69
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 cost to conducted training to ensure stack tests are conducted as required and in accordance with the prescribed test method. The Date Required is the date the stack test was required. The Final Date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$5,000	4-Apr-2006	30-Dec-2008	3.66	\$915	\$5,000	\$5,915
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting a stack test on the South SRU Incinerator. The Date Required is the date the stack test was required. The Final Date is the date the South SRU Incinerator was removed from service.

Approx. Cost of Compliance

\$5,500

TOTAL

\$5,984



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES
 Assigned
 PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
Reg. Ent. Ref. No.
Facility/Site Region **Major/Minor Source**

CASE INFORMATION

Enf./Case ID No. **No. of Violations**
Docket No. **Order Type**
Media Program(s) **Government/Non-Profit**
Multi-Media **Enf. Coordinator**
EC's Team

Admin. Penalty \$ Limit Minimum Maximum

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 13-May-2008

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #1)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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	0	0%
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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

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

Screening Date 13-May-2008

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #1)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Federal Operating Permit No. O1264, Special Terms and Conditions No. 21, New Source Review Permit No. 18897, Special Conditions No. 1, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,944 pounds ("lbs") of volatile organic compounds, 1,129 lbs of sulfur dioxide, 318 lbs of carbon monoxide, 44 lbs of nitrogen oxides, and 12 lbs of hydrogen sulfide from the North Main Flare in the Light Ends Recovery Unit during an emissions event (Incident No. 101331) that began on December 13, 2007, and lasted 15 hours. The emissions event occurred when a pressure relief device lifted due to ammonia carbonate build-up at Reflux Drum D-559. Since the emissions event could have been avoided through better operational and maintenance practices and was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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 which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDRP/Settlement Offer \$625

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent completed corrective actions on December 27, 2007, prior to the April 30, 2008 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #1)

Case ID No. 35962

Reg. Ent. Reference No. RN100213016

Media Air

Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	13-Dec-2007	27-Dec-2007	0.04	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	13-Dec-2007	27-Dec-2007	0.04	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement training and update maintenance and operating procedures to prevent the recurrence of emissions events caused by ammonia carbonate build-up at the Reflux Drum D-559. The Date Required is the date of the emissions event. The Final Date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$500

TOTAL

\$1

Screening Date 13-May-2008

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #1)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 101.201(b)(1)(D), (b)(1)(F), and (f) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly report Incident No. 101331. Specifically, the final report for the emissions event did not provide an agency established facility identification number, an accurate estimate of the duration of the event (a duration of eight hours and 28 minutes was reported but additional documentation submitted indicates a duration of 15 hours), and additional information about the event was not provided within the required timeframe established by the El Paso Regional Office (information was required to be submitted by January 23, 2008, but was not submitted until February 17, 2008).

Base Penalty \$10,000

>> 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	1%

Matrix Notes

Less than 30% of the rule requirements were not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 138

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$10

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent completed corrective actions on May 13, 2008, after the April 30, 2008 NOE.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$149

This violation Final Assessed Penalty (adjusted for limits) \$149

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #1)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
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
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	\$250	27-Dec-2007	13-May-2008	0.38	\$5	n/a	\$5
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 cost to implement training to ensure emissions events are properly reported. The Date Required is the earliest occurrence of the violation. The Final Date is the date corrective actions were 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

\$250

TOTAL

\$5



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Dec-2012	Screening	6-Dec-2012	EPA Due	7-Nov-2005
	PCW	5-Apr-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Western Refining Company, L.P. (PCW #3)		
Reg. Ent. Ref. No.	RN100213016		
Facility/Site Region	6-EI Paso	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	35962	No. of Violations	2
Docket No.	2008-0890-AIR-E	Order Type	1660
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* **\$2,600**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **59.0%** Enhancement *Subtotals 2, 3, & 7* **\$1,534**

Notes: Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

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* **\$650**

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

Total EB Amounts \$2
Approx. Cost of Compliance \$500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$3,484**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,484**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$3,484**

DEFERRAL **20.0%** Reduction *Adjustment* **-\$696**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,788**

Screening Date 6-Dec-2012

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #3)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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	0	0%
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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

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

Screening Date 6-Dec-2012

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #3)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Federal Operating Permit No. O1264, Special Terms and Conditions No. 21, New Source Review Permit No. 18897, Special Conditions No. 1, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 827 pounds ("lbs") of sulfur dioxide, 9 lbs of hydrogen sulfide, 0.29 lb of nitrogen oxide, 0.24 lb of carbon monoxide, and 0.02 lb of particulate matter from the Sulfur Recovery Unit Tail Gas Incinerator during an emissions event (Incident No. 105990) that began on April 7, 2008, and lasted nine hours and ten minutes. The emissions event occurred when the Tail Gas Unit Absorber plugged and gas had to be routed to the backup incinerator. Since the emissions event could have been avoided through better maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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 which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$625

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

Notes The Respondent completed corrective actions on May 2, 2008, prior to the June 12, 2008 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #3)

Case ID No. 35962

Reg. Ent. Reference No. RN100213016

Media Air

Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	7-Apr-2008	2-May-2008	0.07	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	7-Apr-2008	2-May-2008	0.07	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to implement training and update maintenance procedures to prevent the recurrence of emissions events caused by pluggage of the Tail Gas Unit Absorber. The Date Required is the date of the emissions event. The Final Date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$500

TOTAL \$2

Screening Date 6-Dec-2012

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #3)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 101.201(f) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit additional information to evaluate Incident No. 105990 within the time established in the April 25, 2008 additional information request. Specifically, additional information was required to be submitted by May 9, 2008; however, the information was not submitted until May 13, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (1%).

Matrix Notes Less than 30% of the rule requirements were not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 4

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with X).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$25

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with X), N/A.

Notes The Respondent completed corrective actions on May 13, 2008, prior to the June 12, 2008 NOE.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$134

This violation Final Assessed Penalty (adjusted for limits) \$134

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #3)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The Economic Benefit for this violation is included in Violation No. 2. of accompanying PCW No. 1.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES
 Assigned PCW: 6-Dec-2012 / 5-Apr-2013
 Screening: 6-Dec-2012
 EPA Due: 7-Nov-2005

RESPONDENT/FACILITY INFORMATION

Respondent: Western Refining Company, L.P. (PCW #5)
Reg. Ent. Ref. No.: RN100213016
Facility/Site Region: 6-El Paso
Major/Minor Source: Major

CASE INFORMATION

Enf./Case ID No.: 35962
Docket No.: 2008-0890-AIR-E
Media Program(s): Air
Multi-Media:
No. of Violations: 1
Order Type: 1660
Government/Non-Profit: No
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** \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 59.0% Enhancement **Subtotals 2, 3, & 7** \$1,475

Notes: Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

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** \$625

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

Total EB Amounts: \$227
 Approx. Cost of Compliance: \$20,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$3,350

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$3,350

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$3,350

DEFERRAL 20.0% Reduction **Adjustment** -\$670

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,680

Screening Date 6-Dec-2012

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #5)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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	0	0%
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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for six NOVs with same/similar violations and one consent decree with denial of liability. Reduction for one Notice of Intent to conduct an audit.

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

Screening Date 6-Dec-2012

Docket No. 2008-0890-AIR-E

PCW

Respondent Western Refining Company, L.P. (PCW #5)

Policy Revision 2 (September 2002)

Case ID No. 35962

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100213016

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to prevent unauthorized emissions. Specifically, analysis of ambient air collected between August 15 and 20, 2008 in a residential area located on Tampa Avenue and directly downwind from Storage Tank No. 4121 indicated concentrations of 2-methylpentane that exceeded the short-term odor-based reference value by three times.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor). Actual Minor has an 'X'.

Percent 25%

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor. All cells are empty.

Percent 0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 5

Table with frequency options: daily, weekly, monthly, quarterly (marked with X), semiannual, annual, single event.

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction Before NOV \$625

Table with rows: Extraordinary, Ordinary (marked with X), N/A. Columns: Before NOV, NOV to EDPRP/Settlement Offer.

Notes The Respondent completed corrective actions on November 6, 2008, prior to the March 20, 2009 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$227

Violation Final Penalty Total \$3,350

This violation Final Assessed Penalty (adjusted for limits) \$3,350

Economic Benefit Worksheet

Respondent Western Refining Company, L.P. (PCW #5)
Case ID No. 35962
Reg. Ent. Reference No. RN100213016
Media Air
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$20,000	15-Aug-2008	6-Nov-2008	0.23	\$227	n/a	\$227

Notes for DELAYED costs

Estimated cost to conduct an internal floating roof inspection of Tank No. 4121, make associated repairs to the support springs and primary seal, and implement measures to ensure that lower vapor pressure and temperature products are stored in the tank. The Date Required is the earliest occurrence of the violation. The Final Date is the date corrective actions were completed.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$20,000

TOTAL

\$227

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WESTERN REFINING COMPANY,
L.P.
RN100213016

§
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§
§
§
§

BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0890-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Western Refining Company, L.P. ("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 together stipulate that:

1. The Respondent owns and operates a petroleum refinery at 6501 Trowbridge Drive in El Paso, El Paso 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 Executive Director 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 notices of the violations alleged in Section II ("Allegations") on or about February 22, 2005, March 2, 2005, March 21, 2006, December 18, 2006, December 20, 2006, February 21, 2007, May 5, 2008, June 17, 2008, and March 25, 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 Two Hundred Eleven Thousand Thirty-Eight Dollars (\$211,038) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eighty-Four Thousand Four Hundred Sixteen Dollars (\$84,416) of the administrative penalty and Forty-Two Thousand Two Hundred Six Dollars (\$42,206) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The 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. Eighty-Four Thousand Four Hundred Sixteen Dollars (\$84,416) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On November 6, 2004, conducted employee training on carbon black feed throughput limits to ensure compliance with permitted limits;
 - b. On November 6, 2004, conducted employee training on record keeping requirements to ensure that monthly volatile organic compound ("VOC") emissions records for Tank No. 4064 are maintained;
 - c. On November 6, 2004, reviewed and updated the Sulfur Recovery Unit ("SRU") Tail Gas Incinerator ("TGI") operating and maintenance procedures and conducted employee training to prevent visible emissions from the SRU TGI, to ensure immediate maintenance and operational actions are taken to minimize emissions, and to prevent the recurrence of excess opacity events due to the same cause as Incident No. 48316;
 - d. On November 18, 2004, reviewed and updated the SRU Amine Regenerator maintenance procedures and conducted employee training to prevent the recurrence of emissions events due to the same cause as Incident No. 49077;
 - e. On April 4, 2005, obtained an amendment to New Source Review Permit ("NSRP") No. 18897 that authorized the use of the South Amine Acid Gas ("AAG") Flare to combust non-upset vent streams, provided an extension to the requirement to install a flare gas recovery system to ensure that the sulfur content of the fuel gas being routed to the Plant Emergency Flare is below 0.1 grain of hydrogen sulfide ("H₂S") per dry standard cubic foot ("dscf") prior to flaring, and provided an extension to the requirement to install a Continuous Emission Monitoring System ("CEMS") for the South AAG Flare and the Vacuum Unit

Heater or allowed the Respondent to obtain approval for an alternative monitoring plan;

- f. On January 4, 2006, reviewed and updated SRU air flow signal operating procedures and conducted employee training to prevent the recurrence of emission events due to the same cause as Incident Nos. 69527 and 69577;
 - g. On September 30, 2006, reviewed and updated C1601C Compressor System operating procedures, reviewed compressor filter maintenance requirements, and conducted employee training to prevent the recurrence of emissions events due to the same cause as Incident No. 81268;
 - h. On September 27, 2006, reviewed and updated Amine Unit operating procedures and conducted employee training to prevent the recurrence of emissions events due to the same cause as Incident No. 81269;
 - i. On or before November 29, 2006, implemented an approved alternative monitoring plan for the South AAG Flare and the Vacuum Unit Heater;
 - j. On December 27, 2007, reviewed and updated Reflux Drum D-559 line maintenance and operating procedures and conducted employee training to prevent the recurrence of emissions events due to the same cause as Incident No. 101331;
 - k. On or before June 30, 2007, installed a flare gas recovery system;
 - l. On May 2, 2008, reviewed and updated solids management and maintenance requirements for the Tail Gas Unit Absorber and conducted employee training to prevent the recurrence of emissions event due to the same cause as Incident No. 105990;
 - m. On May 13, 2008, conducted employee training on emissions event reporting requirements to ensure that emissions events are properly reported;
 - n. On May 13, 2008, submitted additional information required to evaluate Incident No. 105990 and conducted employee training to ensure that additional information required to evaluate emissions events is submitted as required;
 - o. On November 6, 2008, completed an internal floating roof inspection of Tank No. 4121, completed repairs to the tank support springs and primary seal, and implemented procedures to ensure that lower vapor pressure and temperature products are stored in the tank to prevent emissions from affecting off-site receptors; and
 - p. On or before December 30, 2008, conducted training to ensure that stack tests are performed as required and conducted in accordance with the prescribed test method, and the South SRU Incinerator was removed from service.
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 prevent unauthorized emissions, in violation of Federal Operating Permit ("FOP") No. O1264, Special Terms and Conditions ("STC") No. 21, New Source Review Permit ("NSRP") No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 27, 2007. Specifically, the Respondent released 1,944 pounds ("lbs") of VOC, 1,129 lbs of sulfur dioxide ("SO₂"), 318 lbs of carbon monoxide ("CO"), 44 lbs of nitrogen oxides ("NO_x"), and 12 lbs of H₂S from the North Main Flare in the Light Ends Recovery Unit during an emissions event (Incident No. 101331) that began on December 13, 2007, and lasted 15 hours. The emissions event occurred when a pressure relief device lifted due to ammonia carbonate build-up at Reflux Drum D-559. Since the emissions event could have been avoided through better operational and maintenance practices and was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE 101.222.
2. Failed to properly report Incident No. 101331, in violation of TEX. ADMIN. CODE § 101.201(b)(1)(D), (b)(1)(F), and (f) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 27, 2007. Specifically, the final report for the emissions event did not provide an agency established facility identification number, an accurate estimate of the duration of the event (a duration of eight hours and 28 minutes was reported but additional documentation submitted indicates a duration of 15 hours), and additional information about the event was not provided within the required timeframe established by the El Paso Regional Office (information was required to be submitted by January 23, 2008, but was not submitted until February 17, 2008).
3. Failed to prevent unauthorized emissions, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 29, 2006. Specifically, the Respondent released 500 lbs of SO₂, 20 lbs of CO, 10 lbs of H₂S, 10 lbs of ammonia, 5 lbs of NO_x, and 2 lbs of VOC from the Sour Water Stripper ("SWS") Flare during an emissions event (Incident No. 81269) that began on September 13, 2006, and lasted eighteen minutes. The emissions event occurred when the Amine Gas Feed Knockout Drum became unstable causing the South SRU to shut down. Since the emissions event could have been avoided

- through better operation practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
4. Failed to prevent unauthorized emissions, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 29, 2006. Specifically, the Respondent released 14,316 lbs of SO₂, 962 lbs of liquefied petroleum gas, 566 lbs of CO, 152 lbs of H₂S, and 87 lbs of nitric oxide from the South AAG Flare during an emissions event (Incident No. 81268) that began on September 13, 2006, and lasted 53 hours. The emissions event occurred when the C1601C Compressor System became plugged with solids and the system shut down. Since the emissions event could have been avoided through better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
 5. Failed to conduct a stack test on the South SRU Incinerator by April 4, 2006, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions Nos. 37.D. and 39.C., 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 9, 2007. Specifically, a stack test was conducted on September 14, 2005; however, the test was deemed invalid and the South SRU Incinerator was not retested before it was removed from service.
 6. Failed to prevent unauthorized emissions, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 22, 2008. Specifically, the Respondent released 827 lbs of SO₂, 9 lbs of H₂S, 0.29 lb of NO_x, 0.24 lb of CO, and 0.02 lb of particulate matter ("PM") from the SRU TGI during an emissions event (Incident No. 105990) that began on April 7, 2008, and lasted nine hours and ten minutes. The emissions event occurred when the Tail Gas Unit Absorber plugged and gas had to be routed to the backup incinerator. Since the emissions event could have been avoided through better maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
 7. Failed to submit additional information to evaluate Incident No. 105990 within the time established in the April 25, 2008 additional information request, in violation of 30 TEX. ADMIN. CODE § 101.201(f) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 22, 2008. Specifically, additional information was required to be submitted by May 9, 2008; however, the information was not submitted until May 13, 2008.
 8. Failed to obtain proper authorization for the South AAG Flare, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on October 29, 2004. Specifically, the South AAG Flare was authorized to combust vent gases during process upsets and de minimis combustion exhaust from the flare pilot only; however, non-process upset vent streams were combusted by the flare continuously since July 21, 2003.

9. Failed to maintain the sulfur content of refinery fuel gas routed to the the Plant Emergency Flare below the permitted 0.1 grain of H₂S per dscf prior to flaring, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 10, 40 CODE OF FEDERAL REGULATIONS ("CFR") § 60.104(a), 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 29, 2004.
10. Failed to install a CEMS to monitor SO₂ and H₂S levels from the South AAG Flare and the Vacuum Unit Heater, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 10, 40 CFR § 60.105(a), 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 29, 2004.
11. Failed to limit annual throughput of carbon black feed through the South Loading Rack to 5,195,000 gallons per year, in violation of Voluntary Emissions Reduction Permit ("VERP") No. 49075, Special Conditions No. 7, 30 TEX. ADMIN. CODE § 116.814(a), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 29, 2004. Specifically, annual throughput for 2003 was 15,978,358 gallons and throughput for 2004 was 11,407,452 gallons.
12. Failed to maintain monthly emissions records, in violation of VERP No. 49075, Special Conditions No. 4.B., 30 TEX. ADMIN. CODE § 116.814(a), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 29, 2004. Specifically, monthly emissions records documenting VOC emissions from Storage Tank No. 4064 were not being maintained.
13. Failed to prevent visible emissions from the SRU TGI, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 29, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 29, 2004. Specifically, an opacity observation conducted on October 6, 2004 documented opacity of 4.58% averaged over a six-minute period.
14. Failed to prevent excess opacity, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 29, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 29, 2004. Specifically, for a 72-hour period beginning on October 22, 2004 (Incident No. 48316), opacity from the SRU TGI was measured to be 30% averaged over a six-minute period. The excess opacity event occurred when actions were being taken to optimize operation of the SRU TGI and air flow through the incinerator was increased. Since this excess opacity event was avoidable and immediate maintenance and operational actions were not taken to minimize emissions, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
15. Failed to prevent unauthorized emissions, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 29, 2004. Specifically, the Respondent released 5,879 lbs of SO₂, 62 lbs of H₂S, 14 lbs of CO, and 2 lbs of NO_x from the South AAG Flare

and 1,668 lbs of SO₂, 18 lbs of H₂S, 7 lbs of CO, 2 lbs of liquefied petroleum gas, and 1 lb of nitric oxide from the SWS Flare during an emissions event (Incident No. 49077) that began on November 4, 2004, and lasted three hours and 53 minutes. The emissions event occurred when the thermal reactor in the SRU shutdown due to a high liquid level in the knockout drum, resulting in an upset at the amine regenerator. Since the emissions event could have been avoided by better maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

16. Failed to prevent unauthorized emissions, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 31, 2006. Specifically, the Respondent released 554 lbs of SO₂, 306 lbs of nitric oxide, 118 lbs of CO, 16 lbs of NO_x, 15 lbs of PM, and 6 lbs of H₂S from the South Main Flare and 54 lbs of SO₂, 1 lb of H₂S, 1 lb of CO, and 1 lb of ammonia from the SWS Flare during an emissions event (Incident No. 69527) that started on December 20, 2005 and lasted 16 minutes. The emissions event occurred when instrumentation problems caused the loss of the SRU air flow signal and acid gas streams had to be routed to the flares for combustion. Since the emissions event could have been avoided through better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
17. Failed to prevent unauthorized emissions, in violation of FOP No. O1264, STC No. 21, NSRP No. 18897, Special Conditions No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 31, 2006. Specifically, the Respondent released 1,274 lbs of SO₂, 734 lbs of VOC, 608 lbs of nitric oxide, 230 lbs of CO, 32 lbs of NO_x, 30 lbs of PM, and 14 lbs of H₂S from the South Main Flare and 18 lbs of SO₂, 1 lb of H₂S, 1 lb of CO, and 1 lb of ammonia from the SWS Flare during an emissions event (Incident No. 69577) that started on December 21, 2005 and lasted one hour and six minutes. The emissions event occurred when instrumentation problems caused the loss of the SRU air flow signal and acid gas streams had to be routed to the flare for combustion. Since the emissions event could have been avoided by better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
18. Failed to prevent unauthorized emissions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during an investigation conducted on February 3, 2009. Specifically, analysis of ambient air collected between August 15 and 20, 2008 in a residential area located on Tampa Avenue and directly downwind from Storage Tank No. 4121 indicated concentrations of 2-methylpentane that exceeded the short-term odor-based reference value by three times.

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 pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Western Refining Company, L.P., Docket No. 2008-0890-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eighty-Four Thousand Four Hundred Sixteen Dollars (\$84,416) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Barbara Moncrief
For the Executive Director

2/18/14
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, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, 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, or to a collection agency;
- 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.

Forrest B. Lancker
Signature

9/4/13
Date

Forrest B. Lancker
Name (Printed or typed)
Authorized Representative of
Western Refining Company, L.P.

VP Refining - Refinery
Title Manager

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2008-0890-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Western Refining Company, L.P.
Payable Penalty Amount:	One Hundred Sixty-Eight Thousand Eight Hundred Thirty-Two Dollars (\$168,832)
SEP Amount:	Eighty-Four Thousand Four Hundred Sixteen Dollars (\$84,416)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up
Location of SEP:	El Paso County, Rio Grande River Basin, Hueco-Mesilla Bolson Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Texas Association of Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Administrator and TCEQ. The Third-Party Administrator shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The

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SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator named above and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Administrator. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.