

**Executive Summary – Enforcement Matter – Case No. 53720**  
**Houston Refining LP**  
**RN100218130**  
**Docket No. 2016-2070-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Houston Refining, 12000 Lawndale Street, Houston, Harris County

**Type of Operation:**

Petroleum refining plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket Nos. 2017-0459-AIR-E  
and 2017-0659-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 18, 2017

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$84,188

**Amount Deferred for Expedited Settlement:** \$16,837

**Total Paid to General Revenue:** \$33,676

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$33,675

Name of SEP: Texas City Independent School District (Third-Party Pre-  
Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** September 20, 2016 through October 3, 2016, April 28,  
2016, and May 16, 2016 through July 18, 2016

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**Docket No. 2016-2070-AIR-E**

**Date(s) of NOE(s):** October 20, 2016, October 28, 2016, and February 1, 2017

***Violation Information***

1. Failed to maintain the Continuous Emission Monitoring System (“CEMS”) in good working order and operating properly during normal Plant operations. Specifically, calibration drift data was lost due to data communication issues related to the CEMS for Heater 536F0002 from January 3, 2015 through October 14, 2015 and from November 12, 2015 through November 17, 2015, and for Heaters 536F0001A and 536F0001B from November 12, 2015 through November 17, 2015 [30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 116.715(a), 117.8100(a)(1)(A), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS (“CFR”) § 60.13(d)(1), Federal Operating Permit (“FOP”) No. O1372, Special Terms and Conditions (“STC”) No. 1.A, and Flexible Permit Nos. 2167 and PSDTX985, Special Conditions (“SC”) No. 8].
2. Failed to comply with the concentration limits. Specifically, the Respondent exceeded the hydrogen sulfide (“H<sub>2</sub>S”) concentration limit of 162 parts per million by volume (“ppmv”) based on a 3-hour rolling average for Flare No. 1, Emission Point Number (“EPN”) 338K0001, for a total of 7,349 hours with an average H<sub>2</sub>S concentration of 18,400 ppmv from November 11, 2015 through September 13, 2016 and for Flare No. 2, EPN 338K0002, for a total of 5,798 hours with an average H<sub>2</sub>S concentration of 10,800 ppmv from January 21, 2016 through September 13, 2016 [30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CFR § 60.103a(h), FOP No. O1372, STC Nos. 1.A and 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 25].
3. Failed to prevent unauthorized emissions. Specifically, the Respondent released 7,099 pounds (“lbs”) of sulfur dioxide (“SO<sub>2</sub>”), 68 lbs of carbon monoxide (“CO”), 121 lbs of gas oil, 747 lbs of nitrogen oxides (“NO<sub>x</sub>”), and 2,247 lbs of particulate matter from the 736 Unit and 28.90 lbs of CO, 7.30 lbs of H<sub>2</sub>S, 5.40 lbs of NO<sub>x</sub>, 609.40 lbs of SO<sub>2</sub>, and 9.20 lbs of volatile organic compounds (“VOC”) from the 736 Coker Flare, EPN 736K0101A, during an avoidable emissions event (Incident No. 231045) that began on April 8, 2016 and lasted four hours and 15 minutes. The event occurred due to an avoidable rupture of a carbon steel pipe. Since the emissions event could have been avoided by better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1372, STC No. 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 1].

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4. Failed to prevent unauthorized emissions. Specifically, the Respondent released 309.92 lbs of CO, 85.16 lbs of H<sub>2</sub>S, 44.16 lbs of NO<sub>x</sub>, 7,000.40 lbs of SO<sub>2</sub>, and 361.89 lbs of VOC from the 736 Coker Flare, EPN 736K0101A, during an avoidable emissions event (Incident No. 228740) that began on March 5, 2016 and lasted one hour and 22 minutes. The event occurred due to a compressor trip at the 736 Coker Unit. Since the emissions event could have been avoided by better operation and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1372, STC No. 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented following corrective measures:

- a. On November 30, 2015, replaced the communications wiring and reprogramed and replaced the communication modules associated with the affected CEMS for Heaters 536F0002, 536F0001A, and 536F0001B; and
- b. By February 28, 2017, mapped components tied to Flare Nos. 1 and 2 and conducted leak checks of these components using an infrared camera, temperature gun, and acoustic leak detection meter.

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
  - a. Within 30 days:
    - i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same causes as Incident Nos. 231045 and 228740; and
    - ii. Submit an administratively complete Form PI-7 to register for a Permit by Rule (“PBR”) to authorize the construction and operation of a Flare Gas Recovery System (“FGRS”) for Flare Nos. 1 and 2.
  - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the PBR registration form, flexible permit amendment

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application, or standard permit registration within 30 days after the date of such requests, or by any other deadline specified in writing.

- c. Within 45 days, submit written certification to demonstrate compliance with a.
- d. Within 180 days, submit written certification that authorization to construct and operate the FGRS has been obtained.
- e. By December 31, 2018, complete construction and commence the startup of the FGRS.
- f. Within 60 days after starting up of the FGRS, submit written certification to demonstrate compliance with the H<sub>2</sub>S concentration limits for Flare Nos. 1 and 2.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jo Hunsberger, Enforcement Division, Enforcement Team 5, MC 219, (512) 239-1274; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

**Respondent:** Jerome Mauvigney, Site Manager, Houston Refining LP, 12000 Lawndale Street, Houston, Texas 77017

**Respondent's Attorney:** Jennifer Keane, Baker Botts LLP, 98 San Jacinto Boulevard, #1500, Austin, Texas 78701



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned PCW</b>	31-Oct-2016	<b>Screening</b>	13-Dec-2016	<b>EPA Due</b>	18-Apr-2017
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<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Houston Refining LP		
<b>Reg. Ent. Ref. No.</b>	RN100218130		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	53720	<b>No. of Violations</b>	4
<b>Docket No.</b>	2016-2070-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jo Hunsberger
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## 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**  **Adjustment** **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  **\*Capped at the Total EB \$ Amount**  
 Estimated Cost of Compliance

**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.

**Notes**

**PAYABLE PENALTY**

Screening Date 13-Dec-2016

Docket No. 2016-2070-AIR-E

PCW

Respondent Houston Refining LP

Policy Revision 4 (April 2014)

Case ID No. 53720

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100218130

Media [Statute] Air

Enf. Coordinator Jo Hunsberger

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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> )	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	3	60%
	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	2	50%
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 judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <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> )	3	-3%
	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> )	1	-2%
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) 112%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, three orders with denial of liability, and two orders without denial of liability. Reduction for three notices of intent to conduct an audit and one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 112%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 100%

**Screening Date** 13-Dec-2016  
**Respondent** Houston Refining LP  
**Case ID No.** 53720  
**Reg. Ent. Reference No.** RN100218130  
**Media [Statute]** Air  
**Enf. Coordinator** Jo Hunsberger  
**Violation Number** 1

**Docket No.** 2016-2070-AIR-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.20(1) and (3), 116.715(a), 117.8100(a)(1)(A), and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations ("CFR") § 60.13(d)(1), Federal Operating Permit ("FOP") No. O1372, Special Terms and Conditions ("STC") No. 1.A, and Flexible Permit Nos. 2167 and PSDTX985, Special Conditions ("SC") No. 8

**Violation Description**

Failed to maintain the Continuous Emission Monitoring System ("CEMS") in good working order and operating properly during normal Plant operations. Specifically, calibration drift data was lost due to data communication issues related to the CEMS for Heater 536F0002 from January 3, 2015 through October 14, 2015 and from November 12, 2015 through November 17, 2015, and for Heaters 536F0001A and 536F0001B from November 12, 2015 through November 17, 2015.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					7.0%
Potential			x		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

**Matrix Notes**

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

**Adjustment** \$23,250

\$1,750

**Violation Events**

Number of Violation Events   Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$5,250

Three single events are recommended (one event for each missed calibration drift data for Heaters 536F0002, 536F0001A, and 536F0001B).

**Good Faith Efforts to Comply**

Reduction

\$1,312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

**Notes**

The Respondent came into compliance on November 30, 2015, before the Notice of Enforcement ("NOE") dated October 20, 2016.

**Violation Subtotal** \$3,938

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$2,267

**Violation Final Penalty Total** \$9,188

**This violation Final Assessed Penalty (adjusted for limits)** \$9,188

## Economic Benefit Worksheet

**Respondent** Houston Refining LP  
**Case ID No.** 53720  
**Reg. Ent. Reference No.** RN100218130  
**Media** Air  
**Violation No.** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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)	\$50,000	3-Jan-2015	30-Nov-2015	0.91	\$2,267	n/a	\$2,267

Notes for DELAYED costs

Estimated cost to replace the communications wiring and reprogram and replace the communication modules associated with the affected CEMS for Heaters 536F0002, 536F0001A, and 536F0001B. Date Required is the first date of non-compliance. Final Date is the date of compliance.

**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

\$50,000

TOTAL

\$2,267



**Screening Date** 13-Dec-2016  
**Respondent** Houston Refining LP  
**Case ID No.** 53720  
**Reg. Ent. Reference No.** RN100218130  
**Media [Statute]** Air  
**Enf. Coordinator** Jo Hunsberger

**Docket No.** 2016-2070-AIR-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number**   
**Rule Cite(s)**

30 Tex. Admin. Code §§ 101.20(1) and (3), 116.715(a), and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 CFR § 60.103a(h), FOP No. O1372, STC Nos. 1.A and 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 25

**Violation Description**

Failed to comply with the concentration limits. Specifically, the Respondent exceeded the hydrogen sulfide ("H2S") concentration limit of 162 parts per million by volume ("ppmv") based on a 3-hour rolling average for Flare No. 1, Emissions Point No. ("EPN") 338K0001, for a total of 7,349 hours with an average H2S concentration of 18,400 ppmv from November 11, 2015 through September 13, 2016 and for Flare No. 2, EPN 338K0002, for a total of 5,798 hours with an average H2S concentration of 10,800 ppmv from January 21, 2016 through September 13, 2016.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

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

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

Seven quarterly events are recommended for the period non-compliance from November 11, 2015 to September 13, 2016 (four quarters for EPN 338K0001 and three quarters for EPN338K0002).

**Good Faith Efforts to Comply**

**Reduction**

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="text"/>

Notes

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Houston Refining LP  
**Case ID No.** 53720  
**Reg. Ent. Reference No.** RN100218130  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	11-Nov-2015	28-Feb-2017	1.30	\$43	\$868	\$911
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	\$5,000	11-Nov-2015	20-Jun-2018	2.61	\$652	n/a	\$652
Other (as needed)	\$10,000	11-Nov-2015	2-Mar-2019	3.31	\$1,653	n/a	\$1,653

**Notes for DELAYED costs**

Estimated cost to map components tied to Flare Nos. 1 and 2 and conduct leak checks of these components using an infrared camera, temperature gun, and acoustic leak detection meter (\$10,000); to obtain authorization for the construction and operation of a Flare Gas Recovery System for Flare Nos. 1 and 2 (\$5,000); and to demonstrate compliance with the H2S concentration limits for Flare Nos. 1 and 2 (\$10,000). Date Required is the first date of non-compliance. Final Dates are the date of compliance and estimated dates of compliance.

**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**

\$25,000

**TOTAL**

\$3,216

Screening Date 13-Dec-2016  
 Respondent Houston Refining LP  
 Case ID No. 53720

Docket No. 2016-2070-AIR-E

PCW

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100218130  
 Media [Statute] Air  
 Enf. Coordinator Jo Hunsberger

Violation Number   
 Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.715(a), and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O1372, STC No. 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 1

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 7,099 pounds ("lbs") of sulfur dioxide ("SO<sub>2</sub>"), 68 lbs of carbon monoxide ("CO"), 121 lbs of gas oil, 747 lbs of nitrogen oxides ("NO<sub>x</sub>"), and 2,247 lbs of particulate matter from the 736 Unit and 28.90 lbs of CO, 7.30 lbs of H<sub>2</sub>S, 5.40 lbs of NO<sub>x</sub>, 609.40 lbs of SO<sub>2</sub>, and 9.20 lbs of volatile organic compounds ("VOC") from the 736 Coker Flare, EPN 736K0101A, during an avoidable emissions event (Incident No. 231045) that began on April 8, 2016 and lasted four hours and 15 minutes. The event occurred due to an avoidable rupture of a carbon steel pipe. Since the emissions event could have been avoided by better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		X		<input type="text" value="30.0%"/>
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					<input type="text" value="0.0%"/>

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

Violation Events

Number of Violation Events  Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty

One monthly event is recommended.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** Houston Refining LP  
**Case ID No.** 53720  
**Reg. Ent. Reference No.** RN100218130  
**Media** Air  
**Violation No.** 3

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

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	8-Apr-2016	20-Dec-2017	1.70	\$851	n/a	\$851

**Notes for DELAYED costs**

Estimated cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same cause as Incident No. 231045. Date Required is the date the emissions event began. Final Date is the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$10,000

**TOTAL** \$851

**Screening Date** 13-Dec-2016  
**Respondent** Houston Refining LP  
**Case ID No.** 53720

**Docket No.** 2016-2070-AIR-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN100218130  
**Media [Statute]** Air  
**Enf. Coordinator** Jo Hunsberger

**Violation Number** 4  
**Rule Cite(s)**

30 Tex. Admin. Code §§ 101.20(3), 116.715(a), and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O1372, STC No. 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 1

**Violation Description**

Failed to prevent unauthorized emissions. Specifically, the Respondent released 309.92 lbs of CO, 85.16 lbs of H2S, 44.16 lbs of NOx, 7,000.40 lbs of SO2, and 361.89 lbs of VOC from the 736 Coker Flare, EPN 736K0101A, during an avoidable emissions event (Incident No. 228740) that began on March 5, 2016 and lasted one hour and 22 minutes. The event occurred due to a compressor trip at the 736 Coker Unit. Since the emissions event could have been avoided by better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	15.0%
Potential				

**>> Programmatic Matrix**

10000	Falsification 12/20/2017			Percent
	Moderate	Minor		
				0.0%

**Matrix Notes**

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

**Adjustment** \$21,250

\$3,750

**Violation Events**

**Number of Violation Events** 1 **Number of violation days** 1

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

One quarterly event is recommended.

**Good Faith Efforts to Comply**

0.0%

**Reduction** \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

**Notes**

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

**Violation Subtotal** \$3,750

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$897

**Violation Final Penalty Total** \$7,500

**This violation Final Assessed Penalty (adjusted for limits)** \$7,500

## Economic Benefit Worksheet

**Respondent** Houston Refining LP  
**Case ID No.** 53720  
**Reg. Ent. Reference No.** RN100218130  
**Media** Air  
**Violation No.** 4

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

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	5-Mar-2016	20-Dec-2017	1.79	\$897	n/a	\$897

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same cause as Incident No. 228740. Date Required is the date the emissions event began. Final Date is the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$897



# Compliance History Report

Compliance History Report for CN601313083, RN100218130, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

<b>Customer, Respondent, or Owner/Operator:</b>	CN601313083, Houston Refining LP	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	7.41
<b>Regulated Entity:</b>	RN100218130, HOUSTON REFINING	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	7.41
<b>Complexity Points:</b>	51	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	02 - Oil and Petroleum Refineries				
<b>Location:</b>	12000 LAWDALE ST HOUSTON, TX 77017-2740, HARRIS COUNTY				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				

**ID Number(s):**

**AIR OPERATING PERMITS ACCOUNT NUMBER** HG0048L  
**POLLUTION PREVENTION PLANNING ID NUMBER** P00404

**AIR OPERATING PERMITS PERMIT** 1372  
**PETROLEUM STORAGE TANK REGISTRATION REGISTRATION** 78219

**AIR NEW SOURCE PERMITS PERMIT** 2167  
**AIR NEW SOURCE PERMITS REGISTRATION** 55719  
**AIR NEW SOURCE PERMITS EPA PERMIT** PSDTX985  
**AIR NEW SOURCE PERMITS REGISTRATION** 46595  
**AIR NEW SOURCE PERMITS REGISTRATION** 87937  
**AIR NEW SOURCE PERMITS REGISTRATION** 95583  
**AIR NEW SOURCE PERMITS REGISTRATION** 102445  
**AIR NEW SOURCE PERMITS REGISTRATION** 102539  
**AIR NEW SOURCE PERMITS REGISTRATION** 102500  
**AIR NEW SOURCE PERMITS REGISTRATION** 102533  
**AIR NEW SOURCE PERMITS REGISTRATION** 102526  
**AIR NEW SOURCE PERMITS REGISTRATION** 102448  
**AIR NEW SOURCE PERMITS REGISTRATION** 102523  
**AIR NEW SOURCE PERMITS REGISTRATION** 102540  
**AIR NEW SOURCE PERMITS REGISTRATION** 102531  
**AIR NEW SOURCE PERMITS REGISTRATION** 102511  
**AIR NEW SOURCE PERMITS REGISTRATION** 109351  
**AIR NEW SOURCE PERMITS REGISTRATION** 141096  
**AIR NEW SOURCE PERMITS REGISTRATION** 123232  
**AIR NEW SOURCE PERMITS REGISTRATION** 118761  
**AIR NEW SOURCE PERMITS REGISTRATION** 113654  
**WASTEWATER PERMIT** WQ0000392000  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 1011570

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** HG0048L  
**AIR NEW SOURCE PERMITS AFS NUM** 4820100040  
**AIR NEW SOURCE PERMITS REGISTRATION** 43445  
**AIR NEW SOURCE PERMITS REGISTRATION** 86815  
**AIR NEW SOURCE PERMITS REGISTRATION** 92373  
**AIR NEW SOURCE PERMITS REGISTRATION** 101633  
**AIR NEW SOURCE PERMITS REGISTRATION** 102528  
**AIR NEW SOURCE PERMITS REGISTRATION** 101897  
**AIR NEW SOURCE PERMITS REGISTRATION** 102525  
**AIR NEW SOURCE PERMITS REGISTRATION** 102524  
**AIR NEW SOURCE PERMITS REGISTRATION** 102538  
**AIR NEW SOURCE PERMITS REGISTRATION** 102537  
**AIR NEW SOURCE PERMITS REGISTRATION** 102446  
**AIR NEW SOURCE PERMITS REGISTRATION** 102521  
**AIR NEW SOURCE PERMITS REGISTRATION** 102522  
**AIR NEW SOURCE PERMITS REGISTRATION** 102512  
**AIR NEW SOURCE PERMITS REGISTRATION** 112762  
**AIR NEW SOURCE PERMITS REGISTRATION** 131635  
**AIR NEW SOURCE PERMITS REGISTRATION** 139906  
**AIR NEW SOURCE PERMITS REGISTRATION** 136228  
**AIR NEW SOURCE PERMITS REGISTRATION** 142711  
**WASTEWATER EPA ID** TX0003247  
**WATER LICENSING LICENSE** 1011570

**INDUSTRIAL AND HAZARDOUS WASTE PERMIT** 50106

**INDUSTRIAL AND HAZARDOUS WASTE EPA ID** TXD082688979  
**INDUSTRIAL AND HAZARDOUS WASTE OTS REQUEST** 37881

**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR)** 30092  
**IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR)** 30092

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER** HG0048L

<b>Compliance History Period:</b>	September 01, 2011 to August 31, 2016	<b>Rating Year:</b>	2016	<b>Rating Date:</b>	09/01/2016
<b>Date Compliance History Report Prepared:</b>	February 21, 2017				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	February 21, 2012 to February 21, 2017				

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

**Name:** Rajesh Acharya

**Phone:** (512) 239-0577

## **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

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

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

- 1 Effective Date: 06/03/2013 ADMINORDER 2012-2037-IWD-E (1660 Order-Agreed Order With Denial)  
Classification: Major  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: TPDES Permit PERMIT  
Description: Failure to comply with permitted effluent limitations at Outfall Nos. 001 and 003, as documented during a record review conducted on August 22, 2012. Specifically, the Respondent reported zinc daily maximum effluent concentrations of 0.79 milligrams per liter ("mg/L") during October 2011 from Outfall No. 001, and 0.89 mg/L during January 2012 and 1.71 mg/L during May 2012 from Outfall No. 003 that exceeded the 0.51 mg/L permitted effluent limitations.
- 2 Effective Date: 01/21/2016 ADMINORDER 2015-0838-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 1 PERMIT  
Special Terms and Conditions No. 26 OP  
Description: Failure to prevent unauthorized emissions.
- 3 Effective Date: 02/04/2016 ADMINORDER 2015-0454-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(2)(i)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: FOP ST&C 1A and 26 OP  
NSR SC 36 PERMIT  
Description: Failed to comply with the concentration limits.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.103(a)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: FOP ST&C 1A OP  
Description: Failed to comply with the concentration limits.  
Classification: Moderate  
Citation: 30 TAC Chapter 117, SubChapter B 117.310(c)(1)(A)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: FOP ST&C 1A OP  
Description: failed to comply with the concentration limits.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(1)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: FOP ST&C 1A and 26 OP  
NSR SC 25 PERMIT



Description: Failed to comply with the concentration limits.

4 Effective Date: 04/28/2016 ADMINORDER 2015-0959-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 1 PERMIT  
Special Terms and Conditions No. 26 OP  
Description: Failed to prevent unauthorized emissions.

5 Effective Date: 08/24/2016 ADMINORDER 2015-1785-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 113, SubChapter C 113.120  
30 TAC Chapter 115, SubChapter B 115.114(a)(2)(A)  
30 TAC Chapter 116, SubChapter G 116.715(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(b)(8)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 19D PERMIT  
Special Conditions No. 4 PERMIT  
Special Term & Condition 1A OP  
Special Term & Condition 26 OP  
Description: Failed to repair a leaking storage tank within 45 days of discovery.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	March 22, 2012	(1003444)
Item 2	April 23, 2012	(1010008)
Item 3	May 22, 2012	(1016404)
Item 4	July 09, 2012	(1006480)
Item 5	July 20, 2012	(1031520)
Item 6	August 06, 2012	(1022505)
Item 7	August 20, 2012	(1037895)
Item 8	September 05, 2012	(1029689)
Item 9	September 20, 2012	(1046619)
Item 10	October 22, 2012	(1060728)
Item 11	November 19, 2012	(1060729)
Item 12	December 21, 2012	(1060730)
Item 13	January 22, 2013	(1078877)
Item 14	February 22, 2013	(1078876)
Item 15	March 18, 2013	(1089262)
Item 16	April 18, 2013	(1095656)
Item 17	May 20, 2013	(1106581)
Item 18	June 19, 2013	(1117140)
Item 19	June 24, 2013	(1110257)
Item 20	August 13, 2013	(1103417)
Item 21	August 16, 2013	(1105160)
Item 22	August 20, 2013	(1124896)
Item 23	September 24, 2013	(1129498)
Item 24	November 13, 2013	(1135227)

Item 25	November 21, 2013	(1140627)
Item 26	December 17, 2013	(1147084)
Item 27	January 27, 2014	(1153154)
Item 28	February 24, 2014	(1160490)
Item 29	March 21, 2014	(1167135)
Item 30	April 02, 2014	(1102104)
Item 31	April 15, 2014	(1174268)
Item 32	April 24, 2014	(1160240)
Item 33	April 29, 2014	(1152703)
Item 34	May 16, 2014	(1180456)
Item 35	June 23, 2014	(1187353)
Item 36	July 10, 2014	(1164888)
Item 37	July 15, 2014	(1198457)
Item 38	August 18, 2014	(1198458)
Item 39	September 18, 2014	(1205759)
Item 40	October 15, 2014	(1193113)
Item 41	October 22, 2014	(1186528)
Item 42	October 29, 2014	(1203066)
Item 43	November 06, 2014	(1197082)
Item 44	November 18, 2014	(1218422)
Item 45	December 16, 2014	(1224202)
Item 46	January 22, 2015	(1230730)
Item 47	February 25, 2015	(1242238)
Item 48	March 17, 2015	(1229900)
Item 49	April 16, 2015	(1255468)
Item 50	May 08, 2015	(1204518)
Item 51	May 12, 2015	(1241903)
Item 52	May 15, 2015	(1221516)
Item 53	May 20, 2015	(1262178)
Item 54	June 02, 2015	(1248264)
Item 55	July 22, 2015	(1276893)
Item 56	August 18, 2015	(1283071)
Item 57	August 21, 2015	(1261982)
Item 58	September 23, 2015	(1290210)
Item 59	October 20, 2015	(1296412)
Item 60	October 28, 2015	(1252222)
Item 61	November 30, 2015	(1301866)
Item 62	January 07, 2016	(1308794)
Item 63	January 21, 2016	(1315579)
Item 64	February 23, 2016	(1324969)
Item 65	February 26, 2016	(1305666)
Item 66	March 21, 2016	(1321620)
Item 67	March 22, 2016	(1331700)
Item 68	April 04, 2016	(1322954)
Item 69	April 07, 2016	(1301754)
Item 70	April 11, 2016	(1282116)
Item 71	April 26, 2016	(1338863)
Item 72	June 09, 2016	(1336834)
Item 73	June 20, 2016	(1352104)
Item 74	June 22, 2016	(1307067)
Item 75	July 18, 2016	(1359078)
Item 76	July 22, 2016	(1335027)
Item 77	August 23, 2016	(1365500)
Item 78	September 20, 2016	(1372203)
Item 79	September 23, 2016	(1363414)
Item 80	October 20, 2016	(1378380)
Item 81	November 23, 2016	(1384340)
Item 82	December 20, 2016	(1390477)

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

*Compliance History Report for CN601313083, RN100218130, Rating Year 2016 which includes Compliance History (CH) components from February 21, 2012, through February 21, 2017.*

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: 04/30/2016 (1345660)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 10/20/2016 (1362300)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(4)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Term & Condition 1A OP  
Description: Failure to perform manual sampling while HRVOC analyzers were not operating (CATEGORY C1 VIOLATION).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms & Conditions OP  
Description: Failure to report all instances of deviations (CATEGORY B3 VIOLATION).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 117, SubChapter B 117.310(c)(1)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.103(a)  
5C THSC Chapter 382 382.085(b)  
Special Term & Condition 1A OP  
Description: Failure to operate the 732 Wet Gas Compressor within the required 500 ppm CO limit (CATEGORY B14 VIOLATION).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Condition 31 PERMIT  
Special Term & Condition 26 OP  
Description: Failure to operate the 435 thermal oxidizer within the 100 ppm CO limit (CATEGORY C4 VIOLATION).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(2)(I)  
5C THSC Chapter 382 382.085(b)  
Special Condition 36 PERMIT  
Special Term & Condition 1A & 26 OP  
Description: Failure to operate two thermal oxidizers below the maximum exhaust stacks SO2 concentration (CATEGORY B14 VIOLATION).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(1)  
5C THSC Chapter 382 382.085(b)  
Special Condition 25 PERMIT  
Special Term & Condition 1A & 26 OP  
Description: Failure to operate the refinery fuel gas system within the required H2S concentration limit (CATEGORY C4 VIOLATION).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13(a)  
5C THSC Chapter 382 382.085(b)  
Special Term & Condition 1A OP  
Description: Failure to use required calibration gases during a cylinder gas audit (CATEGORY C1 VIOLATION).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
5C THSC Chapter 382 382.085(b)  
Special Condition 14E PERMIT  
Special Term & Condition 1A & 26 OP

Description: Failure to maintain an open-ended valve or line with a cap, plug, or other sealing device (CATEGORY C10 VIOLATION).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.354(d)  
 5C THSC Chapter 382 382.085(b)  
 Special Term & Condition 1A OP  
 Description: Failure to replace spent carbon in a canister with fresh carbon in the required time frame (CATEGORY C4 VIOLATION).  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter H 115.725(l)  
 30 TAC Chapter 115, SubChapter H 115.764(a)(3)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Term & Condition 1A OP  
 Description: Failure to limit Highly Reactive Volatile Organic Compound (HRVOC) analyzers for three cooling towers to less than 5 percent downtime (CATEGORY B19.g.1 VIOLATION).

**F. Environmental audits:**

Notice of Intent Date: 10/30/2012 (1056332)  
 No DOV Associated

Notice of Intent Date: 09/11/2013 (1132426)  
 No DOV Associated

Notice of Intent Date: 10/07/2016 (1369211)  
 Disclosure Date: 01/30/2017

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.354  
 30 TAC Chapter 115, SubChapter H 115.781  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.349  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.653

Description: Failed to monitor the following units with fugitive components: 1) SSPU area (140 components); 2) OSBL Coker/Shell Line (164 components); 3) 536 Unit (276 components); 4) 636 Unit (1,039 components); and 5) Lift Stations 5, 7, and 12 (256 components).

Viol. Classification: Minor

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

Rqmt Prov: PERMIT Special Condition 57.A.i.

Description: Failed to calibrate the CMS on vacuum trucks daily (within 24 hours of use). Specifically, the CMS was being calibrated weekly instead.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.345(a)(3)(I)(B)

Description: Failed to ensure that two canisters intended to control the emissions from the hopper in the SSPU are lined up correctly for proper operation.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
 30 TAC Chapter 115, SubChapter H 115.783(5)  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.346(b)(1)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.648

Description: Failed to cap two open ended lines in the SSPU unit.

Viol. Classification: Moderate

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

Rqmt Prov: OP O1372 Periodic Monitoring

Description: Failed to maintain documentation to demonstrate that quarterly visible emissions inspections of fired sources were being conducted when source was operating.

Viol. Classification: Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.180(b)(4)(ii)(C)

Description: Failed to calibrate the LDAR monitoring instruments to the 1000 ppm leak definition for pumps subject to HON Subpart H. The instruments were calibrated at 500 ppm instead.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(3)  
 30 TAC Chapter 115, SubChapter H 115.782(a)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(b)(2)

Description: Failed to ensure that tags were four leaking delay-of-repair (DOR) components (one in 635, two in 734, and one in 735 units). These components were on the DOR list and simply were missing their leak tags in the field.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(g)(2)

Description: Failed to develop a plan for unsafe-to-monitor valves that require monitoring of the valves as frequently as practicable during safe-to-monitor times.

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2016-2070-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 Houston Refining LP (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Jennifer Keane of the law firm of Baker Botts LLP, together stipulate that:

1. The Respondent owns and operates a petroleum refining plant located at 12000 Lawndale Street in Houston, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$84,188 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$33,676 of the penalty and \$16,837 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$33,675 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental

Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. 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). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented following corrective measures at the Plant:
  - a. On November 30, 2015, replaced the communications wiring and reprogrammed and replaced the communication modules associated with the affected Continuous Emission Monitoring System ("CEMS") for Heaters 536F0002, 536F0001A, and 536F0001B; and
  - b. By February 28, 2017, mapped components tied to Flare Nos. 1 and 2 and conducted leak checks of these components using an infrared camera, temperature gun, and acoustic leak detection meter.

## II. ALLEGATIONS

1. During a record review conducted from September 20, 2016 through October 3, 2016, an investigator documented that the Respondent:
  - a. Failed to maintain the CEMS in good working order and operating properly during normal Plant operations, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 116.715(a), 117.8100(a)(1)(A), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 60.13(d)(1), Federal Operating Permit ("FOP") No. O1372, Special Terms and Conditions ("STC") No. 1.A, and Flexible Permit Nos. 2167 and PSDTX985, Special Conditions ("SC") No. 8. Specifically, calibration drift data was lost due to data



communication issues related to the CEMS for Heater 536F0002 from January 3, 2015 through October 14, 2015 and from November 12, 2015 through November 17, 2015, and for Heaters 536F0001A and 536F0001B from November 12, 2015 through November 17, 2015.

- b. Failed to comply with the concentration limits, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CFR § 60.103a(h), FOP No. O1372, STC Nos. 1.A and 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 25. Specifically, the Respondent exceeded the H<sub>2</sub>S concentration limit of 162 parts per million by volume ("ppmv") based on a 3-hour rolling average for Flare No. 1, EPN 338K0001, for a total of 7,349 hours with an average H<sub>2</sub>S concentration of 18,400 ppmv from November 11, 2015 through September 13, 2016 and for Flare No. 2, EPN 338K0002, for a total of 5,798 hours with an average H<sub>2</sub>S concentration of 10,800 ppmv from January 21, 2016 through September 13, 2016.
2. During an investigation conducted on April 28, 2016, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1372, STC No. 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 1. Specifically, the Respondent released 7,099 pounds ("lbs") of sulfur dioxide ("SO<sub>2</sub>"), 68 lbs of carbon monoxide ("CO"), 121 lbs of gas oil, 747 lbs of nitrogen oxides ("NO<sub>x</sub>"), and 2,247 lbs of particulate matter from the 736 Unit and 28.90 lbs of CO, 7.30 lbs of H<sub>2</sub>S, 5.40 lbs of NO<sub>x</sub>, 609.40 lbs of SO<sub>2</sub>, and 9.20 lbs of volatile organic compounds ("VOC") from the 736 Coker Flare, EPN 736K0101A, during an avoidable emissions event (Incident No. 231045) that began on April 8, 2016 and lasted four hours and 15 minutes. The event occurred due to an avoidable rupture of a carbon steel pipe. Since the emissions event could have been avoided by better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
3. During a record review conducted from May 16, 2016 through July 18, 2016, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1372, STC No. 26, and Flexible Permit Nos. 2167 and PSDTX985, SC No. 1. Specifically, the Respondent released 309.92 lbs of CO, 85.16 lbs of H<sub>2</sub>S, 44.16 lbs of NO<sub>x</sub>, 7,000.40 lbs of SO<sub>2</sub>, and 361.89 lbs of VOC from the 736 Coker Flare, EPN 736K0101A, during an avoidable emissions event (Incident No. 228740) that began on March 5, 2016 and lasted one hour and 22 minutes. The event occurred due to a compressor trip at the 736 Coker Unit. Since the emissions event could have been avoided by better operation and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Houston Refining LP, Docket No. 2016-2070-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 an SEP as set forth in Section I, Paragraph 4. The amount of \$33,675 of the assessed penalty is conditionally offset based on the Respondent implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same causes as Incident Nos. 231045 and 228740; and
    - ii. Submit an administratively complete Form PI-7 to register for a Permit by Rule ("PBR"), in accordance with 30 TEX. ADMIN. CODE § 106.6, amendment application for Flexible Permit No. 2167, in accordance with 30 TEX. ADMIN. CODE § 116.711, or registration for a standard permit, in accordance with 30 TEX. ADMIN. CODE § 116.611, to authorize the construction and operation of a Flare Gas Recovery System ("FGRS") for Flare Nos. 1 and 2 to:

Air Permits Division, MC 163  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the PBR registration form, flexible permit amendment application, or standard permit registration within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a, as described in Ordering Provision No. 3.f;
- d. Within 180 days after the effective date of this Order, submit written certification that authorization to construct and operate the FGRS has been obtained, as described in Ordering Provision No. 3.f;
- e. By December 31, 2018, complete construction and commence the startup of the FGRS; and
- f. Within 60 days after starting up of the FGRS, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the H<sub>2</sub>S concentration limits for Flare Nos. 1 and 2, in accordance with 40 CFR Part 60 Subpart Ja. The certification shall be signed by the Respondent and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
8. This 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 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.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
For the Executive Director

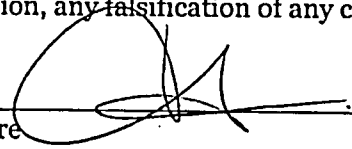
6/25/18  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

  
\_\_\_\_\_  
Signature

3/26/18  
\_\_\_\_\_  
Date

Jerome Mauvigney  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Houston Refining LP

Site Manager, Houston Refinery  
\_\_\_\_\_  
Title

*If mailing address has changed, please check this box and provide the new address below:*

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



**Attachment A**  
**Docket Number: 2016-2070-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Houston Refining LP</b>
<b>Payable Penalty Amount:</b>	<b>\$67,351</b>
<b>SEP Offset Amount:</b>	<b>\$33,675</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas City Independent School District</b>
<b>Project Name:</b>	<b><i>TCISD Alternative Fuel School Bus Program</i></b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 216: Houston-Galveston</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset 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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas City Independent School District** for the *TCISD Alternative Fuel School Bus Program* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to purchase lower-emission propane fueled school buses that are model year 2010 or newer (“Replacement Bus(es)”) to replace buses currently in the fleet that are model year 2006 or older (“Older Bus(es)”). The Older Buses will then be decommissioned, thus permanently removing them from the roads. The SEP Offset Amount shall only be used for the purchase of a base model propane fueled Replacement Bus. The Third-Party Administrator shall own and operate each Replacement Bus for at least five years following the date of purchase.

The Third-Party Administrator shall give preference to replacing the oldest, most polluting buses within its fleet. Only Older Buses that are currently in regular use, driven on a regular route on a weekly basis for at least the past two years are eligible for replacement.

Houston Refining LP  
Agreed Order - Attachment A

The Third-Party Administrator shall ensure that each Replacement Bus purchased has an engine that meets the Environmental Protection Agency's 2010 emissions standards. Additionally, all Older Buses that are replaced shall be fully decommissioned as required in the SEP Vehicle Disposition Form. All funds received for the scrap value of the Older Bus shall be deposited into the SEP Account and become part of the SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The Project will directly benefit air quality in Third-Party Administrator's region by reducing harmful exhaust emissions from older school buses by replacing them with lower-emission propane buses. Older school bus engines emit greater amounts of harmful pollutants such as nitrous oxides, particulate matter, volatile organic compounds, and carbon monoxide than newer, lower-emission buses. These pollutants contribute to the formation of ground level ozone which damages vegetation and ecosystems and may cause or exacerbate a number of respiratory diseases, including asthma, especially in children.

c. Minimum Expenditure

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas City Independent School District SEP** and shall mail the contribution with a copy of the Agreed Order to:



Houston Refining LP  
Agreed Order - Attachment A

Texas City Independent School District SEP  
Attention: John Johnson, Consultant  
2901 Turtle Creek Drive, Suite 445  
Port Arthur, Texas 77642

### **3. Records and Reporting**

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

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

### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the 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. Recognition**

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