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## UPDATE 1-Shell agrees to settle TX refinery pollution suit

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Thu Apr 23, 2009 3:43pm EDT

(Updates with details, lawyer comments, paragraphs 6-10, 13-14)

By [Erwin Seba](#)

HOUSTON April 23 (Reuters) - Shell Oil Co, the Sierra Club and a Texas environmental group agreed on Thursday to multimillion-dollar settlement of a federal Clean Air Act lawsuit against Shell's Houston-area refinery and chemical plant.

Under the proposed settlement, Shell promises to cut pollution from malfunctions at the 329,800-barrel-per-day (bpd) Deer Park, Texas, refinery, upgrade the refinery's coking unit and the Deer Park chemical plant flare system, increase pollution monitoring and pay a civil penalty of \$5.8 million, according to a statement issued by the groups.

"We are pleased that we have reached an agreement with the citizen groups to resolve the matter, avoid continued litigation and provide benefits in the public interest," Shell said in a statement.

The bulk of the civil penalty will go to refit Houston-area diesel-powered school buses with better pollution control devices and for a solar energy pilot program for public buildings.

"We urge other oil and chemical companies in the region to take note of Shell's willingness to work constructively with us in developing solutions to the problems at the Deer Park facility -- problems that are not unique to Shell," said Neil Carman of the Sierra Club's Texas chapter.

Neither Shell nor the groups were willing to discuss the cost of the environmental upgrades.

Shell began talks with the groups as soon as it heard the lawsuit would be filed in January 2008, said Houston attorney Philip Hilder.

"To Shell's credit, they stepped up to the plate immediately and took responsibility for it," Hilder said.

The U.S. Environmental Protection Agency has 45 days to review the agreement before it goes to U.S. District Court Judge David Hittner for approval, which is required for the deal to become effective.

If Shell fails to adhere to the pollution limits in the settlement, it agrees to pay automatic monetary penalties. The limits are called "hard caps" because they do not provide the refinery with exemptions, such as current regulations grant for machinery malfunctions.

The Sierra Club and Environment Texas Citizen Lobby brought the lawsuit in January 2008 under the U.S. Clean Air Act to force the refinery and chemical plant in the Houston suburb of Deer Park into greater compliance with the federal regulations.

Environmental groups increasingly turned to citizen enforcement lawsuits to reduce refinery pollution during the Bush administration, which was seen as lax on enforcement of pollution standards.

Such lawsuits will not become a thing of the past under the Obama administration, given the economic power of U.S. Gulf Coast refiners hold, said one of the attorneys.

"I don't think a government agency will be able to cover all that," said Joshua Kratka, of the National Environmental Law Center. "There will always be a need for citizens to intervene."

Shell Oil Co is the U.S. unit of Royal Dutch Shell Plc (RDSa.L: [Quote](#), [Profile](#), [Research](#), [Stock Buzz](#)). Shell is the sole owner of the Deer Park chemical plant, but the Deer Park refinery is a 50-50 joint venture between Shell and Mexico's state oil monopoly Pemex.

The Deer Park refinery is the ninth largest in the United States. (Editing by Christian Wiessner)

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