

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1670-AIR-E **TCEQ ID:** RN100222512 **CASE NO.:** 36700

**RESPONDENT NAME:** Delek Refining, Ltd.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Delek Tyler Refinery, 1702 East Commerce Street, Tyler, Smith County</p> <p><b>TYPE OF OPERATION:</b> Petroleum refinery</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 27, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>                  TCEQ Attorney/SEP Coordinator: None                  TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387                  Respondent: Mr. Donald Whaley, Environmental, Health and Safety Manager, Delek Refining, Ltd., 1702 East Commerce Street, Tyler, Texas 75702                  Mr. Frank Simmons, Refinery Manager, Delek Refining, Ltd., 1702 East Commerce Street, Tyler, Texas 75702                  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 7, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 14, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to maintain carbon monoxide ("CO") emissions from the Sulfur Recovery Unit 2 Tail Gas Incinerator 2 (EPN SRUTGUINC) below the allowable emission rate limits listed in the Maximum Allowable Emissions Rate Table. Specifically, the permit requires that the permit holder not exceed the CO emission limits of 0.41 pounds per hour ("lbs/hr"), however testing conducted on August 22, 2007 indicated CO emission were 0.47 lbs/hr [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O-01257, Special Terms and Conditions No. 15, New Source Review ("NSR") Permit No. 5955A, Special Condition No. 1, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$26,500</p> <p><b>Total Deferred:</b> \$5,300  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$21,200</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on May 29, 2008, the Respondent obtained an amendment to NSR Permit No. 5955A increasing the CO allowable emission limit from 0.41 lbs/hr to 0.64 lbs/hr.</p>

Additional ID No(s): AIR SK0022A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	Assigned	20-Oct-2008	Screening	22-Oct-2008	EPA Due	17-Jul-2009
	PCW	23-Jan-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Delek Refining, Ltd.
Reg. Ent. Ref. No.	RN100222512
Facility/Site Region	5-Tyler
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36700	No. of Violations	1
Docket No.	2008-1670-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

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	\$10,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	190.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	\$19,000
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Notes: The penalty was enhanced by four 1660 orders, one findings order, two EPA orders without a denial of liability and 11 dissimilar NOV's. The penalty was reduced by early compliance and two letters of intended audits.

<b>Culpability</b>	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<i>Subtotal 5</i>	\$2,500
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<b>Economic Benefit</b>	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts	\$77	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,000	

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	\$26,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<i>Final Penalty Amount</i>	\$26,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	\$26,500
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<b>DEFERRAL</b>	20.0% Reduction	<i>Adjustment</i>	-\$5,300
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$21,200
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Screening Date 22-Oct-2008

Docket No. 2008-1670-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 36700

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	11	22%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	2	70%
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)	2	-2%
	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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	Yes	-5%

Adjustment Percentage (Subtotal 2) 190%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced by four 1660 orders, one findings order, two EPA orders without a denial of liability and 11 dissimilar NOV's. The penalty was reduced by early compliance and two letters of intended audits.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 190%

<b>Screening Date</b> 22-Oct-2008	<b>Docket No.</b> 2008-1670-AIR-E	<b>PCW</b>		
<b>Respondent</b> Delek Refining, Ltd.		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36700		<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN100222512				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Rebecca Johnson				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O-01257, Special Terms and Conditions No. 15, New Source Review Permit No. 5955A, Special Condition No. 1 and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to maintain carbon monoxide ("CO") emissions from the Sulfur Recovery Unit 2 Tail Gas Incinerator 2 (EPN SRUTGUINC) below the allowable emission rate limits listed in the Maximum Allowable Emissions Rate Table ("MAERT"). Specifically, the permit requires that the permit holder not exceed the CO emission limits of 0.41 ("lbs/hr"); however stack testing conducted on August 22, 2007 indicated CO emission were 0.47 lbs/hr.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="25%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which would not exceed levels protective of human health or environmental receptors as a result of the violation.			
		<b>Adjustment</b>	<input type="text" value="\$7,500"/>	
			<input type="text" value="\$2,500"/>	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="4"/>	<input type="text" value="281"/>	<b>Number of violation days</b>
	daily	<input type="text"/>		
	monthly	<input type="text"/>		
<small>mark only one with an x</small>	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
			<b>Violation Base Penalty</b>	<input type="text" value="\$10,000"/>
	Four quarterly events are recommended based on the August 22, 2007 stack test date to the May 29, 2008 compliance date.			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>	<input type="text" value="\$2,500"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>	
	N/A	<input type="text"/>	(mark with x)	
	<b>Notes</b>	The Respondent returned to compliance on May 29, 2008.		
			<b>Violation Subtotal</b>	<input type="text" value="\$7,500"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	<b>Estimated EB Amount</b>	<input type="text" value="\$77"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$26,500"/>
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
			<input type="text" value="\$26,500"/>	

## Economic Benefit Worksheet

**Respondent** Delek Refining, Ltd.  
**Case ID No.** 36700  
**Reg. Ent. Reference No.** RN100222512  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$2,000	22-Aug-2007	29-May-2008	0.77	\$77	n/a	\$77
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to obtain a permit amendment to authorize the CO emissions. Date required is the date of the failed stack test. Final date is the date a permit amendment was issued.

**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

\$2,000

TOTAL

\$77



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

Tyler Holding Company, Inc.

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

N/A  
04/29/2005

**Components (Multimedia) for the Site :**

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

Effective Date: 04/03/2005

ADMINORDER 2004-0291-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 4 PERMIT

Description: Failed to comply with emission limits for sulphur dioxide.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failure to comply with emission limits for carbon monoxide from Boiler No. 9.

During an investigation conducted on November 07, 2002, t

Classification: Moderate

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

Description: Failure to notify the TCEQ Tyler Regional office within 24 hours of two reportable emissions events.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 2 PERMIT

Description: Failure to control emissions from the sulfur storage pit at the Sulfur Recovery Plant.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.212(b)(4)(C)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to equip the gasoline loading terminal with a system to automatically stop the transfer of gasoline if the emission control device malfunctions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Part 60, Subpart J 60.105(a)(4)

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

Description: Failure to install an instrument to continuously monitor and record the concentrations of hydrogen sulfide in the fuel gas prior to being burned by any fuel gas combustion device.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to comply with the special condition of its permit.

Effective Date: 10/24/2005

ADMINORDER 2005-0342-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SPECIAL CONDITION NO. 1 OP

Description: La Gloria failed to comply with emission limits for sulfur dioxide (SO2) from the refinery fuel gas system.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)  
30 TAC Chapter 101, SubChapter F 101.201(b)

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

Description: Failure to properly report the incidents associated to the January 18, 2005 emissions event.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failure to comply with permitted emissions limits during an emissions event on January 18, 2005. Since the emissions event was not properly reported La Gloria was unable to meet the demonstration for an affirmative defense under 30 Tex. Admin. Code § 101.222.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(B)  
30 TAC Chapter 122, SubChapter B 122.165(a)(7)

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

Description: Failure to submit a deviation report within 30 days after the end of the reporting period and include certification by a responsible official.

Classification: Moderate

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

Rqmt Prov: Permit O-01257 STC 3Aiii and 3Biii OP

Description: Failed to maintain records documenting quarterly opacity observations, as reported in deviation reports for the period of May 6, 2004 to November 5, 2004 and November 6, 2004 to April 28, 2005.

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 60.105(a)(4)

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

Rqmt Prov: Permit O-01257, ST&C 1.A. OP

Description: Failed to install an instrument for continuously monitoring and recording the concentration of hydrogen sulfide in fuel gases before being burned in any fuel gas combustion device.

Classification: Moderate

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

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

Rqmt Prov: Permit 5955A, SC 4 PA  
SOP O-01257, ST&C 13 OP

Description: Failed to maintain sulfur production below the maximum limit of 16.6 long tons per day ("LTD").

Classification: Moderate

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

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

Rqmt Prov: Permit 5955A, SC 5B PA  
Permit O-01257, SC 13 OP

Description: Failed to maintain records demonstrating the date, time, and specific repairs made for leaks that were discovered during olfactory, visual, and audible ("OVA") leak checks.

Classification: Moderate

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

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

Rqmt Prov: Permit 21104, SC 2 PA  
Permit O-01257, SC 13 OP

Description: Failed to maintain nitrogen oxide ("NOx") emissions below 64 parts per million volumetric dry ("ppmvd").

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 Kb 60.113b(b)(5)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit O-01257 STC 1A OP

Description: Failed to notify the Administrator in writing 30 days in advance of conducting seal gap measurements.

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 Kb 60.115b(b)(2)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257, STC 1A OP

Description: Failed to submit a report to the Administrator within 60 days after conducting seal gap

measurements.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.646(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(5)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to notify the Administrator in writing 30 days prior to refilling an empty storage vessel.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.646(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(b)(1)(iii)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to perform seal gap measurements of external floating roof vessels equipped with primary and secondary seals at least once per year after the initial compliance date.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.107(b)(1)(i)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.107(b)(1)(iii)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Permit 4902 SC 2 PA  
SOP O-01257 STC 13 OP

Description: Failed to maintain complete quality control records for the CEMS and continuous opacity monitoring system ("COMS") on BLRHT0009.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(c)(2)(vii)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(c)(4)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to include in semi-annual reports submitted to the Administrator facts that explain each delay of repair, and where appropriate, why a process unit shutdown was technically infeasible, and changes to components that have occurred since the submission of previous semi-annual reports

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

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

Description: Failed to obtain authorization for construction and operation of the Reformer HCl Fixed Bed Absorber installed on April 11, 2005.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.342(f)(2)

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

Rqmt Prov: SOP O-01257 STC 10E OP

Description: Failed to include with each off-site shipment a notice stating that the waste contains benzene which is required to be managed and treated in accordance with 40 Code of Federal Regulations Subpart FF.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.357(d)(2)

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

Rqmt Prov: SOP O-01257 STC 10K OP

Description: Failed to submit an annual benzene report that includes the total benzene quantity from facility waste, a table identifying each waste stream and whether or not the waste stream is being controlled for benzene emissions, or a statement that there were not changes from the previous annual report.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.357(d)(8)

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

Rqmt Prov: SOP O-01257 STC 10F OP

Description: Failed to include in the annual report a summary of all inspections in which detectable emissions are measured that could result in benzene emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(f)(1)

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

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to maintain a signed and dated certification that closed-vent systems and control devices in benzene waste operations are designed to operate at the documented performance level when operated at the highest load or capacity expected to occur.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(e)(1)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to maintain a signed and dated certification that a treatment process unit in benzene waste operations is designed to operate at the documented performance level when the waste stream entering the unit is at the highest waste stream flow rate and benzene content expected to occur.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.349(f)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to visually inspect on a quarterly basis each closed-vent system and control device in benzene waste operations.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-1(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to demonstrate compliance with the standards of performance for equipments leaks by failing to monitor components for fugitive emissions.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-5(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to equip each sampling system connection with a closed-purge, closed-loop, or closed-vent system.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to equip open-ended lines with a cap, blind flange, plug, or second valve.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(c)(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(c)(5)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to maintain a complete log of information relating to the detection of leaks.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

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

40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)

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

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to include all required information on the list of identification number for equipment that has been designated as having no detectable emissions.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)

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

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to monitor valves monthly.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)

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

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to operate a flare with a flame present at all times.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.646(a)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.119(b)(1)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.119(c)

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

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to maintain the internal or external floating roof resting on the liquid surface at all times except during the initial fill, after the vessel has been completely emptied and degassed.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(b)(1)

30 TAC Chapter 122, SubChapter B 122.143(4)

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

Rqmt Prov: SOP O-01257 STC 2E OP

Description: Failed to submit an emissions inventory report that includes the amount of emissions not identified in previous inventories.

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 Kb 60.115b(b)(3)

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

Rqmt Prov: SOP O-01257 STC 1A OP

Description: Failed to maintain records of the calculations used to determine the seal gap size.

Effective Date: 06/15/2006

ADMINORDER 2006-0028-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.211(a)

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

Description: Failure to report unauthorized emissions resulting from an emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: 4902 Special Condition 1 PA

Description: Failure to prevent unauthorized emissions during an emissions event at the FCCU/#9 Boiler.

Since Delek failed to properly report the emissions event, the affirmative defense could not be met pursuant to 30 TAC §101.222(c)(1).

Effective Date: 10/25/2007

ADMINORDER 2006-1433-AIR-E

Classification: Moderate

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

Rqmt Prov: O-01257 STC 3.A.iii and 3.B.iii OP  
Description: Failed to maintain records of quarterly opacity observations.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(d)(5)(i)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.654(h)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP  
O-01257 STC 8G OP

Description: Failed to submit semiannual SSM reports.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.214(b)(1)(C)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 72 SC 5 PA  
O-01257 STC 1A OP

Description: Loaded tank trucks not having current leak test certifications.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)  
  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.13(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.642(f)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 11F OP  
Description: Failed to submit a Maximum Achievable Control Technology MACT report to the proper address.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 5955 SC 11F PA  
O-01257 STC 13 OP

Description: Failed to conduct weekly cooling tower sampling.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 5955A SC 4 PA  
O-01257 STC 13 OP

Description: Failed to maintain sulfur production levels below the maximum limit.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.342(f)(2)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 10E OP  
O-01257 STC 1A OP

Description: Failed to include a notice with offsite benzene waste shipments.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.340

30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(a)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(b)(1)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(b)(2)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.654(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 10 G H I OP  
O-01257 STC 1A OP

Description: Failed to identify each benzene-containing waste stream.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.340

30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.349(f)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.647(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to conduct vent system visual inspections.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.646(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.646(g)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(3)(ii)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to conduct yearly internal floating roof tank seal inspections on tanks in HAP service.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(2)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.351(a)(1)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to visually inspect the seals of tanks in benzene service within 12 months of the previous inspections.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.646(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(2)(i)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(3)(iii)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to perform a timely visual tank inspection of primary and secondary seals within ten years of the previous inspection.

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 60.105(a)(4)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to install an instrument to continuously monitor and record hydrogen sulfide ("H2S") on fuel gas combustion devices.

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 A 60.13(d)(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.105(a)(4)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 6F OP

Description: Failed to perform daily H2S calculations.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 113, SubChapter C 113.340

30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to equip open-ended lines or valves with a cap, blind flange, plug, or a second valve.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 113, SubChapter C 113.340

30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(c)(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(c)(7)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.648(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to provide complete information on a LDAR report.

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 A 60.7(c)(2)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.107(f)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.105(e)(3)(ii)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to certify the accuracy and completeness of quarterly CEMS reports.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.654(g)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.654(g)(5)(iii)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to submit a timely and complete MACT CC report.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(d)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1575(b)(2)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to submit a MACT UUU report.

Classification: Moderate

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

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

Rqmt Prov: 4902 SC 7 PA  
O-01257 STC 13 OP

Description: Failed to conduct monthly CO sampling.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.646(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(5)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to notify the TCEQ at least 30 days prior to refilling storage tanks in HAP service.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.646(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(b)(1)(iii)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to perform timely tank seal gap measurements on tanks in HAP service.

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 Kb 60.113b(b)(1)(ii)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to perform timely tank seal gap measurements on a tank in VOC service.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 113, SubChapter C 113.340

30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(f)(1)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.654(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to maintain signed and dated flare certifications.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.340  
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.346(b)(2)(ii)(A)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT CC 63.654(a)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01257 STC 1A OP

Description: Failed to install a flow indicator.

**See addendum for information regarding federal actions.**

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1 11/20/2003 (294023)

N/A

2 12/01/2003 (249843)

3 12/01/2003 (249992)

4	12/17/2003	(294025)
5	12/22/2003	(255756)
6	01/20/2004	(294027)
7	02/20/2004	(294007)
8	03/12/2004	(294010)
9	03/23/2004	(260662)
10	04/12/2004	(294011)
11	05/07/2004	(271719)
12	05/17/2004	(294013)
13	06/18/2004	(294015)
14	06/29/2004	(278310)
15	06/30/2004	(277972)
16	07/19/2004	(351528)
17	08/10/2004	(277299)
18	08/19/2004	(291454)
19	08/26/2004	(351529)
20	08/31/2004	(279748)
21	09/20/2004	(351530)
22	10/12/2004	(337088)
23	10/18/2004	(351531)
24	10/25/2004	(292842)
25	11/16/2004	(351532)
26	11/17/2004	(351533)
27	12/17/2004	(381556)
28	01/12/2005	(346996)
29	01/12/2005	(343693)
30	02/02/2005	(346810)
31	02/14/2005	(381554)
32	03/17/2005	(381555)
33	03/30/2005	(375383)
34	04/14/2005	(440525)
35	04/20/2005	(377421)
36	05/18/2005	(440526)
37	05/23/2005	(380964)
38	05/23/2005	(392910)
39	06/06/2005	(393861)
40	06/20/2005	(440527)
41	06/30/2005	(395659)
42	07/08/2005	(399231)
43	07/08/2005	(398026)
44	07/08/2005	(377143)
45	07/18/2005	(440528)
46	08/11/2005	(402997)
47	08/11/2005	(402151)
48	08/11/2005	(402434)
49	08/22/2005	(440529)
50	08/22/2005	(440530)
51	09/19/2005	(467882)
52	10/10/2005	(433513)
53	10/12/2005	(434239)
54	10/24/2005	(467883)
55	11/14/2005	(467884)
56	11/18/2005	(436024)
57	11/18/2005	(435670)
58	11/18/2005	(435759)
59	11/18/2005	(434907)
60	12/15/2005	(449493)
61	12/15/2005	(467885)
62	12/20/2005	(449726)
63	02/03/2006	(454186)
64	02/24/2006	(467879)
65	02/27/2006	(457446)
66	03/10/2006	(458489)
67	03/10/2006	(458379)
68	03/20/2006	(467880)
69	03/21/2006	(467881)
70	03/23/2006	(459993)
71	04/04/2006	(460987)
72	04/08/2006	(455316)
73	04/11/2006	(462336)
74	04/19/2006	(497864)

75 04/19/2006 (462370)  
76 05/09/2006 (464560)  
77 05/22/2006 (497865)  
78 05/30/2006 (464785)  
79 06/22/2006 (497866)  
80 08/11/2006 (483839)  
81 08/22/2006 (519885)  
82 09/20/2006 (512884)  
83 09/20/2006 (512245)  
84 09/20/2006 (511607)  
85 09/22/2006 (513672)  
86 09/22/2006 (512500)  
87 09/25/2006 (519886)  
88 10/13/2006 (544124)  
89 10/16/2006 (516203)  
90 10/18/2006 (513775)  
91 10/18/2006 (516361)  
92 10/18/2006 (516500)  
93 10/18/2006 (516569)  
94 10/18/2006 (514530)  
95 11/20/2006 (544125)  
96 11/20/2006 (544126)  
97 11/28/2006 (531709)  
98 11/29/2006 (532097)  
99 12/11/2006 (533774)  
100 01/25/2007 (533745)  
101 01/25/2007 (533757)  
102 01/29/2007 (574673)  
103 02/19/2007 (544123)  
104 02/23/2007 (541647)  
105 02/23/2007 (541764)  
106 02/23/2007 (541678)  
107 02/27/2007 (542156)  
108 02/27/2007 (541722)  
109 02/27/2007 (541835)  
110 03/07/2007 (542357)  
111 03/08/2007 (574668)  
112 03/15/2007 (543404)  
113 03/15/2007 (542572)  
114 03/16/2007 (553975)  
115 03/22/2007 (554092)  
116 04/24/2007 (574669)  
117 05/23/2007 (574670)  
118 05/23/2007 (574672)  
119 06/23/2007 (574671)  
120 08/20/2007 (607479)  
121 08/28/2007 (573499)  
122 08/28/2007 (573414)  
123 08/28/2007 (573475)  
124 09/17/2007 (607480)  
125 09/25/2007 (593561)  
126 09/25/2007 (593597)  
127 10/18/2007 (607481)  
128 10/25/2007 (598328)  
129 11/15/2007 (608697)  
130 11/16/2007 (619285)  
131 11/16/2007 (619286)  
132 01/09/2008 (614084)  
133 01/10/2008 (614136)  
134 01/15/2008 (614322)  
135 01/18/2008 (619287)  
136 01/23/2008 (614387)  
137 01/23/2008 (614738)  
138 01/23/2008 (614579)  
139 02/13/2008 (616544)  
140 02/13/2008 (616532)  
141 02/20/2008 (617198)  
142 03/10/2008 (638254)  
143 03/12/2008 (638215)  
144 03/12/2008 (638062)  
145 03/12/2008 (638015)

146 03/14/2008 (671799)  
 147 03/27/2008 (638000)  
 148 04/18/2008 (671800)  
 149 05/12/2008 (654323)  
 150 05/19/2008 (689725)  
 151 05/29/2008 (653770)  
 152 06/16/2008 (689726)  
 153 07/18/2008 (689727)  
 154 08/01/2008 (686343)  
 155 08/29/2008 (653966)  
 156 10/10/2008 (704685)  
 157 10/14/2008 (704825)  
 158 10/21/2008 (704933)

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

Date	12/31/2003	(294027)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2004	(351533)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2005	(440528)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2006	(467881)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2006	(574673)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2006	(544126)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/31/2007	(574671)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2007	(574672)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2007	(619286)	Classification:	Moderate
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2007	(619287)	Classification:	Moderate
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/31/2008	(689726)	Classification:	Moderate
Self Report?	YES			

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

F. Environmental audits.

Notice of Intent Date: 11/08/2007 (611614)  
No DOV Associated  
Notice of Intent Date: 06/04/2008 (685904)  
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.

Date Achieved	Description
09/01/2006	Federal rules require low sulfur diesel by June 2007 for all non-road uses and ultra-low sulfur diesel for all non-road uses by June 2010. Delek completed re-construction of its diesel hydrotreater during the summer of 2006 and effective 9/1/06, essentially all diesel manufactured by Delect for both on-road and off-road use is now ULSD, in advance of Federal rules to do so.

Sites Outside of Texas

N/A



**Addendum to Compliance History  
Federal Enforcement Actions**

CUSTOMER (Defendant):   
REGULATED ENTITY:   
REG. ENTITY ADDRESS:   
REG. ENTITY CITY:

CUSTOMER NO.:   
REG. ENTITY NO.:

**Violations**

EPA CASE NO.:	<input type="text" value="WF-2005-1008"/>	CLASSIFICATION:	<input type="text" value="MODERATE"/>
ORDER ISSUED DATE (YYYYMMDD):	<input type="text" value="20050518"/>	STATUTE:	<input type="text" value="CAA"/> <input type="text" value="SECT. OF STATUTE: 211"/>
ENFORCEMENT ACTION TYPE:	<input type="text" value="Administrative Penalty Order"/>	CITATION:	<input type="text"/> <input type="text" value="CITE PART: "/> <input type="text" value="CITE SECT: "/>
CASE RESULT:	<input type="text" value="Final Order With Penalty"/>	PROGRAM:	<input type="text" value="Mobile Sources"/>
		VIOLATION TYPE:	<input type="text" value="Gasoline High Sulfur"/>

EPA CASE NO.:	<input type="text" value="HQ-2006-0000"/>	CLASSIFICATION:	<input type="text" value="MODERATE"/>
ORDER ISSUED DATE (YYYYMMDD):	<input type="text" value="20051002"/>	STATUTE:	<input type="text" value="CAA"/> <input type="text" value="SECT. OF STATUTE: 111"/>
ENFORCEMENT ACTION TYPE:	<input type="text" value="Administrative Compliance Order"/>	CITATION:	<input type="text"/> <input type="text" value="CITE PART: "/> <input type="text" value="CITE SECT: "/>
CASE RESULT:	<input type="text" value="Final Order No Penalty"/>	PROGRAM:	<input type="text" value="New Source Performance Standards"/>
		VIOLATION TYPE:	<input type="text" value="New Source Performance Standard"/>



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DELEK REFINING, LTD.  
RN100222512

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1670-AIR-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a petroleum refinery at 1702 East Commerce Street in Tyler, Smith County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 19, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Six Thousand Five Hundred Dollars (\$26,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-One Thousand Two Hundred Dollars (\$21,200) of the administrative penalty and Five Thousand Three Hundred Dollars (\$5,300) 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.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on May 29, 2008, the Respondent obtained an amendment to New Source Review ("NSR") Permit No. 5955A increasing the carbon monoxide ("CO") allowable emission limit from 0.41 pounds per hour ("lbs/hr") to 0.64 lbs/hr.
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 ("QAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to maintain CO emissions from the Sulfur Recovery Unit 2 Tail Gas Incinerator 2 (EPN SRUTGUINC) below the allowable emission rate limits listed in the Maximum Allowable Emissions Rate Table ("MAERT"), in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O-01257, Special Terms and Conditions No. 15, NSR Permit No. 5955A, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 7, 2008. Specifically, the permit requires that the permit holder not exceed the CO emission limits of 0.41 lbs/hr, however testing conducted on August 22, 2007 indicated CO emission were 0.47 lbs/hr.

## 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: Delek Refining, Ltd., Docket No. 2008-1670-AIR-E" to:

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

2. 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.
3. 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Srollin  
For the Executive Director

\_\_\_\_\_  
Date 4/2/2009

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.

John Srollin  
Signature

2/12/09  
Date

Frank Simmons  
Name (Printed or typed)  
Authorized Representative of  
Delek Refining, Ltd.

Refinery Manager  
Title

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