

Executive Summary – Enforcement Matter – Case No. 46810
Delek Refining, Ltd.
RN100222512
Docket No. 2013-0918-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Delek Tyler Refinery, 1702 East Commerce Street, Tyler, Smith County

Type of Operation:

Petroleum refinery

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket Nos.: 2013-1122-IWD-E
and 2013-1534-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 27, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$19,001

Amount Deferred for Expedited Settlement: \$3,800

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$15,201

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 29, 2012 through September 12, 2012 and March
26, 2013

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Delek Refining, Ltd.
RN100222512
Docket No. 2013-0918-AIR-E

Date(s) of NOE(s): April 30, 2013 and May 15, 2013

Violation Information

1. Failed to prevent unauthorized emissions. Specifically, Respondent released 834.73 pounds ("lbs") of sulfur dioxide, 8.31 lbs of hydrogen sulfide, 234.40 lbs of nitrogen oxides, 462.16 lbs of carbon monoxide ("CO"), and 1,593.51 lbs of volatile organic compounds ("VOC") from the No. 5 Alky Flare, Emission Point Number ("EPN") FLRFN0005, during an emissions event (Incident No. 179634) that began on February 20, 2013 and lasted four hours and ten minutes. The event occurred when a small hole developed on a sweet propane line and in order to isolate the line for repairs, sour propane was diverted to the flare. Since this emissions event was inaccurately reported, Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit No. 5955, Special Conditions ("SC") No. 1, and Federal Operating Permit ("FOP") No. O1257, Special Terms and Conditions ("STC") No. 15].
2. Failed to identify the individually listed compounds or mixtures of air contaminants released at each emissions point during an emissions event (Incident No. 179634). Specifically, the final emissions event report did not list the specific VOC released during the emissions event [30 TEX. ADMIN. CODE §§ 101.201(b)(1)(G) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1257, STC No. 2F].
3. Failed to maintain records of daily manual checks of the sour water stripper feed tank for hydrocarbons. Specifically, Respondent failed to document the manual check of the sour water stripper feed tank for hydrocarbons on 14 intermittent days between September 2, 2011 and December 31, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 5955A, SC No. 14, and FOP No. O1257, STC No. 15].
4. Failed to comply with the maximum allowable concentration for CO. Specifically, Boiler No. 9 (EPN HTBLR0009) exceeded the seven-day rolling average of 100 parts per million for CO from February 12, 2011 through February 17, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 4902, SC No. 8, and FOP No. O1257, STC No. 15].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. By February 18, 2011, repaired Boiler No. 5 to prevent against future outages that can cause Boiler No. 9 to experience higher CO concentrations and returned Boiler No. 9 to compliance with respect to the seven-day rolling average for CO concentration;
- b. On February 22, 2013, replaced the affected portion of the sweet propane line; and

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RN100222512
Docket No. 2013-0918-AIR-E**

c. On April 8, 2013, distributed an e-mail to the personnel that prepare emissions events reports emphasizing that air contaminants from an emissions event must be listed as individual compounds or mixtures in the final reports.

Technical Requirements:

Respondent shall undertake the following technical requirements:

- a. Within 30 days, implement measures designed to ensure that records of the daily manual check for hydrocarbons in the sour water stripper feed tank are being maintained; and
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rachel Bekowies, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2608; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Louis LaBella, Vice President/General Manager Tyler Refinery , Delek Refining, Ltd., 425 McMurrey Drive, Tyler, Texas 75702
Don Whaley, Environmental Manager, Delek Refining, Ltd., 425 McMurrey Drive, Tyler, Texas 75702

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-May-2013	Screening	23-May-2013	EPA Due	
	PCW	23-May-2013				

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

CASE INFORMATION			
Enf./Case ID No.	46810	No. of Violations	1
Docket No.	2013-0918-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rachel Bekowies
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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.

Compliance History	105.0% Enhancement	Subtotals 2, 3, & 7	\$2,625
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Notes: Enhancement for one consent decree with denial of liability, three agreed orders with denial of liability, and eight NOV's with dissimilar violations. Reduction for one Notice of Intent to conduct an environmental audit.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$72
 Approx. Cost of Compliance: \$87,157
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$4,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,500
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DEFERRAL	20.0% Reduction	Adjustment	-\$900
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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.

PAYABLE PENALTY	\$3,600
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Screening Date 23-May-2013

Docket No. 2013-0918-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 46810

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	8	16%
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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 105%

>> 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 consent decree with denial of liability, three agreed orders with denial of liability, and eight NOVs with dissimilar violations. Reduction for one Notice of Intent to conduct an environmental audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 105%

Screening Date 23-May-2013

Docket No. 2013-0918-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 46810

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review Permit No. 4902, Special Conditions No. 8, and Federal Operating Permit No. O1257, Special Terms and Conditions No. 15

Violation Description Failed to comply with the maximum allowable concentration for carbon monoxide ("CO"). Specifically, Boiler No. 9 (Emissions Point Number HTBLR0009) exceeded the seven-day rolling average of 100 parts per million for CO from February 12, 2011 through February 17, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

6 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on the first date that the CO concentration limit was exceeded, February 12, 2011, to the last date that the CO concentration limit was exceeded, February 17, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent completed corrective actions on February 18, 2011, prior to the May 15, 2013 Notice of Enforcement.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$72

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet

Respondent Delek Refining, Ltd.
Case ID No. 46810
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$87,157	12-Feb-2011	18-Feb-2011	0.02	\$72	n/a	\$72

Notes for DELAYED costs

Actual cost to repair Boiler No. 5. Upsets that occur during an outage of Boiler No. 5 cause operational fluctuations with Boiler No. 9. The Date Required is the first date that the seven-day rolling average for CO was exceeded. The 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

\$87,157

TOTAL

\$72



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	6-May-2013	Screening	8-May-2013	EPA Due	25-Jan-2014
	PCW	8-May-2013				

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

CASE INFORMATION		No. of Violations	3
Enf./Case ID No.	46810	Order Type	1660
Docket No.	2013-0918-AIR-E	Government/Non-Profit	No
Media Program(s)	Air	Enf. Coordinator	Rachel Bekowies
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,750
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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.

Compliance History	100.0% Enhancement	Subtotals 2, 3, & 7	\$7,750
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Notes: Enhancement for one consent decree with denial of liability, three agreed orders with denial of liability, and eight NOV's with dissimilar violations. Reduction for one Notice of Intent to conduct an environmental audit.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$999
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$32
 Approx. Cost of Compliance: \$10,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,501
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$14,501
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$14,501
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,900
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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.

PAYABLE PENALTY	\$11,601
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Screening Date 8-May-2013

Docket No. 2013-0918-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 3 (September 2011)

Case ID No. 46810

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	8	16%
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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 105%

>> **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 consent decree with denial of liability, three agreed orders with denial of liability, and eight NOVs with dissimilar violations. Reduction for one Notice of Intent to conduct an environmental audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 105%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 100%

Screening Date 8-May-2013

Docket No. 2013-0918-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 3 (September 2011)

Case ID No. 46810

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review ("NSR") Permit No. 5955, Special Conditions ("SC") No. 1, and Federal Operating Permit ("FOP") No. O1257, Special Terms and Conditions ("STC") No. 15

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 834.73 pounds ("lbs") of sulfur dioxide, 8.31 lbs of hydrogen sulfide, 234.40 lbs of nitrogen oxides, 462.16 lbs of carbon monoxide, and 1,593.51 lbs of volatile organic compounds ("VOC") from the No. 5 Alky Flare, Emission Point Number FLRFN0005, during an emissions event (Incident No. 179634) that began on February 20, 2013 and lasted four hours and ten minutes. The event occurred when a small hole developed on a sweet propane line and in order to isolate the line for repairs, sour propane was diverted to the flare. Since this emissions event was inaccurately reported, 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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	15.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes The Respondent completed corrective actions on February 22, 2013, prior to the April 30, 2013 Notice of Enforcement ("NOE").

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$6,563

This violation Final Assessed Penalty (adjusted for limits) \$6,563

Economic Benefit Worksheet

Respondent Delek Refining, Ltd.
Case ID No. 46810
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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	20-Feb-2013	22-Feb-2013	0.01	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to repair the affected portion of the sweet propane line. The Date Required is the date the emissions event began. The Final Date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$3

Screening Date 8-May-2013
Respondent Delek Refining, Ltd.
Case ID No. 46810
Reg. Ent. Reference No. RN100222512
Media [Statute] Air
Enf. Coordinator Rachel Bekowies

Docket No. 2013-0918-AIR-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Violation Number
Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(b)(1)(G) and 122.143(4), Tex. Health & Safety Code § 382.085(b), and FOP No. O1257, STC No. 2F
Violation Description Failed to identify the individually listed compounds or mixtures of air contaminants released at each emissions point during an emissions event (Incident No. 179634). Specifically, the final emissions event report did not list the specific VOC released during the emissions event.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="1.0%"/>
Less than 30% of the rule requirement was not met.					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="X"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes: The Respondent completed corrective actions on April 8, 2013, prior to the April 30, 2013 NOE.

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 Delek Refining, Ltd.
Case ID No. 46810
Reg. Ent. Reference No. RN100222512
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$250	1-Mar-2013	8-Apr-2013	0.10	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost for improving the recordkeeping/reporting system to comply with emissions event reporting requirements. The Date Required is the date the final report was submitted. The 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

\$250

TOTAL

\$1

Screening Date 8-May-2013

Docket No. 2013-0918-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 3 (September 2011)

Case ID No. 46810

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), NSR Permit No. 5955A, SC No. 14, and FOP No. O1257, STC No. 15

Violation Description

Failed to maintain records of daily manual checks of the sour water stripper feed tank for hydrocarbons. Specifically, the Respondent failed to document the manual check of the sour water stripper feed tank for hydrocarbons on 14 intermittent days between September 2, 2011 and December 31, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

14 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$3,750

One single event is recommended based on the one set of records that was not being maintained.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$7,500

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

Economic Benefit Worksheet

Respondent Delek Refining, Ltd.
Case ID No. 46810
Reg. Ent. Reference No. RN100222512
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	2-Sep-2011	2-Dec-2013	2.25	\$28	n/a	\$28

Notes for DELAYED costs

Estimated cost to implement procedures to ensure that the hydrocarbon manual check records for the sour water stripper feed tank are maintained. The Date Required is the first date that documentation of the hydrocarbon manual check was not recorded. The 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

\$250

TOTAL

\$28

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN602831232, RN100222512, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN602831232, Delek Refining, Ltd. **Classification:** SATISFACTORY **Rating:** 26.93
Regulated Entity: RN100222512, DELEK TYLER REFINERY **Classification:** SATISFACTORY **Rating:** 26.93
Complexity Points: 32 **Repeat Violator:** NO
CH Group: 02 - Oil and Petroleum Refineries
Location: 1702 EAST COMMERCE STREET TYLER, TEXAS 75702-6303, SMITH COUNTY
TCEQ Region: REGION 05 - TYLER

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER SK0022A
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50062

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE
REGISTRATION # (SWR) 30872
WASTEWATER EPA ID TX0001449

AIR NEW SOURCE PERMITS PERMIT 3903
AIR NEW SOURCE PERMITS PERMIT 4028
AIR NEW SOURCE PERMITS PERMIT 5955
AIR NEW SOURCE PERMITS PERMIT 7488
AIR NEW SOURCE PERMITS REGISTRATION 14200
AIR NEW SOURCE PERMITS ACCOUNT NUMBER SK0022A
AIR NEW SOURCE PERMITS PERMIT 56648
AIR NEW SOURCE PERMITS AFS NUM 4842300001
AIR NEW SOURCE PERMITS PERMIT 80756
AIR NEW SOURCE PERMITS REGISTRATION 84386
AIR NEW SOURCE PERMITS REGISTRATION 92520
AIR NEW SOURCE PERMITS REGISTRATION 95066
AIR NEW SOURCE PERMITS REGISTRATION 96318
AIR NEW SOURCE PERMITS REGISTRATION 109338

UNDERGROUND INJECTION CONTROL PERMIT
5X2600283
POLLUTION PREVENTION PLANNING ID NUMBER
P00379

AIR OPERATING PERMITS PERMIT 1257
INDUSTRIAL AND HAZARDOUS WASTE EPA ID
TXD007333800
WASTEWATER PERMIT WQ0001590000

AIR NEW SOURCE PERMITS PERMIT 72
AIR NEW SOURCE PERMITS PERMIT 3904
AIR NEW SOURCE PERMITS PERMIT 4902
AIR NEW SOURCE PERMITS PERMIT 5955A
AIR NEW SOURCE PERMITS REGISTRATION 10819
AIR NEW SOURCE PERMITS PERMIT 21104
AIR NEW SOURCE PERMITS PERMIT 56281
AIR NEW SOURCE PERMITS REGISTRATION 89603
AIR NEW SOURCE PERMITS REGISTRATION 75087
AIR NEW SOURCE PERMITS REGISTRATION 82728
AIR NEW SOURCE PERMITS REGISTRATION 83703
AIR NEW SOURCE PERMITS PERMIT 92637
AIR NEW SOURCE PERMITS REGISTRATION 95606
AIR NEW SOURCE PERMITS REGISTRATION 101880
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION
(SWR) 30872
AIR EMISSIONS INVENTORY ACCOUNT NUMBER SK0022A

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: June 10, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 08, 2008 to May 08, 2013

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

Name: Rachel Bekowies

Phone: (512) 239-2608

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

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

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

- 1 Effective Date: 05/18/2009 ADMINORDER 2008-1670-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: NSR Permit No. 5955A S.C. No.1 PA
O-01257 S.T. &C. No. 15 OP
Description: Failure to control carbon monoxide emissions from the Sulfur Recovery Unit 2, Tail Gas Incinerator 2 (EPN SPNTGUINC) below the emission limits listed in the Maximum Allowable Emissions Rate Table attached to TCEQ Air Quality Permit Number 5955A.
- 2 Effective Date: 05/08/2011 ADMINORDER 2010-1547-AIR-E (1660 Order-Agreed Order With Denial)
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 60.105(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:Special Condition No. 12 PERMIT
Special Condition No. 3 PERMIT
Special Terms and Condition 15 OP
Description: Failure to maintain the continuous monitoring system for the measurement of sulfur dioxide ("SO2") in the gases discharged into the atmosphere from the sulfur recovery unit, sulfur pit, and sulfur loading incinerator stack.
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov:Special Condition No. 9 PERMIT
Special Terms and Condition 15 OP
Description: Failure to install an instrument to continuously monitor and record Carbon monoxide ("CO") at the CO boiler by the time indicated in the permit.

See addendum for information regarding federal actions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	May 12, 2008	(654323)
Item 2	May 19, 2008	(689725)
Item 3	July 18, 2008	(689727)
Item 4	August 01, 2008	(686343)
Item 5	August 20, 2008	(710451)
Item 6	August 29, 2008	(653966)
Item 7	September 20, 2008	(710452)
Item 8	October 10, 2008	(704685)
Item 9	October 20, 2008	(710453)
Item 10	October 21, 2008	(704933)
Item 11	November 21, 2008	(727289)
Item 12	December 10, 2008	(707304)
Item 13	December 17, 2008	(709992)
Item 14	January 06, 2009	(721656)
Item 15	January 20, 2009	(727290)
Item 16	January 22, 2009	(722847)
Item 17	February 13, 2009	(721643)
Item 18	February 25, 2009	(735622)
Item 19	March 16, 2009	(735819)

Item 20	March 19, 2009	(750012)
Item 21	March 25, 2009	(735579)
Item 22	April 02, 2009	(740025)
Item 23	April 09, 2009	(710057)
Item 24	April 20, 2009	(750013)
Item 25	May 14, 2009	(768178)
Item 26	May 27, 2009	(745532)
Item 27	July 09, 2009	(760888)
Item 28	July 14, 2009	(760635)
Item 29	July 22, 2009	(761065)
Item 30	July 23, 2009	(804091)
Item 31	August 06, 2009	(762119)
Item 32	August 17, 2009	(804092)
Item 33	September 18, 2009	(804093)
Item 34	September 28, 2009	(776612)
Item 35	October 05, 2009	(761090)
Item 36	October 20, 2009	(804094)
Item 37	November 20, 2009	(804095)
Item 38	December 15, 2009	(804096)
Item 39	January 20, 2010	(804097)
Item 40	February 19, 2010	(804090)
Item 41	February 23, 2010	(792449)
Item 42	February 24, 2010	(792373)
Item 43	March 19, 2010	(830651)
Item 44	March 31, 2010	(796561)
Item 45	April 22, 2010	(830652)
Item 46	May 03, 2010	(830653)
Item 47	May 27, 2010	(824819)
Item 48	May 28, 2010	(824886)
Item 49	June 09, 2010	(824790)
Item 50	July 19, 2010	(860789)
Item 51	August 20, 2010	(866753)
Item 52	September 16, 2010	(873825)
Item 53	September 30, 2010	(864906)
Item 54	October 04, 2010	(864922)
Item 55	October 18, 2010	(881430)
Item 56	November 17, 2010	(878089)
Item 57	November 18, 2010	(878175)
Item 58	November 19, 2010	(887960)
Item 59	December 08, 2010	(865062)
Item 60	December 17, 2010	(896154)
Item 61	January 06, 2011	(924608)
Item 62	January 20, 2011	(737840)
Item 63	January 26, 2011	(887848)
Item 64	January 31, 2011	(892385)
Item 65	February 02, 2011	(894276)
Item 66	February 08, 2011	(894352)
Item 67	February 28, 2011	(899205)
Item 68	March 10, 2011	(901177)
Item 69	April 12, 2011	(924607)
Item 70	April 25, 2011	(913007)
Item 71	May 24, 2011	(921446)
Item 72	June 17, 2011	(945260)
Item 73	June 30, 2011	(934015)
Item 74	July 06, 2011	(952546)
Item 75	July 25, 2011	(923014)
Item 76	August 08, 2011	(959227)
Item 77	August 17, 2011	(944779)
Item 78	September 07, 2011	(965230)
Item 79	October 17, 2011	(971300)
Item 80	October 21, 2011	(962766)

Item 81	November 14, 2011	(964597)
Item 82	November 15, 2011	(977457)
Item 83	December 14, 2011	(970143)
Item 84	December 15, 2011	(984228)
Item 85	January 20, 2012	(990522)
Item 86	January 27, 2012	(982167)
Item 87	February 17, 2012	(997890)
Item 88	March 13, 2012	(990137)
Item 89	March 22, 2012	(994175)
Item 90	April 18, 2012	(1009970)
Item 91	May 02, 2012	(1002182)
Item 92	May 07, 2012	(1002104)
Item 93	May 18, 2012	(1016367)
Item 94	May 24, 2012	(996844)
Item 95	June 26, 2012	(1014265)
Item 96	June 28, 2012	(1015293)
Item 97	July 16, 2012	(1031489)
Item 98	July 25, 2012	(1019577)
Item 99	August 07, 2012	(1037861)
Item 100	August 13, 2012	(1014320)
Item 101	September 04, 2012	(1027679)
Item 102	September 21, 2012	(1030907)
Item 103	November 01, 2012	(1041152)
Item 104	December 14, 2012	(1060622)
Item 105	December 18, 2012	(1050685)
Item 106	February 20, 2013	(1055650)
Item 107	February 26, 2013	(1058706)
Item 108	March 22, 2013	(1060407)
Item 109	April 09, 2013	(1095621)

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

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

- 1 Date: 05/31/2012 (1024091) CN602831232
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: 06/03/2012 (1022670) CN602831232
Self Report? NO Classification: Moderate
Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT E 264.75
Description: Failure to submit Biennial Reports.
- 3 Date: 08/31/2012 (1060619) CN602831232
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
- 4 Date: 09/30/2012 (1060620) CN602831232
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
- 5 Date: 10/31/2012 (1060621) CN602831232
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

6	Date: 12/31/2012 (1078811)	CN602831232	
	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		
7	Date: 01/31/2013 (1078810)	CN602831232	
	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		
8	Date: 02/28/2013 (1089228)	CN602831232	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		

F. Environmental audits:

Notice of Intent Date: 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:

N/A

Sites Outside of Texas:

N/A

Addendum to Compliance History Federal Enforcement Actions

Reg Entity Name: DELEK REFINING

Reg Entity Add: 425 MCMURREY DRIVE

Reg Entity City: TYLER

Reg Entity No: RN100222512

Customer Name: August A. Hartung

Customer No: CN602831232

EPA Case No: 06-2010-4520

Order Issue Date (yyyymmdd): 20100928

Case Result: Final Order With Penalty

Statute: CWA

Sect of Statute: 311B

Classification: Moderate

Program: Spills

Citation: 40 CFR

Violation Type: Oil Spill Violation Under
CWA/OPA

Cite Sect: 311b

Cite Part: 22

Enforcement Action: Administrative Penalty Order

Reg Entity Name: DELEK TYLER REFINERY

Reg Entity Add: 1702 E. COMMERCE ST.

Reg Entity City: TYLER

Reg Entity No: RN100222512

Customer Name: La Gloria

Customer No: CN602831232

EPA Case No: 06-2004-3311

Order Issue Date (yyyymmdd): 20090923

Case Result: Final Order with Penalty

Statute: CAA

Sect of Statute: 112

Classification: Minor

Program: National Emission Stand

Citation: 40 CFR

Violation Type: National Emmission
Standards

Cite Sect: Subpart VV

Cite Part: 60

Enforcement Action: Conccent Decree/Court Order

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. 2013-0918-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 Delek Refining, Ltd. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a petroleum refinery at 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 Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about May 5, 2013 and May 20, 2013.
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 Nineteen Thousand One Dollars (\$19,001) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Two Hundred One Dollars (\$15,201) of the administrative penalty and Three Thousand Eight Hundred Dollars

- (\$3,800) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. By February 18, 2011, repaired Boiler No. 5 to prevent against future outages that can cause Boiler No. 9 to experience higher carbon monoxide ("CO") concentrations and returned Boiler No. 9 to compliance with respect to the seven-day rolling average for CO concentration;
 - b. On February 22, 2013, replaced the affected portion of the sweet propane line; and
 - c. On April 8, 2013, distributed an e-mail to the personnel that prepare emissions events reports emphasizing that air contaminants from an emissions event must be listed as individual compounds or mixtures in the final reports.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit No. 5955, Special Conditions ("SC") No. 1, and Federal Operating Permit ("FOP") No. O1257, Special Terms and Conditions ("STC") No. 15, as documented during a record review conducted on March 26, 2013. Specifically, the Respondent

released 834.73 pounds ("lbs") of sulfur dioxide, 8.31 lbs of hydrogen sulfide, 234.40 lbs of nitrogen oxides, 462.16 lbs of CO, and 1,593.51 lbs of volatile organic compounds ("VOC") from the No. 5 Alky Flare, Emission Point Number ("EPN") FLRFN0005, during an emissions event (Incident No. 179634) that began on February 20, 2013 and lasted four hours and ten minutes. The event occurred when a small hole developed on a sweet propane line and in order to isolate the line for repairs, sour propane was diverted to the flare. Since this emissions event was inaccurately reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

2. Failed to identify the individually listed compounds or mixtures of air contaminants released at each emissions point during an emissions event (Incident No. 179634), in violation of 30 TEX. ADMIN. CODE §§ 101.201(b)(1)(G) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1257, STC No. 2F, as documented during a record review conducted on March 26, 2013. Specifically, the final emissions event report did not list the specific VOC released during the emissions event.
3. Failed to maintain records of daily manual checks of the sour water stripper feed tank for hydrocarbons, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 5955A, SC No. 14, and FOP No. O1257, STC No. 15, as documented during an investigation conducted on August 29, 2012 through September 12, 2012. Specifically, the Respondent failed to document the manual check of the sour water stripper feed tank for hydrocarbons on 14 intermittent days between September 2, 2011 and December 31, 2011.
4. Failed to comply with the maximum allowable concentration for CO, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit No. 4902, SC No. 8, and FOP No. O1257, STC No. 15, as documented during an investigation conducted on August 29, 2012 through September 12, 2012. Specifically, Boiler No. 9 (EPN HTBLR0009) exceeded the seven-day rolling average of 100 parts per million for CO from February 12, 2011 through February 17, 2011.

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. 2013-0918-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that records of the daily manual check for hydrocarbons in the sour water stripper feed tank are being maintained; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona Davis
For the Executive Director

10/21/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

Louis LaBella
Signature

8-9-13
Date

Louis LaBella
Name (Printed or typed)
Authorized Representative of
Delek Refining, Ltd.

VP, GM Tyler Refinery
Title

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