

Executive Summary – Enforcement Matter – Case No. 48238

Delek Refining, Ltd.

RN100222512

Docket No. 2014-0197-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Unauthorized emissions which are excessive emissions events.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Delek Tyler Refinery, 425 McMurrey Drive, Tyler, Smith County

Type of Operation:

Petroleum refinery

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2014-0641-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 27, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$98,637

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$49,319

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$49,318

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

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

Executive Summary – Enforcement Matter – Case No. 48238
Delek Refining, Ltd.
RN100222512
Docket No. 2014-0197-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 20, 2012, November 14, 2012 and December 13, 2013

Date(s) of NOE(s): August 21, 2012

Violation Information

1. Failed to prevent unauthorized emissions. The emissions event was determined to be an excessive emissions event [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1257, Special Terms and Conditions ("STC") No. 15 and General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent unauthorized emissions. The emissions event was determined to be an excessive emissions event [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, FOP No. O1257, STC No. 15 and GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to prevent unauthorized emissions. Since this emissions event was reported late, the 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), Permit No. 5955, Special Conditions No. 1, FOP No. O1257, STC No. 15 and GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to prevent unauthorized emissions. Since this emissions event was reported late, the 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), Permit No. 5955, Special Conditions No. 1, FOP No. O1257, STC No. 15 and GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to submit initial notifications for Incident Nos. 164274, 164275, 164273, and 167116 within 24 hours after discovery of the emissions events [30 TEX. ADMIN. CODE §§ 101.201(a) and 122.143(4), FOP No. O1257, STC No. 2F and GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On October 19, 2011, flushed the vent gas scrubber amine system and changed out the amine and on October 28, 2011, replaced the malfunctioning butterfly valve in order to prevent a recurrence of emissions events due to the same causes as Incident No. 164274;
- b. On January 29, 2012, replaced and downsized the transmitter fuse to a 6 amp circuit breaker and replaced the 15 amp fuse with a 15 amp circuit breaker to allow sufficient protection of the primary and to provide quick reset capability in order to prevent a recurrence of emissions events due to the same causes as Incident No. 164273;
- c. On February 3, 2012, repaired the leaking coker compressor valve and installed a nitrogen purge to flush the line to the vent gas scrubber and to prevent any future leaks from direct entry into the flare header in order to prevent a recurrence of emissions events due to the same causes as Incident No. 164275;
- d. On May 18, 2012, located the electrical power sources to run two blowers and adjusted the rheostat so that operators can adjust the blower at the rheostat instead of the control panel in order to prevent a recurrence of emissions events due to the same causes as Incident No. 167116; and
- e. On July 6, 2012, re-trained all employees who may be required to execute a State of Texas Environmental Electronic Reporting System report that emissions events are required to be reported within 24 hours after discovery.

Technical Requirements:

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

Litigation Information

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

Executive Summary – Enforcement Matter – Case No. 48238
Delek Refining, Ltd.
RN100222512
Docket No. 2014-0197-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Raime Hayes-Falero, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3567; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

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

Respondent: Louis LaBella, Vice President and General Manager, Delek Refining, Ltd., 425 McMurrey Drive, Tyler, Texas 75702

Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-0197-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Delek Refining, Ltd.
Penalty Amount:	Ninety-Eight Thousand Six Hundred Thirty-Seven Dollars (\$98,637)
SEP Offset Amount:	Forty-Nine Thousand Three Hundred Eighteen Dollars (\$49,318)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Clean Buses Project</i>
Location of SEP:	Smith County; Texas Air Quality Control Region 022: Shreveport - Texarkana - Tyler

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Clean Buses Project*. The contribution will be used in accordance with the SEP Project Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to retrofit older diesel buses with lower emissions or clean fuel technology in order to reduce nitrogen oxides air emissions and replace model year 2006 or older buses with lower-emission buses that are model year 2010 or newer for public school districts or public charter schools (the “Project”). RC&D shall ensure that each replacement bus purchased has an engine that meets 2010 EPA standards and that the older bus is taken out of service. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

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

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

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma.

c. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of RC&D Areas, Inc.
Ken Awtrey, Executive Director
P.O. Box 635067
Nacogdoches, Texas 75963-5067

3. Records and Reporting

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

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

Delek Refining, Ltd.
Agreed Order - Attachment A

4. Failure to Fully Perform

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Jan-2014	Screening	4-Feb-2014	EPA Due	4-Oct-2014
	PCW	11-Feb-2014				

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.	48238	No. of Violations	2
Docket No.	2014-0197-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for two NOVs with same/similar violations, four NOVs with dissimilar violations, five orders with denial of liability, and one consent decree with denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 4-Feb-2014

Docket No. 2014-0197-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 48238

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Kimberly Morales

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>)	2	10%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	5	100%
	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>)	0	0%
	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) 148%

>> **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 two NOVs with same/similar violations, four NOVs with dissimilar violations, five orders with denial of liability, and one consent decree with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 148%

Screening Date 4-Feb-2014

Docket No. 2014-0197-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 48238

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1257, Special Terms and Conditions ("STC") No. 15 and General Terms and Conditions ("GTC"), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 52,578.96 pounds ("lbs") of sulfur dioxide and 519.18 lbs of hydrogen sulfide from the Number 2 Cat Flare, Emissions Point Number FLRFN0002, during an emissions event (Incident No. 164274) that began on July 18, 2011 and lasted 2,448 hours. The emissions event occurred when a malfunction of the vent gas scrubber and a leaking valve at the sour water stripper caused an increase in sulfur concentration in flow to the flare. This emissions event was determined to be an excessive emissions event.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 4 Number of violation days 102

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

Violation Base Penalty \$20,000

Four monthly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction \$5,000

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

Notes The Respondent completed corrective actions on October 28, 2011, before the August 21, 2012 NOE.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$140

Violation Final Penalty Total \$44,600

This violation Final Assessed Penalty (adjusted for limits) \$44,600

Economic Benefit Worksheet

Respondent Delek Refining, Ltd.
Case ID No. 48238
Req. 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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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	18-Jul-2011	28-Oct-2011	0.28	\$140	n/a	\$140

Notes for DELAYED costs

Estimated cost to flush the vent gas scrubber amine system, change out the amine, and replace the malfunctioning butterfly valve in order to prevent a recurrence of emissions events due to the same causes as Incident No. 164274. The date required is the date the emissions event began. The final date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$140

Screening Date 4-Feb-2014

Docket No. 2014-0197-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 48238

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(a) and 122.143(4), FOP No. O1257, STC No. 2F and GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit an initial notification for Incident No. 164274 within 24 hours after discovery of the emissions event. Specifically, the initial notification was due by July 19, 2011 at 12:00 a.m., but was not submitted until January 31, 2012 at 6:43 p.m.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

The Respondent met at least 70% of the rule requirements.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 196

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

Violation Base Penalty \$100

One single event is recommended for the late notification.

Good Faith Efforts to Comply

25.0% Reduction

\$25

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

Notes

The Respondent completed corrective actions on July 6, 2012, before the August 21, 2012 NOE.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$223

This violation Final Assessed Penalty (adjusted for limits) \$223

Economic Benefit Worksheet

Respondent Delek Refining, Ltd.
Case ID No. 48238
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	19-Jul-2011	6-Jul-2012	0.97	\$24	n/a	\$24

Notes for DELAYED costs

Estimated cost to re-train all employees who may be required to execute a State of Texas Environmental Electronic Reporting System report that emissions events are required to be reported within 24 hours after discovery. The date required is the date the initial notification was due. The final date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$24



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	13-Jan-2014	Screening	4-Feb-2014	EPA Due	4-Oct-2014
	PCW	11-Feb-2014				

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.	48238	No. of Violations	4
Docket No.	2014-0197-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$30,750**

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* **\$30,750**

Notes: Enhancement for two NOVs with same/similar violations, four NOVs with dissimilar violations, five orders with denial of liability, and one consent decree with denial of liability.

Culpability **No** **0.0%** Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **-\$7,686**

Economic Benefit **0.0%** Enhancement* *Subtotal 6* **\$0**
Total EB Amounts \$200
Approx. Cost of Compliance \$30,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$53,814**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment* **\$0**
Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$53,814**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$53,814**

DEFERRAL **0.0%** Reduction *Adjustment* **\$0**
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$53,814**

Screening Date 4-Feb-2014

Docket No. 2014-0197-AIR-E

PCW

Respondent Delek Refining, Ltd.

Policy Revision 3 (September 2011)

Case ID No. 48238

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	5	100%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	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	No	0%

Adjustment Percentage (Subtotal 2) 148%

>> 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 two NOVs with same/similar violations, four NOVs with dissimilar violations, five orders with denial of liability, and one consent decree with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 148%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 4-Feb-2014
 Respondent Delek Refining, Ltd.
 Case ID No. 48238

Docket No. 2014-0197-AIR-E

PCW

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

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1257, Special Terms and Conditions ("STC") No. 15 and General Terms and Conditions ("GTC"), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 48,956.64 pounds ("lbs") of sulfur dioxide ("SO2"), 5,470.72 lbs of volatile organic compounds, and 485.35 lbs of hydrogen sulfide ("H2S") from the Number 2 Cat Flare, Emissions Point Number ("EPN") FLRFN0002, during an emissions event (Incident No. 164275) that began on November 30, 2011 and lasted 1,560 hours and 27 minutes. The emissions event occurred when an unidentified leak from a relief valve caused increased sulfur in flow to the flare. This emissions event was determined to be an excessive emissions event.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		30.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3 Number of violation days 65

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

Violation Base Penalty \$22,500

Three monthly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction \$5,625

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

Notes

The Respondent completed corrective actions on February 3, 2012, before the August 21, 2012 NOE.

Violation Subtotal \$16,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$89

Violation Final Penalty Total \$39,375

This violation Final Assessed Penalty (adjusted for limits) \$39,375

Economic Benefit Worksheet

Respondent Delek Refining, Ltd.
Case ID No. 48238
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)	\$10,000	30-Nov-2011	3-Feb-2012	0.18	\$89	n/a	\$89

Notes for DELAYED costs

Estimated cost to repair the leaking coker compressor valve and install a nitrogen purge to flush the line to the vent gas scrubber to prevent any future leaks from direct entry into the flare header to prevent a recurrence of emissions events due to the same causes as Incident No. 164275. The date required is the date the emissions event began. The final date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$89

Screening Date 4-Feb-2014
 Respondent Delek Refining, Ltd.
 Case ID No. 48238

Docket No. 2014-0197-AIR-E

PCW

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

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, FOP No. O1257, STC No. 15 and GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 995.07 lbs of SO2 and 9.83 lbs of H2S from the Number 1 Boiler Flare, EPN FLRFN0001, during an emissions event (Incident No. 164273) that began on December 16, 2011 and lasted 13 hours and 46 minutes. The emissions event occurred when a blown fuse in the Sulfur Recovery Unit Burner Management System caused intermittent flaring of gas containing H2S. Since this emissions event was reported late, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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 \$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 Before NOV NOV to EDPRP/Settlement Offer \$937

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent completed corrective actions on January 29, 2012, before the August 21, 2012 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Estimated EB Amount \$60

Statutory Limit Test

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. 48238
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)	\$10,000	16-Dec-2011	29-Jan-2012	0.12	\$60	n/a	\$60

Notes for DELAYED costs

Estimated cost to replace and downsize the transmitter fuse to a 6 amp circuit breaker and replace the 15 amp fuse with a 15 amp circuit breaker to allow sufficient protection of the primary and to provide quick reset capability in order to prevent a recurrence of emissions events due to the same causes as Incident No. 164273. The date required is the date of the emissions event. The final date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$60

Screening Date 4-Feb-2014
 Respondent Delek Refining, Ltd.
 Case ID No. 48238

Docket No. 2014-0197-AIR-E

PCW

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

Reg. Ent. Reference No. RN100222512

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, FOP No. O1257, STC No. 15 and GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,094.25 lbs of SO2 and 10.93 lbs of H2S from the Number 2 Cat Flare, EPN FLRFN0002, during an emissions event (Incident No. 167116) that began on April 11, 2012 and lasted five hours and 38 minutes. The emissions event occurred due to a control malfunction at the Sulfur Recovery Unit 2 Furnace. Since this emissions event was reported late, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

\$937

Notes

The Respondent completed corrective actions on May 18, 2012, before the August 21, 2012 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Estimated EB Amount \$51

Statutory Limit Test

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. 48238
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	11-Apr-2012	18-May-2012	0.10	\$51	n/a	\$51

Notes for DELAYED costs

Estimated cost to locate electrical power sources to run two blowers and adjust the rheostat so that operators can adjust the blower at the rheostat instead of the control panel in order to prevent a recurrence of emissions events due to the same causes as Incident No. 167116. The date required is the date of the emissions event. The final date is the date that corrective actions were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$51

Screening Date 4-Feb-2014
 Respondent Delek Refining, Ltd.
 Case ID No. 48238

Docket No. 2014-0197-AIR-E

PCW

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

Reg. Ent. Reference No. RN10022512

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(a) and 122.143(4), FOP No. O1257, STC No. 2F and GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit initial notifications for Incident Nos. 164275, 164273, and 167116 within 24 hours after discovery of the emissions events. Specifically, the initial notification for Incident No. 164275 was due by January 24, 2012 at 11:34 a.m., but was not submitted until January 31, 2012 at 6:53 p.m.; the initial notification for Incident No. 164273 was due by December 17, 2011 at 4:29 p.m., but was not submitted until January 31, 2012 at 6:38 p.m.; and the initial notification for Incident No. 167116 was due by April 12, 2012 at 11:34 a.m., but was not submitted until April 12, 2012 at 12:27 p.m.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1.0%

Matrix Notes

The Respondent met at least 70% of the rule requirements.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 55

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

Violation Base Penalty \$750

Three single events are recommended for the three late notifications.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$187

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent completed corrective actions on July 6, 2012, before the August 21, 2012 NOE.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

Economic Benefit Worksheet

Respondent Delek Refining, Ltd.

Case ID No. 48238

Reg. Ent. Reference No. RN100222512

Media Air

Violation No. 4

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

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit for this violation is included in Violation No. 2 of the accompanying Penalty Calculation Worksheet.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0



Compliance History Report

PUBLISHED Compliance History Report for CN602831232, RN100222512, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN602831232, Delek Refining, Ltd.	Classification:	SATISFACTORY	Rating:	4.39
Regulated Entity:	RN100222512, DELEK TYLER REFINERY	Classification:	SATISFACTORY	Rating:	4.39
Complexity Points:	36	Repeat Violator:	NO		
CH Group:	02 - Oil and Petroleum Refineries				
Location:	425 MCMURREY DR TYLER, TX 75702, 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
STORMWATER EPA ID TX0001449
AIR NEW SOURCE PERMITS PERMIT 4028
AIR NEW SOURCE PERMITS PERMIT 5955
AIR NEW SOURCE PERMITS REGISTRATION 10819
AIR NEW SOURCE PERMITS PERMIT 21104
AIR NEW SOURCE PERMITS REGISTRATION 113747
AIR NEW SOURCE PERMITS PERMIT 56648
AIR NEW SOURCE PERMITS PERMIT 80756
AIR NEW SOURCE PERMITS REGISTRATION 84386
AIR NEW SOURCE PERMITS PERMIT 92637
AIR NEW SOURCE PERMITS REGISTRATION 101880
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30872
AIR EMISSIONS INVENTORY ACCOUNT NUMBER SK0022A

AIR OPERATING PERMITS PERMIT 1257
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD007333800
STORMWATER PERMIT WQ0001590000
AIR NEW SOURCE PERMITS PERMIT 72
AIR NEW SOURCE PERMITS PERMIT 4902
AIR NEW SOURCE PERMITS PERMIT 5955A
AIR NEW SOURCE PERMITS REGISTRATION 14200
AIR NEW SOURCE PERMITS ACCOUNT NUMBER SK0022A
AIR NEW SOURCE PERMITS PERMIT 56281
AIR NEW SOURCE PERMITS AFS NUM 4842300001
AIR NEW SOURCE PERMITS REGISTRATION 82728
AIR NEW SOURCE PERMITS REGISTRATION 83703
AIR NEW SOURCE PERMITS REGISTRATION 95606
AIR NEW SOURCE PERMITS REGISTRATION 109338
UNDERGROUND INJECTION CONTROL PERMIT 5X2600283
POLLUTION PREVENTION PLANNING ID NUMBER P00379

WASTEWATER PERMIT TXG670221

Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year:	2013	Rating Date:	09/01/2013
Date Compliance History Report Prepared:	January 31, 2014				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	January 31, 2009 to January 31, 2014				

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

Name: Kimberly Morales **Phone:** (713) 422-8938

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.
- 3 Effective Date: 12/19/2013 ADMINORDER 2013-0918-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: Special Condition No. 8 PERMIT
Special Terms and Condition 15 OP
Description: Failure to maintain Boiler No. 9 seven day rolling average below 100 ppm for CO during the certification period.
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. 14 PERMIT
Special Terms and Condition 15 OP
Description: Failure to record the sour water feed tank manual check for hydrocarbons for fourteen (14) days during the certification period.
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 1 PERMIT
Special Terms and Conditions 15 OP
Description: Failure to prevent unauthorized emissions at the No. 5 Alky Flare on February 20, 2013.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Terms and Conditions 2 OP

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.

- 4 Effective Date: 01/24/2014 ADMINORDER 2013-1122-IWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.4
Rqmt Prov: Sampling & Analysis Requirements PERMIT
Description: Failure to collect and analyze samples for required parameters at the minimum frequency specified in the permit as documented by a TCEQ record review.

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	February 13, 2009	(721643)
Item 2	February 25, 2009	(735622)
Item 3	March 16, 2009	(735819)
Item 4	March 19, 2009	(750012)
Item 5	March 25, 2009	(735579)
Item 6	April 02, 2009	(740025)
Item 7	April 09, 2009	(710057)
Item 8	April 20, 2009	(750013)
Item 9	May 14, 2009	(768178)
Item 10	May 27, 2009	(745532)
Item 11	July 09, 2009	(760888)
Item 12	July 14, 2009	(760635)
Item 13	July 22, 2009	(761065)
Item 14	July 23, 2009	(804091)
Item 15	August 06, 2009	(762119)
Item 16	August 17, 2009	(804092)
Item 17	September 18, 2009	(804093)
Item 18	September 28, 2009	(776612)
Item 19	October 05, 2009	(761090)
Item 20	October 20, 2009	(804094)
Item 21	November 20, 2009	(804095)
Item 22	December 15, 2009	(804096)
Item 23	January 20, 2010	(804097)
Item 24	February 19, 2010	(804090)
Item 25	February 23, 2010	(792449)
Item 26	February 24, 2010	(792373)
Item 27	March 19, 2010	(830651)
Item 28	March 31, 2010	(796561)
Item 29	April 22, 2010	(830652)
Item 30	May 03, 2010	(830653)
Item 31	May 27, 2010	(824819)
Item 32	May 28, 2010	(824886)
Item 33	June 09, 2010	(824790)
Item 34	July 19, 2010	(860789)
Item 35	August 20, 2010	(866753)
Item 36	September 16, 2010	(873825)

Item 37	September 30, 2010	(864906)
Item 38	October 04, 2010	(864922)
Item 39	October 18, 2010	(881430)
Item 40	November 17, 2010	(878089)
Item 41	November 18, 2010	(878175)
Item 42	November 19, 2010	(887960)
Item 43	December 08, 2010	(865062)
Item 44	December 17, 2010	(896154)
Item 45	January 06, 2011	(924608)
Item 46	January 20, 2011	(737840)
Item 47	January 26, 2011	(887848)
Item 48	January 31, 2011	(892385)
Item 49	February 02, 2011	(894276)
Item 50	February 08, 2011	(894352)
Item 51	February 28, 2011	(899205)
Item 52	March 10, 2011	(901177)
Item 53	April 12, 2011	(924607)
Item 54	April 25, 2011	(913007)
Item 55	May 24, 2011	(921446)
Item 56	June 17, 2011	(945260)
Item 57	June 30, 2011	(934015)
Item 58	July 06, 2011	(952546)
Item 59	July 25, 2011	(923014)
Item 60	August 08, 2011	(959227)
Item 61	August 17, 2011	(944779)
Item 62	September 07, 2011	(965230)
Item 63	October 17, 2011	(971300)
Item 64	October 21, 2011	(962766)
Item 65	November 14, 2011	(964597)
Item 66	November 15, 2011	(977457)
Item 67	December 14, 2011	(970143)
Item 68	December 15, 2011	(984228)
Item 69	January 20, 2012	(990522)
Item 70	January 27, 2012	(982167)
Item 71	February 17, 2012	(997890)
Item 72	March 13, 2012	(990137)
Item 73	March 22, 2012	(994175)
Item 74	April 18, 2012	(1009970)
Item 75	May 02, 2012	(1002182)
Item 76	May 07, 2012	(1002104)
Item 77	May 18, 2012	(1016367)
Item 78	May 24, 2012	(996844)
Item 79	June 26, 2012	(1014265)
Item 80	June 28, 2012	(1015293)
Item 81	July 16, 2012	(1031489)
Item 82	July 25, 2012	(1019577)
Item 83	August 07, 2012	(1037861)
Item 84	August 13, 2012	(1014320)
Item 85	September 04, 2012	(1027679)
Item 86	September 21, 2012	(1030907)
Item 87	November 01, 2012	(1041152)
Item 88	December 14, 2012	(1060622)
Item 89	December 18, 2012	(1050685)
Item 90	February 20, 2013	(1055650)
Item 91	February 26, 2013	(1058706)
Item 92	March 22, 2013	(1060407)
Item 93	April 09, 2013	(1095621)
Item 94	May 14, 2013	(1106547)
Item 95	June 18, 2013	(1110224)
Item 96	July 09, 2013	(1117103)

Item 97	August 19, 2013	(1124861)
Item 98	November 20, 2013	(1140594)
Item 99	November 26, 2013	(1133777)
Item 100	November 27, 2013	(1133974)

E. Written notices of violations (NOV) (CCEDS 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: 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

- 2 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

- 3 Date: 05/15/2013 (1059931) CN602831232
Self Report? NO 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 VV 60.482-2(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition No. 12(A) PERMIT
Special Terms and Condition 15 OP
Description: Failure to monitor one pump in the Platformer Unit, tag # 3807.
Self Report? NO 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 VV 60.482-7(c)
5C THSC Chapter 382 382.085(b)
Special Condition No. 12(B) PERMIT
Special Terms and Condition 15 OP
Description: Failure to monitor all valves as required by the facility permit.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition No. 7 PERMIT
Special Terms and Condition 15 OP
Description: Failure to maintain the total sulfur recovered below 35 long tons per day for three days during the certification period.
Self Report? NO 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)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(b)(9)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition 1.A OP
Description: Failure to submit the external floating roof inspection notification 30 days in advance of the inspection.
Self Report? NO 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(a)(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(4)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition 1.A OP
Description: Failure to empty Tank No. 4 within 45 days of a failed tank inspection during the certification period.
Self Report? NO 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 A 60.18(e)

5C THSC Chapter 382 382.085(b)
 Special Condition No. 10B PERMIT
 Special Terms and Condition 1.A OP
 Description: Failure to operate a flare with a flame present at all times.
 Self Report? NO 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 VV 60.482-6(a)(1)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 11(E) PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to equip all open ended line with a cap, blind flange, plug, or a second valve.
 Self Report? NO 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(a)(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(4)
 5C THSC Chapter 382 382.085(b)
 Special Terms and Condition 1.A OP
 Description: Failure to remove Tank No. 3 out of service prior to the expiration of the repair extension during the certification period.
 Self Report? NO 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(a)(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.120(a)(3)(iii)
 5C THSC Chapter 382 382.085(b)
 Special Terms and Condition 1.A OP
 Description: Failure to conduct the 10 year Internal Floating Roof inspection within the required timeframe during the certification period.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 10 PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to meet the required operating percentage of 95% (5% downtime requirement) for the SRU CEMS on a 12 month rolling average during the certification period.
 Self Report? NO 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 VV 60.482-9(a)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 11(I) PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to repair two (2) valves in the Coker Unit during the next unit shutdown as required by permit during the certification period.
 Self Report? NO 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 VV 60.482-9(a)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 11(I) PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to repair two (2) valves in the Alky Unit during the next unit shutdown as required by permit during the certification period.
 Self Report? NO 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 VV 60.482-7(c)(2)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 11(F) PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to re-monitor one (1) valve during the certification period, as documented during an on-site inspection and records review conducted on August 29 thru August 30, 2012.
 Self Report? NO 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 VV 60.482-7(h)(2)
 5C THSC Chapter 382 382.085(b)
 Special Terms and Condition 1.A OP
 Description: Failure to maintain the three percent (3%) Difficult to Monitor designation for three (3) units during the certification period.
 Self Report? NO Classification: Moderate
 Citation: 1257 Special Terms and Condition 15 OP
 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 VV 60.482-2(a)(1)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 11(F) PERMIT
 Special Condition No. 12(D) PERMIT
 Description: Failure to monitor all components as required by permit.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 4(C) PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to measure the Lower Explosive Limit (LEL) of MSS as per TCEQ New Source Review (NSR) Permit No. 80756 (4)(C) emissions during the certification period.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 6(E) PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to document the complete tank records of MSS events as per TCEQ New Source Review (NSR) Permit No. 80756 Special Condition No. 6(E) during the certification period and beyond.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 8(A) PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to adhere to TCEQ New Source Review (NSR) Permit No. 80756 Special Condition No. 8(A) which states that vacuum pumps and blowers shall not be operated on trucks containing or vacuuming liquids with VOC partial pressure greater than .50 psi at 95 F without the vacuum/blower exhaust being routed to a control device or a controlled recovery system.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 9(D) PERMIT
 Special Terms and Condition 15 OP
 Description: Failure to maintain an emissions record which includes calculated emissions of VOC from all frac tanks during the previous calendar month and the past consecutive 12 month period.

4 Date: 08/09/2013 (1102665) CN602831232
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 General Terms and Conditions OP
 Special Condition 3 PERMIT
 Special Terms and Conditions 15 OP
 Special Terms and Conditions 2 OP
 Description: Failure to maintain an opacity rate below the allowable opacity limit for Incident 181931. B19 (g)(1) MOD (2)(G)

5 Date: 08/31/2013 (1129465) 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: 09/30/2013 (1135192) 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:

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: Concent 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. 2014-0197-AIR-E**

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. ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a petroleum refinery at 425 McMurrey Drive 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. During record reviews conducted on June 20, 2012, November 14, 2012, and December 13, 2013, TCEQ staff documented that the Respondent released 52,578.96 pounds ("lbs") of sulfur dioxide ("SO₂") and 519.18 lbs of hydrogen sulfide ("H₂S") from the Number 2 Cat Flare, Emissions Point Number ("EPN") FLRFN0002, during an emissions event (Incident No. 164274) that began on July 18, 2011 and lasted 2,448 hours. The emissions event occurred when a malfunction of the vent gas scrubber and a leaking valve at the sour water stripper caused an increase in sulfur concentration in flow to the flare. The TCEQ determined that this was an excessive emissions event.
4. During record reviews conducted on June 20, 2012, November 14, 2012, and December 13, 2013, TCEQ staff documented that the Respondent released 48,956.64 lbs of SO₂, 5,470.72 lbs of volatile organic compounds, and 485.35 lbs of H₂S from the Number 2 Cat Flare, EPN FLRFN0002, during an emissions event (Incident No. 164275) that began on November 30, 2011 and lasted 1,560 hours and 27 minutes. The emissions event occurred when an unidentified leak from a relief valve caused increased sulfur in flow to the flare. The TCEQ determined that this was an excessive emissions event.
5. During record reviews conducted on June 20, 2012, November 14, 2012, and December 13, 2013, TCEQ staff documented that the Respondent released 995.07 lbs of SO₂ and 9.83 lbs of H₂S from the Number 1 Boiler Flare, EPN FLRFN0001, during an emissions event (Incident No. 164273) that began on December 16, 2011 and lasted 13 hours and 46 minutes. The emissions event occurred when a blown fuse in the Sulfur Recovery Unit Burner Management System caused intermittent flaring of gas containing H₂S. The TCEQ determined that the emissions event was reported late.
6. During record reviews conducted on June 20, 2012, November 14, 2012, and December 13, 2013, TCEQ staff documented that the Respondent released 1,094.25 lbs of SO₂ and 10.93 lbs of H₂S from the Number 2 Cat Flare, EPN FLRFN0002, during an emissions event (Incident No. 167116) that began on April 11, 2012 and lasted five hours and 38 minutes. The emissions event occurred due to a control malfunction at the Sulfur Recovery Unit 2 Furnace. The TCEQ determined that the emissions event was reported late.
7. During record reviews conducted on June 20, 2012, November 14, 2012, and December 13, 2013, TCEQ staff documented that the initial notification for Incident No. 164274 was due by July 19, 2011 at 12:00 a.m., but was not submitted until January 31, 2012 at 6:43 p.m.; the initial notification for Incident No. 164275 was due by January 24, 2012 at 11:34 a.m., but was not submitted until January 31, 2012 at 6:53 p.m.; the initial notification for Incident No. 164273 was due by December 17, 2011 at 4:29 p.m., but was not submitted until January 31, 2012 at 6:38 p.m.; and the initial notification for Incident No. 167116 was due by April 12, 2012 at 11:34 a.m., but was not submitted until April 12, 2012 at 12:27 p.m.

8. The Respondent received notice of the violations on August 22, 2012.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On October 19, 2011, flushed the vent gas scrubber amine system and changed out the amine and on October 28, 2011, replaced the malfunctioning butterfly valve in order to prevent a recurrence of emissions events due to the same causes as Incident No. 164274;
 - b. On January 29, 2012, replaced and downsized the transmitter fuse to a 6 amp circuit breaker and replaced the 15 amp fuse with a 15 amp circuit breaker to allow sufficient protection of the primary and to provide quick reset capability in order to prevent a recurrence of emissions events due to the same causes as Incident No. 164273;
 - c. On February 3, 2012, repaired the leaking coker compressor valve and installed a nitrogen purge to flush the line to the vent gas scrubber and to prevent any future leaks from direct entry into the flare header in order to prevent a recurrence of emissions events due to the same causes as Incident No. 164275;
 - d. On May 18, 2012, located the electrical power sources to run two blowers and adjusted the rheostat so that operators can adjust the blower at the rheostat instead of the control panel in order to prevent a recurrence of emissions events due to the same causes as Incident No. 167116; and
 - e. On July 6, 2012, re-trained all employees who may be required to execute a State of Texas Environmental Electronic Reporting System report that emissions events are required to be reported within 24 hours after discovery.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1257, Special Terms and Conditions ("STC") No. 15 and General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b). The emissions event was determined to be an excessive emissions event.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, FOP No. O1257, STC No. 15 and GTC, and TEX. HEALTH &

SAFETY CODE § 382.085(b). The emissions event was determined to be an excessive emissions event.

4. As evidenced by Findings of Fact No. 5, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, FOP No. 01257, STC No. 15 and GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b). Since this emissions event was reported late, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Permit No. 5955, Special Conditions No. 1, FOP No. 01257, STC No. 15 and GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b). Since this emissions event was reported late, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
6. As evidenced by Findings of Fact No. 7, the Respondent failed to submit initial notifications for Incident Nos. 164274, 164275, 164273, and 167116 within 24 hours after discovery of the emissions events, in violation of 30 TEX. ADMIN. CODE §§ 101.201(a) and 122.143(4), FOP No. 01257, STC No. 2F and GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b).
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of Ninety-Eight Thousand Six Hundred Thirty-Seven Dollars (\$98,637) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Forty-Nine Thousand Three Hundred Nineteen Dollars (\$49,319) of the administrative penalty. Forty-Nine Thousand Three Hundred Eighteen Dollars (\$49,318) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Ninety-Eight Thousand Six Hundred Thirty-Seven Dollars (\$98,637) as set forth in Section II, Paragraph 8 above, for violations of TCEQ rules and state statutes. The payment of this

administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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. 2014-0197-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 8 above, Forty-Nine Thousand Three Hundred Eighteen Dollars (\$49,318) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the

Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Moore
For the Executive Director

8/21/14
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Delek Refining, Ltd. I am authorized to agree to the attached Agreed Order on behalf of Delek Refining, Ltd., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Delek Refining, Ltd. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

5-16-14
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 III, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2014-0197-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Delek Refining, Ltd.
Penalty Amount:	Ninety-Eight Thousand Six Hundred Thirty-Seven Dollars (\$98,637)
SEP Offset Amount:	Forty-Nine Thousand Three Hundred Eighteen Dollars (\$49,318)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Clean Buses Project</i>
Location of SEP:	Smith County; Texas Air Quality Control Region 022: Shreveport - Texarkana - Tyler

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Clean Buses Project*. The contribution will be used in accordance with the SEP Project Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to retrofit older diesel buses with lower emissions or clean fuel technology in order to reduce nitrogen oxides air emissions and replace model year 2006 or older buses with lower-emission buses that are model year 2010 or newer for public school districts or public charter schools (the “Project”). RC&D shall ensure that each replacement bus purchased has an engine that meets 2010 EPA standards and that the older bus is taken out of service. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

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

Delek Refining, Ltd.
Agreed Order - Attachment A

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

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma.

c. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of RC&D Areas, Inc.
Ken Awtrey, Executive Director
P.O. Box 635067
Nacogdoches, Texas 75963-5067

3. Records and Reporting

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

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

4. **Failure to Fully Perform**

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

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

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

5. **Publicity**

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

6. **Clean Texas Program**

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

7. **Other SEPs by TCEQ or Other Agencies**

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