EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1040-AIR-E **TCEQ ID:** RN100212109 **CASE NO.:** 30330

RESPONDENT NAME: Total Petrochemicals USA, Inc.

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: La Porte Plant, 1818 South Battleground Road, La Porte, Harris County

TYPE OF OPERATION: Petrochemical manufacturing

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There are two pending enforcement actions regarding this facility location. They are Docket Nos. 2006-1656-AIR-E and 2006-2092-AIR-E

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 15, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Section III, MC R-12, (713) 422-8931; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
TCEQ Field Investigator: Ms. Leslie Dixon, Houston Regional Office, MC R-12, (713) 767-3707
Respondent: Mr. Darrell E. Bailey, Plant Manager, Total Petrochemicals USA, Inc., P.O. Box 888, La Porte, Texas 77571
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** June 16, 2006 **Date of NOE Relating to this Case:** July 14, 2006 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **AIR** Failed to prevent unauthorized emissions during a May 14, 2006 emissions event. Specifically, on May 14, 2006 the Propylene Recovery Unit was down and the emissions were routed to the Monument 2 Flare. However, the flare did not have a flame present which resulted in the release of 4,430 pounds of unauthorized propylene emissions over a period of one hour and thirty-four minutes. Since the emissions event was avoidable, Total failed to meet the demonstration criteria for an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 3908B, Special Condition Nos. 1 and 2, 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(2), and TEX. HEALTH & SAFETY § 382.085(b)].	**Total Assessed:** $10,000 **Total Deferred:** $2,000 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $8,000 **Site Compliance History Classification:** __ High _X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that Total completed upgrades of the pilot systems on Flares ES-205 and ES-805 on September 9, 2006. The upgrades included the installation of supplemental pilots, additional electronic ignition systems that spark every two seconds, and the installation of separate pilot gas lines.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision April 25, 2006*

DATES					
Assigned	17-Jul-2006				
PCW	20-Sep-2006	Screening	24-Jul-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Total Petrochemicals USA, Inc.		
Reg. Ent. Ref. No.	RN100212109		
Facility/Site Region	12-Houston	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	30330	No. of Violations	1
Docket No.	2006-1040-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Rebecca Johnson
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 150% Enhancement *Subtotals 2, 3, & 7* $7,500

Notes: Enhancement due to four NOVs issued for same or similar violations, five NOVs issued for unrelated violations, eight unrelated effluent violations, four Agreed Orders containing a denial of liability, and one Agreed Order without a denial of liability. Reduction due to one Notice of Audit.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: The respondent completed corrective actions on September 9, 2006.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

Total EB Amounts	$4,073
Approx. Cost of Compliance	$180,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 Final Subtotal $12,500

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $12,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $10,000

DEFERRAL 20% Reduction Adjustment -$2,000

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

Notes: A penalty deferral is recommended for expedited settlement.

PAYABLE PENALTY $8,000

Screening Date	24-Jul-2006	**Docket No.** 2006-1040-AIR-E	**PCW**
Respondent	Total Petrochemicals USA, Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	30330		*PCW Revision April 25, 2006*
Reg. Ent. Reference No.	RN100212109		
Media [Statute]	Air Quality		
Enf. Coordinator	Rebecca Johnson		

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	4	20%
	Other written NOVs	13	26%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	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*	1	-1%
	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) **150%**

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) **0%**

>> Compliance History *Person* Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> Compliance History Summary

Compliance History Notes: Enhancement due to four NOVs issued for same or similar violations, five NOVs issued for unrelated violations, eight unrelated effluent violations, four Agreed Orders containing a denial of liability, and one Agreed Order without a denial of liability. Reduction due to one Notice of Audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **150%**

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	24-Jul-2006
Docket No.	2006-1040-AIR-E
Respondent	Total Petrochemicals USA, Inc.
Case ID No.	30330
Reg. Ent. Reference No.	RN100212109
Media [Statute]	Air Quality
Enf. Coordinator	Rebecca Johnson

Violation Number 1

Primary Rule Cite(s) Air Permit No. 3908B, Special Condition Nos. 1 and 2 and 40 Code of Federal Regulations § 60.18(c)(2)

Secondary Rule Cite(s) 30 Tex. Admin. Code § 116.115(c) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failure to prevent unauthorized emissions during a May 14, 2006 emissions event. Specifically, on May 14, 2006 the Propylene Recovery Unit was down and the emissions were routed to the Monument 2 Flare. However, the flare did not have a flame present which resulted in the release of 4,430 lbs of unauthorized propylene emissions over a period of one hour and thirty-four minutes. Since the emissions event was avoidable, Total Petrochemicals USA, Inc. failed to meet the demonstration criteria for an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

OR

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment in the Houston-Galveston-Brazoria ozone nonattainment area has been exposed to significant amounts of HRVOCs which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -$5,000

Base Penalty Subtotal $5,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $5,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $4,073

Statutory Limit Test

Violation Final Penalty Total $12,500

This violation Final Assessed Penalty (adjusted for limits) $10,000

Economic Benefit Worksheet

Respondent: Total Petrochemicals USA, Inc.
Case ID No.: 30330
Reg. Ent. Reference No.: RN100212109
Media [Statute]: Air Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$180,000	14-May-2006	09-Sep-2006	0.3	$194	$3,879	$4,073
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to implement upgrades to the flare's pilot system in an effort to prevent the recurrence of emissions events due to the same cause as the May 14, 2006 emissions event. Date required based on the date of the emissions event. Final date based on the compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $180,000

TOTAL: $4,073

Compliance History

Customer/Respondent/Owner-Operator:	CN600582399	Total Petrochemicals USA, Inc.	Classification: AVERAGE	Rating: 2.92
Regulated Entity:	RN100212109	TOTAL PETROCHEMICALS USA LA PORTE PLANT	Classification: AVERAGE	Site Rating: 1.08

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0036S
AIR OPERATING PERMITS	PERMIT	1293
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010880
AIR NEW SOURCE PERMITS	PERMIT	3908B
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0036S
AIR NEW SOURCE PERMITS	PERMIT	54961
AIR NEW SOURCE PERMITS	PERMIT	2560
AIR NEW SOURCE PERMITS	PERMIT	16138
AIR NEW SOURCE PERMITS	PERMIT	5206B
AIR NEW SOURCE PERMITS	PERMIT	2269C
AIR NEW SOURCE PERMITS	PERMIT	41719
AIR NEW SOURCE PERMITS	PERMIT	21538
AIR NEW SOURCE PERMITS	EPA ID	PSDTX989
AIR NEW SOURCE PERMITS	PERMIT	18153
AIR NEW SOURCE PERMITS	PERMIT	54856
AIR NEW SOURCE PERMITS	REGISTRATION	72513
AIR NEW SOURCE PERMITS	REGISTRATION	73925
AIR NEW SOURCE PERMITS	REGISTRATION	77497
AIR NEW SOURCE PERMITS	REGISTRATION	77776
AIR NEW SOURCE PERMITS	REGISTRATION	77782
AIR NEW SOURCE PERMITS	REGISTRATION	78963
AIR NEW SOURCE PERMITS	REGISTRATION	78962
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0036S
AIR NEW SOURCE PERMITS	AFS NUM	0008
AIR NEW SOURCE PERMITS	PERMIT	2560
AIR NEW SOURCE PERMITS	PERMIT	16138
AIR NEW SOURCE PERMITS	PERMIT	2269C
AIR NEW SOURCE PERMITS	PERMIT	5206B
AIR NEW SOURCE PERMITS	PERMIT	5236B
AIR NEW SOURCE PERMITS	PERMIT	21538
AIR NEW SOURCE PERMITS	PERMIT	35874
AIR NEW SOURCE PERMITS	PERMIT	41719
WASTEWATER	PERMIT	WQ0001000000
WASTEWATER	PERMIT	TPDES0007421
WASTEWATER	PERMIT	TX0007421
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD086981172
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30551
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50374
WATER LICENSING	LICENSE	1010880
STORMWATER	PERMIT	TXR05M372

Location: 1818 S BATTLEGROUND RD, LA PORTE, TX, 77571 Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 17, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 17, 2001 to July 17, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rebecca Johnson Phone: (713) 422-8931

Site Compliance History Components

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 of the site during the compliance period? Yes
3. If Yes, who is the current owner? Total Petrochemicals USA, Inc.
4. if Yes, who was/were the prior owner(s)? Fina Oil and Chemical Company
5. When did the change(s) in ownership occur? 10/1/2004

Components (Multimedia) for the Site :

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

Effective Date: 02/10/2005 **ADMINORDER 2003-0089-AIR-E**

Classification: Minor

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

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

Rqmt Prov: SC1 PERMIT
Description: Failed to comply with emission limits stated in the Maximum Allowable Emission Rate Table (MAERT) for the Monument No. 2 Flare at emission point number (EPN) ES-205 and the Waste Heat Incinerator at EPN ES-202.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c).

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

Rqmt Prov: SC3 PERMIT
Description: Failed to comply with the emission limits stated in the MAERT for the Train 8 Flare at EPN ES-805, respectively.

Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to make the notations of observations in the flare operation log regarding the EPNs ES-205 (Permit No. 3908B) and ES-805 (Permit No. 21538). Specifically, there was no documentation that the flares were observed, time of day, and whether or not they were smoking.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2[G]

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

Rqmt Prov: SC4 PERMIT
Description: Failed to make the first attempt to repair components with tag numbers 05068.2, 00925, 01112, 00012.1, 00076.1, 00305, 00446, 00669.1, 02637.2, 02707, 02715.1 within 5 calendar days after the leak was discovered and to complete the repair for the component with tag number 00008 within 15 days after the leak was discovered.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8[G]

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

Rqmt Prov: SC4 PERMIT
Description: Failed to conduct the initial performance test to determine the destruction efficiency of the Blender/Feeder Vent Gas Catalytic Oxidizer at EPN ES-975.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 60, Subpart DDD 60.565(k)

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

Rqmt Prov: SC4 PERMIT
Description: Failed to submit the semiannual reports.

Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(C)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to maintain the records of operating hours and abrasive material usage for the outside abrasive blast cleaning activity.

Effective Date: 03/06/2006 **ADMINORDER 2004-2037-IWD-E**

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(4)

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: Permit Condition 2.g. OP
Description: Failure to prevent unauthorized discharges (UDs) from the Outfall 001 collection system.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations OP
Description: Failure to comply with the permitted effluent limits for total suspended solids (TSS) and flow at Outfall 001.

Effective Date: 09/30/2005 **ADMINORDER 2005-0146-AIR-E**

Classification: Moderate

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

Rqmt Prov: 21538, S.C. 6 & 12.C PERMIT
Description: Failed to prevent unauthorized emissions at the Plant from the Train 8 Flare (EPN ES-805), causing the release of 3, 466 pounds (lbs.) of propylene, 1,724 lbs. of carbon monoxide, 215 lbs. of nitrogen oxide, 24 lbs. of nitrogen dioxide to the atmosphere.

Classification: Moderate

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

Rqmt Prov: 3908B, S.C. 1 PERMIT
Description: Failed to prevent unauthorized emissions at the Plant from the Monument 2 Flare (EPN ES-205), causing the release of 4,868 pounds (lbs.) of propylene, 1,724 lbs. of carbon monoxide, 215 lbs. of nitrogen oxide, 24 lbs. of nitrogen dioxide to the atmosphere.

Effective Date: 02/05/2006 **ADMINORDER 2005-0540-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter F 101.221(a)

30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT
Special Condition 2 PERMIT

Description: Failed to prevent unauthorized emissions of 346.98 pounds (lbs) of volatile organic compounds (VOCs) and failed to operate the falre with a flame at all times.
Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter F 101.221(a)

30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Air Permit No. 21538, SC 12B PERMIT
TCEQ Air Permit No. 21538, SC 6 PERMIT

Description: Failed to prevent unauthorized emissions of 319.91 lbs of VOCs and failed to operate the flare with a flame at all times.
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)[G]
30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions of 4,892.56 lbs of VOCs.

Effective Date: 09/30/2005 **ADMINORDER 2005-0171-AIR-E**

Classification: Moderate

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

Rqmt Prov: TCEQ Air Permit No. 21538, SC #1 PERMIT
Description: Exceeded permit limits during an avoidable emissions event.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	05/22/2003	(160544)
2	05/23/2002	(160543)
3	04/16/2003	(160540)
4	04/11/2002	(160539)
5	10/22/2004	(337805)
6	10/08/2004	(335547)
7	06/22/2006	(482925)
8	08/24/2004	(352560)
9	03/18/2003	(296374)
10	02/28/2006	(457140)
11	01/06/2005	(291924)
12	04/12/2004	(296375)
13	09/20/2004	(352561)
14	02/28/2006	(457170)
15	08/10/2005	(404200)
16	05/26/2004	(272485)
17	07/09/2004	(296376)
18	06/29/2006	(481055)
19	10/13/2004	(352562)
20	11/16/2004	(352563)
21	07/22/2004	(280434)
22	05/21/2004	(296378)
23	11/23/2004	(352564)
24	07/12/2005	(398015)
25	07/08/2005	(395152)
26	03/24/2003	(160535)
27	10/19/2004	(335923)
28	02/24/2005	(350282)
29	06/21/2004	(296380)
30	05/17/2006	(465592)
31	04/01/2002	(160534)
32	01/05/2004	(255495)
33	06/07/2004	(296382)
34	02/20/2003	(160532)
35	09/19/2003	(296385)
36	04/28/2005	(374278)
37	06/23/2006	(483058)
38	08/01/2003	(147147)
39	02/19/2002	(160531)
40	01/13/2005	(345723)

41	10/21/2003	(296387)
42	11/24/2003	(296388)
43	02/14/2006	(468736)
44	12/29/2003	(296389)
45	06/29/2006	(484017)
46	10/14/2003	(296390)
47	11/28/2005	(468737)
48	12/13/2004	(338130)
49	03/01/2005	(349965)
50	08/29/2003	(152894)
51	07/05/2005	(395955)
52	01/24/2006	(468738)
53	05/16/2006	(463577)
54	12/30/2002	(9673)
55	07/14/2006	(484429)
56	12/31/2001	(246586)
57	01/24/2006	(468739)
58	12/20/2004	(338479)
59	07/08/2005	(395145)
60	03/24/2005	(349942)
61	04/01/2005	(375065)
62	02/23/2006	(455888)
63	01/07/2005	(338040)
64	06/26/2003	(27171)
65	08/23/2005	(404907)
66	02/23/2005	(349878)
67	06/23/2005	(379202)
68	12/14/2004	(338399)
69	06/03/2005	(419886)
70	12/29/2004	(343604)
71	05/26/2006	(467560)
72	06/24/2005	(419887)
73	03/24/2005	(372227)
74	01/16/2003	(160574)
75	04/25/2006	(458264)
76	01/14/2002	(160573)
77	12/20/2004	(295860)
78	04/08/2005	(348307)
79	01/07/2005	(292094)
80	07/12/2006	(484022)
81	04/24/2006	(463428)
82	12/17/2002	(160570)
83	09/01/2004	(279062)
84	04/27/2006	(456175)
85	03/16/2004	(265480)
86	05/31/2006	(480475)
87	01/10/2002	(160569)
88	06/03/2005	(376795)
89	11/21/2005	(435975)
90	12/13/2004	(336657)
91	01/26/2005	(342525)
92	03/29/2004	(263338)
93	11/26/2002	(17533)

94	08/12/2002	(4743)
95	01/07/2005	(336686)
96	01/10/2005	(262199)
97	12/04/2002	(160566)
98	12/20/2004	(338218)
99	02/28/2006	(457150)
100	11/19/2001	(160565)
101	02/22/2005	(382035)
102	02/24/2005	(350275)
103	02/21/2006	(455020)
104	03/21/2005	(382036)
105	03/22/2005	(382037)
106	10/24/2002	(160562)
107	12/27/2004	(382038)
108	01/21/2003	(20384)
109	08/25/2005	(405920)
110	10/24/2001	(160561)
111	11/12/2004	(335862)
112	08/19/2005	(441002)
113	09/19/2005	(441003)
114	03/29/2005	(371421)
115	09/26/2002	(160559)
116	03/02/2005	(372226)
117	07/08/2005	(395147)
118	10/21/2005	(441004)
119	09/24/2001	(160558)
120	09/12/2005	(441005)
121	05/31/2006	(480470)
122	12/31/2004	(290574)
123	09/01/2004	(278961)
124	03/14/2003	(160556)
125	08/08/2002	(2355)
126	06/27/2005	(392492)
127	01/31/2003	(23088)
128	08/11/2004	(286884)
129	03/08/2005	(372848)
130	02/27/2006	(456559)
131	08/22/2002	(160555)
132	12/31/2004	(291344)
133	09/08/2003	(247910)
134	05/12/2004	(269428)
135	08/16/2001	(160554)
136	11/03/2005	(418739)
137	07/21/2003	(160552)
138	05/16/2006	(463907)
139	12/29/2004	(343603)
140	01/06/2005	(337400)
141	07/31/2001	(78299)
142	07/22/2002	(160551)
143	02/25/2006	(456928)
144	02/15/2006	(453303)
145	10/29/2001	(78300)
146	06/02/2004	(269938)

147 12/10/2001 (78301)
148 12/17/2002 (13606)
149 03/11/2002 (78302)
150 12/28/2004 (338056)
151 07/24/2001 (160550)
152 06/14/2004 (274068)
153 11/03/2004 (338415)
154 05/16/2006 (465691)
155 05/12/2004 (269433)
156 10/18/2004 (335599)
157 08/23/2002 (2246)
158 11/21/2002 (13305)
159 06/16/2003 (160548)
160 11/11/2004 (290843)
161 06/24/2002 (160547)
162 07/05/2005 (396243)
163 02/23/2004 (296371)
164 06/22/2006 (482832)

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

Date: 07/08/2005 (395145)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
Description: Failure to update the Notice of Registration (NOR)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)
30 TAC Chapter 335, SubChapter E 335.112(a)(8)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174
Description: Failure to conduct the inspection of containers on a regular weekly basis

Date: 08/31/2004 (352561)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2003 (160535)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2002 (160534)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (160532)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/15/2006 (453303)

Self Report? NO Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP IA

PERMIT IA

Description: Exceeded their MAERT limit because the temperature in the Enclosed Vapor Combustor was not maintain in order to achieve the destruction efficiency for VOC.

Self Report? NO Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP IA

PERMIT IA

Description: Exceeded their VOC emissions limits in Train 7.

Self Report? NO Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP IA

PERMIT IA

Description: Failed to measure the residual VOC concentration in Train 7 using an approved TCEQ test method.

Self Report? NO Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.146(4)

Rqmt Prov: OP IA

PERMIT IA

Description: Failed to measure the residual VOC concentration in Trains 8 & 9 using an approved TCEQ test method.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)

Description: Failed to seal open-ended lines, which is a violation of 30 TAC 115.3552(4) and 40 CFR 60.482-6 (a)(1).

Self Report? NO Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP IA

PERMIT IA

Description: Exceeded their MAERT emissions limit for the cooling tower, which is a violation of 30 TAC 116.115(b)(2)(F) and NSR 2269C S.C. 19.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.782(b)(1)

Description: Failed to preform a first attempt at repair for thirteen components, which is a violation of 30 TAC 1115.782(b)(1) .

Self Report? NO Classification: Moderate

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

Description: Exceeded the 3 percent threshold of difficult to monitor valves in relation to the total number of valves, which is a violation of 40 CFR 60.482-7(h)(2).

Date: 12/31/2001 (246586)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 01/17/2003 (20384)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter O 305.535(c)(1)[G]

Description: Failure to prevent unauthorized discharges from the collection system.

Date: 05/31/2005 (419887)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 08/01/2003 (147147)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.222(b)(2)

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT IA

Description: Failure to meet the hourly MAERT limit for VOC, CO, and NOx.

Date: 10/31/2002 (160566)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/22/2005 (379202)

Self Report? NO Classification: Moderate

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

40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(2)

Description: Failure to properly seal the end of a line containing VOCs

Date: 11/30/2004 (382038)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2002 (160555)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 08/13/2002 (4743)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(a)(2)(F)

30 TAC Chapter 101, SubChapter A 101.6(a)(2)(G)

30 TAC Chapter 116, SubChapter B 116.115(c)

Description: Failure to estimate compound quantities, and failure to list actions taken to minimize emissions.

Date: 03/29/2004 (263338)

Self Report? NO Classification: Moderate

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

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

Rqmt Prov: PA IA

Description: The facility failed to control unauthorized emissions.

Date: 01/06/2004 (255495)

Self Report? NO Classification: Minor

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

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

Description: Atofina Petrochemicals, Inc. failed to make revisions to the second half of 2002, and the first half 2003 semiannual reports.

Self Report? NO Classification: Minor

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

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

Description: API failed to include facts why repairs of leaking components with list components tag numbers in the PP9 Train were not made within 15 days in their semiannual reports.
API failed to include facts why repairs of leaking components with list components tag numbers in the PP9 Train were not made within 15 days.

F. Environmental audits.

Notice of Intent Date: 04/16/2004 (274485)

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING TOTAL PETROCHEMICALS USA, INC. RN100212109	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1040-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Total Petrochemicals USA, Inc. ("Total") 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 Total appear before the Commission and together stipulate that:

1. Total owns and operates a petrochemical manufacturing plant located at 1818 South Battleground Road in La Porte, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Total agree that the Commission has jurisdiction to enter this Agreed Order, and that Total is subject to the Commission's jurisdiction.

4. Total received notice of the violations alleged in Section II ("Allegations") on or about July 19, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Total of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Dollars ($10,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Total has paid Eight Thousand Dollars ($8,000) of the administrative penalty and Two Thousand Dollars ($2,000) is deferred contingent upon Total'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 Total fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Total to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Total have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Total completed upgrades of the pilot systems on Flares ES-205 and ES-805 on September 9, 2006. The upgrades included the installation of supplemental pilots, additional electronic ignition systems that spark every two seconds, and the installation of separate pilot gas lines.

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 Total 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, Total is alleged to have failed to prevent unauthorized emissions during a May 14, 2006 emissions event, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 3908B, Special Condition Nos. 1 and 2, 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(2), and TEX. HEALTH & SAFETY § 382.085(b), as documented during a record review conducted on June 16, 2006. Specifically, on May 14, 2006 the Propylene Recovery Unit was down and the emissions were routed to the Monument 2 Flare. However, the flare did not have a flame present which resulted in the release of 4,430 pounds of unauthorized propylene emissions over a period of one hour and thirty-four minutes. Since the emissions event was avoidable, Total failed to meet the demonstration criteria for an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Total pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Total'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: Total Petrochemicals USA, Inc., Docket No. 2006-1040-AIR-E" to:

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

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

3. This Agreed Order, issued by the Commission, shall not be admissible against Total in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Total, or three days after the date on which the Commission mails notice of the Order to Total, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 2/10/07
For the Executive Director 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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

_____ 10-10-06
Signature Date

DARRELL E. BAILEY PLANT MANAGER
Name (Printed or typed) Title
Authorized Representative of
Total Petrochemicals USA, Inc.

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