EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1593-AIR-E **TCEQ ID:** RN100212109 **CASE NO.:** 34722

RESPONDENT NAME: TOTAL PETROCHEMICALS USA, INC.

ORDER TYPE:		
_X_ 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
_X_ AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

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

TYPE OF OPERATION: Chemical plant

SMALL BUSINESS: ____ **Yes** __X__ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There are 3 additional pending enforcement actions regarding this facility location, Docket Nos. 2007-1879-IWD-E, 2007-1425-AIR-E, and 2007-1139-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 February 18, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Aaron Houston, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8784; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Ron Copeland, Environmental Coordinator, TOTAL PETROCHEMICALS USA, INC., P.O. Box 888, Deer Park, Texas 77536
Mr. Darrell Bailey, Plant Manager, TOTAL PETROCHEMICALS USA, INC., P.O. Box 888, Deer Park, Texas 77536
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 _X_ Routine ___ Enforcement Follow-up ___ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** August 3, 2007 **Date of NOV/NOE Relating to this Case:** September 26, 2007 (NOE) **Background Facts:** This was a routine investigation. **AIR** Failed to prevent an unauthorized emissions event. During an unplanned maintenance activity which began on June 13, 2007, a total of 378 pounds ("lbs") of propylene, 282 lbs of carbon monoxide, and 38 lbs of nitrogen oxides were released from the Train 8 Flare for a duration of 44 hours and 30 minutes. The emissions event occurred due to a reserve propylene feed tank which overfilled. Since the emissions event was avoidable, the Respondent failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), Air Permit 21538, Special Condition No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $8,525 **Total Deferred:** $1,705 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $6,820 **Site Compliance History Classification** ___ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, adjust instrumentation and implement procedures designed to prevent an emissions event due to a same or similar cause; and b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.

Additional ID No(s).: HG0036S

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision September 19, 2007*

TCEQ

DATES					
Assigned	1-Oct-2007				
PCW	9-Oct-2007	Screening	2-Oct-2007	EPA Due	28-Jun-2008

RESPONDENT/FACILITY INFORMATION

Respondent	TOTAL PETROCHEMICALS USA, INC.		
Reg. Ent. Ref. No.	RN100212109		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	34722	No. of Violations	1
Docket No.	2007-1593-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Aaron Houston
Multi-Media		EC's Team	EnforcementTeam 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **241%** Enhancement — *Subtotals 2, 3, & 7* $6,025

Notes: Penalty enhancement due to: six (6) NOVs with same or similar violations, twenty-one (21) NOVs for unrelated violations including thirteen (13) self-reported effluent violations, six (6) 1660 Agreed Orders containing a denial of liability, and two (2) Findings Orders without a denial of liability. Penalty reduction due to one (1) letter of an intended 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 x)

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$96
Approx. Cost of Compliance	$2,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $8,525

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $8,525

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $8,525

DEFERRAL — 20% Reduction — *Adjustment* -$1,705

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $6,820

Screening Date 2-Oct-2007 **Docket No.** 2007-1593-AIR-E **PCW**

Respondent TOTAL PETROCHEMICALS USA, INC.

Policy Revision 2 (September 2002)

Case ID No. 34722

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100212109

Media [Statute] Air

Enf. Coordinator Aaron Houston

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*)	6	30%
	Other written NOVs	21	42%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	6	120%
	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	2	50%
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 submitted*)	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) 241%

>> **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

Penalty enhancement due to: six (6) NOVs with same or similar violations, twenty-one (21) NOVs for unrelated violations including thirteen (13) self-reported effluent violations, six (6) 1660 Agreed Orders containing a denial of liability, and two (2) Findings Orders without a denial of liability. Penalty reduction due to one (1) letter of an intended audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 241%

Screening Date 2-Oct-2007 **Docket No.** 2007-1593-AIR-E **PCW**

Respondent TOTAL PETROCHEMICALS USA, INC.

Policy Revision 2 (September 2002)

Case ID No. 34722

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100212109

Media [Statute] Air

Enf. Coordinator Aaron Houston

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Air Permit No. 21538, Special Condition No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent an unauthorized emissions event. From 11:30 a.m. on June 13 through 8:00 a.m. on June 15, 2007 (44 hours 30 minutes), a total of 378 pounds ("lbs") of propylene, 282 lbs of carbon monoxide, and 38 lbs of nitrogen oxides were released from the Train 8 Flare. The emissions event occurred due to a reserve propylene feed tank which overfilled. Since the emissions event was avoidable, the Respondent failed to meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			x
	Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment was exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1

2 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $96

Statutory Limit Test

Violation Final Penalty Total $8,525

This violation Final Assessed Penalty (adjusted for limits) $8,525

Economic Benefit Worksheet

Respondent TOTAL PETROCHEMICALS USA, INC.
Case ID No. 34722
Reg. Ent. Reference No. RN100212109
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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)				0.0	$0	$0	$0
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)	$2,000	13-Jun-2007	30-May-2008	1.0	$96	n/a	$96
Notes for DELAYED costs	Estimated cost of training personnel to properly operate the propylene feed tanks. Date required is the date of the emissions event. Final date is estimated date corrective actions will be completed.						
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: $2,000

TOTAL: $96

Compliance History

Customer/Respondent/Owner-Operator:	CN600582399	TOTAL PETROCHEMICALS USA, INC.	Classification: Average	Rating: 3.02
Regulated Entity:	RN100212109	TOTAL PETROCHEMICALS USA LA PORTE PLANT	Classification: Average	Site Rating: 4.17

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	5206B
AIR NEW SOURCE PERMITS	PERMIT	54961
AIR NEW SOURCE PERMITS	EPA ID	PSDTX989
AIR NEW SOURCE PERMITS	PERMIT	18153
AIR NEW SOURCE PERMITS	PERMIT	54856
AIR NEW SOURCE PERMITS	REGISTRATION	73925
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	REGISTRATION	16138
AIR NEW SOURCE PERMITS	REGISTRATION	21538
AIR NEW SOURCE PERMITS	REGISTRATION	41719
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0036S
AIR NEW SOURCE PERMITS	AFS NUM	4820100008
AIR NEW SOURCE PERMITS	PERMIT	2269C
AIR NEW SOURCE PERMITS	PERMIT	5236B
AIR NEW SOURCE PERMITS	PERMIT	35874
AIR NEW SOURCE PERMITS	REGISTRATION	2560
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: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 01, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 01, 2002 to October 01, 2007

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

Name: Aaron Houston Phone: 409-899-8784

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? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

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 discove

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: 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: 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.

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: 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: 03/19/2007 ADMINORDER 2006-1040-AIR-E
Classification: Moderate
Citation: 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 D 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT
TCEQ Permit #3908B, SC #2 PERMIT

Description: Total is alleged to have failed to prevent unauthorized emissions during a May 14, 2006 emissions event.

Effective Date: 04/13/2007 ADMINORDER 2006-1656-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: TCEQ Permit #21538, SC #6 PERMIT
Description: Failure to prevent unauthorized emissions during an emission event that started on June 26, 2006

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

Description: Failed to make initial notification within twenty-four hours after discovering the emissions event that started on June 26, 2006.

Effective Date: 08/10/2007 ADMINORDER 2006-2092-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.722(c)(1)
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 D 382.085(b)

Rqmt Prov: TCEQ Permit No. 21538, SC #12(B) PERMIT
TCEQ Permit No. 21538, SC #6 PERMIT

Description: Failure to prevent unauthorized emissions during an August 20, 2006 emissions event.
Classification: Moderate
Citation: 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 D 382.085(b)

Rqmt Prov: TCEQ Permit No. 21538, SC #12(B) PERMIT
TCEQ Permit No. 21538, SC #6 PERMIT

Description: Failed to prevent unauthorized emissions during an August 21, 2006 emissions event.
Classification: Moderate
Citation: 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 D 382.085(b)

Rqmt Prov: TCEQ Permit No. 21538, SC #12(B) PERMIT
TCEQ Permit No. 21538, SC #6 PERMIT

Description: Failed to prevent unauthorized emissions during an August 29, 2006 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	10/24/2002	(160562)
2	11/21/2002	(13305)
3	11/26/2002	(17533)
4	12/04/2002	(160566)
5	12/17/2002	(160570)
6	12/17/2002	(13606)
7	12/30/2002	(9673)
8	01/16/2003	(160574)
9	01/21/2003	(20384)
10	01/31/2003	(23088)
11	02/20/2003	(160532)
12	03/14/2003	(160556)
13	03/18/2003	(296374)
14	03/24/2003	(160535)
15	04/16/2003	(160540)
16	05/22/2003	(160544)
17	06/16/2003	(160548)
18	06/26/2003	(27171)
19	07/21/2003	(160552)
20	08/01/2003	(147147)
21	08/29/2003	(152894)
22	09/08/2003	(247910)
23	09/19/2003	(296385)
24	10/14/2003	(296390)
25	10/21/2003	(296387)
26	11/24/2003	(296388)
27	12/29/2003	(296389)
28	01/05/2004	(255495)
29	02/23/2004	(296371)
30	03/16/2004	(265480)
31	03/29/2004	(263338)
32	04/12/2004	(296375)
33	05/12/2004	(269428)
34	05/12/2004	(269433)
35	05/21/2004	(296378)
36	05/26/2004	(272485)
37	06/02/2004	(269938)
38	06/07/2004	(296382)
39	06/14/2004	(274068)
40	06/21/2004	(296380)
41	07/09/2004	(296376)
42	07/22/2004	(280434)
43	08/11/2004	(286884)
44	08/24/2004	(352560)
45	09/01/2004	(279062)
46	09/01/2004	(278961)
47	09/20/2004	(352561)
48	10/08/2004	(335547)
49	10/13/2004	(352562)
50	10/18/2004	(335599)
51	10/19/2004	(335923)
52	10/22/2004	(337805)
53	11/03/2004	(338415)
54	11/11/2004	(290843)
55	11/12/2004	(335862)
56	11/16/2004	(352563)
57	11/23/2004	(352564)
58	12/13/2004	(338130)
59	12/13/2004	(336657)
60	12/14/2004	(338399)
61	12/20/2004	(338479)
62	12/20/2004	(295860)
63	12/20/2004	(338218)
64	12/27/2004	(382038)

65	12/28/2004	(338056)
66	12/29/2004	(343604)
67	12/29/2004	(343603)
68	12/31/2004	(290574)
69	12/31/2004	(291344)
70	01/06/2005	(291924)
71	01/06/2005	(337400)
72	01/07/2005	(338040)
73	01/07/2005	(292094)
74	01/07/2005	(336686)
75	01/10/2005	(262199)
76	01/13/2005	(345723)
77	01/26/2005	(342525)
78	02/22/2005	(382035)
79	02/23/2005	(349878)
80	02/24/2005	(350282)
81	02/24/2005	(350275)
82	03/01/2005	(349965)
83	03/02/2005	(372226)
84	03/08/2005	(372848)
85	03/21/2005	(382036)
86	03/22/2005	(382037)
87	03/24/2005	(349942)
88	03/24/2005	(372227)
89	03/29/2005	(371421)
90	04/01/2005	(375065)
91	04/08/2005	(348307)
92	04/28/2005	(374278)
93	06/03/2005	(419886)
94	06/03/2005	(376795)
95	06/23/2005	(379202)
96	06/24/2005	(419887)
97	06/27/2005	(392492)
98	07/05/2005	(395955)
99	07/05/2005	(396243)
100	07/08/2005	(395152)
101	07/08/2005	(395145)
102	07/08/2005	(395147)
103	07/12/2005	(398015)
104	08/10/2005	(404200)
105	08/19/2005	(441002)
106	08/23/2005	(404907)
107	08/25/2005	(405920)
108	09/12/2005	(441005)
109	09/19/2005	(441003)
110	10/21/2005	(441004)
111	11/03/2005	(418739)
112	11/21/2005	(435975)
113	11/28/2005	(468737)
114	01/24/2006	(468738)
115	01/24/2006	(468739)
116	02/14/2006	(468736)
117	02/15/2006	(453303)
118	02/21/2006	(455020)
119	02/23/2006	(455888)
120	02/25/2006	(456928)
121	02/27/2006	(456559)
122	02/28/2006	(457140)
123	02/28/2006	(457170)
124	02/28/2006	(457150)
125	03/20/2006	(498411)
126	04/24/2006	(463428)
127	04/25/2006	(458264)
128	04/27/2006	(456175)
129	05/01/2006	(498412)
130	05/16/2006	(463577)

131	05/16/2006	(463907)
132	05/16/2006	(465691)
133	05/17/2006	(465592)
134	05/26/2006	(467560)
135	05/30/2006	(498413)
136	05/31/2006	(480475)
137	05/31/2006	(480470)
138	06/07/2006	(498416)
139	06/20/2006	(498414)
140	06/22/2006	(482925)
141	06/22/2006	(482832)
142	06/23/2006	(483058)
143	06/29/2006	(481055)
144	06/29/2006	(484017)
145	07/12/2006	(484022)
146	07/13/2006	(498415)
147	07/14/2006	(484429)
148	07/26/2006	(487037)
149	08/03/2006	(487671)
150	08/03/2006	(488357)
151	08/04/2006	(345748)
152	08/17/2006	(484538)
153	08/21/2006	(520418)
154	08/21/2006	(520420)
155	09/05/2006	(497455)
156	09/05/2006	(509499)
157	09/07/2006	(510865)
158	09/08/2006	(489217)
159	09/22/2006	(520419)
160	10/06/2006	(530970)
161	10/16/2006	(511833)
162	10/20/2006	(575734)
163	11/06/2006	(516491)
164	11/20/2006	(517197)
165	11/21/2006	(575735)
166	11/21/2006	(516694)
167	02/05/2007	(534573)
168	02/12/2007	(575728)
169	02/15/2007	(539452)
170	03/09/2007	(539872)
171	03/13/2007	(542326)
172	03/19/2007	(536804)
173	03/22/2007	(542671)
174	03/22/2007	(542675)
175	03/22/2007	(575729)
176	04/04/2007	(575733)
177	04/10/2007	(543717)
178	04/12/2007	(540389)
179	04/13/2007	(575730)
180	04/23/2007	(556287)
181	04/30/2007	(542574)
182	05/08/2007	(559591)
183	05/14/2007	(556174)
184	05/16/2007	(555746)
185	05/16/2007	(555751)
186	05/16/2007	(575731)
187	05/25/2007	(536112)
188	05/30/2007	(556956)
189	05/31/2007	(559123)
190	05/31/2007	(559121)
191	06/08/2007	(562000)
192	06/08/2007	(555120)
193	06/15/2007	(555757)
194	06/18/2007	(561134)
195	06/19/2007	(562094)
196	06/20/2007	(561136)

197 06/21/2007 (560635)
198 06/21/2007 (560640)
199 06/22/2007 (575732)
200 06/25/2007 (560632)
201 06/27/2007 (561137)
202 07/05/2007 (560624)
203 07/18/2007 (565537)
204 07/24/2007 (561139)
205 07/30/2007 (565237)
206 08/13/2007 (566645)
207 08/29/2007 (565319)
208 09/11/2007 (569993)
209 09/26/2007 (570766)

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

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 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 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 02/28/2003 (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 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 21538
Description: Failure to meet the hourly MAERT limit for VOC, CO, and NOx.
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 in thei

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 Permit No. 21538, Special Condition 6
Description: The facility failed to control unauthorized emissions.
Date 06/30/2004 (296382)
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 08/31/2004 (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 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 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 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 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 07/31/2005 (441002)

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: PERMIT NSR Permit 21538, Special Condition 6
OP OP O-01293, Special Condition 11

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: PERMIT NSR Permit 18153, Special Condition 4
OP OP O-01293, Special Condition 11

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: PERMIT NSR Permit 18153, Special Condition 10
OP OP O-01293, Special Condition 11

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: PERMIT NSR Permit 18153, Special Condition 18D
OP OP O-01293, Special Condition 11

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: PERMIT NSR Permit 2269C, Special Condition 19
OP OP Permit O-01293, Special Condition 11

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 05/31/2006 (498414)

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 06/27/2006 (484538)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 37, SubChapter C 37.251(d)

Description: Failure to provide a FT demonstration 90 days after company's fiscal year - but was subsequently resolved on 7-21-06 when we received a financial test demonstration.

Date 10/06/2006 (530970)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date 10/16/2006 (511833)

Self Report? NO Classification Moderate

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

Rqmt Prov: PERMIT TCEQ Air Permit #3908B, SC #1

Description: TOTAL failed to control the temperature on the Monument 2 reboiler which resulted in unauthorized emissions.

Date 10/31/2006 (575735)

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 03/31/2007 (575730)

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 04/11/2007 (540389)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(a)[G]
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
TWC Chapter 26 26.121[G]

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

Date 04/30/2007 (575731)

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 05/25/2007 (536112)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.146(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-1(a)(1)(i)(A)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PA 21538, SC 13
OP O-1293, Special Conditions 1 & 11

Description: Failure ot maintain the required destruction efficiency for the Train 8 and Train 9 Enclosed Vapor Combustor ES-976.

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 THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP 1293, Special Condition
PA 2269C, SC 2

Description: Failure to control non-fugitive emissions of gases to the atmosphere from rupture discs.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 60, Subpart DDD 60.562-1(a)(1)(i)(A)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP 1293, SC 1
PA 21538, SC 5

Description: Failure to maintain the required average temperature entering the catalyst bed to ensure destruction efficiency for Blender/Feeder Vent Gas Catalytic Oxidizer (ES-975).

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 THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP 1293, Special Condition 1
PA 2269C, SC1

Description: Exceeded permit limits at Monument I Pellet Handling System during December 2005.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
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)(2)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: PA 18153, SC No. 8E
PA 21538, SC No. 1E
PA 2269C, SC No. 11E
PA 3908B, SC No. 4E
OP O-01293, SC No. 11

Description: Failure to ensure that each open-ended line is equipped with a cap or plug.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Rqmt Prov: OP O-01293, General Terms and Conditions

Description: Failure to submit the annual compliance certification to the TCEQ no later than 30 days after the end of the certification period.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)

Rqmt Prov: OP O-01293, General Terms and Conditions

Description: Failure ot submit the six-month deviation report no later than 30 days after the end of the deviation period.

Date 05/31/2007 (575732)

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 06/12/2007 (555757)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)

Description: The RE failed to report the emissions of CO and NO in the Final (14-day) Report. While

these emissions did not exceed an RQ, 30 TAC 101.201(b)(1)(G,H) still requires that these emissions be included in the Final Report.

Date 07/24/2007 (561139)

Self Report? NO Classification Moderate

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

Rqmt Prov: PERMIT Air Permit No. 3908B Special Condition 1

Description: TOTAL failed to avoid the unauthorized emissions during Incident No. 87379.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

Description: TOTAL failed to submit the initial notification within 24 hours of the discovery of the emissions event.

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 PERTROCHEMICALS USA, INC. RN100212109	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1593-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. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical plant 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 the TEX. HEALTH & SAFETY CODE § 382.003(12).

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

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 1, 2007.

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

6. An admistrative penalty in the amount of Eight Thousand Five Hundred Twenty-Five Dollars ($8,525) is assessed by the Commission in settlement of the violation alleged in Section II

("Allegations"). The Respondent has paid Six Thousand Eight Hundred Twenty Dollars ($6,820) of the administrative penalty and One Thousand Seven Hundred Five Dollars ($1,705) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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

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

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. 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.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent an unauthorized emissions event, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit 21538, Special Condition No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 3, 2007. During an unplanned maintenance activity which began on June 13, 2007, a total of 378 pounds ("lbs") of propylene, 282 lbs of carbon monoxide, and 38 lbs of nitrogen oxides were released from the Train 8 Flare for a duration of 44 hours and 30 minutes. The emissions event occurred due to a reserve propylene feed tank which overfilled. Since the emissions event was avoidable, the Respondent failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6. above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: TOTAL PETROCHEMICALS USA, INC., Docket No. 2007-1593-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. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, adjust instrumentation and implement procedures designed to prevent an emissions event due to a same or similar cause; and

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

      "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

      The certification shall be submitted to:

      Order Compliance Team
      Enforcement Division, MC 149A
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-3087

      with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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

7. This 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. 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

_____ 2/6/2008
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 indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

_____ 11-30-07
Signature Date

Darrell 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.