

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0162-AIR-E TCEQ ID: RN100212109 CASE NO.: 35298**  
**RESPONDENT NAME: TOTAL PETROCHEMICALS USA, INC.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> TOTAL PETROCHEMICALS USA La Porte Plant, 1818 Battleground Road, La Porte, Harris County</p> <p><b>TYPE OF OPERATION:</b> Petrochemical manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There are two additional pending enforcement actions regarding this facility location, Docket Nos. 2007-1879-AIR-E and 2008-0414-AIR-E.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 2, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Darrell E. Bailey, Plant Manager, TOTAL PETROCHEMICALS USA, INC., P.O. Box 888, Deer Park, Texas 77536-0888  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 12 and November 5, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 20, November 30, and December 11, 2007 (NOEs)</p> <p><b>Background Facts:</b> These were routine investigations.</p> <p><b>AIR</b></p> <p>1) Failed to prevent unauthorized emissions. Specifically, the Respondent released 230 pounds ("lbs") of Carbon Monoxide ("CO"), 222 lbs of Volatile Organic Compounds ("VOCs"), [including 191.62 lbs and 25.49 lbs of the Highly Reactive VOCs ("HRVOCs") Propylene and Ethylene and 4.88 lbs of Propane], and 37 lbs of Nitrogen Oxides ("NOx") from the Train 8 Flare during an emissions event that began on August 8, 2007 in the Monument 3 Polypropylene Unit in Train 9 and lasted for eight hours and 40 minutes (Incident No. 95604). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 21538, Special Condition No. 6, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failed to prevent unauthorized emissions. Specifically, the Respondent released 153 lbs of VOCs, (including 122.58 lbs and 0.87 lb of the HRVOCs Propylene and Ethylene and 29.55 lbs of Propane), 134 lbs of CO, and 16 lbs of NOx from the Monument 2 Thermal Oxidizer and Flare during an emissions event that began on August 11, 2007 in the Monument 2 Polypropylene Unit in Train 7 and lasted for five hours and 50 minutes</p>	<p><b>Total Assessed:</b> \$25,764</p> <p><b>Total Deferred:</b> \$5,152  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$20,612</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. To prevent a recurrence of the August 8, 2007 emissions event (Incident No. 95604):</p> <p>i. Operating Procedure LMR-009-024 in the Train 9 Procedures Manual was modified on February 6, 2008 to describe the proper method for removing the catalyst pumps from service; and</p> <p>ii. Adjustments to an automated control flare monitoring trends system in Train 9 were made to help predict issues that arise during nonstandard operating conditions such as product transitions, and training associated with this system was conducted, as indicated in corrective action documentation dated February 6, 2008.</p> <p>b. To prevent a recurrence of the August 11, 2007 emissions event (Incident No. 95742) and to ensure proper reporting:</p> <p>i. A Notice to Employees was written and distributed to affected staff during the week of December 10, 2007 to remind them that the existing alarms on the K-11 compressor indicate it should not be allowed to operate above full load for an extended period of time, and that actions must be taken to reduce the load on the K-11 compressor when the alarm sounds; and</p> <p>ii. The employee responsible for submitting the final report was made aware that a final report is not submitted to the State of Texas Environmental Electronic Reporting System until it is confirmed with a password, as indicated in corrective action documentation dated December 12, 2007.</p> <p>c. To prevent a recurrence of the August 17, 2007 emissions event (Incident No. 96122):</p> <p>i. The operating range of the E-363 Condenser's liquid level was adjusted to</p>

<p>(Incident No. 95742). Since this emissions event was avoidable and inaccurately reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.615(2), Standard Permit No. 78962, Maximum Emission Rates Table, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failed to prevent unauthorized emissions. Specifically, the Respondent released 157 lbs of VOCs, (including 145 lbs of the HRVOC Propylene and 12 lbs of Propane), 148 lbs of CO, and 32 lbs of NOx from the Train 8 Flare during an emissions event that began on August 17, 2007 in the Monument 3 Polypropylene Unit in Train 9 and lasted for 13 hours (Incident No. 96122). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 21538, Special Condition No. 6, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failed to properly notify the TCEQ of an emissions event that occurred on August 11, 2007 (Incident No. 95742). Specifically, the final report was due on August 26, 2007, but was not submitted until August 27, 2007 [30 TEX. ADMIN. CODE § 101.201(b) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		<p>40% - 60% in order to provide sufficient E-363 operating capacity to accommodate future surges and pressure swings, as indicated in corrective action documentation dated December 14, 2007; and</p> <p>ii.-Adjustments to an automated control flare monitoring trends system in Train 9 were made to help predict issues that arise during nonstandard operating conditions such as product transitions, and training associated with this system was conducted, as indicated in corrective action documentation dated February 6, 2008.</p>
---	--	---

Additional ID No(s): HG0036S





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

<b>DATES</b>	Assigned	17-Dec-2007
	PCW	30-Jan-2008
	Screening	23-Jan-2008
	EPA Due	16-Aug-2008

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	TOTAL PETROCHEMICALS USA, INC.
Reg. Ent. Ref. No.	RN100212109
Facility/Site Region	12-Houston
Major/Minor Source	Major

<b>CASE INFORMATION</b>				
Enf./Case ID No.	35298	No. of Violations	4	
Docket No.	2008-0162-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Trina Grieco	
Multi-Media		EC's Team	Enforcement Team 5	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: Penalty enhancement due to eight NOVs for the same or similar violations, 20 NOVs for unrelated violations (including 15 months of self-reported effluent violations), six agreed orders with denial of liability, and two agreed orders without denial of liability. Penalty reduction due to one Notice of Audit submitted.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**  Reduction **Subtotal 5**

Before NOV    NOV to EDRP/ Settlement Offer

Extraordinary	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>
N/A	(mark with x)

Notes: The Respondent completed corrective action on February 6, 2008.

**Total EB Amounts**  **Subtotal 6**   
**Approx. Cost of Compliance**  **\*Capped at the Total EB \$ Amount**

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 23-Jan-2008

Docket No. 2008-0162-AIR-E

PCW

Respondent TOTAL PETROCHEMICALS USA, INC.

Policy Revision 2 (September 2002)

Case ID No. 35298

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN100212109

Media [Statute] Air

Enf. Coordinator Trina Grieco

### 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)	8	40%
	Other written NOVs	20	40%
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 judgments 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) 249%

>> 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 eight NOV's for the same or similar violations, 20 NOV's for unrelated violations (including 15 months of self-reported effluent violations), six agreed orders with denial of liability, and two agreed orders without denial of liability. Penalty reduction due to one Notice of Audit submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 249%

**Screening Date** 23-Jan-2008 **Docket No.** 2008-0162-AIR-E **PCW**  
**Respondent** TOTAL PETROCHEMICALS USA, INC. *Policy Revision 2 (September 2002)*  
**Case ID No.** 35298 *PCW Revision January 29, 2008*

**Reg. Ent. Reference No.** RN100212109

**Media [Statute]** Air

**Enf. Coordinator** Trina Grieco

**Violation Number**

**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 unauthorized emissions. Specifically, the Respondent released 230 pounds ("lbs") of Carbon Monoxide ("CO"), 222 lbs of Volatile Organic Compounds ("VOCs"), [including 191.62 lbs and 25.49 lbs of the Highly Reactive VOCs ("HRVOCs") Propylene and Ethylene and 4.88 lbs of Propane], and 37 lbs of Nitrogen Oxides ("NOx") from the Train 8 Flare during an emissions event that began on August 8, 2007 in the Monument 3 Polypropylene Unit in Train 9 and lasted for eight hours and 40 minutes (Incident No. 95604). Since this emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

**Base Penalty**

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes** Human health or the environment in the Houston-Galveston-Brazoria nonattainment area has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

*mark only one with an x*

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

**Violation Base Penalty**

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** TOTAL PETROCHEMICALS USA, INC.  
**Case ID No.** 35298  
**Reg. Ent. Reference No.** RN100212109  
**Media Air**  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$4,500	8-Aug-2007	6-Feb-2008	0.5	\$112	n/a	\$112

**Notes for DELAYED costs**  
 Estimated cost to modify Operating Procedure LMR-009-024, make adjustments to an automated control flare monitoring trends system, and conduct training associated with the system. Date required is the date of the emissions event. Final date is the date of corrective action documentation.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
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 TOTAL

\$4,500		\$112
---------	--	-------

**Screening Date** 23-Jan-2008

**Docket No.** 2008-0162-AIR-E

**PCW**

**Respondent** TOTAL PETROCHEMICALS USA, INC.

*Policy Revision 2 (September 2002)*

**Case ID No.** 35298

*PCW Revision January 29, 2008*

**Reg. Ent. Reference No.** RN100212109

**Media [Statute]** Air

**Enf. Coordinator** Trina Grieco

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 116.615(2), Standard Permit No. 78962, Maximum Emission Rates Table, and Tex. Health & Safety Code § 382.085(b)

**Violation Description**

Failed to prevent unauthorized emissions. Specifically, the Respondent released 153 lbs of VOCs, (including 122.58 lbs and 0.87 lb of the HRVOCs Propylene and Ethylene and 29.55 lbs of Propane), 134 lbs of CO, and 16 lbs of NOx from the Monument 2 Thermal Oxidizer and Flare during an emissions event that began on August 11, 2007 in the Monument 2 Polypropylene Unit in Train 7 and lasted for five hours and 50 minutes (Incident No. 95742). Since this emissions event was avoidable and inaccurately reported, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

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

**Adjustment**

**Violation Events**

**Number of Violation Events**

**Number of violation days**

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** TOTAL PETROCHEMICALS USA, INC.  
**Case ID No.** 35298  
**Reg. Ent. Reference No.** RN100212109  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$1,200	11-Aug-2007	10-Dec-2007	0.3	\$20	n/a	\$20

**Notes for DELAYED costs**  
 Estimated cost to distribute a written Notice to Employees to affected staff outlining proper operating procedures.  
 Date required is the date of the emissions event. Final date is the date corrective action was 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**  
 (This section is currently blank)

Approx. Cost of Compliance	\$1,200	<b>TOTAL</b>	\$20
----------------------------	---------	--------------	------

Screening Date 23-Jan-2008

Docket No. 2008-0162-AIR-E

PCW

Respondent TOTAL PETROCHEMICALS USA, INC.

Policy Revision 2 (September 2002)

Case ID No. 35298

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN100212109

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number

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 unauthorized emissions. Specifically, the Respondent released 157 lbs of VOCs, (including 145 lbs of the HRVOC Propylene and 12 lbs of Propane), 148 lbs of CO, and 32 lbs of NOx from the Train 8 Flare during an emissions event that began on August 17, 2007 in the Monument 3 Polypropylene Unit in Train 9 and lasted for 13 hours (Incident No. 96122). Since this emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

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

Violation Base Penalty

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** TOTAL PETROCHEMICALS USA, INC.  
**Case ID No.** 35298  
**Reg. Ent. Reference No.** RN100212109  
**Media** Air  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.0	\$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)	\$1,000	17-Aug-2007	14-Dec-2007	0.3	\$16	n/a	\$16

**Notes for DELAYED costs**  
 Estimated cost to adjust the operating range of the E-363 Condenser's liquid level. Date required is the date of the emissions event. Final date is the date of corrective action documentation. Additionally, the estimated cost to make adjustments to an automated control flare monitoring trends system and conduct training associated with the system is included in the economic benefit for Violation No. 1.

**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

\$1,000

TOTAL

\$16

<b>Screening Date</b> 23-Jan-2008	<b>Docket No.</b> 2008-0162-AIR-E	<b>PCW</b>
<b>Respondent</b> TOTAL PETROCHEMICALS USA, INC.	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35298	<small>PCW Revision January 29, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN100212109		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Trina Grieco		
<b>Violation Number</b>	4	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 101.201(b) and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to properly notify the TCEQ of an emissions event that occurred on August 11, 2007 (Incident No. 95742). Specifically, the final report was due on August 26, 2007, but was not submitted until August 27, 2007.	
	<b>Base Penalty</b>	\$10,000

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input style="width:50px;" type="text" value="0%"/>	

>> Programmatic Matrix

	<b>Falsification</b>				
		Major	Moderate		Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>		<input checked="" type="text" value="x"/>
				<b>Percent</b> <input style="width:50px;" type="text" value="1%"/>	
<b>Matrix Notes</b>	At least 70% of the rule requirement was met.				

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>	

**Violation Base Penalty**

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** TOTAL PETROCHEMICALS USA, INC.  
**Case ID No.** 35298  
**Reg. Ent. Reference No.** RN100212109  
**Media** Air  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	\$500	26-Aug-2007	12-Dec-2007	0.3	\$7	n/a	\$7
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 ensure the employee responsible for submitting the final report was made aware of proper reporting procedures. Date required is the day the final report was due. Final date is the date of corrective action documentation.

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 \$500 TOTAL \$7

# 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	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	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	2560
	AIR NEW SOURCE PERMITS	REGISTRATION	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 BATTLEGROUND RD, LA PORTE, TX, 77571 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 23, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 23, 2003 to January 23, 2008

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

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

### 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

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

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 flare 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)  
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	01/31/2003	(23088)
2	02/20/2003	(160532)
3	03/14/2003	(160556)
4	03/18/2003	(296374)
5	03/24/2003	(160535)
6	04/16/2003	(160540)
7	05/22/2003	(160544)
8	06/16/2003	(160548)
9	06/26/2003	(27171)
10	07/21/2003	(160552)
11	08/01/2003	(147147)
12	08/29/2003	(152894)
13	09/08/2003	(247910)
14	09/19/2003	(296385)
15	10/14/2003	(296390)
16	10/21/2003	(296387)
17	11/24/2003	(296388)
18	12/29/2003	(296389)
19	01/05/2004	(255495)
20	02/23/2004	(296371)
21	03/16/2004	(265480)
22	03/29/2004	(263338)
23	04/12/2004	(296375)
24	05/12/2004	(269428)
25	05/12/2004	(269433)
26	05/21/2004	(296378)
27	05/26/2004	(272485)
28	06/02/2004	(269938)
29	06/07/2004	(296382)
30	06/14/2004	(274068)
31	06/21/2004	(296380)
32	07/09/2004	(296376)
33	07/22/2004	(280434)
34	08/11/2004	(286884)
35	08/24/2004	(352560)
36	09/01/2004	(279062)
37	09/01/2004	(278961)
38	09/20/2004	(352561)
39	10/08/2004	(335547)
40	10/13/2004	(352562)
41	10/18/2004	(335599)
42	10/19/2004	(335923)
43	10/22/2004	(337805)
44	11/03/2004	(338415)
45	11/11/2004	(290843)
46	11/12/2004	(335862)
47	11/16/2004	(352563)
48	11/23/2004	(352564)
49	12/13/2004	(338130)
50	12/13/2004	(336657)
51	12/14/2004	(338399)
52	12/20/2004	(338479)
53	12/20/2004	(295860)
54	12/20/2004	(338218)
55	12/27/2004	(382038)
56	12/28/2004	(338056)
57	12/29/2004	(343604)
58	12/29/2004	(343603)
59	12/31/2004	(290574)
60	12/31/2004	(291344)
61	01/06/2005	(291924)
62	01/06/2005	(337400)
63	01/07/2005	(338040)
64	01/07/2005	(292094)

65	01/07/2005	(336686)
66	01/10/2005	(262199)
67	01/13/2005	(345723)
68	01/26/2005	(342525)
69	02/22/2005	(382035)
70	02/23/2005	(349878)
71	02/24/2005	(350282)
72	02/24/2005	(350275)
73	03/01/2005	(349965)
74	03/02/2005	(372226)
75	03/08/2005	(372848)
76	03/21/2005	(382036)
77	03/22/2005	(382037)
78	03/24/2005	(349942)
79	03/24/2005	(372227)
80	03/29/2005	(371421)
81	04/01/2005	(375065)
82	04/08/2005	(348307)
83	04/28/2005	(374278)
84	06/03/2005	(419886)
85	06/03/2005	(376795)
86	06/23/2005	(379202)
87	06/24/2005	(419887)
88	06/27/2005	(392492)
89	07/05/2005	(395955)
90	07/05/2005	(396243)
91	07/08/2005	(395152)
92	07/08/2005	(395145)
93	07/08/2005	(395147)
94	07/12/2005	(398015)
95	08/10/2005	(404200)
96	08/19/2005	(441002)
97	08/23/2005	(404907)
98	08/25/2005	(405920)
99	09/12/2005	(441005)
100	09/19/2005	(441003)
101	10/21/2005	(441004)
102	11/03/2005	(418739)
103	11/21/2005	(435975)
104	11/28/2005	(468737)
105	01/24/2006	(468738)
106	01/24/2006	(468739)
107	02/14/2006	(468736)
108	02/15/2006	(453303)
109	02/21/2006	(455020)
110	02/23/2006	(455888)
111	02/25/2006	(456928)
112	02/27/2006	(456559)
113	02/28/2006	(457140)
114	02/28/2006	(457170)
115	02/28/2006	(457150)
116	03/20/2006	(498411)
117	04/24/2006	(463428)
118	04/25/2006	(458264)
119	04/27/2006	(456175)
120	05/01/2006	(498412)
121	05/16/2006	(463577)
122	05/16/2006	(463907)
123	05/16/2006	(465691)
124	05/17/2006	(465592)
125	05/26/2006	(467560)
126	05/30/2006	(498413)
127	05/31/2006	(480475)
128	05/31/2006	(480470)
129	06/07/2006	(498416)
130	06/20/2006	(498414)
131	06/22/2006	(482925)

132	06/22/2006	(482832)
133	06/23/2006	(483058)
134	06/29/2006	(481055)
135	06/29/2006	(484017)
136	07/12/2006	(484022)
137	07/13/2006	(498415)
138	07/14/2006	(484429)
139	07/26/2006	(487037)
140	08/03/2006	(487671)
141	08/03/2006	(488357)
142	08/04/2006	(345748)
143	08/17/2006	(484538)
144	08/21/2006	(520418)
145	08/21/2006	(520420)
146	09/05/2006	(497455)
147	09/05/2006	(509499)
148	09/07/2006	(510865)
149	09/08/2006	(489217)
150	09/22/2006	(520419)
151	10/06/2006	(530970)
152	10/16/2006	(511833)
153	10/20/2006	(575734)
154	11/06/2006	(516491)
155	11/20/2006	(517197)
156	11/21/2006	(575735)
157	11/21/2006	(516694)
158	02/05/2007	(534573)
159	02/12/2007	(575728)
160	02/15/2007	(539452)
161	03/09/2007	(539872)
162	03/13/2007	(542326)
163	03/19/2007	(536804)
164	03/22/2007	(542671)
165	03/22/2007	(542675)
166	03/22/2007	(575729)
167	04/04/2007	(575733)
168	04/10/2007	(543717)
169	04/12/2007	(540389)
170	04/13/2007	(575730)
171	04/23/2007	(556287)
172	04/30/2007	(542574)
173	05/08/2007	(559591)
174	05/14/2007	(556174)
175	05/16/2007	(555746)
176	05/16/2007	(555751)
177	05/16/2007	(575731)
178	05/25/2007	(536112)
179	05/30/2007	(556956)
180	05/31/2007	(559123)
181	05/31/2007	(559121)
182	06/08/2007	(562000)
183	06/08/2007	(555120)
184	06/15/2007	(555757)
185	06/18/2007	(561134)
186	06/19/2007	(562094)
187	06/20/2007	(561136)
188	06/21/2007	(560635)
189	06/21/2007	(560640)
190	06/22/2007	(575732)
191	06/25/2007	(560632)
192	06/27/2007	(561137)
193	07/05/2007	(560624)
194	07/18/2007	(565537)
195	07/24/2007	(561139)
196	07/30/2007	(565237)
197	08/13/2007	(566645)
198	08/20/2007	(607606)

199 08/29/2007 (565319)  
 200 09/11/2007 (569993)  
 201 09/21/2007 (607607)  
 202 09/26/2007 (570766)  
 203 10/17/2007 (594536)  
 204 10/18/2007 (594393)  
 205 11/12/2007 (599234)  
 206 11/19/2007 (572263)  
 207 11/20/2007 (597561)  
 208 11/30/2007 (600058)  
 209 12/07/2007 (600059)  
 210 12/11/2007 (597559)  
 211 12/17/2007 (609853)

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

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)  
 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)  
 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.

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)  
 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)  
 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)  
 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)		
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)		
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 115.782(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)  
 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)  
 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)  
 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)  
 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(b)  
 TWC Chapter 26 26.121(c)  
 TWC Chapter 26 26.121(d)  
 TWC Chapter 26 26.121(e)  
 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)  
 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 to 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 to 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)  
 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: 06/30/2007 (575733)  
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 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.  
Date: 07/31/2007 (607606)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter  
Date: 08/31/2007 (607607)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

Notice of Intent Date: 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. 2008-0162-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 petrochemical manufacturing plant at 1818 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 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 November 25, 2006, December 5, 2007, and December 16, 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 administrative penalty in the amount of Twenty-Five Thousand Seven Hundred Sixty-Four Dollars (\$25,764) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty Thousand Six Hundred Twelve Dollars



(\$20,612) of the administrative penalty and Five Thousand One Hundred Fifty-Two Dollars (\$5,152) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. To prevent a recurrence of the August 8, 2007 emissions event (Incident No. 95604):
    - i. Operating Procedure LMR-009-024 in the Train 9 Procedures Manual was modified on February 6, 2008 to describe the proper method for removing the catalyst pumps from service; and
    - ii. Adjustments to an automated control flare monitoring trends system in Train 9 were made to help predict issues that arise during nonstandard operating conditions such as product transitions, and training associated with this system was conducted, as indicated in corrective action documentation dated February 6, 2008.
  - b. To prevent a recurrence of the August 11, 2007 emissions event (Incident No. 95742) and to ensure proper reporting:
    - i. A Notice to Employees was written and distributed to affected staff during the week of December 10, 2007 to remind them that the existing alarms on the K-11 compressor indicate it should not be allowed to operate above full load for an extended period of time, and that actions must be taken to reduce the load on the K-11 compressor when the alarm sounds; and
    - ii. The employee responsible for submitting the final report was made aware that a final report is not submitted to the State of Texas Environmental Electronic Reporting System until it is confirmed with a password, as indicated in corrective action documentation dated December 12, 2007.
  - c. To prevent a recurrence of the August 17, 2007 emissions event (Incident No. 96122):
    - i. The operating range of the E-363 Condenser's liquid level was adjusted to 40% - 60% in order to provide sufficient E-363 operating capacity to accommodate future surges and pressure swings, as indicated in corrective action documentation dated December 14, 2007; and



- ii. Adjustments to an automated control flare monitoring trends system in Train 9 were made to help predict issues that arise during nonstandard operating conditions such as product transitions, and training associated with this system was conducted, as indicated in corrective action documentation dated February 6, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 21538, Special Condition No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 12, 2007. Specifically, the Respondent released 230 pounds ("lbs") of Carbon Monoxide ("CO"), 222 lbs of Volatile Organic Compounds ("VOCs"), [including 191.62 lbs and 25.49 lbs of the Highly Reactive VOCs ("HRVOCs") Propylene and Ethylene and 4.88 lbs of Propane], and 37 lbs of Nitrogen Oxides ("NOx") from the Train 8 Flare during an emissions event that began on August 8, 2007 in the Monument 3 Polypropylene Unit in Train 9 and lasted for eight hours and 40 minutes (Incident No. 95604). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
2. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.615(2), Standard Permit No. 78962, Maximum Emission Rates Table, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 12, 2007. Specifically, the Respondent released 153 lbs of VOCs, (including 122.58 lbs and 0.87 lb of the HRVOCs Propylene and Ethylene and 29.55 lbs of Propane), 134 lbs of CO, and 16 lbs of NOx from the Monument 2 Thermal Oxidizer and Flare during an emissions event that began on August 11, 2007 in the Monument 2 Polypropylene Unit in Train 7 and lasted for five hours and 50 minutes (Incident No. 95742). Since this emissions event was avoidable and inaccurately reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
3. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 21538, Special Condition No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 5, 2007. Specifically, the Respondent released 157 lbs of VOCs, (including 145 lbs of the HRVOC Propylene and 12 lbs of



Propane), 148 lbs of CO, and 32 lbs of NOx from the Train 8 Flare during an emissions event that began on August 17, 2007 in the Monument 3 Polypropylene Unit in Train 9 and lasted for 13 hours (Incident No. 96122). Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

4. Failed to properly notify the TCEQ of an emissions event that occurred on August 11, 2007 (Incident No. 95742), in violation of 30 TEX. ADMIN. CODE § 101.201(b) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 12, 2007. Specifically, the final report was due on August 26, 2007, but was not submitted until August 27, 2007.

### 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. 2008-0162-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.



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



**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

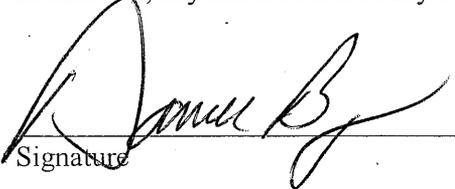
5/21/2008  
Date

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.

  
\_\_\_\_\_  
Signature

3/13/08  
Date

DARRELL E. BAILEY  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
TOTAL PETROCHEMICALS USA, INC.

PLANT MANAGER  
\_\_\_\_\_  
Title

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

