

Executive Summary – Enforcement Matter – Case No. 59020
Total Petrochemicals & Refining USA, Inc.
RN100212109
Docket No. 2020-0348-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Total Petrochemicals USA La Porte Plant, 1818 Independence Parkway, La Porte, Harris County

Type of Operation:

Petrochemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2021-0219-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 8, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$150,000

Amount Deferred for Expedited Settlement: \$30,000

Total Paid to General Revenue: \$60,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$60,000

Name of SEP: Houston-Galveston Area Council-AERCO (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 59020
Total Petrochemicals & Refining USA, Inc.
RN100212109
Docket No. 2020-0348-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 24, 2020 through January 30, 2020 and January 17, 2020 through March 3, 2020

Date(s) of NOE(s): February 10, 2020 and July 23, 2020

Violation Information

1. Failed to comply with the minimum removal efficiency ("RE"). Specifically, the RE for carbon compounds was an average of 92 percent ("%") and below the minimum RE of 98% for 506.9 hours on 25 days from February 9, 2019 through June 25, 2019 for the Blender/Feeder Vent Gas Catalytic Oxidizer, EPN ES-975 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 21538, Special Conditions ("SC") No. 17, Federal Operating Permit ("FOP") No. O1293, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, the Respondent exceeded the volatile organic compounds ("VOC") MAER of 10.4 tons per year based on a 12-month rolling period for the 12-month periods ending from May 2018 through December 2019 for the South Flare, Emissions Point Number ("EPN") ES-805, resulting in 8.1 tons of unauthorized VOC emissions [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), NSR Permit No. 21538, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to continuously monitor and record the oxygen concentration when waste gas is directed to the thermal oxidizer. Specifically, the oxygen analyzer for the North Thermal Oxidizer exceeded 5% of the time that the thermal oxidizer was operated over the previous rolling 12-month period by a range from 6.1% to 49.8% for the 12-month periods ending from February 2019 through December 2019 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 3908B, SC No. 14, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

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Total Petrochemicals & Refining USA, Inc.
RN100212109
Docket No. 2020-0348-AIR-E

- a. By March 28, 2020, removed the Blender/Feeder Vent Gas Catalytic Oxidizer from primary service and replaced the Blender/Feeder Vent Gas Catalytic Oxidizer with the Train 8 and 9 Enclosed Vapor Combustor;
- b. By April 26, 2020, began monitoring the incoming feed lines with Geiger counters, began drawing flow from different propylene sources, manually adjusted levels during high-radiation periods, installed a compensating level gauge which simultaneously measures both the level and fluid radioactivity, installed a new heat exchanger, and completed a sectioned turnaround of the water clarifier to drain the hardened silt and to repair the baffles; and
- c. On May 19, 2020, submitted an administratively complete permit amendment application for NSR Permit No. 21538 to increase the VOC annual MAER for EPN ES-805.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
 - a. Within 30 days:
 - i. Implement measures and/or procedures designed to comply with the carbon compounds minimum RE for EPN ES-975; and
 - ii. Implement measures and/or procedures designed to ensure that the oxygen analyzer for the North Thermal Oxidizer continuously monitors and records the oxygen concentration when waste gas is directed to the thermal oxidizer.
 - b. Respond completely and adequately, as determined by the TCEQ to all requests for information concerning the amendment application for NSR Permit No. 21538 by any deadline specified in writing.
 - c. Within 45 days, submit written certification to demonstrate compliance with a.
 - d. Within 180 days, submit written certification that either the amendment for NSR Permit No. 21538 has been obtained or that operations have ceased until the proper authorization is obtained to demonstrate compliance.

**Executive Summary – Enforcement Matter – Case No. 59020
Total Petrochemicals & Refining USA, Inc.
RN100212109
Docket No. 2020-0348-AIR-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Margarita Dennis, Enforcement Division, Enforcement Team 5, MC R-04, (817) 588-5892; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: Houston-Galveston Area Council-AERCO, P.O. Box 22777, Houston, Texas 77227-2777

Respondent: Keith Kelly, Plant Manager, Total Petrochemicals & Refining USA, Inc., P.O. Box 888, Deer Park, Texas 77536

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	18-Feb-2020	Screening	26-Feb-2020	EPA Due	
	PCW	14-Sep-2020				

RESPONDENT/FACILITY INFORMATION

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

CASE INFORMATION

Enf./Case ID No.	59020	No. of Violations	2
Docket No.	2020-0348-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Margarita Dennis
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$25,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$13,150
Estimated Cost of Compliance	\$135,900

*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.

Notes

PAYABLE PENALTY

Screening Date 26-Feb-2020

Docket No. 2020-0348-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59020

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Margarita Dennis

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	5	100%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 105%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and five orders containing a denial of liability. Reduction for two notices of intent to conduct an audit.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 26-Feb-2020

Docket No. 2020-0348-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59020

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Margarita Dennis

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 21538, Special Conditions ("SC") No. 17, Federal Operating Permit ("FOP") No. O1293, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 14, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the minimum removal efficiency ("RE"). Specifically, the RE for carbon compounds was an average of 92 percent ("%") and below the minimum RE of 98% for 506.9 hours on 25 days from February 9, 2019 through June 25, 2019 for the Blender/Feeder Vent Gas Catalytic Oxidizer, Emissions Point Number ("EPN") ES-975.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 25

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended for the instances of non-compliance that occurred from February 9, 2019 through June 25, 2019.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	

Notes

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,051

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent Total Petrochemicals & Refining USA, Inc.
Case ID No. 59020
Reg. Ent. Reference No. RN100212109
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$25,000	9-Feb-2019	28-Mar-2020	1.13	\$94	\$1,886	\$1,980
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	9-Feb-2019	1-Apr-2021	2.14	\$1,071	n/a	\$1,071

Notes for DELAYED costs

Estimated delayed costs to remove the Blender/Feeder Vent Gas Catalytic Oxidizer from primary service and replace the Blender/Feeder Vent Gas Catalytic Oxidizer with the Train 8 and 9 Enclosed Vapor Combustor (\$25,000) and to implement measures and/or procedures designed to comply with the carbon compounds minimum RE for EPN ES-975 (\$10,000). Dates Required is the initial date of non-compliance. Final Dates are the date the Blender/Feeder Vent Gas Catalytic Oxidizer was removed from primary service and the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$35,000

TOTAL

\$3,051

Screening Date 26-Feb-2020

Docket No. 2020-0348-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59020

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Margarita Dennis

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), NSR Permit No. 21538, SC No. 1, FOP No. O1293, GTC and STC No. 14, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the maximum allowable emissions rate ("MAER"). Specifically, the Respondent exceeded the volatile organic compounds ("VOC") MAER of 10.4 tons per year based on a 12-month rolling period for the 12-month periods ending from May 2018 through December 2019 for the South Flare, EPN ES-805, resulting in 8.1 tons of unauthorized VOC emissions.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		30.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 7 Number of violation days 609

daily				
weekly				
monthly				
quarterly		X		Violation Base Penalty \$52,500
semiannual				
annual				
single event				

Seven quarterly events are recommended for the period of non-compliance from May 1, 2018 through December 31, 2019.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes

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

Violation Subtotal \$52,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10,099

Violation Final Penalty Total \$105,000

This violation Final Assessed Penalty (adjusted for limits) \$105,000

Economic Benefit Worksheet

Respondent Total Petrochemicals & Refining USA, Inc.

Case ID No. 59020

Reg. Ent. Reference No. RN100212109

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$900	1-May-2018	1-Oct-2021	3.42	\$154	n/a	\$154
Other (as needed)	\$100,000	1-May-2018	26-Apr-2020	1.99	\$9,945	n/a	\$9,945

Notes for DELAYED costs

Estimated delayed cost to begin monitoring the incoming feed lines with Geiger counters, begin drawing flow from different propylene sources, manually adjust levels during high-radiation periods, install a compensating level gauge which simultaneously measures both the level and fluid radioactivity, install a new heat exchanger, and complete a sectioned turnaround of the water clarifier to drain the hardened silt and to repair the baffles (\$100,000) and actual delayed cost to obtain an amendment for NSR Permit No. 21538 to increase the VOC annual MAER for EPN ES-805 (\$900). Dates Required is the first date of non-compliance. Final Dates are the date the corrective measures were completed and the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100,900

TOTAL

\$10,099



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	3-Aug-2020	Screening	3-Aug-2020	EPA Due	
	PCW	14-Oct-2020				

RESPONDENT/FACILITY INFORMATION

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

CASE INFORMATION

Enf./Case ID No.	59020	No. of Violations	1
Docket No.	2020-0348-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Margarita Dennis
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	100.0%	Adjustment	Subtotals 2, 3, & 7	\$15,000
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Notes: Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and six orders containing a denial of liability. Reduction for two notices of intent to conduct an audit.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,082
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$30,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$30,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$30,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$6,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$24,000
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Screening Date 3-Aug-2020

Docket No. 2020-0348-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59020

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Margarita Dennis

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 125%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and six orders containing a denial of liability. Reduction for two notices of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 125%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 3-Aug-2020
Respondent Total Petrochemicals & Refining USA, Inc.
Case ID No. 59020
Reg. Ent. Reference No. RN100212109

Docket No. 2020-0348-AIR-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Media Air
Enf. Coordinator Margarita Dennis
Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 3908B, Special Conditions No. 14, Federal Operating Permit No. O1293, General Terms and Conditions and Special Terms and Conditions No. 14, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to continuously monitor and record the oxygen concentration when waste gas is directed to the thermal oxidizer. Specifically, the oxygen analyzer for the North Thermal Oxidizer exceeded 5 percent ("%") of the time that the thermal oxidizer was operated over the previous rolling 12-month period by a range from 6.1% to 49.8% for the 12-month periods ending from February 2019 through December 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4 333 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four quarterly events are recommended for the period of non-compliance from February 1, 2019 through December 31, 2019.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,082

Violation Final Penalty Total \$30,000

This violation Final Assessed Penalty (adjusted for limits) \$30,000

Economic Benefit Worksheet

Respondent Total Petrochemicals & Refining USA, Inc.
Case ID No. 59020
Reg. Ent. Reference No. RN100212109
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	1-Feb-2019	1-Apr-2021	2.16	\$1,082	n/a	\$1,082

Notes for DELAYED costs

Estimated delayed cost to implement measures and/or procedures designed to ensure that the oxygen analyzer for the North Thermal Oxidizer continuously monitors and records the oxygen concentration when waste gas is directed to the thermal oxidizer. Date Required is the initial date of non-compliance. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$1,082

Addendum to Compliance History Federal Enforcement Actions

Reg Entity Name: TOTAL PETROCHEMICALS USA LA PORT

Reg Entity Add: 1818 INDEPENDENCE PKWY S

Reg Entity City: LA PORTE

Reg Entity No: RN100212109

EPA Case No: 06-2019-3328

Order Issue Date (yyyymmdd): 20190430

Case Result: Final Order No Penalty

Statute: CAA

Sect of Statute: 111

Classification: Minor

Program: New Source Performanc

Citation:

Violation Type:

Cite Sect:

Cite Part:

Enforcement Action: Administrative Compliance Orders

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Compliance History Report

Compliance History Report for CN600582399, RN100212109, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600582399, Total Petrochemicals & Refining USA, Inc. **Classification:** SATISFACTORY **Rating:** 14.20

Regulated Entity: RN100212109, Total Petrochemicals USA La Porte Plant **Classification:** SATISFACTORY **Rating:** 7.61

Complexity Points: 30 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: 1818 Independence Parkway South, La Porte, Texas 77571-9803, Harris County

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0036S
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD086981172
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50374

AIR NEW SOURCE PERMITS PERMIT 3908B
AIR NEW SOURCE PERMITS AFS NUM 4820100008
AIR NEW SOURCE PERMITS PERMIT 21538
AIR NEW SOURCE PERMITS REGISTRATION 2560
AIR NEW SOURCE PERMITS PERMIT 83796
AIR NEW SOURCE PERMITS REGISTRATION 111728
AIR NEW SOURCE PERMITS REGISTRATION 111727
AIR NEW SOURCE PERMITS REGISTRATION 160595
WASTEWATER EPA ID TX0007421
STORMWATER PERMIT TXR05M372

POLLUTION PREVENTION PLANNING ID NUMBER P00243
EMISSIONS BANKING AND TRADING ID NUMBER EBT100212109

AIR OPERATING PERMITS PERMIT 1293
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30551
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1010880
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0036S
AIR NEW SOURCE PERMITS PERMIT 2269C
AIR NEW SOURCE PERMITS PERMIT 18153
AIR NEW SOURCE PERMITS REGISTRATION 41719
AIR NEW SOURCE PERMITS REGISTRATION 101790
AIR NEW SOURCE PERMITS REGISTRATION 110569
AIR NEW SOURCE PERMITS PERMIT AMOC30
WASTEWATER PERMIT WQ0001000000
TAX RELIEF ID NUMBER 16511
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0036S
AIR QUALITY NON PERMITTED ID NUMBER LGL100212109

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: May 21, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 21, 2015 to May 21, 2020

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

Name: Margarita Dennis

Phone: (817) 588-5892

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

- 1 Effective Date: 11/16/2015 ADMINORDER 2015-0301-IHW-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(13)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT O 264.340(b)(1)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT O 264.343

Rqmt Prov: II-C and V-H-1 PERMIT

Description: Failed to comply with maximum achievable control technology operating parameter requirements.

Specifically, the differential pressure across the venturi scrubber fell below the minimum of 35.1 inches of water on April 22, 2012 beginning at 15:54:37 hours, on May 24, 2013 at 17:13:39 hours and on June 14, 2013 at 12:34:39 hours for the hazardous waste Train A incinerator. In addition, the combustion chamber temperature for the Train A incinerator fell below the minimum of 1,721 degrees Fahrenheit

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(2)

40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(2)

Rqmt Prov: II-C-1 and C-2 PERMIT

Description: Failed to mark RCRA containers for accumulation dates.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15(d)

Rqmt Prov: II-C-2 PERMIT

Description: Failed to make certain notations on the inspection logs.

- 2 Effective Date: 02/04/2016 ADMINORDER 2015-0645-IWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Eff. Lim. & Monit. Reqs. No. 1 PERMIT
Description: Failed to comply with permitted effluent limits.
- 3 Effective Date: 09/11/2017 ADMINORDER 2017-0216-AIR-E (1660 Order-Agreed Order With Denial)
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)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions
- 4 Effective Date: 05/13/2019 ADMINORDER 2018-0587-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 115, SubChapter H 115.722(d)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition 12(B) PERMIT
Description: Failure to operate the flare with a flame present at all times and failed to prevent unauthorized emissions.

See addendum for information regarding federal actions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	August 14, 2015	(1265753)
Item 2	October 09, 2015	(1267420)
Item 3	January 25, 2016	(1306064)
Item 4	February 02, 2016	(1306791)
Item 5	February 22, 2016	(1306624)
Item 6	March 07, 2016	(1314954)
Item 7	April 04, 2016	(1314614)

Item 8	July 19, 2016	(1306808)
Item 9	August 18, 2016	(1365588)
Item 10	August 23, 2016	(1345055)
Item 11	February 03, 2017	(1381548)
Item 12	September 22, 2017	(1435336)
Item 13	October 17, 2017	(1456002)
Item 14	November 17, 2017	(1461482)
Item 15	December 12, 2017	(1467862)
Item 16	January 18, 2018	(1474567)
Item 17	February 20, 2018	(1486793)
Item 18	March 13, 2018	(1490470)
Item 19	April 10, 2018	(1493707)
Item 20	May 14, 2018	(1500625)
Item 21	May 30, 2018	(1474305)
Item 22	June 15, 2018	(1507742)
Item 23	July 06, 2018	(1499252)
Item 24	July 13, 2018	(1514060)
Item 25	August 09, 2018	(1520122)
Item 26	December 11, 2018	(1545263)
Item 27	January 09, 2019	(1559764)
Item 28	March 14, 2019	(1559763)
Item 29	April 11, 2019	(1571860)
Item 30	June 07, 2019	(1583329)
Item 31	July 10, 2019	(1593175)
Item 32	August 08, 2019	(1599519)
Item 33	September 16, 2019	(1606424)
Item 34	November 11, 2019	(1619084)
Item 35	December 16, 2019	(1626436)
Item 36	December 27, 2019	(1610594)
Item 37	January 16, 2020	(1634077)
Item 38	February 24, 2020	(1640696)
Item 39	March 19, 2020	(1647216)

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

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

- 1 Date: 08/06/2019 (1524817)
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 115, SubChapter H 115.783(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 12 E PERMIT
SC 14 E PERMIT
SC 18 E PERMIT
SC 5 E PERMIT
ST&C 14 OP
ST&C 1A OP
- Description: Failure to prevent Open Ended Lines (OELs). (Category C10)
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 5 PERMIT
ST&C 14 OP
- Description: Failure to maintain baghouse differential pressure in the Monument 3 Baghouse. (Category C 1)
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(7)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 10 A PERMIT

ST&C 14 OP
ST&C 1A OP

Description: Failure to maintain minimum Net Heating Value (NHV) on flare (EPN: ES-205) above the permitted minimum. (Category C4)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 10 B PERMIT
ST&C 14 OP

Description: Failure to maintain the Enclosed Thermal Oxidizer (EPN: ES-276) runtime above 95%. (Category B(13)(g)(1))

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 16 OP
ST&C 14 OP

Description: Failure to achieve 99% destruction efficiency of Volatile Organic Compounds (VOC) on the enclosed vapor combustor (EPN: ES-976). (Category C4)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 22 D PERMIT
ST&C 14 OP

Description: Failure to operate the boiler (EPN: ES-201) at the permitted firing rate. (Category B(13)(g)(1))

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 17 PERMIT
ST&C 14 OP

Description: Failure to achieve 98% destruction efficiency of Volatile Organic Compounds (VOC) on (EPN: ES-975). (Category B(13)(g)(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)
5C THSC Chapter 382 382.085(b)
SC 1 PERMIT
ST&C 14 OP

Description: Failure to comply with the rolling 12-month emissions limit for the south flare (EPN: ES-805). (Category (B13)(g)(1))

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.726(i)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
ST&C 1A OP

Description: Failure to record the south flare (EPN: ES-805) gas chromatograph monitoring data. (Category C3)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 14 PERMIT
ST&C 14 OP

Description: Failure to conduct zero and span on oxygen analyzer. (Category C4)

2 Date: 09/30/2019 (1613270)

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: 07/26/2018 (1510831)

No DOV Associated

Notice of Intent Date: 09/25/2018 (1523566)

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

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Compliance History Report

Compliance History Report for CN600582399, RN100212109, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600582399, Total Petrochemicals & Refining USA, Inc. **Classification:** SATISFACTORY **Rating:** 11.59

Regulated Entity: RN100212109, Total Petrochemicals USA La Porte Plant **Classification:** SATISFACTORY **Rating:** 8.35

Complexity Points: 28 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: 1818 Independence Parkway South, La Porte, Harris County, Texas 77571-9803

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0036S
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD086981172
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50374

AIR NEW SOURCE PERMITS PERMIT 3908B
AIR NEW SOURCE PERMITS AFS NUM 4820100008
AIR NEW SOURCE PERMITS PERMIT 21538
AIR NEW SOURCE PERMITS REGISTRATION 2560
AIR NEW SOURCE PERMITS PERMIT 83796
AIR NEW SOURCE PERMITS REGISTRATION 111728
AIR NEW SOURCE PERMITS REGISTRATION 111727
AIR NEW SOURCE PERMITS REGISTRATION 160595
WASTEWATER EPA ID TX0007421
STORMWATER PERMIT TXR05M372

POLLUTION PREVENTION PLANNING ID NUMBER P00243
EMISSIONS BANKING AND TRADING ID NUMBER EBT100212109

AIR OPERATING PERMITS PERMIT 1293
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30551
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1010880
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0036S
AIR NEW SOURCE PERMITS PERMIT 2269C
AIR NEW SOURCE PERMITS PERMIT 18153
AIR NEW SOURCE PERMITS REGISTRATION 41719
AIR NEW SOURCE PERMITS REGISTRATION 101790
AIR NEW SOURCE PERMITS REGISTRATION 110569
AIR NEW SOURCE PERMITS PERMIT AMOC30
WASTEWATER PERMIT WQ0001000000
TAX RELIEF ID NUMBER 16511
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0036S
AIR QUALITY NON PERMITTED ID NUMBER LGL100212109

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: October 14, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 14, 2015 to October 14, 2020

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

Name: Margarita Dennis

Phone: (817) 588-5892

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

- 1 Effective Date: 11/16/2015 ADMINORDER 2015-0301-IHW-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(13)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT O 264.340(b)(1)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT O 264.343

Rqmt Prov: II-C and V-H-1 PERMIT

Description: Failed to comply with maximum achievable control technology operating parameter requirements.

Specifically, the differential pressure across the venturi scrubber fell below the minimum of 35.1 inches of water on April 22, 2012 beginning at 15:54:37 hours, on May 24, 2013 at 17:13:39 hours and on June 14, 2013 at 12:34:39 hours for the hazardous waste Train A incinerator. In addition, the combustion chamber temperature for the Train A incinerator fell below the minimum of 1,721 degrees Fahrenheit

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(2)

40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(2)

Rqmt Prov: II-C-1 and C-2 PERMIT

Description: Failed to mark RCRA containers for accumulation dates.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15(d)

Rqmt Prov: II-C-2 PERMIT

Description: Failed to make certain notations on the inspection logs.

- 2 Effective Date: 02/04/2016 ADMINORDER 2015-0645-IWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Eff. Lim. & Monit. Reqs. No. 1 PERMIT
Description: Failed to comply with permitted effluent limits.
- 3 Effective Date: 09/11/2017 ADMINORDER 2017-0216-AIR-E (1660 Order-Agreed Order With Denial)
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)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition 1 PERMIT
Description: Failed to prevent unauthorized emissions
- 4 Effective Date: 05/13/2019 ADMINORDER 2018-0587-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 115, SubChapter H 115.722(d)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition 12(B) PERMIT
Description: Failure to operate the flare with a flame present at all times and failed to prevent unauthorized emissions.
- 5 Effective Date: 08/04/2020 ADMINORDER 2019-1645-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: NSR 21538, Special Condition 1 PERMIT
NSR 3908B, Special Condition 1 PERMIT
Description: Failure to meet the demonstration criteria for an affirmative defense for an unauthorized emissions during an emissions event. {Category A12(i)(6)}
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)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: FOP Special Term and Condition 1A OP

Description: Failure to comply with the maximum allowable emission rate (MAER) for NOx. (Category A8)

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 117, SubChapter B 117.345(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC and STC No. 14 OP
SC No. 22.E PERMIT

Description: Failure to submit a performance test report by the report submittal deadline. (Category C3)

See addendum for information regarding federal actions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	January 25, 2016	(1306064)
Item 2	February 02, 2016	(1306791)
Item 3	February 22, 2016	(1306624)
Item 4	March 07, 2016	(1314954)
Item 5	April 04, 2016	(1314614)
Item 6	July 19, 2016	(1306808)
Item 7	August 18, 2016	(1365588)
Item 8	August 23, 2016	(1345055)
Item 9	February 03, 2017	(1381548)
Item 10	September 22, 2017	(1435336)
Item 11	October 17, 2017	(1456002)
Item 12	November 17, 2017	(1461482)
Item 13	December 12, 2017	(1467862)
Item 14	January 18, 2018	(1474567)
Item 15	February 20, 2018	(1486793)
Item 16	March 13, 2018	(1490470)
Item 17	April 10, 2018	(1493707)
Item 18	May 14, 2018	(1500625)
Item 19	May 30, 2018	(1474305)
Item 20	June 15, 2018	(1507742)
Item 21	July 06, 2018	(1499252)
Item 22	July 13, 2018	(1514060)
Item 23	August 09, 2018	(1520122)
Item 24	December 11, 2018	(1545263)
Item 25	January 09, 2019	(1559764)
Item 26	March 14, 2019	(1559763)
Item 27	April 11, 2019	(1571860)
Item 28	June 07, 2019	(1583329)
Item 29	July 10, 2019	(1593175)
Item 30	August 08, 2019	(1599519)
Item 31	September 16, 2019	(1606424)
Item 32	November 11, 2019	(1619084)
Item 33	December 16, 2019	(1626436)
Item 34	December 27, 2019	(1610594)
Item 35	January 16, 2020	(1634077)
Item 36	February 24, 2020	(1640696)
Item 37	March 19, 2020	(1647216)
Item 38	April 17, 2020	(1653552)
Item 39	May 13, 2020	(1660139)
Item 40	June 12, 2020	(1666643)
Item 41	July 15, 2020	(1673600)

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

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

1 Date: 07/23/2020 (1612504)
Self Report? NO Classification: Minor
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)
5C THSC Chapter 382 382.085(b)
Special Condition 12E PERMIT
Special Condition 14E PERMIT
Special Condition 18E PERMIT
Special Condition 5E PERMIT
Special Term & Condition 14 OP
Description: Failure to prevent open-ended lines (EPNs: PRO-M3A & PRO-M3B) (Category C10).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 5 PERMIT
Special Term & Condition 14 OP
Description: Failure to maintain the differential pressure across the Monument 3 Baghouse filters in Monument 3 Baghouse (EPN: PRO-M3B) (Category C4).
Self Report? NO Classification: Minor
Citation: 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 DDD 60.562-1(a)(1)(i)(A)
5C THSC Chapter 382 382.085(b)
Special Condition 16 PERMIT
Special Term & Condition 14 OP
Special Term & Condition 1A OP
Description: Failure to maintain a destruction rate efficiency of 99% for the Enclosed Vapor Combustor (EPN: ES-976) (Category C4).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms & Conditions OP
Description: Failure to report all deviations during the compliance period (Category B3).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(1)(A)
5C THSC Chapter 382 382.085(b)
General Terms & Conditions OP
Special Term & Condition 17 OP
Description: Failure to certify the compliance period for at least each 12-month period. (Category B3)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)
30 TAC Chapter 115, SubChapter H 115.781(b)(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 12F PERMIT
Special Condition 14F PERMIT
Special Condition 18F PERMIT
Special Condition 5F PERMIT
Special Term & Condition 14 OP
Special Term & Condition 1A OP
Description: Failure to conduct quarterly fugitive emissions monitoring. (Category B1)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 14H PERMIT
Special Condition 18H PERMIT
Special Term & Condition 14 OP
Description: Failure to attempt a repair of a leak within five days of discovery. (Category C4)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 12H PERMIT
 Special Condition 14H PERMIT
 Special Condition 18H PERMIT
 Special Condition 5H PERMIT
 Special Term & Condition 14 OP

Description: Failure to repair three leaking components within 15 days of discovery. (Category C4)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)(1)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
 5C THSC Chapter 382 382.085(b)
 Special Condition 12A PERMIT
 Special Condition 3 PERMIT
 Special Condition 3A PERMIT
 Special Term & Condition 14 OP
 Special Term & Condition 1A OP

Description: Failure to maintain the net-heating value above the minimum permitted limit for the South Flare (EPN: ES-805). (Category C4)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.725(a)(2)(C)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Term & Condition 1A OP

Description: Failure to calibrate the analyzer for the South Thermal Oxidizer (EPN: ES-815). (Category B1)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.725(a)(2)(C)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 1A OP

Description: Failure to calibrate the analyzer for the North Thermal Oxidizer (EPN: ES-215). (Category B1)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 14 PERMIT
 Special Term & Condition 14 OP

Description: Failure to submit quarterly reports for the North Thermal Oxidizer (EPN: ES-215). (Category B3)

2 Date: 07/31/2020 (1680376)

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: 07/26/2018 (1510831)
 No DOV Associated

Notice of Intent Date: 09/25/2018 (1523566)
 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 &
REFINING USA, INC.
RN100212109**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2020-0348-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Total Petrochemicals & Refining 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 together stipulate that:

1. The Respondent owns and operates a petrochemical manufacturing plant located at 1818 Independence Parkway South in La Porte, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$150,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$60,000 of the penalty and \$30,000 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$60,000 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. By March 28, 2020, removed the Blender/Feeder Vent Gas Catalytic Oxidizer from primary service and replaced the Blender/Feeder Vent Gas Catalytic Oxidizer with the Train 8 and 9 Enclosed Vapor Combustor.
 - b. By April 26, 2020, began monitoring the incoming feed lines with Geiger counters, began drawing flow from different propylene sources, manually adjusted levels during high-radiation periods, installed a compensating level gauge which simultaneously measures both the level and fluid radioactivity, installed a new heat exchanger, and completed a sectioned turnaround of the water clarifier to drain the hardened silt and to repair the baffles.
 - c. On May 19, 2020, submitted an administratively complete permit amendment application for New Source Review ("NSR") Permit No. 21538 to increase the volatile organic compounds ("VOC") annual maximum allowable emissions rate ("MAER") for Emissions Point Number ("EPN") ES-805.

II. ALLEGATIONS

1. During a record review conducted from January 24, 2020 through January 30, 2020, an investigator documented that the Respondent:
 - a. Failed to comply with the minimum removal efficiency ("RE"), in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 21538, Special Conditions ("SC") No. 17, Federal Operating Permit ("FOP") No. O1293, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the RE for carbon compounds was an average of 92 percent ("%") and below the minimum RE of 98% for 506.9 hours on 25 days from February 9, 2019 through June 25, 2019 for the Blender/Feeder Vent Gas Catalytic Oxidizer, EPN ES-975.
 - b. Failed to comply with the MAER, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), NSR Permit No. 21538, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the VOC MAER of 10.4 tons per year based on a 12-month rolling period for the 12-month periods ending from May 2018 through December 2019 for the South Flare, EPN ES-805, resulting in 8.1 tons of unauthorized VOC emissions.
2. During a record review conducted from January 17, 2020 through March 3, 2020, an investigator documented that the Respondent failed to continuously monitor and record the oxygen concentration when waste gas is directed to the thermal oxidizer, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 3908B, SC No. 14, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the oxygen analyzer for the North Thermal Oxidizer exceeded 5% of the time that the thermal oxidizer was operated over the previous rolling 12-month period by a range from 6.1% to 49.8% for the 12-month periods ending from February 2019 through December 2019.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Total Petrochemicals & Refining USA, Inc., Docket No. 2020-0348-AIR-E" to:

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

2. The Respondent shall implement and complete an SEP as set forth in Section I, Paragraph No. 4. The amount of \$60,000 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Implement measures and/or procedures designed to comply with the carbon compounds minimum RE for EPN ES-975; and
 - ii. Implement measures and/or procedures designed to ensure that the oxygen analyzer for the North Thermal Oxidizer continuously monitors and records the oxygen concentration when waste gas is directed to the thermal oxidizer.
 - b. Respond completely and adequately, as determined by the TCEQ to all requests for information concerning the amendment application for NSR Permit No. 21538 by any deadline specified in writing.
 - c. Within 45 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 3.d, to demonstrate compliance with Ordering Provision No. 3.a.
 - d. Within 180 days after the effective date of this Order, submit written certification that either the amendment for NSR Permit No. 21538 has been obtained or that operations have ceased until the proper authorization is obtained, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
8. This 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 Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or

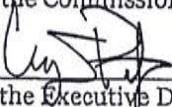
issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



Date

05/12/2021

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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

KEITH E. KELLY

Date

11-30-20

Name (Printed or typed)
Authorized Representative of
Total Petrochemicals & Refining USA, Inc.

Title

PLANT MANAGER

If mailing address has changed, please check this box and provide the new address below:

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

Attachment A
Docket Number: 2020-0348-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Total Petrochemicals & Refining USA, Inc.
Payable Penalty Amount:	\$120,000
SEP Offset Amount:	\$60,000
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO
Project Name:	<i>Clean Vehicles Partnership Project</i>
Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency (“EPA”) emissions standards (“Old Buses”) with new, lower emission buses that meet the most recent EPA emissions standards (“New Buses”) or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities (“SEP Administrators”) that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for

Total Petrochemicals & Refining USA, Inc.
Agreed Order - Attachment A

installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

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

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

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

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

Total Petrochemicals & Refining USA, Inc.
Agreed Order - Attachment A

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO
Attn: Air Quality Program Manager
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Total Petrochemicals & Refining USA, Inc.
Agreed Order - Attachment A

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

5. Publicity

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

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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