

Executive Summary – Enforcement Matter – Case No. 60365
Total Petrochemicals & Refining USA, Inc.
RN100212109
Docket No. 2021-0219-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 South, La Porte, Harris County

Type of Operation:

Petrochemical plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket Nos. 2021-0972-AIR-E and 2021-0721-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 20, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$19,092

Amount Deferred for Expedited Settlement: \$3,818

Total Paid to General Revenue: \$7,637

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$7,637

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. 60365
Total Petrochemicals & Refining USA, Inc.
RN100212109
Docket No. 2021-0219-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 11, 2020 through January 15, 2021, December 15, 2020 through December 16, 2020, and December 29, 2020 through March 25, 2021

Date(s) of NOE(s): January 21, 2021, March 17, 2021, and March 30, 2021

Violation Information

1. Failed to prevent unauthorized emissions. Specifically, the Respondent released 128.35 pounds ("lbs") of carbon monoxide ("CO"), 18.57 lbs of nitrogen oxides ("NOx"), and 165.14 lbs of volatile organic compounds ("VOC") from the North Flare, Emissions Point Number ("EPN") ES-205, and released 351.44 lbs of CO, 49.51 lbs of NOx, and 845.96 lbs of VOC from the South Flare, EPN ES-805, during an emissions event (Incident No. 344174) that occurred on October 17, 2020 and lasted three hours and 30 minutes. The emissions event occurred when a rodent entered an air switch that caused an arc flash in the Train 6 transformer, resulting in power loss to the Plant and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 3908B, Special Conditions ("SC") No. 1, NSR Permit No. 21538, SC No. 1, 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 identify all required information on the final record for a reportable emissions event. Specifically, the Respondent did not identify the estimated total amount of ethylene that was released during the emissions event on the final record for Incident No. 344174 [30 TEX. ADMIN. CODE §§ 101.201(b)(1)(G) and (H) and 122.143(4), FOP No. O1293, GTC and STC No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to prevent unauthorized emissions. Specifically, the Respondent released 150.84 lbs of CO, 20.88 lbs of NOx, and 210.24 lbs of VOC from the South Flare, EPN ES-805, during an emissions event (Incident No. 346926) that occurred on December 2, 2020 and lasted two hours. The emissions event occurred when a cooling fan on the combustion air drive malfunctioned while Boiler No. 3 was down for maintenance that caused Boiler No. 2 to shut down, resulting in a shortage of steam that was exacerbated by rain and cold weather and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better

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Docket No. 2021-0219-AIR-E

operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 21538, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to prevent unauthorized emissions. Specifically, the Respondent released 763.17 lbs of CO, 105.66 lbs of NOx, and 1,044.91 lbs of VOC from the South Flare, EPN ES-805, and released 1,039.56 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 347671) that occurred on December 15, 2020 and lasted one hour and 40 minutes. The emissions event occurred when a bearing failed on the B-54 Train 9 Flare Knock Out pot blower that caused the blower shaft to vibrate uncontrollably and separate the seal from its housing, resulting in the release to the atmosphere, in a fire, and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 21538, SC No. 1, 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:

- a. By December 15, 2020, increased the data recording of the boilers to diagnose and prevent sudden shutdowns, increased the pressure of the isopropyl alcohol injectors to 800 pounds per square inch to prevent reactor material from entering the injectors, and increased the daily review of pressure to six times in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 346926;
- b. By January 13, 2021, applied spray foam to cable entry gaps and added bait stations in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 344174;
- c. On January 13, 2021, provided the estimated total quantities for ethylene that was released during Incident No. 344174; and

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Total Petrochemicals & Refining USA, Inc.
RN100212109
Docket No. 2021-0219-AIR-E

d. By March 24, 2021, reduced the overhang of the fan wheel and installed bearings with higher dynamic load rating, installed continuous vibration probes and temperature monitoring for the bearings linked to the distributive control systems, used spark-free Monel 400 metallurgy on all contact surfaces of new blower components, installed remotely actuated emergency shutoff valves on the blower suction, and enhanced the deluge system heat activated fire detection and water capacity in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 347671.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Johnnie Wu, Enforcement Division, Enforcement Team 5, MC 219, (512) 239-2524; 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: Kelly Keith, 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	26-Jan-2021			
	PCW	6-Apr-2021	Screening	2-Feb-2021	EPA Due

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.	60365	No. of Violations	2		
Docket No.	2021-0219-AIR-E	Order Type	1660		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Johnnie Wu		
		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	\$4,000
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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	91.0%	Adjustment	Subtotals 2, 3, & 7	\$3,640
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Notes: Enhancement for one NOV with same or similar violations, four NOVs with dissimilar violations, and four 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	-\$999
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$124
 Estimated Cost of Compliance: \$10,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,641
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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	\$6,641
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,641
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,328
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,313
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Screening Date 2-Feb-2021

Docket No. 2021-0219-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 60365

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Johnnie Wu

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	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 91%

>> 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 or similar violations, four NOVs with dissimilar violations, and four 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) 91%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 91%

Screening Date 2-Feb-2021

Docket No. 2021-0219-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 60365

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 3908B, Special Conditions ("SC") No. 1, NSR Permit No. 21538, SC No. 1, 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 prevent unauthorized emissions. Specifically, the Respondent released 128.35 pounds ("lbs") of carbon monoxide ("CO"), 18.57 lbs of nitrogen oxides ("NOx"), and 165.14 lbs of volatile organic compounds ("VOC") from the North Flare, Emissions Point Number ("EPN") ES-205, and released 351.44 lbs of CO, 49.51 lbs of NOx, and 845.96 lbs of VOC from the South Flare, EPN ES-805, during an emissions event (Incident No. 344174) that occurred on October 17, 2020 and lasted three hours and 30 minutes. The emissions event occurred when a rodent entered an air switch that caused an arc flash in the Train 6 transformer, resulting in power loss to the Plant and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (15.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%). Includes 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

Table for Violation Events with columns: Number of Violation Events (1), Number of violation days (1), and frequency options (daily, weekly, monthly, quarterly, semiannual, annual, single event). Includes Violation Base Penalty \$3,750.

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$937

Table for Good Faith Efforts to Comply with columns: Extraordinary, Ordinary, N/A, Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

Notes The Respondent achieved compliance by January 13, 2021, prior to the Notice of Enforcement ("NOE") dated January 21, 2021.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Estimated EB Amount \$121

Statutory Limit Test

Violation Final Penalty Total \$6,226

This violation Final Assessed Penalty (adjusted for limits) \$6,226

Economic Benefit Worksheet

Respondent Total Petrochemicals & Refining USA, Inc.
Case ID No. 60365
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	17-Oct-2020	13-Jan-2021	0.24	\$121	n/a	\$121

Notes for DELAYED costs

Estimated cost to apply spray foam to cable entry gaps and add bait stations in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 344174. The Date Required is the date the emissions event occurred and the Final Date is the 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

\$121

Screening Date 2-Feb-2021

Docket No. 2021-0219-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 60365

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(b)(1)(G) and (H) and 122.143(4), FOP No. 01293, GTC and STC No. 2.F, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to identify all required information on the final record for a reportable emissions event. Specifically, the Respondent did not identify the estimated total amount of ethylene that was released during the emissions event on the final record for Incident No. 344174.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1.0%

Matrix Notes

Less than 30% of the rule requirements were not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 74

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$62

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

Extraordinary	
Ordinary	x
N/A	

Notes The Respondent achieved compliance on January 13, 2021, prior to the NOE dated January 21, 2021.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$416

This violation Final Assessed Penalty (adjusted for limits) \$416

Economic Benefit Worksheet

Respondent Total Petrochemicals & Refining USA, Inc.
Case ID No. 60365
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				0.00	\$0	n/a	\$0
Other (as needed)	\$250	31-Oct-2020	13-Jan-2021	0.20	\$3	n/a	\$3

Notes for DELAYED costs

Estimated delayed cost to provide the estimated total quantities for ethylene that was released during Incident No. 344174. The Date Required is the date the final record was due and the Final Date is the 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

\$250

TOTAL

\$3



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	23-Mar-2021	Screening	24-Mar-2021	EPA Due	
	PCW	25-May-2021				

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.	60365	No. of Violations	2
Docket No.	2021-0219-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Johnnie Wu
		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	\$7,500
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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	91.0% Adjustment	Subtotals 2, 3, & 7	\$6,825
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Notes: Enhancement for one NOV with same or similar violations, four NOVs with dissimilar violations, and four 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	-\$1,874
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$154
 Estimated Cost of Compliance: \$20,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,451
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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	\$12,451
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,451
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DEFERRAL	20.0% Reduction Adjustment	-\$2,490
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,961
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Screening Date 24-Mar-2021

Docket No. 2021-0219-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 60365

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Johnnie Wu

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	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 91%

>> 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 or similar violations, four NOVs with dissimilar violations, and four 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) 91%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 91%

Screening Date 24-Mar-2021

Docket No. 2021-0219-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 60365

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Johnnie Wu

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. 1, 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 prevent unauthorized emissions. Specifically, the Respondent released 150.84 pounds ("lbs") of carbon monoxide ("CO"), 20.88 lbs of nitrogen oxides ("NOx"), and 210.24 lbs of volatile organic compounds ("VOC") from the South Flare, Emissions Point Number ("EPN") ES-805, during an emissions event (Incident No. 346926) that occurred on December 2, 2020 and lasted two hours. The emissions event occurred when a cooling fan on the combustion air drive malfunctioned while Boiler No. 3 was down for maintenance that caused Boiler No. 2 to shut down, resulting in a shortage of steam that was exacerbated by rain and cold weather and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (15.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: 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 1 Number of violation days 1

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$937

Table with columns: Extraordinary, Ordinary, N/A, Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

Notes The Respondent achieved compliance by December 15, 2020, prior to the Notice of Enforcement ("NOE") dated March 17, 2021.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Estimated EB Amount \$18

Statutory Limit Test

Violation Final Penalty Total \$6,226

This violation Final Assessed Penalty (adjusted for limits) \$6,226

Economic Benefit Worksheet

Respondent Total Petrochemicals & Refining USA, Inc.
Case ID No. 60365
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	2-Dec-2020	15-Dec-2020	0.04	\$18	n/a	\$18

Notes for DELAYED costs

Estimated cost to increase the data recording of the boilers to diagnose and prevent sudden shutdowns, increase the pressure of the isopropyl alcohol injectors to 800 pounds per square inch to prevent reactor material from entering the injectors, and increase the daily review of pressure to six times in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 346926. The Date Required is the date the emissions event occurred and the Final Date is the 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

\$18

Screening Date 24-Mar-2021

Docket No. 2021-0219-AIR-E

PCW

Respondent Total Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 60365

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(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 prevent unauthorized emissions. Specifically, the Respondent released 763.17 lbs of CO, 105.66 lbs of NOx, and 1,044.91 lbs of VOC from the South Flare, EPN ES-805, and released 1,039.56 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 347671) that occurred on December 15, 2020 and lasted one hour and 40 minutes. The emissions event occurred when a bearing failed on the B-54 Train 9 Flare Knock Out pot blower that caused the blower shaft to vibrate uncontrollably and separate the seal from its housing, resulting in the release to the atmosphere, in a fire, and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> 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 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$937

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

Extraordinary	
Ordinary	x
N/A	

Notes

The Respondent achieved compliance by March 24, 2021, prior to the NOE dated March 30, 2021.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$136

Violation Final Penalty Total \$6,226

This violation Final Assessed Penalty (adjusted for limits) \$6,226

Economic Benefit Worksheet

Respondent Total Petrochemicals & Refining USA, Inc.
Case ID No. 60365
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				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	15-Dec-2020	24-Mar-2021	0.27	\$136	n/a	\$136

Notes for DELAYED costs

Estimated cost to reduce the overhang of the fan wheel and install bearings with higher dynamic load rating, install continuous vibration probes and temperature monitoring for the bearings linked to the distributive control systems, use spark-free Monel 400 metallurgy on all contact surfaces of new blower components, install remotely actuated emergency shutoff valves on the blower suction, and enhance the deluge system heat activated fire detection and water capacity in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 347671. The Date Required is the date the emissions event occurred and the Final Date is the 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

\$136

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



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 PKWY SOUTH, LA PORTE, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

EMISSIONS BANKING AND TRADING ID NUMBER EBT100212109 **AIR OPERATING PERMITS ACCOUNT NUMBER** HG0036S

AIR OPERATING PERMITS PERMIT 1293 **AIR QUALITY NON PERMITTED ID NUMBER** LGL100212109

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1010880 **AIR NEW SOURCE PERMITS PERMIT** 3908B

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0036S **AIR NEW SOURCE PERMITS AFS NUM** 4820100008

AIR NEW SOURCE PERMITS PERMIT 2269C **AIR NEW SOURCE PERMITS PERMIT** 21538

AIR NEW SOURCE PERMITS PERMIT 18153 **AIR NEW SOURCE PERMITS REGISTRATION** 2560

AIR NEW SOURCE PERMITS REGISTRATION 41719 **AIR NEW SOURCE PERMITS PERMIT** 83796

AIR NEW SOURCE PERMITS REGISTRATION 101790 **AIR NEW SOURCE PERMITS REGISTRATION** 111728

AIR NEW SOURCE PERMITS REGISTRATION 110569 **AIR NEW SOURCE PERMITS REGISTRATION** 111727

AIR NEW SOURCE PERMITS PERMIT AMOC30 **STORMWATER PERMIT** TXR05M372

WASTEWATER PERMIT WQ0001000000 **WASTEWATER EPA ID** TX0007421

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0036S **POLLUTION PREVENTION PLANNING ID NUMBER** P00243

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50374 **INDUSTRIAL AND HAZARDOUS WASTE EPA ID** TXD086981172

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30551 **TAX RELIEF ID NUMBER** 16511

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

Date Compliance History Report Prepared: May 25, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 25, 2016 to May 25, 2021

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

Name: Johnnie Wu

Phone: (512) 239-2524

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: 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

- 2 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.
- 3 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	July 19, 2016	(1306808)
Item 2	August 18, 2016	(1365588)
Item 3	August 23, 2016	(1345055)
Item 4	February 03, 2017	(1381548)
Item 5	September 22, 2017	(1435336)
Item 6	October 17, 2017	(1456002)
Item 7	November 17, 2017	(1461482)
Item 8	December 12, 2017	(1467862)
Item 9	January 18, 2018	(1474567)
Item 10	February 20, 2018	(1486793)
Item 11	March 13, 2018	(1490470)
Item 12	April 10, 2018	(1493707)

Item 13	May 14, 2018	(1500625)
Item 14	May 30, 2018	(1474305)
Item 15	June 15, 2018	(1507742)
Item 16	July 06, 2018	(1499252)
Item 17	July 13, 2018	(1514060)
Item 18	August 09, 2018	(1520122)
Item 19	December 11, 2018	(1545263)
Item 20	January 09, 2019	(1559764)
Item 21	March 14, 2019	(1559763)
Item 22	April 11, 2019	(1571860)
Item 23	June 07, 2019	(1583329)
Item 24	July 10, 2019	(1593175)
Item 25	August 08, 2019	(1599519)
Item 26	September 16, 2019	(1606424)
Item 27	November 11, 2019	(1619084)
Item 28	December 16, 2019	(1626436)
Item 29	December 19, 2019	(1712563)
Item 30	December 27, 2019	(1610594)
Item 31	January 16, 2020	(1634077)
Item 32	February 24, 2020	(1640696)
Item 33	March 19, 2020	(1647216)
Item 34	April 17, 2020	(1653552)
Item 35	May 13, 2020	(1660139)
Item 36	June 12, 2020	(1666643)
Item 37	July 15, 2020	(1673600)
Item 38	September 15, 2020	(1686944)
Item 39	October 12, 2020	(1693291)
Item 40	October 29, 2020	(1685325)
Item 41	December 16, 2020	(1712564)
Item 42	January 14, 2021	(1712565)
Item 43	February 25, 2021	(1701903)
Item 44	April 21, 2021	(1691929)

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

Description: Special Term & Condition 1A OP
Failure to maintain a destruction rate efficiency of 99% for the Enclosed Vapor

Self Report? NO Classification: Moderate
Citation: Combustor (EPN: ES-976) (Category C4).
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)

Description: Special Condition 1A OP
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

3 Date: 10/29/2020 (1683851)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)
Permit Provision II.C.1.i. PERMIT
Description: Failure to submit complete and correct Annual Waste Summary report.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(18)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1057(a)
Permit Provision II.C.1.k. PERMIT
Permit Provision X.C. PERMIT
Description: Failure to perform quarterly monitoring on Subpart BB valves associated with
Train B incinerator.

4 Date: 12/18/2020 (1697000)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)
Permit Provision II.C.1.i. PERMIT
Description: Failure to submit complete and correct Annual Waste Summary report.

5 Date: 01/19/2021 (1685035)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0001000000 PERMIT
Description: Failure to prevent the unauthorized discharge of wastewater.

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

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TOTAL PETROCHEMICALS &
REFINING USA, INC.
RN100212109**

§
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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2021-0219-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 petroleum refinery 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 \$19,092 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,637 of the penalty and \$3,818 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, \$7,637 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 December 15, 2020, increased the data recording of the boilers to diagnose and prevent sudden shutdowns, increased the pressure of the isopropyl alcohol injectors to 800 pounds per square inch to prevent reactor material from entering the injectors, and increased the daily review of pressure to six times in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 346926.
 - b. By January 13, 2021, applied spray foam to cable entry gaps and added bait stations in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 344174.
 - c. On January 13, 2021, provided the estimated total quantities for ethylene that was released during Incident No. 344174.
 - d. By March 24, 2021, reduced the overhang of the fan wheel and installed bearings with higher dynamic load rating, installed continuous vibration probes and temperature monitoring for the bearings linked to the distributive control systems, used spark-free Monel 400 metallurgy on all contact surfaces of new blower components, installed remotely actuated emergency shutoff valves on the

blower suction, and enhanced the deluge system heat activated fire detection and water capacity in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 347671.

II. ALLEGATIONS

1. During a record review conducted from December 11, 2020 through January 15, 2021, an investigator documented that the Respondent:
 - a. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 3908B, Special Conditions ("SC") No. 1, NSR Permit No. 21538, SC No. 1, 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 Respondent released 128.35 pounds ("lbs") of carbon monoxide ("CO"), 18.57 lbs of nitrogen oxides ("NOx"), and 165.14 lbs of volatile organic compounds ("VOC") from the North Flare, Emissions Point Number ("EPN") ES-205, and released 351.44 lbs of CO, 49.51 lbs of NOx, and 845.96 lbs of VOC from the South Flare, EPN ES-805, during an emissions event (Incident No. 344174) that occurred on October 17, 2020 and lasted three hours and 30 minutes. The emissions event occurred when a rodent entered an air switch that caused an arc flash in the Train 6 transformer, resulting in power loss to the Plant and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
 - b. Failed to identify all required information on the final record for a reportable emissions event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(b)(1)(G) and (H) and 122.143(4), FOP No. O1293, GTC and STC No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not identify the estimated total amount of ethylene that was released during the emissions event on the final record for Incident No. 344174.
2. During a record review conducted from December 15, 2020 through December 16, 2020, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(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 released 150.84 lbs of CO, 20.88 lbs of NOx, and 210.24 lbs of VOC from the South Flare, EPN ES-805, during an emissions event (Incident No. 346926) that occurred on December 2, 2020 and lasted two hours. The emissions event occurred when a cooling fan on the combustion air drive malfunctioned while Boiler No. 3 was down for maintenance that caused Boiler No. 2 to shut down, resulting in a shortage of steam that was exacerbated by rain and cold weather and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and

maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

3. During a record review conducted from December 29, 2020 through March 25, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(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 released 763.17 lbs of CO, 105.66 lbs of NO_x, and 1,044.91 lbs of VOC from the South Flare, EPN ES-805, and released 1,039.56 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 347671) that occurred on December 15, 2020 and lasted one hour and 40 minutes. The emissions event occurred when a bearing failed on the B-54 Train 9 Flare Knock Out pot blower that caused the blower shaft to vibrate uncontrollably and separate the seal from its housing, resulting in the release to the atmosphere, in a fire, and in flaring. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

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. 2021-0219-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 \$7,637 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. All relief not expressly granted in this Order is denied.

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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



For the Executive Director

Date

12/13/2021

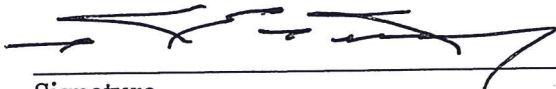
Date

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

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

7-14-21

Date

Date

PLANT MANAGER

Title

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: 2021-0219-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Total Petrochemicals & Refining USA, Inc.
Payable Penalty Amount:	\$15,274
SEP Offset Amount:	\$7,637
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.