

**Executive Summary – Enforcement Matter – Case No. 61088**  
**TotalEnergies Petrochemicals & Refining USA, Inc.**  
**RN100212109**  
**Docket No. 2021-0972-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:**

Petroleum refinery

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 25, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$148,163

**Amount Deferred for Expedited Settlement:** \$7,882

**Total Paid to General Revenue:** \$70,141

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$70,140

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 and January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 3, 2020 through June 16, 2021, May 10, 2021, May 11, 2021 through May 17, 2021, June 30, 2021 through September 9, 2021, August 27, 2021 through December 6, 2021, and October 5, 2021

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**Date(s) of NOE(s):** May 20, 2021, May 24, 2021, June 11, 2021, June 29, 2021, September 16, 2021, October 29, 2021, and January 21, 2022

***Violation Information***

1. Failed to comply with the maximum allowable emissions rates ("MAERs"). Specifically, the Respondent exceeded the volatile organic compounds ("VOC") MAER of 8.36 tons per year ("tpy") based on a 12-month rolling period for the 12-month periods ending from October 2019 through October 2020 and exceeded the propylene MAER of 8.23 tpy based on a 12-month rolling period for the 12-month periods ending from July 2020 through September 2020 for the North Flare, Emissions Point Number ("EPN") ES-205, resulting in 0.99 ton of unauthorized VOC emissions and 0.46 ton of unauthorized propylene emissions [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), New Source Review ("NSR") Permit No. 3908B, 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)].

2. Failed to report all instances of deviations. Specifically, the deviation report for the February 9, 2020 through August 8, 2020 reporting period did not include the deviation for failing to perform a calibration on the temperature monitoring device for the Waste Heat Boiler [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O1293, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve. Specifically, from March 9, 2020 to July 27, 2020, the Respondent did not equip nine open-ended lines in VOC service and highly reactive VOC service with a cap, blind flange, plug, or second valve [30 TEX. ADMIN. CODE §§ 101.20(1) and (2), 113.130, 115.352(4), 115.783(5), 116.115(c), 116.715(a), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") §§ 60.482-6(a)(1), 60.482-6a(a)(1), 61.242-6(a)(1), and 63.167(a)(1), NSR Permit No. 3908B, SC No. 5.E, NSR Permit No. 18153, SC No. 14.E, and NSR Permit No. 21538, SC No. 18.E, 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 596.34 lbs of VOC, 410.98 lbs of carbon monoxide ("CO"), and 54.40 lbs of nitrogen oxides ("NOx") from the South Flare, EPN ES-805, during an emissions event (Incident No. 338411) that occurred on July 7, 2020 and lasted two hours and 25 minutes. The emissions event occurred when there was a switch between the propylene transfer pumps the night before and the system that automatically adjusts the feed to the units was not yet on-line, resulting in an increase in pressure of the propylene feed system 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

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Permit No. 21538, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to prevent unauthorized emissions. Specifically, the Respondent released 342.61 lbs of VOC, 234.39 lbs of CO, and 18.28 lbs of NO<sub>x</sub> from the South Flare, EPN ES-805, during an emissions event (Incident No. 339871) that occurred on July 30, 2020 and lasted two hours and 35 minutes. The emissions event occurred when overheating of a gas phase compressor motor that caused an electrical fault, resulting in the Train 9 Gas Phase Compressor to shut down 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)].

6. Failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions. Specifically, the Respondent experienced 100 percent opacity and released 419.68 lbs of VOC, 323.93 lbs of CO, and 43.54 lbs of NO<sub>x</sub> from the North Flare, EPN ES-205, during an emissions event (Incident No. 338792) that occurred on July 10, 2020 and lasted one hour. The emissions event occurred when an electrical fault occurred at a nearby site that caused an interruption of power, resulting in the Train 6 circulation pump to trip 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 §§ 101.20(1), 111.111(a)(1)(B), 116.115(c), and 122.143(4), 40 CFR § 60.18(c)(1), NSR Permit No. 3908B, SC Nos. 1 and 10.C, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7. Failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions. Specifically, the Respondent experience 100 percent opacity and released 63.56 lbs of VOC and 29.98 lbs of CO from the North Flare, EPN ES-205, and experienced 100 percent opacity and released 97.38 lbs of VOC, 2,713.50 lbs of CO, and 326.79 lbs of NO<sub>x</sub> from the South Flare, EPN ES-805, during an emissions event (Incident No. 358551) that began on May 18, 2021 and lasted 33 hours and 20 minutes. The emissions event occurred when a cable tray cover was blown by the wind during a major storm that impacted the main substation on the A Phase conductor on the primary side of the A Phase transformer and caused an arc flash, resulting in a four-hour shutdown of the Plant's electrical power 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 §§ 101.20(1), 111.111(a)(1)(B), 116.115(c), and 122.143(4), 40 CFR

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§ 60.18(c)(1), NSR Permit No. 21538, SC Nos. 1 and 12.C, and NSR Permit No. 3908B, SC Nos. 1 and 10.C, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

8. Failed to prevent unauthorized emissions and failed to operate the flare with a flame present at all times. Specifically, the Respondent released 749.33 lbs of VOC from the North Flare, EPN ES-205, during an emissions event (Incident No. 364877) that began on August 16, 2021 and lasted eight hours and 50 minutes. The emissions event occurred when moisture had entered the pipes that carry the flame to the flare tip for the flame front generator and caused rust to form, preventing the flame from reaching the flare tip and resulting in the flame to go out and in the release to the atmosphere. 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 §§ 101.20(1), 115.722(d), 116.115(c), and 122.143(4), 40 CFR § 60.18(c)(2), NSR Permit No. 3908B, SC Nos. 1 and 10.B, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

9. Failed to prevent unauthorized emissions. Specifically, the Respondent released 574.11 lbs of VOC, 401.28 lbs of CO, and 44.01 lbs of NO<sub>x</sub> from the North Flare, EPN ES-205, and released 439.21 lbs of VOC, 268.23 lbs of CO, and 25.07 lbs of NO<sub>x</sub> from the South Flare, EPN ES-805, during an emissions event (Incident No. 322816) that occurred on October 14, 2019 and lasted eight hours and 40 minutes. The emissions event occurred when an emergency shutoff programmed into the control system was removed during a computer upgrade of the Train 5 and 6 Control System that caused an emergency shut down of all boilers, resulting 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, NSR Permit No. 3908B, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

10. Failed to prevent unauthorized emissions. Specifically, the Respondent released 651.04 lbs of VOC, 675.73 lbs of CO, and 85.56 lbs of NO<sub>x</sub> from the North Flare, EPN ES-205, during an emissions event (Incident No. 324532) that occurred on November 8, 2019 and lasted five hours and 50 minutes. The emissions event occurred when the seals on the P-18A Atactic Pump and the backup P-18B Atactic Pump failed, resulting 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

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Permit No. 3908B, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

11. Failed to prevent unauthorized emissions. Specifically, the Respondent released 548.77 lbs of VOC, 334.63 lbs of CO, and 39.04 lbs of NO<sub>x</sub> from the North Flare, EPN ES-205, during an emissions event (Incident No. 324725) that occurred on November 12, 2019 and lasted 13 hours and 10 minutes. The emissions event occurred due to long term wear on the attachment bolt that caused the attachment bolt to pull loose from its mounting during high winds, resulting in the shut down of the Train 6 Reactor Circulation Pump 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. 3908B, 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 July 17, 2020, added a three second bus-under-voltage delay to the Train 6 circulation pump in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 338792 and to ensure that the North Flare is operated with no visible emissions;
- b. By July 27, 2020, capped or plugged the nine open-ended lines in VOC service and highly reactive VOC service;
- c. By September 22, 2020, updated the procedures for switching the propylene transfer pumps to indicate that the pump recycle controls should be placed into automatic upon pump activation and conducted training of the updated procedure for all personnel involved in switching the pumps in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 338411;
- d. By November 30, 2020, removed hardened silt from the water clarifier, repaired the baffles, and demonstrated compliance with the VOC and propylene annual MAERs for the North Flare, EPN ES-205;
- e. On July 16, 2021, submitted a revised deviation report for the February 9, 2020 through August 8, 2020 reporting period to report the deviation for failing to perform a calibration on the temperature monitoring device for the Waste Heat Boiler;

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f. By September 9, 2021, relocated or disposed loose materials from the substation, storage, and laydown yards; informed personnel through the use of the Return of Experience Program of the dangers presented by unsecured material that could become airborne in high wind events; and added electrical system improvements to the capital improvement plan in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 358551 and to ensure that the North Flare and South Flare are operated with no visible emissions;

g. By September 23, 2021, removed the emergency cutoff points from the control system and reviewed all of the additional control points for potential interactions with the utilities system in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 322816;

h. By September 23, 2021, retightened the cable connections and implemented a preventative maintenance plan to inspect all substation cable connections every four years in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 324725; and

i. By October 31, 2021, implemented a preventative maintenance program to blow down the flame front generator tubes on a routine basis and reduced the pressure of the flare pilots from 60 pounds per square inch ("psi") to 30 psi in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364877 and to ensure that the North Flare is operated with a flame present at all times.

**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 prevent the recurrence of emissions events due to the same or similar causes as Incident No. 339871; and

ii. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 324532.

b. Within 45 days, submit written certification to demonstrate compliance with a.

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***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Johnnie Wu, Enforcement Division, Enforcement Team 2, 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, 3555 Timmons Lane, Suite 120, Houston, Texas 77027

**Respondent:** Keith Kelly, Plant Manager, TotalEnergies 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

<b>DATES</b>	<b>Assigned</b>	6-Jul-2021	<b>Screening</b>	16-Jul-2021	<b>EPA Due</b>	26-Dec-2021
	<b>PCW</b>	23-Sep-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	TotalEnergies Petrochemicals & Refining USA, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100212109 (PCW No. 1)
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61088	<b>No. of Violations</b>	3
<b>Docket No.</b>	2021-0972-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Johnnie Wu
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$22,500
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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.

<b>Compliance History</b>	100.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$22,500
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Notes: Enhancement for one NOV with dissimilar violations and six orders containing a denial of liability. Reduction for two notices of intent to conduct an audit.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$5,587
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$1,662  
 Estimated Cost of Compliance: \$35,258  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$39,413
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

<b>Final Penalty Amount</b>	\$39,413
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$39,413
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$7,882
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$31,531
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Screening Date 16-Jul-2021

Docket No. 2021-0972-AIR-E

PCW

Respondent TotalEnergies Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 61088

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109 (PCW No. 1)

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> )	0	0%
	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) 120%

#### >> 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 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) 120%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 100%

**Screening Date** 16-Jul-2021 **Docket No.** 2021-0972-AIR-E **PCW**  
**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc. *Policy Revision 4 (April 2014)*  
**Case ID No.** 61088 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 1)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), New Source Review ("NSR") Permit No. 3908B, 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 comply with the maximum allowable emissions rates ("MAERs"). Specifically, the Respondent exceeded the volatile organic compounds ("VOC") MAER of 8.36 tons per year ("tpy") based on a 12-month rolling period for the 12-month periods ending from October 2019 through October 2020 and exceeded the propylene MAER of 8.23 tpy based on a 12-month rolling period for the 12-month periods ending from July 2020 through September 2020 for the North Flare, Emissions Point Number ("EPN") ES-205, resulting in 0.99 ton of unauthorized VOC emissions and 0.46 ton of unauthorized propylene emissions.  
**Base Penalty** \$25,000

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

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

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%
Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.					
<b>Adjustment</b>					\$21,250

**Adjustment** \$21,250

**Violation Events**

Number of Violation Events	5	396	Number of violation days
daily			<b>Violation Base Penalty</b> \$18,750
weekly			
monthly			
quarterly	x		
semiannual			
annual			
single event			

Five quarterly events are recommended for the period of non-compliance from October 1, 2019 through October 31, 2020.

**Good Faith Efforts to Comply** 25.0% Reduction \$4,687

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		
Notes	The Respondent completed the corrective measures by November 30, 2020, prior to the Notice of Enforcement ("NOE") dated June 29, 2021.	

**Violation Subtotal** \$14,063

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$1,459 **Violation Final Penalty Total** \$32,813

**This violation Final Assessed Penalty (adjusted for limits)** \$32,813

# Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 1)  
**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)	\$25,000	1-Oct-2019	30-Nov-2020	1.17	\$1,459	n/a	\$1,459

**Notes for DELAYED costs** Estimated cost to remove hardened silt from the water clarifier, repair the baffles, and demonstrate compliance with the VOC and propylene annual MAERs for the North Flare, EPN ES-205. The Date Required is the first date of non-compliance 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	\$25,000	<b>TOTAL</b>	\$1,459
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Screening Date 16-Jul-2021

Docket No. 2021-0972-AIR-E

PCW

Respondent TotalEnergies Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 61088

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109 (PCW No. 1)

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), FOP No. O1293, GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to report all instances of deviations. Specifically, the deviation report for the February 9, 2020 through August 8, 2020 reporting period did not include the deviation for failing to perform a calibration on the temperature monitoring device for the Waste Heat Boiler.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 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

311 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$25

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

Notes

The Respondent completed the corrective measure on July 16, 2021, after the NOE dated June 29, 2021.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$475

This violation Final Assessed Penalty (adjusted for limits) \$475

## Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 1)  
**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	7-Sep-2020	16-Jul-2021	0.85	\$11	n/a	\$11

**Notes for DELAYED costs**

Estimated cost to submit a revised deviation report for the February 9, 2020 through August 8, 2020 reporting period to report the deviation for failing to perform a calibration on the temperature monitoring device for the Waste Heat Boiler. The Date Required is the date the deviation should have been reported 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** \$11

Screening Date 16-Jul-2021

Docket No. 2021-0972-AIR-E

PCW

Respondent TotalEnergies Petrochemicals & Refining USA, Inc.

Policy Revision 4 (April 2014)

Case ID No. 61088

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100212109 (PCW No. 1)

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1) and (2), 113.130, 115.352(4), 115.783(5), 116.115(c), 116.715(a), and 122.143(4), 40 Code of Federal Regulations §§ 60.482-6(a)(1), 60.482-6a(a)(1), 61.242-6(a)(1), and 63.167(a)(1), NSR Permit No. 3908B, SC No. 5.E, NSR Permit No. 18153, SC No. 14.E, and NSR Permit No. 21538, SC No. 18.E, FOP No. O1293, GTC and STC No. 14, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve. Specifically, from March 9, 2020 to July 27, 2020, the Respondent did not equip nine open-ended lines in VOC service and highly reactive VOC service with a cap, blind flange, plug, or second valve.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				7.0%
	Potential			x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 2 6 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,500

Two single events are recommended (one single event for each quarter from March 9, 2020 to July 27, 2020).

Good Faith Efforts to Comply

25.0%

Reduction \$875

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

Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance by July 27, 2020, prior to the NOE dated June 29, 2021.

Violation Subtotal \$2,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$192

Violation Final Penalty Total \$6,125

This violation Final Assessed Penalty (adjusted for limits) \$6,125

# Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 1)  
**Media** Air  
**Violation No.** 3

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	9-Mar-2020	27-Jul-2020	0.38	\$192	n/a	\$192

**Notes for DELAYED costs**

Estimated cost to cap or plug the nine open-ended lines in VOC service and highly reactive VOC. The Date Required is the first date of non-compliance. 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** \$192



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	25-May-2021			
	<b>PCW</b>	23-Sep-2022	<b>Screening</b>	27-May-2021	<b>EPA Due</b> 26-Dec-2021

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	TotalEnergies Petrochemicals & Refining USA, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100212109 (PCW No. 2)
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	61088	<b>No. of Violations</b>	8	
<b>Docket No.</b>	2021-0972-AIR-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Johnnie Wu	
		<b>EC's Team</b>	Enforcement Team 5	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$60,000
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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.

<b>Compliance History</b>	100.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$60,000
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Notes: Enhancement for one NOV with dissimilar violations and six orders containing a denial of liability. Reduction for two notices of intent to conduct an audit.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$11,250
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$5,325  
 Estimated Cost of Compliance: \$73,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$108,750
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

<b>Final Penalty Amount</b>	\$108,750
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$108,750
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral for orders in which the Respondent has two or more prior administrative penalty orders as set out in Tex. Water Code § 7.105(b)(2), (b)(4), and (b)(6).

<b>PAYABLE PENALTY</b>	\$108,750
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**Screening Date** 27-May-2021

**Docket No.** 2021-0972-AIR-E

**PCW**

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61088

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)

**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> )	0	0%
	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)** 120%

#### >> 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 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)** 120%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 100%

**Screening Date** 27-May-2021 **Docket No.** 2021-0972-AIR-E **PCW**  
**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61088 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**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 596.34 pounds ("lbs") of volatile organic compounds ("VOC"), 410.98 lbs of carbon monoxide ("CO"), and 54.40 lbs of nitrogen oxides ("NOx") from the South Flare, Emissions Point Number ("EPN") ES-805, during an emissions event (Incident No. 338411) that occurred on July 7, 2020 and lasted two hours and 25 minutes. The emissions event occurred when there was a switch between the propylene transfer pumps the night before and the system that automatically adjusts the feed to the units was not yet on-line, resulting in an increase in pressure of the propylene feed system 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			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 insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction \$1,875

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

Notes: The Respondent completed the corrective measure by September 22, 2020, prior to the Notice of Enforcement ("NOE") dated May 20, 2021.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$32 **Violation Final Penalty Total** \$13,125

**This violation Final Assessed Penalty (adjusted for limits)** \$13,125

# Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**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	\$1,500	7-Jul-2020	22-Sep-2020	0.21	\$16	n/a	\$16
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	7-Jul-2020	22-Sep-2020	0.21	\$16	n/a	\$16

**Notes for DELAYED costs**

Estimated costs to update the procedures for switching the propylene transfer pumps to indicate that the pump recycle controls should be placed into automatic upon pump activation and to conduct training of the updated procedure for all of the personnel involved in switching the pumps in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 338411. The Dates Required are the dates the emissions event occurred and the Final Dates are the dates 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 \$3,000

**TOTAL** \$32

**Screening Date** 27-May-2021 **Docket No.** 2021-0972-AIR-E **PCW**  
**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61088 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**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 342.61 lbs of VOC, 234.39 lbs of CO, and 18.28 lbs of NOx from the South Flare, EPN ES-805, during an emissions event (Incident No. 339871) that occurred on July 30, 2020 and lasted two hours and 35 minutes. The emissions event occurred when overheating of a gas phase compressor motor that caused an electrical fault, resulting in the Train 9 Gas Phase Compressor to shut down 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**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual			x	<b>Percent</b> 30.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b> 0.0%

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

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**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** \$7,500

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$1,377 **Violation Final Penalty Total** \$15,000

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

# Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**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	30-Jul-2020	1-May-2023	2.75	\$1,377	n/a	\$1,377

**Notes for DELAYED costs**  
 Estimated cost to implement measures and/or procedures in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 339871. The Date Required is the date the emissions event occurred and the 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** \$1,377

**Screening Date** 27-May-2021 **Docket No.** 2021-0972-AIR-E **PCW**  
**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61088 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.20(1), 111.111(a)(1)(B), 116.115(c), and 122.143(4), 40 Code of Federal Regulations ("CFR") § 60.18(c)(1), NSR Permit No. 3908B, SC Nos. 1 and 10.C, FOP No. O1293, GTC and STC No. 14, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions. Specifically, the Respondent experienced 100 percent opacity and released 419.68 lbs of VOC, 323.93 lbs of CO, and 43.54 lbs of NOx from the North Flare, EPN ES-205, during an emissions event (Incident No. 338792) that occurred on July 10, 2020 and lasted one hour. The emissions event occurred when an electrical fault occurred at a nearby site that caused an interruption of power, resulting in the Train 6 circulation pump to trip 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**

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			x
	Potential			
				<b>Percent</b> 30.0%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0.0%

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

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction \$1,875

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

**Notes** The Respondent completed the corrective measure on July 17, 2020, prior to the NOE dated June 11, 2021.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation** **Statutory Limit Test**  
**Estimated EB Amount** \$10 **Violation Final Penalty Total** \$13,125  
**This violation Final Assessed Penalty (adjusted for limits)** \$13,125

# Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Violation No.** 3

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	10-Jul-2020	17-Jul-2020	0.02	\$10	n/a	\$10

**Notes for DELAYED costs**

Estimated cost to add a three second bus-under-voltage delay to the Train 6 circulation pump in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 338792 and to ensure that the North Flare is operated with no visible emissions. 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**

\$10

**Screening Date** 27-May-2021 **Docket No.** 2021-0972-AIR-E **PCW**  
**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61088 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Violation Number** 4

**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.20(1), 111.111(a)(1)(B), 116.115(c), and 122.143(4), 40 CFR § 60.18(c)(1), NSR Permit No. 21538, SC Nos. 1 and 12.C, and NSR Permit No. 3908B, SC Nos. 1 and 10.C, FOP No. O1293, GTC and STC No. 14, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions. Specifically, the Respondent experience 100 percent opacity and released 63.56 lbs of VOC and 29.98 lbs of CO from the North Flare, EPN ES-205, and experienced 100 percent opacity and released 97.38 lbs of VOC, 2,713.50 lbs of CO, and 326.79 lbs of NOx from the South Flare, EPN ES-805, during an emissions event (Incident No. 358551) that began on May 18, 2021 and lasted 33 hours and 20 minutes. The emissions event occurred when a cable tray cover was blown by the wind during a major storm that impacted the main substation on the A Phase conductor on the primary side of the A Phase transformer and caused an arc flash, resulting in a four-hour shutdown of the Plant's electrical power 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			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 insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 2 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**Good Faith Efforts to Comply**

25.0%

Reduction \$1,875

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

**Notes** The Respondent completed the corrective measures by September 9, 2021, prior to the NOE dated September 16, 2021.

**Violation Subtotal** \$5,625

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

**Statutory Limit Test**

**Estimated EB Amount** \$156

**Violation Final Penalty Total** \$13,125

**This violation Final Assessed Penalty (adjusted for limits)** \$13,125



# Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Violation No.** 4

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	18-May-2021	9-Sep-2021	0.31	\$156	n/a	\$156

**Notes for DELAYED costs**

Estimated cost to relocate or dispose loose materials from the substation, storage, and laydown yards; to inform personnel through the use of the Return of Experience Program of the dangers presented by unsecured material that could become airborne in high wind events; and to add electrical system improvements to the capital improvement plan in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 358551 and to ensure that the North Flare and South Flare are operated with no visible emissions. The Date Required is the date the emissions event began 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
<b>ONE-TIME avoided costs</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$10,000

**TOTAL** \$156

**Screening Date** 27-May-2021 **Docket No.** 2021-0972-AIR-E **PCW**  
**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61088 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Violation Number** 5

**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.20(1), 115.722(d), 116.115(c), and 122.143(4), 40 CFR § 60.18(c)(2), NSR Permit No. 3908B, SC Nos. 1 and 10.B, FOP No. O1293, GTC and STC No. 14, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to prevent unauthorized emissions and failed to operate the flare with a flame present at all times. Specifically, the Respondent released 749.33 lbs of VOC from the North Flare, EPN ES-205, during an emissions event (Incident No. 364877) that began on August 16, 2021 and lasted eight hours and 50 minutes. The emissions event occurred when moisture had entered the pipes that carry the flame to the flare tip for the flame front generator and caused rust to form, preventing the flame from reaching the flare tip and resulting in the flame to go out and in the release to the atmosphere. 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			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 insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction \$1,875

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

**Notes** The Respondent completed the corrective measures by October 31, 2021, prior to the NOE dated January 21, 2022.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$104 **Violation Final Penalty Total** \$13,125

**This violation Final Assessed Penalty (adjusted for limits)** \$13,125

## Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Violation No.** 5

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	16-Aug-2021	31-Oct-2021	0.21	\$104	n/a	\$104

#### Notes for DELAYED costs

Estimated cost to implement a preventative maintenance program to blow down the flame front generator tubes on a routine basis and to reduce the pressure on the flare pilots from 60 pounds per square inch ("psi") to 30 psi in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364877 and to ensure that the North Flare is operated with a flame present at all times. The Date Required is the date the emissions event began 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**

\$104

**Screening Date** 27-May-2021 **Docket No.** 2021-0972-AIR-E **PCW**  
**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61088 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Violation Number** 6

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 21538, SC No. 1, NSR Permit No. 3908B, 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 574.11 lbs of VOC, 401.28 lbs of CO, and 44.01 lbs of NOx from the North Flare, EPN ES-205, and released 439.21 lbs of VOC, 268.23 lbs of CO, and 25.07 lbs of NOx from the South Flare, EPN ES-805, during an emissions event (Incident No. 322816) that occurred on October 14, 2019 and lasted eight hours and 40 minutes. The emissions event occurred when an emergency shutoff programmed into the control system was removed during a computer upgrade of the Train 5 and 6 Control System that caused an emergency shut down of all boilers, resulting 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			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 insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction \$1,875

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

**Notes** The Respondent completed the corrective measures by September 23, 2021, prior to the NOE dated October 29, 2021.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$973

**Violation Final Penalty Total** \$13,125

**This violation Final Assessed Penalty (adjusted for limits)** \$13,125

## Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Violation No.** 6

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	14-Oct-2019	23-Sep-2021	1.95	\$973	n/a	\$973

#### Notes for DELAYED costs

Estimated cost to remove the emergency cutoff points from the control system and to review all of the additional control points for potential interactions with the utilities system in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 322816. 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** \$973

Screening Date 27-May-2021

Docket No. 2021-0972-AIR-E

PCW

Respondent TotalEnergies Petrochemicals & Refining USA, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61088

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100212109 (PCW No. 2)

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 3908B, 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 651.04 lbs of VOC, 675.73 lbs of CO, and 85.56 lbs of NOx from the North Flare, EPN ES-205, during an emissions event (Incident No. 324532) that occurred on November 8, 2019 and lasted five hours and 50 minutes. The emissions event occurred when the seals on the P-18A Atactic Pump and the backup P-18B Atactic Pump failed, resulting 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 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants 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 1

1 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,740

Violation Final Penalty Total \$15,000

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

# Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Violation No.** 7

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	8-Nov-2019	1-May-2023	3.48	\$1,740	n/a	\$1,740

**Notes for DELAYED costs**

Estimated cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 324532. The Date Required is the date the emissions event occurred and the 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** \$1,740

Screening Date 27-May-2021

Docket No. 2021-0972-AIR-E

PCW

Respondent TotalEnergies Petrochemicals & Refining USA, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61088

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100212109 (PCW No. 2)

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 3908B, 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 548.77 lbs of VOC, 334.63 lbs of CO, and 39.04 lbs of NOx from the North Flare, EPN ES-205, during an emissions event (Incident No. 324725) that occurred on November 12, 2019 and lasted 13 hours and 10 minutes. The emissions event occurred due to long term wear on the attachment bolt that caused the attachment bolt to pull loose from its mounting during high winds, resulting in the shut down of the Train 6 Reactor Circulation Pump 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			Percent
		Major	Moderate	Minor	
	Actual			x	30.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Human health or the environment has been exposed to insignificant amounts of pollutants that would 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 1 Number of violation days 1

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

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

The Respondent completed the corrective measures by September 23, 2021, prior to the NOE dated October 29, 2021.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$933

Violation Final Penalty Total \$13,125

This violation Final Assessed Penalty (adjusted for limits) \$13,125



## Economic Benefit Worksheet

**Respondent** TotalEnergies Petrochemicals & Refining USA, Inc.  
**Case ID No.** 61088  
**Reg. Ent. Reference No.** RN100212109 (PCW No. 2)  
**Media** Air  
**Violation No.** 8

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	12-Nov-2019	23-Sep-2021	1.87	\$933	n/a	\$933

**Notes for DELAYED costs**  
 Estimated cost to retighten the cable connections and to implement a preventative maintenance plan to inspect all substation cable connections every four years in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 324725. 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** \$933



# Compliance History Report

Compliance History Report for CN600582399, RN100212109, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN600582399, TotalEnergies Petrochemicals & Refining USA, Inc. **Classification:** SATISFACTORY **Rating:** 8.72

**Regulated Entity:** RN100212109, TOTALENERGIES PETROCHEMICALS & REFINING USA LA PORTE PLANT **Classification:** SATISFACTORY **Rating:** 9.71

**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):

<b>EMISSIONS BANKING AND TRADING ID NUMBER</b> EBT100212109	<b>AIR OPERATING PERMITS ACCOUNT NUMBER</b> HG0036S
<b>AIR OPERATING PERMITS PERMIT</b> 1293	<b>AIR QUALITY NON PERMITTED ID NUMBER</b> LGL100212109
<b>PUBLIC WATER SYSTEM/SUPPLY REGISTRATION</b> 1010880	<b>AIR NEW SOURCE PERMITS PERMIT</b> 3908B
<b>AIR NEW SOURCE PERMITS ACCOUNT NUMBER</b> HG0036S	<b>AIR NEW SOURCE PERMITS AFS NUM</b> 4820100008
<b>AIR NEW SOURCE PERMITS PERMIT</b> 2269C	<b>AIR NEW SOURCE PERMITS PERMIT</b> 21538
<b>AIR NEW SOURCE PERMITS PERMIT</b> 18153	<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 2560
<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 41719	<b>AIR NEW SOURCE PERMITS PERMIT</b> 83796
<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 101790	<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 111728
<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 110569	<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 111727
<b>AIR NEW SOURCE PERMITS PERMIT</b> AMOC30	<b>AIR NEW SOURCE PERMITS REGISTRATION</b> 168164
<b>STORMWATER PERMIT</b> TXR05M372	<b>WASTEWATER PERMIT</b> WQ0001000000
<b>AIR EMISSIONS INVENTORY ACCOUNT NUMBER</b> HG0036S	<b>POLLUTION PREVENTION PLANNING ID NUMBER</b> P00243
<b>INDUSTRIAL AND HAZARDOUS WASTE EPA ID</b> TXD086981172	<b>INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE</b> REGISTRATION # (SWR) 30551
<b>INDUSTRIAL AND HAZARDOUS WASTE PERMIT</b> 50374	<b>TAX RELIEF ID NUMBER</b> 16511

**Compliance History Period:** September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** July 06, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 06, 2017 to July 06, 2022

## 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)
- 4 Effective Date: 07/07/2021 ADMINORDER 2020-0348-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: SC 17 PERMIT  
ST&C 14 OP  
Description: Failure 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.  
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: SC 1 PERMIT  
ST&C 14 OP  
Description: Failure 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.  
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: Special Condition 14 PERMIT  
Special Term & Condition 14 OP

Description: Failure 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.

5 Effective Date: 02/28/2022 ADMINORDER 2021-0219-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: 21538 PERMIT  
3908B PERMIT  
FOP O1293 GTC AND STC 14 OP

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on October 17, 2020, TCEQ/STEERS Incident No. 344174. Category A12.i.(6)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)  
30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O1293 GTC AND STC 2.F OP

Description: Failure to submit an accurate final record associated with emissions event, TCEQ/STEERS Incident No. 344174. Category C3

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: FOP O1293 GTC and STC 14 OP  
NSR Permit, Special Condition 1 PERMIT

Description: Failure to prevent unauthorized emission to the atmosphere during an emissions event that was discovered on December 2, 2020, TCEQ/STEERS Incident No. 346926. [Category A12.i.(6)]

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: FOP O1293 GTC and STC 14 OP  
Special Condition 1 PERMIT

Description: Failure to prevent unauthorized emissions to the atmosphere during an emissions event that was discovered on December 15, 2020, TCEQ/STEERS Incident No. 347671 (Category A12.i.(6)).

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	September 22, 2017	(1435336)
Item 2	October 17, 2017	(1456002)
Item 3	November 17, 2017	(1461482)
Item 4	December 12, 2017	(1467862)
Item 5	January 18, 2018	(1474567)
Item 6	February 20, 2018	(1486793)
Item 7	March 13, 2018	(1490470)
Item 8	April 10, 2018	(1493707)
Item 9	May 14, 2018	(1500625)
Item 10	May 30, 2018	(1474305)
Item 11	June 15, 2018	(1507742)
Item 12	July 06, 2018	(1499252)

Item 13	July 13, 2018	(1514060)
Item 14	August 09, 2018	(1520122)
Item 15	December 11, 2018	(1545263)
Item 16	January 09, 2019	(1559764)
Item 17	March 14, 2019	(1559763)
Item 18	April 11, 2019	(1571860)
Item 19	June 07, 2019	(1583329)
Item 20	July 10, 2019	(1593175)
Item 21	August 08, 2019	(1599519)
Item 22	September 16, 2019	(1606424)
Item 23	November 11, 2019	(1619084)
Item 24	December 16, 2019	(1626436)
Item 25	December 19, 2019	(1712563)
Item 26	December 27, 2019	(1610594)
Item 27	January 16, 2020	(1634077)
Item 28	February 24, 2020	(1640696)
Item 29	March 19, 2020	(1647216)
Item 30	April 17, 2020	(1653552)
Item 31	May 13, 2020	(1660139)
Item 32	June 12, 2020	(1666643)
Item 33	July 15, 2020	(1673600)
Item 34	September 15, 2020	(1686944)
Item 35	October 12, 2020	(1693291)
Item 36	October 29, 2020	(1685325)
Item 37	December 16, 2020	(1712564)
Item 38	January 14, 2021	(1712565)
Item 39	February 17, 2021	(1725618)
Item 40	February 25, 2021	(1701903)
Item 41	March 15, 2021	(1725619)
Item 42	April 19, 2021	(1725620)
Item 43	April 21, 2021	(1691929)
Item 44	July 20, 2021	(1751740)
Item 45	July 26, 2021	(1679863)
Item 46	August 11, 2021	(1757204)
Item 47	August 31, 2021	(1756951)
Item 48	September 13, 2021	(1679034)
Item 49	September 27, 2021	(1692466)
Item 50	October 05, 2021	(1686124)
Item 51	October 11, 2021	(1776747)
Item 52	December 20, 2021	(1790682)
Item 53	January 13, 2022	(1798476)
Item 54	February 15, 2022	(1806350)
Item 55	March 16, 2022	(1813417)
Item 56	March 28, 2022	(1804301)
Item 57	April 13, 2022	(1819988)

**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: 08/31/2021 (1766284)  
 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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## *Addendum to Compliance History Federal Enforcement Actions*

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**Reg Entity Name:** TOTAL PETROCHEMICALS USA LA PORT

**Reg Entity Add:** 1818 INDEPENDENCE PKWY S

**Reg Entity City:** LA PORTE

**Reg Entity No:** RN100212109

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**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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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-0972-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 TotalEnergies 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 \$148,163 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$70,141 of the penalty and \$7,882 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, \$70,140 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 July 17, 2020, added a three second bus-under-voltage delay to the Train 6 circulation pump in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 338792 and to ensure that the North Flare is operated with no visible emissions;
  - b. By July 27, 2020, capped or plugged the nine open-ended lines in volatile organic compounds ("VOC") service and highly reactive VOC service;
  - c. By September 22, 2020, updated the procedures for switching the propylene transfer pumps to indicate that the pump recycle controls should be placed into automatic upon pump activation and conducted training of the updated procedure for all personnel involved in switching the pumps in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 338411;
  - d. By November 30, 2020, removed hardened silt from the water clarifier, repaired the baffles, and demonstrated compliance with the VOC and propylene annual maximum allowable emissions rates ("MAERs") for the North Flare, Emissions Point Number ("EPN") ES-205;
  - e. On July 16, 2021, submitted a revised deviation report for the February 9, 2020 through August 8, 2020 reporting period to report the deviation for failing to perform a calibration on the temperature monitoring device for the Waste Heat Boiler;
  - f. By September 9, 2021, relocated or disposed loose materials from the substation, storage, and laydown yards; informed personnel through the use of the Return

of Experience Program of the dangers presented by unsecured material that could become airborne in high wind events; and added electrical system improvements to the capital improvement plan in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 358551 and to ensure that the North Flare and South Flare are operated with no visible emissions;

- g. By September 23, 2021, removed the emergency cutoff points from the control system and reviewed all of the additional control points for potential interactions with the utilities system in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 322816;
- h. By September 23, 2021, retightened the cable connections and implemented a preventative maintenance plan to inspect all substation cable connections every four years in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 324725; and
- i. By October 31, 2021, implemented a preventative maintenance program to blow down the flame front generator tubes on a routine basis and reduced the pressure of the flare pilots from 60 pounds per square inch ("psi") to 30 psi in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364877 and to ensure that the North Flare is operated with a flame present at all times.

## II. ALLEGATIONS

- 1. During a record review for the Plant conducted from December 3, 2020 through June 16, 2021, an investigator documented that the Respondent:
  - a. Failed to comply with the MAERs, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), New Source Review ("NSR") Permit No. 3908B, 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). Specifically, the Respondent exceeded the VOC MAER of 8.36 tons per year ("tpy") based on a 12-month rolling period for the 12-month periods ending from October 2019 through October 2020 and exceeded the propylene MAER of 8.23 tpy based on a 12-month rolling period for the 12-month periods ending from July 2020 through September 2020 for the North Flare, EPN ES-205, resulting in 0.99 ton of unauthorized VOC emissions and 0.46 ton of unauthorized propylene emissions.
  - b. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O1293, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the deviation report for the February 9, 2020 through August 8, 2020 reporting period did not include the deviation for failing to perform a calibration on the temperature monitoring device for the Waste Heat Boiler.
  - c. Failed to equip each open-ended valve or line with a cap, blind flange, plug, or a second valve, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and (2), 113.130, 115.352(4), 115.783(5), 116.115(c), 116.715(a), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") §§ 60.482-6(a)(1), 60.482-6a(a)(1), 61.242-6(a)(1), and

63.167(a)(1), NSR Permit No. 3908B, SC No. 5.E, NSR Permit No. 18153, SC No. 14.E, and NSR Permit No. 21538, SC No. 18.E, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, from March 9, 2020 to July 27, 2020, the Respondent did not equip nine open-ended lines in VOC service and highly reactive VOC service with a cap, blind flange, plug, or second valve.

2. During a record review for the Plant conducted on May 10, 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 596.34 lbs of VOC, 410.98 lbs of carbon monoxide ("CO"), and 54.40 lbs of nitrogen oxides ("NOx") from the South Flare, EPN ES-805, during an emissions event (Incident No. 338411) that occurred on July 7, 2020 and lasted two hours and 25 minutes. The emissions event occurred when there was a switch between the propylene transfer pumps the night before and the system that automatically adjusts the feed to the units was not yet on-line, resulting in an increase in pressure of the propylene feed system 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 for the Plant conducted on May 10, 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 342.61 lbs of VOC, 234.39 lbs of CO, and 18.28 lbs of NOx from the South Flare, EPN ES-805, during an emissions event (Incident No. 339871) that occurred on July 30, 2020 and lasted two hours and 35 minutes. The emissions event occurred when overheating of a gas phase compressor motor that caused an electrical fault, resulting in the Train 9 Gas Phase Compressor to shut down 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.
4. During a record review for the Plant conducted from May 11, 2021 through May 17, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 111.111(a)(1)(B), 116.115(c), and 122.143(4), 40 CFR § 60.18(c)(1), NSR Permit No. 3908B, SC Nos. 1 and 10.C, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent experienced 100 percent opacity and released 419.68 lbs of VOC, 323.93 lbs of CO, and 43.54 lbs of NOx from the North Flare, EPN ES-205, during an emissions event (Incident No. 338792) that occurred on July 10, 2020 and lasted one hour. The emissions event occurred when an electrical fault occurred at a nearby site that caused an interruption of power, resulting in the Train 6 circulation pump to trip 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.

5. During a record review for the Plant conducted from June 30, 2021 through September 9, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions and failed to operate the flare with no visible emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 111.111(a)(1)(B), 116.115(c), and 122.143(4), 40 CFR § 60.18(c)(1), NSR Permit No. 21538, SC Nos. 1 and 12.C, and NSR Permit No. 3908B, SC Nos. 1 and 10.C, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent experience 100 percent opacity and released 63.56 lbs of VOC and 29.98 lbs of CO from the North Flare, EPN ES-205, and experienced 100 percent opacity and released 97.38 lbs of VOC, 2,713.50 lbs of CO, and 326.79 lbs of NO<sub>x</sub> from the South Flare, EPN ES-805, during an emissions event (Incident No. 358551) that began on May 18, 2021 and lasted 33 hours and 20 minutes. The emissions event occurred when a cable tray cover was blown by the wind during a major storm that impacted the main substation on the A Phase conductor on the primary side of the A Phase transformer and caused an arc flash, resulting in a four-hour shutdown of the Plant's electrical power 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.
6. During a record review for the Plant conducted from August 27, 2021 through December 6, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions and failed to operate the flare with a flame present at all times, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 115.722(d), 116.115(c), and 122.143(4), 40 CFR § 60.18(c)(2), NSR Permit No. 3908B, SC Nos. 1 and 10.B, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 749.33 lbs of VOC from the North Flare, EPN ES-205, during an emissions event (Incident No. 364877) that began on August 16, 2021 and lasted eight hours and 50 minutes. The emissions event occurred when moisture had entered the pipes that carry the flame to the flare tip for the flame front generator and caused rust to form, preventing the flame from reaching the flare tip and resulting in the flame to go out and in the release to the atmosphere. 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.
7. During a record review for the Plant conducted on October 5, 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, NSR Permit No. 3908B, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 574.11 lbs of VOC, 401.28 lbs of CO, and 44.01 lbs of NO<sub>x</sub> from the North Flare, EPN ES-205, and released 439.21 lbs of VOC, 268.23 lbs of CO, and 25.07 lbs of NO<sub>x</sub> from the South Flare, EPN ES-805, during an emissions event (Incident No. 322816) that occurred on October 14, 2019 and lasted eight hours and 40 minutes. The emissions event occurred when an emergency shutoff programmed into the control system was removed during a computer upgrade of the Train 5 and 6 Control System that caused an emergency shut down of all boilers, resulting 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.

8. During a record review for the Plant conducted on October 5, 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. 3908B, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 651.04 lbs of VOC, 675.73 lbs of CO, and 85.56 lbs of NOx from the North Flare, EPN ES-205, during an emissions event (Incident No. 324532) that occurred on November 8, 2019 and lasted five hours and 50 minutes. The emissions event occurred when the seals on the P-18A Atactic Pump and the backup P-18B Atactic Pump failed, resulting 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.
9. During a record review for the Plant conducted on October 5, 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. 3908B, SC No. 1, FOP No. O1293, GTC and STC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 548.77 lbs of VOC, 334.63 lbs of CO, and 39.04 lbs of NOx from the North Flare, EPN ES-205, during an emissions event (Incident No. 324725) that occurred on November 12, 2019 and lasted 13 hours and 10 minutes. The emissions event occurred due to long term wear on the attachment bolt that caused the attachment bolt to pull loose from its mounting during high winds, resulting in the shut down of the Train 6 Reactor Circulation Pump 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: TotalEnergies Petrochemicals & Refining USA, Inc., Docket No. 2021-0972-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 the SEP as set forth in Section I, Paragraph No. 4. The amount of \$70,140 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 at the Plant:
  - a. Within 30 days after the effective date of the Order:
    - i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 339871; and
    - ii. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 324532.
  - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. 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:

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 Enforcement Division 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

  
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3/10/2023  
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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 OAG 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 OAG 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.

  
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Signature

FEB 13, 2023  
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Date

KEITH KELLY  
-----

Name (Printed or typed)

PLANT MANAGER  
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Title

Authorized Representative of

TotalEnergies Petrochemicals & Refining USA, Inc.

*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: 2021-0972-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>TotalEnergies Petrochemicals &amp; Refining USA, Inc.</b>
<b>Payable Penalty Amount:</b>	<b>\$140,281</b>
<b>SEP Offset Amount:</b>	<b>\$70,140</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b>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</b>	

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 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

TotalEnergies Petrochemicals & Refining USA, Inc.  
Docket No. 2021-0972-AIR-E  
Agreed Order - Attachment A

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.

**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  
Emission Reduction Credit Corporation  
Attn: Air Quality Program Manager  
3555 Timmons Lane, Suite 120  
Houston, Texas 77027

### 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:

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.