



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION  
CITY VIEW PLAZA II BUILDING, 7<sup>TH</sup> FLOOR  
ROUTE 165 GUAYNABO, PUERTO RICO 00968

March 7, 2023

**SENT VIA EMAIL:**

sherwin.pilgrim@totalenergies.pr  
daniel.soares@totalenergies.pr

TOTAL PETROLEUM ST THOMAS TERMINAL  
PO BOX 362916,  
SAN JUAN, PUERTO RICO, 00936  
C/O: Mr. Sherwin Pilgrim; Mr. Daniel Soares

**RE: RCRA § 3007 – REQUEST FOR INFORMATION  
TOTAL PETROLEUM ST THOMAS TERMINAL  
EPA ID: VIR000000042  
CEPD-RCRA-23-3007-3008-002**

Dear Mr. Pilgrim and Mr. Soares:

The U.S. Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under Section 3008 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. § 6901, 6928. Pursuant to RCRA, as amended by HSWA, EPA promulgated rules, regulations, and standards governing the handling and management of hazardous waste as set forth in 40 CFR Parts 260-272. For the purposes of this Request for Information and Notice of Violation (NOV), the hazardous waste rules were promulgated in 1980 and amended by HSWA in 1984.

The NOV portion of this letter (**Enclosure I**) is issued pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by RCRA and HSWA, 42 U.S.C. §§ 6901, 6928. Issuance of this NOV and compliance with its terms does not preclude EPA from taking formal enforcement action against you and/or your company, including a monetary penalty, under § 3008 of RCRA, 42 U.S.C. § 6928, or any other applicable regulation or statute.

This request for information is made pursuant to the provisions of § 3007 of RCRA, 42 U.S.C. § 6927, which requires that you provide the information requested in **Enclosure II** to this letter using the instructions and definitions included in **Enclosure III**. This information is required to evaluate the full regulatory and compliance status of the facility. The information requested in Enclosures I and II must be submitted no later than thirty (30) calendar days from receipt of this letter. Requests for additional time to provide the information requested in Enclosure II must be justified and must be made in writing within ten (10) calendar days of receipt of this letter. The response to Enclosure II must be signed by a responsible official or agent of your facility, using the form in **Enclosure IV** to this letter.

Failure to respond to Enclosures I and II truthfully and accurately within the time provided may subject you to sanctions authorized by federal law, including but not limited to a potential enforcement action pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, including the assessment of a monetary penalty. Please also note that all information you provide may be used in an administrative, civil judicial, or criminal action. This information is not subject to the requirements of the Paperwork Reduction Act as amended, 44 U.S.C. § 3501 et seq.

You may, if you desire, assert a business confidentiality claim covering all or part of the information herein requested. This claim may be asserted by placing on (or attaching to) the information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret”, “proprietary”, or “company confidential”. The claim should set forth the information requested in 40 C.F.R. § 2.204(e)(4). Information covered by such a claim will be disclosed by EPA only to the extent permitted by, and by means of procedures set forth in 40 C.F.R. Part 2. EPA will review the information to determine the extent of confidentiality of the information, and may, at its discretion, challenge the confidentiality claim pursuant the procedures set forth at 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be available to the public by EPA without further notice you.

The responses to the information request in Enclosure I and Enclosure II must be provided by email or mailed to the following address:

Rosana Caballer-Cruz, Enforcement Officer  
Response and Remediation Branch  
U.S. Environmental Protection Agency - Region 2  
Caribbean Environmental Protection Division  
City View Plaza II, Suite 7000  
#48 PR-165 Km 1.2  
Guaynabo, Puerto Rico 00968  
Email: [caballer.rosana@epa.gov](mailto:caballer.rosana@epa.gov)

If you have any questions regarding this matter, please contact Rosana Caballer-Cruz, from my staff, at 787-977-5880 or via e-mail at [caballer.rosana@epa.gov](mailto:caballer.rosana@epa.gov).

Sincerely,

**CARMEN  
GUERRERO PEREZ**

Carmen R. Guerrero Pérez  
Director

Digitally signed by  
CARMEN GUERRERO PEREZ  
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## ENCLOSURE I – RCRA § 3008 NOTICE OF VIOLATION

TOTAL PETROLEUM ST THOMAS TERMINAL  
EPA ID: No. VIR000000042  
CEPD-RCRA-23-3007-3008-002

On or about August 3, 2022, a duly authorized representative of EPA conducted a Resource Conservation and Recovery Act (RCRA) Hazardous Waste Compliance Evaluation Inspection (CEI) of the TOTAL PETROLEUM ST THOMAS TERMINAL (TOTAL USVI) located at CYRIL E KING AIRPORT ST THOMAS, USVI, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

As a result of the CEI, EPA has identified the following violations of the RCRA regulations.

### 1. 40 C.F.R. § 262.11

At the time of the inspection, TOTAL USVI failed § 262.11 which requires *“A person who generates a solid waste, as defined in 40 CFR 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations...”*

- At the time of the inspection, the facility failed to comply with this requirement at Hazardous Waste Accumulation Area (HWAA). Here, the facility representatives did not make an accurate determination as to whether such waste was a hazardous waste or not. In addition, an indication of the hazards of the contents wastes and/or pictographic labels was not observed.

### 2. 40 C.F.R. § 262.17(a)(5)(ii)(A)(B)(D)

At the time of the inspection, TOTAL USVI failed § 262.17(a)(5)(ii)(A)(B)(D) which requires *“A large quantity generator accumulating hazardous waste in tanks must do the following: Mark or label its tanks with the words “Hazardous Waste”; Mark or label its tanks with an indication of the hazards of the contents... [and] Keep inventory logs or records with the above information on site and readily available for inspection.”*

- At the time of the inspection, the facility failed to comply at these requirements at the Slop Tank Area. According to the facility’s *List of common waste found in the branch - Waste Classification According to Total Group Rules (Final Material Classification could vary depending on its analytical results, aka the Attachment CR-PROC-PR-HSEQ-081B)*, the slop is identified as a hazardous waste. However, at the time of the inspection, the Above-ground Storage Tank (AGST) which receives the slop waste was not marked or labeled with the words “Hazardous Waste”. Furthermore, AGST did not have available an indication of the hazards of the contents and/or a pictographic label. Inventory logs or records were not available at the time of the inspection.

### **3. 40 C.F.R. § 262.17(a)**

At the time of the inspection, TOTAL USVI failed § 262.17(a) which requires *“A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section”*.

- At the time of the inspection, the facility failed to comply with this requirement at the HWAA subarea. Here, information related to how long the containers observed at this subarea had been placed was unknown. The facility representative was not able to confirm whether the containers were placed at this location for no more than 90 days. A log with such information was neither available during the CEI activity for review to confirm that, indeed, the facility did not accumulate hazardous waste on-site for no more than 90 days.

### **4. 40 C.F.R. § 262.17(a)(1)(ii)**

At the time of the inspection, TOTAL USVI failed § 262.17(a)(1)(ii) which requires *“If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section;”*

- At the time of the inspection, the facility failed to comply with this requirement at the HWAA subarea. Here, the containers observed were found in poor condition; almost all of them were observed with signs of corrosion and/or rusted, and with poor housekeeping.

### **5. 40 C.F.R. § 262.17(a)(5)(i)(A)**

At the time of the inspection, TOTAL USVI failed § 262.17(a)(5)(i)(A) which requires *“A large quantity generator must mark or label its containers with the following: The words “Hazardous Waste”;”*

- At the time of the inspection, the facility failed to comply with this requirement at the HWAA subarea. Here, containers stored in this subarea were observed without marks or labeled with the words “hazardous waste”.

### **6. 40 C.F.R. § 262.17(a)(5)(i)(B)**

At the time of the inspection, TOTAL USVI failed § 262.17(a)(5)(i)(B) which requires *“An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704);”*

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- At the time of the inspection, the facility failed to comply with this requirement at the HWAA subarea. Here, containers stored in this subarea were observed without an indication of the hazards of the contents, a hazard statement or pictogram pictographic label, or a chemical hazard label.

**7. 40 C.F.R. § 262.17(a)(5)(i)(C)**

At the time of the inspection, TOTAL USVI failed § 262.17(a)(5)(i)(C) which requires *“The date upon which each period of accumulation begins clearly visible for inspection on each container.”*

- At the time of the inspection, the facility failed to comply with this requirement at the Hazardous Waste Accumulation subarea. Here, containers stored in this subarea were observed without the date upon which each period of accumulation started.

**8. 40 C.F.R. § 262.251**

At the time of the inspection, TOTAL USVI failed § 262.251 which requires *“A large quantity generator must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment”*.

- At the time of the inspection, the facility failed to comply with this requirement at the Slop Tank Area and the HWAA Subarea. According to the facility’s, *List of common waste found in the branch - Waste Classification According to Total Group Rules (Final Material Classification could vary depending on its analytical results, aka the Attachment CR-PROC-PR-HSEQ-081B)*, the slop is identified as a hazardous waste. However, at the time of the inspection, the AGST which receives the slop was not marked or labeled with the words “Hazardous Waste”, the AGST did not have an indication of the hazards of the contents and/or a pictographic label was not available, and inventory logs or records were not available at the time of the inspection. In the HWAA Subarea, the cyclone fence was observed open, and operators/employees were not nearby or working in this area. Also, unlabeled containers with unknown content were observed at the HWAA subarea, without indication of the hazards of the contents and/or a pictographic label, without a date and proper aisle space available. In addition, the containers were not in good condition and were observed with signs of corrosion and/or rusted. The accumulation time of the containers at this subarea was unknown, and a log for this area was not available during the CEI or as part of the documents sent via email. Finally, it was also confirmed that a spill kit was not available at the subarea.

**9. 40 C.F.R. § 262.255**

At the time of the inspection, TOTAL USVI failed § 262.255 which requires *“The large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.”*

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- At the time of the inspection, the facility failed to comply with this requirement at the HWAA. Here, aisle space between containers was not observed.

**10. 40 C.F.R. § 262.40(a)**

At the time of the inspection, TOTAL USVI failed § 262.40(a) which requires “*generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.*”

- At the time of the inspection, the facility failed to comply with this requirement. The documents were requested as part of the CEI on August 3, 2022, and via email, on August 10, 2022. Although on September 2, 2022, the facility provided, via email, the docket of the certificates of disposal from 2019-2022 with a hyperlink to each certificate, the manifests’ signed copies, as requested, were not received for review.

## ENCLOSURE II – RCRA § 3007 REQUEST FOR INFORMATION

On or about August 3, 2022, a duly authorized representative of EPA conducted a RCRA Hazardous Waste Compliance Evaluation Inspection of the TOTAL PETROLEUM ST THOMAS TERMINAL (TOTAL USVI) at CYRIL E KING AIRPORT ST THOMAS, USVI, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

Based on the information obtained during the inspection, EPA determined that the following information is required to determine the compliance status of TOTAL USVI.

### 1. General Information

- a. Provide the full legal name of TOTAL USVI. If the company has used any other names, please provide them. Provide the date that TOTAL USVI started business at CYRIL E KING AIRPORT ST THOMAS, USVI.
- b. Provide the management structure of the company (President/Owner, Partners, General Manager, etc.). If the company is a subsidiary, indicate the parent company.
- c. Provide the type of company (corporation, partnership, etc.), employer identification number, Department of State certificate number, DUNS number, and business licenses, if any.
- d. Besides the EPA inspection performed on August 3, 2022, please provide information about any other inspection conducted by any other state or federal agency, since 2015.
- e. Do you have any knowledge of any state or federal agency (EPA, Department of Justice, etc.) actions (complaints, suits, investigations, etc.) against TOTAL USVI? If yes, explain and elaborate your answers.
- f. Please certify if TOTAL USVI has filed for bankruptcy at any time under its current or any previous name.

### 2. Specific Information

- a. Waste Generation
  - i. Please describe each activity conducted at TOTAL USVI that has generated solid and/or hazardous wastes (as defined in 40 C.F.R. Part 261) since 2015 to the present.
  - ii. Please list the solid and/or hazardous wastes generated from each activity indicated in response to Question 2.a.i above (i.e., spent solvent, leftover chemical mixtures, discarded and/or expired chemical products, discarded laboratory reagents, used oil, used oil filters, used oil impacted materials, spent lead-acid batteries, spent paint brushes/rolls, spent rags impregnated with paints/solvents, spent lacquer thinner, spent diesel, spent fluorescent light bulbs, etc.). Please

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indicate the monthly quantity of each such waste in kilograms generated since 2015 to the present.

b. Waste Determination

- i. For each waste indicated in response to Question 2.a.ii above, that was determined to be a hazardous waste, please indicate the EPA hazardous waste number and describe how the waste was determined to be a hazardous waste. For each such waste please include copies of all analytical results and/or documentation used in determining that the waste was a hazardous waste. If generator knowledge of the waste(s) was used to determine that the waste was a hazardous waste, please provide a narrative which details the knowledge employed in such determination.
- ii. For each waste indicated in response to Question 2.a.ii above, that was determined not to be a hazardous waste, please describe how the waste was determined not to be a hazardous waste. For each such waste please include copies of all analytical results and/or documentation used in determining that the waste was not a hazardous waste. If generator knowledge of the waste(s) was used to determine that the waste was not a hazardous waste, please provide a narrative which details the knowledge employed in such determination.
- iii. Provide copies of the Safety Data Sheet of the chemicals used at the facility.
- iv. For each hazardous and each non-hazardous waste described in response to Question 2.b.i and 2.b.ii above, please provide copies of any documentation of the treatment or disposal of such waste since 2015 to present, including copies of hazardous waste manifests used. If no such documentation is available, please provide the name, address, and representative, if known, for each corporate or municipal entity involved in the disposal of the waste.
- v. Please provide a description of the process (preparing batch products, dispensing of the product, management of leftover product, etc.) performed at the facility. Indicate in which part of the process waste is generated and what type of waste it is.
- vi. During the inspection conducted at your facility, conflicting information related to the storage, handling, and disposal activities related to the content (slop) of the slop tank was gathered. Please provide information related to the content (slop) of the slop tank and if such item is considered a hazardous waste, if applicable. If considered hazardous waste, please provide a description of how the facility is storing, handling, and disposing of such waste since 2015 to present and include documents that support these related activities. Please also include information related to the hauler company involved in the disposal of the waste. If the facility is considering the content (slop) of the slop tank as non-hazardous waste, please provide information and supportive documents that explain how the facility

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conducted such a determination. In addition, please provide a description of how the facility is storing, handling, and disposing of such content (slop) of the slop tank since 2015 to present and include documents that support these related activities. Please also include information related to the hauler company involved in the disposal of the waste.

- vii. During the inspection conducted at your facility, the above ground storage tank (AGST) which receives the content (slop) was not observed marked or labeled with the words "Hazardous Waste". A pictographic label and/or an indication of the hazards of the contents were not observed, as well. Please provide information related to the AGST which receives the content (slop) and if such AGST is considered a hazardous waste tank, if applicable. If considered as hazardous waste tank, please provide a description of why the AGST was not properly identified nor an indication of the hazards of the contents available and provide information related to how the facility would improve protocols, and/or implement best management practices (BMPs) and how these would help to minimize and/or avoid this issue.
- viii. During the inspection conducted at your facility, conflicting information related to the storage, handling, and disposal activities related to the containers observed at the HWAA subarea was gathered. Here, information related to how long the containers observed at this subarea had been placed was unknown, and/or the date upon which each period of accumulation started was not clearly visible. Since the facility representative was not able to confirm whether the containers were placed at this location for no more than 90 days, please provide information related to the containers observed at the HWAA subarea and if such containers are considered as hazardous waste, if applicable. If considered as hazardous waste, please provide a description of how the facility is storing, handling, and disposing of such waste since the beginning of their storage activity to present and include documents that support these related activities. Please also include information related to the hauler company involved in the disposal of the waste. If the facility is considering the containers observed at the HWAA subarea as non-hazardous waste, please provide information and supportive documents that explain how the facility conducted such determination. In addition, please provide a description of how the facility is storing, handling, and disposing of such containers observed at the HWAA subarea since the beginning of their storage activity to present and include documents that support these related activities. Please also include information related to the hauler company involved in the disposal of the waste.
- ix. During the inspection conducted at your facility, it was discussed that there are accumulation points where containers are filled and then moved to the facility's Hazardous Waste Storage Area (HWSA). Please provide information related to the accumulation points where containers are filled and then moved to the facility's Hazardous Waste Storage Area (HWSA) and if such containers are considered as hazardous waste, if applicable. If considered as hazardous waste, please provide a description of how the facility is storing, handling, and disposing

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of such waste since 2015 to present and include documents that support these related activities. Please also include information related to the hauler company involved in the disposal of the waste. If the facility is considering the containers observed at the HWAA subarea as non-hazardous waste, please provide information and supportive documents that explain how the facility conducted such determination and include information related to the hauler company involved in the disposal of the waste.

- x. During the inspection conducted at your facility, it was discussed that one non-reportable spill event occurred in the last five (5) years. Also, it was told that the container which contains the content of the event is still at the facility. Please provide information related to the one non-reportable spill event that occurred in the last five (5) years and if the content of such event was considered as hazardous waste, if applicable. If considered as hazardous waste, please provide a description of how the facility is storing, handling, and disposing of such waste since the event to present and include documents that support these related activities. Please also include information related to the hauler company involved in the disposal of the waste, if apply. If the facility is considering the content of the one non-reportable spill event that occurred in the last five (5) years as non-hazardous waste, please provide information and supportive documents that explain how the facility conducted such determination and include information related to the hauler company involved in the disposal of the waste.
  
- xi. During the inspection conducted at your facility, it was discussed that approximately 22 containers were placed at the Epoxy Content Subarea, located at the HWAA. At the time of the inspection, the facility representative was not able to determine if they are products or waste. Since the facility representative was not able to confirm the latter, please provide information related to the approximately 22 containers placed at the Epoxy Content Subarea and if such containers are considered as hazardous waste, if applicable. If considered as hazardous waste, please provide a description of how the facility is storing, handling, and disposing of such waste since the beginning of their storage activity to present and include documents that support these related activities. Please also include information related to the hauler company involved in the disposal of the waste. If the facility is considering the containers observed at the Epoxy Content Subarea, located at the HWAA as non-hazardous waste, please provide information and supportive documents that explain how the facility conducted such determination. In addition, please provide a description of how the facility is storing, handling, and disposing of such containers observed at the Epoxy Content Subarea, located at the HWAA since the beginning of their storage activity to present and include documents that support these related activities. Please also include information related to the hauler company involved in the disposal of the waste.

### **ENCLOSURE III – Instructions and Definitions**

In responding to this Request for Information, apply the following instructions and definitions:

1. The signatory should be an officer or agent who is authorized to respond on behalf of the company or facility. The signatory must complete and return the attached Certification of Answers to Responses (ENCLOSURE IV).
2. A complete response must be made to each individual question in this Request for Information. Identify each answer with the number of the question to which it is addressed.
3. In preparing your response to each question, consult with all present and former employees and agents of the company or facility who you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify all contributing sources of information.
5. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
6. If you cannot provide a precise answer to any violation, please approximate and state the reason for your inability to be specific.
7. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the question to which it applies.
8. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.
9. If a document is requested but is not available, state the reason for its unavailability. In addition, identify any such document by author, date, subject matter, number of pages, and all recipients and their addresses.
10. The company and/or facility for the purposes of this Request for Information is TOTAL PETROLEUM ST THOMAS TERMINAL at CYRIL E KING AIRPORT ST THOMAS, USVI.
11. A generator of hazardous waste for the purposes of this Request for Information shall be defined as any person (which includes this facility), by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation.
12. Solid waste shall be defined for the purposes of this Request for Information as that term is defined in Section 1004(27) of RCRA, as amended, 42 U.S.C. Part 6903(27).

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13. Hazardous waste shall be defined for the purposes of this Request for Information as that term is defined in Section 1004(5) of RCRA, as amended, 42 U.S.C. Part 6903(5).
14. Manage shall be defined for the purposes of this Request for Information as to market, generate, treat, store, dispose or otherwise handle.
15. Used oil shall be defined for the purposes of this Request for Information as any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

## ENCLOSURE IV – Certification of Answers to Responses

I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information CEPD-RCRA-23-3007-3008-002) and all documents submitted herewith, that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

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Name (Print or Type)

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Title (Print or Type)

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Signature

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Date (Print or Type)

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