# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.:** 2007-0796-AIR-E **TCEQ ID:** RN100238740 **CASE NO.:** 33533

**RESPONDENT NAME:** Texmark Chemicals, Inc.

| ORDER TYPE: | | |
|---|---|---|
| X 1660 AGREED ORDER | __FINDINGS AGREED ORDER | __FINDINGS ORDER FOLLOWING SOAH HEARING |
| __FINDINGS DEFAULT ORDER | __SHUTDOWN ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __AMENDED ORDER | __EMERGENCY ORDER | |
| CASE TYPE: | | |
| X AIR | __MULTI-MEDIA (check all that apply) | __INDUSTRIAL AND HAZARDOUS WASTE |
| __PUBLIC WATER SUPPLY | __PETROLEUM STORAGE TANKS | __OCCUPATIONAL CERTIFICATION |
| __WATER QUALITY | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL |
| __MUNICIPAL SOLID WASTE | __RADIOACTIVE WASTE | __DRY CLEANER REGISTRATION |

**SITE WHERE VIOLATION(S) OCCURRED:** Texmark Chemicals, 900 Clinton Drive, Galena Park, Harris County

**TYPE OF OPERATION:** Chemical manufacturing

**SMALL BUSINESS:** ___ **Yes** _X_ **No**

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on November 12, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
**TCEQ Enforcement Coordinator:** Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
**Respondent:** Ms. Linda Salinas, Environmental Manager, Texmark Chemicals, Inc., 900 Clinton Drive, Galena Park, Texas 77547
Mr. Robert R. Kautzman, Plant Manager, Texmark Chemicals, Inc., 900 Clinton Drive, Galena Park, Texas 77547
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:**<br>__ Complaint<br>_X_ Routine<br>__ Enforcement Follow-up<br>__ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** November 20 to 21, 2006<br><br>**Date of NOV/NOE Relating to this Case:** May 2, 2007 (NOE)<br><br>**Background Facts:** This was a routine investigation. Ten violations were documented.<br><br>**AIR**<br><br>1) Failed to monitor API Separator A-1 during the second quarter of 2006 [Federal Operating Permit ("FOP") O-01363, Special Terms and Conditions ("STC") 9, 30 TEX. ADMIN. CODE § 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>2) Failed to submit fugitive emissions monitoring reports. Specifically, Texmark has failed to submit the required semiannual reports on volatile organic compounds ("VOC") [New Source Review ("NSR") Permit No. 21472, Special Condition ("SC") 3.A., FOP O-01363, STC 1.A. and 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 60.487(a), and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>3) Failed to report deviations in semiannual and annual compliance certification reports. Specifically, Texmark had deviations in each of five semiannual report periods beginning January 12, 2004 and ending July 11, 2006, but reported no deviations in the semiannual nor annual reports [FOP O-01363, General Terms and Conditions, 30 TEX. ADMIN. CODE § 122.145(2)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | **Total Assessed:** $75,692<br><br>**Total Deferred:** $15,138<br>_X_ Expedited Settlement<br><br>__ Financial Inability to Pay<br><br>**SEP Conditional Offset:** $30,277<br><br>**Total Paid to General Revenue:** $30,277<br><br>**Site Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Person Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Major Source:** _X_ Yes ___ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:<br><br>a. Implemented procedures by May 16, 2007 to ensure compliance with the monitoring requirements for API Separator A-1;<br><br>b. Submitted all overdue fugitive emissions monitoring reports on December 1, 2006, and implemented procedures by May 16, 2007 to ensure the timely submittal of future reports;<br><br>c. Reinitiated the quarterly monitoring of the sulfur content in the fuel for the B-ZURN boiler beginning April 2005; and<br><br>d. Implemented procedures by May 16, 2007 to ensure the proper submission of tank refilling notifications.<br><br>**Ordering Provisions:**<br><br>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)<br><br>3) The Order will also require the Respondent to:<br><br>a. Within 30 days after the effective date of this Agreed Order:<br><br>i. Submit to the TCEQ deviation reports, and corrected annual reports, for each of the six semiannual report periods beginning January 12, 2004 and ending July 11, 2006;<br><br>ii. Submit to the TCEQ a request to revise FOP O-01363 to include the provisions of 40 CFR 61, Subpart FF (National Emission Standard for Benzene Waste Operations) and 40 CFR 60, Subpart NNN (Standards of Performance for VOC emissions From Synthetic Organic Chemical Manufacturing Industry Distillation Operations); |

| | | |
|---|---|---|
| 4) Failed to sample the sulfur content of fuel. Specifically, Texmark failed to perform quarterly monitoring of the sulfur content in the fuel for the B-ZURN boiler during the first quarter of 2005 [FOP O-01363, STC 9., 30 TEX. ADMIN. CODE § 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>5) Failed to include the applicability of provisions in FOP O-01363. Specifically, Texmark is subject to the provisions of 40 CFR 61, Subpart FF (National Emission Standard for Benzene Waste Operations) and 40 CFR 60, Subpart NNN (Standards of Performance for VOC Emissions From Synthetic Organic Chemical Manufacturing Industry Distillation Operations), but failed to include these in the permit [30 TEX. ADMIN. CODE § 122.132(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>6) Failed to install a flow indicator for a distillation column. Specifically, on or before July 20, 2002, when Texmark started its distillation columns, FIN: 5222, installation of a flow indicator was required, but Texmark has failed to install one [NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.663(b)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>7) Failed to submit notification for refilling a tank in VOC service. Specifically, Texmark refilled Tank 1405 on February 17, 2006, but failed to notify the TCEQ prior to doing so [NSR Permit No. 21472, SC 3, FOP O-01363, STC 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), and 122.143(4), 40 CFR § 60.113(b)(a)(5), and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>8) Failed to test the flare (EPN FLR). Specifically, Texmark was required to perform an initial flare performance test at the maximum production rate at which distillation column 5222 was to be operated, no later than 180 days following the start up of that column. Start up occurred no later than July 20, 2002, but the required testing has yet to be performed [NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), 40 CFR § 60.664(d), and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | | iii. Complete the installation of a flow indicator from the distillation column (FIN: 5222) to the flare;<br><br>iv. Perform a flare performance test at the maximum production rate at which the distillation column (FIN: 5222) is operated;<br><br>v. Submit notification to the TCEQ as to the election of the specific provisions of 40 CFR Subpart NNN for the distillation column (FIN: 5222) that are to be complied with; and<br><br>vi. Submit to the TCEQ the overdue initial and semiannual reports relating to the operation of the distillation column (FIN: 5222);<br><br>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.vi.<br><br>c. Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning the FOP Permit revision within 30 days of the date of such letters, or by any other deadline specified in writing; and<br><br>d. Within 145 days after the effective date of this Agreed Order, submit written certification that either Federal Operating Permits program authorization to operate a source of air emissions has been obtained or that operation of unauthorized sources has ceased until such time that appropriate authorization is obtained. |

| | | |
|---|---|---|
| 9) Failed to submit a provision applicability notification to the TCEQ for its distillation column, FIN: 5222. Specifically, Texmark was required to submit a notification as to the specific provisions of 40 CFR Subpart NNN for distillation columns that it elected to comply with. This notification was required by August 4, 2002, but it has not been submitted [NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.665(a), and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>10) Failed to submit to the TCEQ initial and semiannual reports relating to the operation of distillation column, FIN: 5222. Specifically, Texmark was required to submit the initial report no later than January 20, 2003 and semiannual reports thereafter, but no reports have been submitted [NSR Permit No. 21472, SC 3.B., FOP O-0163, STC 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.665(l), and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | | |

Additional ID No(s).: Air HG0134R

**Attachment A**
**Docket Number: 2007-0796-AIR-E**

## SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---|---|
| **Respondent:** | **Texmark Chemicals, Inc.** |
| **Payable Penalty Amount:** | **Sixty Thousand Five Hundred Fifty-Four Dollars ($60,554)** |
| **SEP Amount:** | **Thirty-Thousand Two Hundred Seventy-Seven Dollars ($30,277)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program** |
| **Location of SEP:** | **Harris County** |

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 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 will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality***. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## 5. Publicity

Any public statements concerning this SEP 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. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

# Penalty Calculation Worksheet (PCW)

*Policy Revision 2 (September 2002)* — *PCW Revision April 26, 2007*

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 7-May-2007 | | | | |
| PCW | 14-Aug-2007 | Screening | 16-May-2007 | EPA Due | 12-Mar-2008 |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Texmark Chemicals, Inc. | | |
| Reg. Ent. Ref. No. | RN100238740 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 33533 | No. of Violations | 10 |
| Docket No. | 2007-0796-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Enf. Coordinator | Terry Murphy |
| Multi-Media | | EC's Team | EnforcementTeam 4 |
| Admin. Penalty $ Limit Minimum | $0 | Maximum | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** — *Subtotal 1* **$59,600**

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

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

**Compliance History** — **27%** Enhancement — *Subtotals 2, 3, & 7* **$16,092**

Notes: The penalty was enhanced by three NOVs for same or similar violations and six dissimilar NOVs.

**Culpability** — No — **0%** Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** — **0%** Reduction — *Subtotal 5* **$0**

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---|---|---|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes: The Respondent does not meet the good faith criteria.

**0%** Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $5,239 |
| Approx. Cost of Compliance | $22,600 |

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* **$75,692**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

*Final Penalty Amount* **$75,692**

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* **$75,692**

**DEFERRAL** — **20%** Reduction — *Adjustment* **-$15,138**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **$60,554**

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc.

*Policy Revision 2 (September 2002)*

**Case ID No.** 33533

*PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

## Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

| Component | Number of... | *Enter Number Here* | Adjust. |
|---|---|---|---|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*) | 3 | 15% |
| | Other written NOVs | 6 | 12% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 0 | 0% |
| | 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 (*number of judgements or consent decrees meeting criteria*) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (*number of counts*) | 0 | 0% |
| Emissions | Chronic excessive emissions events (*number of events*) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)* | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*) | 0 | 0% |

| | | *Please Enter Yes or No* | |
|---|---|---|---|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

***Adjustment Percentage (Subtotal 2)*** 27%

>> **Repeat Violator (Subtotal 3)**

No

***Adjustment Percentage (Subtotal 3)*** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

***Adjustment Percentage (Subtotal 7)*** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The penalty was enhanced by three NOVs for same or similar violations and six dissimilar NOVs.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 27%

| | | | |
|---|---|---|---|
| **Screening Date** | 16-May-2007 | **Docket No.** 2007-0796-AIR-E | **PCW** |
| **Respondent** | Texmark Chemicals, Inc. | | *Policy Revision 2 (September 2002)* |
| **Case ID No.** | 33533 | | *PCW Revision April 26, 2007* |
| **Reg. Ent. Reference No.** | RN100238740 | | |
| **Media [Statute]** | Air | | |
| **Enf. Coordinator** | Terry Murphy | | |
| **Violation Number** | 1 | | |
| **Rule Cite(s)** | Federal Operating Permit ("FOP") O-01363, Special Terms and Conditions ("STC") 9., 30 Tex. Admin. Code § 122.143(4), and Tex. Health & Safety Code § 382.085(b) | | |
| **Violation Description** | Failed to monitor API Separator A-1 during the second quarter of 2006, as documented during an investigation conducted November 20 to 21, 2006. | | |

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | x |

**Percent** 10%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

Matrix Notes: Human health or the environment could have been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

**Adjustment** $9,000

$1,000

## Violation Events

Number of Violation Events: 1

90 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $1,000

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $275

## Statutory Limit Test

**Violation Final Penalty Total** $1,270

**This violation Final Assessed Penalty (adjusted for limits)** $1,270

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | $800 | 1-Apr-2006 | 16-May-2007 | 1.1 | $3 | $60 | $63 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

**Notes for DELAYED costs:** Estimated costs to implement procedures designed to ensure compliance with separator monitoring requirements. The Required Date is the first day of the quarter wherein the violation occurred, and the Final Date is the date improved procedures were implemented.

**Avoided Costs** — ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | $200 | 1-Apr-2006 | 30-Jun-2006 | 1.2 | $12 | $200 | $212 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |

**Notes for AVOIDED costs:** Estimated costs to have monitored the separator. The Required and Final Dates are the violation period.

**Approx. Cost of Compliance** $1,000

**TOTAL** $275

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33533 *PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 2

**Rule Cite(s)** FOP O-01363, STC 1.A. and 10., New Source Review ("NSR") Permit No. 21472, Special Condition ("SC") 3.A., 30 Tex. Admin. Code §§ 101.20(1), 116.115(c), and 122.143(4), 40 Code of Federal Regulations ("CFR") § 60.487(a), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to submit fugitive emissions monitoring reports, as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark has failed to submit the required semiannual reports on volatile organic compounds ("VOC") fugitive emissions leaks.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 25%

Matrix Notes: Texmark failed to comply with 100% of the rule.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 6 | 2,003 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | x |
| single event | |

**Violation Base Penalty** $15,000

Six annual events are recommended from five years prior to the investigation date (November 20-21, 2001) to the enforcement screening date (May 16, 2007).

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $245

## Statutory Limit Test

**Violation Final Penalty Total** $19,050

**This violation Final Assessed Penalty (adjusted for limits)** $19,050

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | $100 | 20-Nov-2001 | 1-Dec-2006 | 5.0 | $25 | n/a | $25 |
| Training/Sampling | $800 | 20-Nov-2001 | 16-May-2007 | 5.5 | $220 | n/a | $220 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

Notes for DELAYED costs: Estimated costs to submit reports ($100), and implement procudures to ensure the timely submittal of future reports ($800). The Date Required is five years prior to the investigation date, and the Final Dates are when all overdue reports were submitted and when improved procedures were implemented.

| Avoided Costs | | | | | | | |
|---|---|---|---|---|---|---|---|
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance: $900

TOTAL: $245

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33533 *PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 3

**Rule Cite(s)** FOP O-01363, General Terms and Conditions, 30 Tex. Admin. Code § 122.145(2)(A), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to report deviations in semiannual and annual compliance certification reports, as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark had deviations in each of five semiannual report periods beginning January 12, 2004 and ending July 11, 2006, but reported no deviations in the semiannual nor annual reports.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 25%

Matrix Notes: Texmark failed to comply with 100% of the rule.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 5

1,008 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $12,500

Five single events are recommended, one for each of the missing semiannual deviation reports beginning January 12, 2004 through July 11, 2006.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $956

## Statutory Limit Test

**Violation Final Penalty Total** $15,875

**This violation Final Assessed Penalty (adjusted for limits)** $15,875

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 3

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | $5,500 | 11-Aug-2004 | 1-Feb-2008 | 3.5 | $956 | n/a | $956 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

Notes for DELAYED costs: Estimated costs to prepare and submit deviation reports and corrected annual reports ($500 per report). The Date Required is the date the first deviation report was due, and the Final Date is the when all overdue and corrected reports are expected to be submitted.

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Avoided Costs** | | | | | | | |
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance: $5,500

TOTAL: $956

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33533 *PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 4

**Rule Cite(s)** FOP O-01363, STC 9., 30 Tex. Admin. Code § 122.143(4), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to sample the sulfur content of fuel, as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark failed to perform quarterly monitoring of the sulfur content in the fuel for the B-ZURN boiler during the first quarter of 2005.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | x |

**Percent** 10%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

Matrix Notes: Human health or the environment could have been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

**Adjustment** $9,000

$1,000

## Violation Events

Number of Violation Events 1 | 120 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $1,000

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $102

## Statutory Limit Test

**Violation Final Penalty Total** $1,270

**This violation Final Assessed Penalty (adjusted for limits)** $1,270

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 4

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |
| Notes for DELAYED costs | | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | $400 | 1-Jan-2005 | 31-Mar-2005 | 0.2 | $5 | $98 | $102 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | Estimated costs to sample sulfur content of fuel. The Date Required and Final Date are the first and last day of the quarter in which sampling was not done. | | | | | | |

Approx. Cost of Compliance: $400

TOTAL: $102

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33533 *PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 5

**Rule Cite(s)** 30 Tex. Admin. Code § 122.132(a) and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to include the applicability of provisions in FOP O-01363, as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark is subject to the provisions of 40 CFR 61, Subpart FF (National Emission Standard for Benzene Waste Operations) and 40 CFR 60, Subpart NNN (Standards of Performance for VOC Emissions From Synthetic Organic Chemical Manufacturing Industry Distillation Operations), but failed to include these in the permit.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | x |

**Percent** 1%

Matrix Notes: Texmark failed to provide less than 30% of the required information.

**Adjustment** $9,900

$100

## Violation Events

Number of Violation Events 1 | 1,220 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $100

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $1,076

## Statutory Limit Test

**Violation Final Penalty Total** $127

**This violation Final Assessed Penalty (adjusted for limits)** $127

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 5

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | $5,000 | 12-Jan-2004 | 1-May-2008 | 4.3 | $1,076 | n/a | $1,076 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

Notes for DELAYED costs: Estimated costs to revise the Title V permit. The Date Required is initial issuance date of the permit, and the Final Date is when the revision is expected to be issued.

| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|---|---|---|---|---|---|---|---|
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance: $5,000

TOTAL: $1,076

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33533 *PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 6

**Rule Cite(s)** NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10., 30 Tex. Admin. Code §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.663(b)(2), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to install a flow indicator for a distillation column, as documented during an investigation conducted November 20 to 21, 2006. Specifically, on or before July 20, 2002, when Texmark started up its distillation column, FIN: 5222, installation of a flow indicator was required, but Texmark has failed to install one.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | x | |

**Percent** 25%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

**Adjustment** $7,500

$2,500

## Violation Events

1 — 1,761 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $388

## Statutory Limit Test

**Violation Final Penalty Total** $3,175

**This violation Final Assessed Penalty (adjusted for limits)** $3,175

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 6

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | $1,000 | 20-Jul-2002 | 1-Feb-2008 | 5.5 | $18 | $369 | $388 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |
| Notes for DELAYED costs | Estimated costs to purchase and install a flow indicator. The Date Required is the date of the column's construction, and the Final Date is when the installation is expected to be completed. | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | | | | | | | |

Approx. Cost of Compliance: $1,000

TOTAL: $388

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33533 *PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 7

**Rule Cite(s)** NSR Permit No. 21472, SC 3. and FOP O-01363, STC 10, 30 Tex. Admin. Code §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.113b(a)(5), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to submit notification for refilling a tank in VOC service, as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark refilled Tank 1405 on February 17, 2006, but failed to notify the TCEQ prior to doing so.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 25%

Matrix Notes: Texmark failed to comply with 100% of the rule.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 1

1 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $276

## Statutory Limit Test

**Violation Final Penalty Total** $3,175

**This violation Final Assessed Penalty (adjusted for limits)** $3,175

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 7

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | $1,000 | 17-Jan-2006 | 16-May-2007 | 1.3 | $66 | n/a | $66 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

Notes for DELAYED costs: Estimated cost to improve oversight and provide additional training. The Required Date is when notice was required, and the Final Date is when procedures were implemented to ensure proper notifications.

| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|---|---|---|---|---|---|---|---|
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | $200 | 17-Jan-2006 | 17-Feb-2006 | 1.0 | $10 | $200 | $210 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |

Notes for AVOIDED costs: Estimated cost to have prepared and submitted notice. The Required Date is when notice was required, and the Final Date is the date the tank was filled.

Approx. Cost of Compliance: $1,200

TOTAL: $276

| | | | |
|---|---|---|---|
| **Screening Date** | 16-May-2007 | **Docket No.** 2007-0796-AIR-E | **PCW** |
| **Respondent** | Texmark Chemicals, Inc. | | *Policy Revision 2 (September 2002)* |
| **Case ID No.** | 33533 | | *PCW Revision April 26, 2007* |
| **Reg. Ent. Reference No.** | RN100238740 | | |
| **Media [Statute]** | Air | | |
| **Enf. Coordinator** | Terry Murphy | | |

**Violation Number** 8

**Rule Cite(s)** NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10., 30 Tex. Admin. Code §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.664(d), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to test the flare (EPN FLR), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark was required to perform an initial flare performance test at the maximum production rate at which distillation column 5222 was to be operated, no later than 180 days following the start up of that column. Start up occurred no later than July 20, 2002, but the required testing has yet to be performed.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | x | |

**Percent** 25%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

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

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 1

1,581 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $1,262

## Statutory Limit Test

**Violation Final Penalty Total** $3,175

**This violation Final Assessed Penalty (adjusted for limits)** $3,175

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 8

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | $5,000 | 16-Jan-2003 | 1-Feb-2008 | 5.0 | $1,262 | n/a | $1,262 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |
| Notes for DELAYED costs | Estimated costs to test flare. The Date Required is the date by which testing was required, and the Final Date is when testing is expected to have been completed. | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | | | | | | | |

Approx. Cost of Compliance: $5,000

TOTAL: $1,262

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33533 *PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 9

**Rule Cite(s)** NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10., 30 Tex. Admin. Code §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.665(a), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to submit a provision applicability notification to the TCEQ for its distillation column, FIN: 5222, as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark was required to submit a notification as to the specific provisions of 40 CFR Subpart NNN for distillation columns that it elected to comply with. This notification was required by August 4, 2002, but it has not been submitted.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| | Release | Harm: Major | Moderate | Minor |
|---|---|---|---|---|
| OR | Actual | | | |
| | Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 25%

Matrix Notes: Texmark failed to comply with 100% of the rule.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 1

1,746 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $55

## Statutory Limit Test

**Violation Final Penalty Total** $3,175

**This violation Final Assessed Penalty (adjusted for limits)** $3,175

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 9

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | $200 | 4-Aug-2002 | 1-Feb-2008 | 5.5 | $55 | n/a | $55 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |
| Notes for DELAYED costs | Estimated costs to prepare and submit an applicability notice. The Date Required is when the notice was due, and the Final Date is when the notice is expected to be submitted. | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | | | | | | | |

Approx. Cost of Compliance: $200

TOTAL: $55

**Screening Date** 16-May-2007 **Docket No.** 2007-0796-AIR-E **PCW**

**Respondent** Texmark Chemicals, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33533 *PCW Revision April 26, 2007*

**Reg. Ent. Reference No.** RN100238740

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 10

**Rule Cite(s)** NSR Permit No. 21472, SC 3.B., FOP O-0163, STC 10., 30 Tex. Admin. Code §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.665(l), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to submit to the TCEQ initial and semiannual reports relating to the operation of a distillation column, FIN: 5222, as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark was required to submit the initial report no later than January 20, 2003 and semiannual reports thereafter, but no reports have been submitted.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| | Release | Harm: Major | Moderate | Minor |
|---|---|---|---|---|
| OR | Actual | | | |
| | Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 25%

Matrix Notes: Texmark failed to comply with 100% of the rule

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 8 | 1,577 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $20,000

Eight single events are recommended, one event for each report overdue from January 20, 2003 through July 20, 2006.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $604

## Statutory Limit Test

**Violation Final Penalty Total** $25,400

**This violation Final Assessed Penalty (adjusted for limits)** $25,400

# Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.
**Case ID No.** 33533
**Reg. Ent. Reference No.** RN100238740
**Media** Air
**Violation No.** 10

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | $2,400 | 20-Jan-2003 | 1-Feb-2008 | 5.0 | $604 | n/a | $604 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

**Notes for DELAYED costs**: Estimated costs to prepare and submit eight reports ($300 per report). The Date Required is when the first report was due, and the Final Date is when all of the overdue reports are expected to be submitted.

| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|---|---|---|---|---|---|---|---|
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** $2,400

**TOTAL** $604

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600132864 | Texmark Chemicals, Inc. | Classification: AVERAGE | Rating: 0.69 |
| Regulated Entity: | RN100238740 | TEXMARK CHEMICALS | Classification: AVERAGE | Site Rating: 0.69 |

ID Number(s):

| | | |
|---|---|---|
| AIR OPERATING PERMITS | ACCOUNT NUMBER | HG0134R |
| AIR OPERATING PERMITS | PERMIT | 1363 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD088363692 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 30654 |
| WASTEWATER | PERMIT | WQ0000786000 |
| WASTEWATER | PERMIT | TPDES0005860 |
| WASTEWATER | PERMIT | TX0005860 |
| AIR NEW SOURCE PERMITS | PERMIT | 21472 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | HG0134R |
| AIR NEW SOURCE PERMITS | AFS NUM | 4820101285 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 75077 |
| IHW CORRECTIVE ACTION | SOLID WASTE REGISTRATION # (SWR) | 30654 |

Location: 900 CLINTON DR, GALENA PARK, TX, 77547 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 21, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 21, 2002 to May 21, 2007

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

Name: Terry Murphy Phone: (512) 239-5025

## Site Compliance History Components

| | |
|---|---|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

| | | | | | |
|---|---|---|---|---|---|
| 1 | 06/03/2002 | (158357) | 22 | 01/06/2004 | (251062) |
| 2 | 07/31/2002 | (158360) | 23 | 01/23/2004 | (295472) |
| | | | 24 | 02/25/2004 | (295453) |
| 3 | 09/19/2002 | (158364) | 25 | 03/24/2004 | (295456) |
| 4 | 11/29/2002 | (158367) | 26 | 04/22/2004 | (295457) |
| 5 | 11/29/2002 | (158370) | 27 | 05/25/2004 | (295460) |
| 6 | 11/29/2002 | (158373) | 28 | 06/16/2004 | (274784) |
| 7 | 11/29/2002 | (158377) | 29 | 06/23/2004 | (352162) |
| 8 | 12/23/2002 | (158381) | 30 | 08/23/2004 | (352164) |
| 9 | 01/23/2003 | (158385) | 31 | 09/22/2004 | (352165) |
| 10 | 02/28/2003 | (158346) | 32 | 10/22/2004 | (352166) |
| 11 | 03/25/2003 | (158349) | 33 | 10/22/2004 | (352163) |
| 12 | 04/23/2003 | (158354) | 34 | 11/24/2004 | (352167) |
| 13 | 05/22/2003 | (295459) | 35 | 01/24/2005 | (381862) |
| 14 | 06/23/2003 | (158361) | 36 | 01/26/2005 | (343978) |

| | | | | | |
|---|---|---|---|---|---|
| 15 | 07/23/2003 | (295463) | 37 | 02/24/2005 | (381861) |
| 16 | 08/25/2003 | (295465) | 38 | 03/03/2005 | (372921) |
| 17 | 08/28/2003 | (152553) | 39 | 07/19/2005 | (397993) |
| 18 | 09/24/2003 | (295467) | 40 | 06/22/2006 | (457517) |
| 19 | 10/23/2003 | (295469) | 41 | 09/01/2006 | (497307) |
| 20 | 11/24/2003 | (295470) | 42 | 10/12/2006 | (511775) |
| 21 | 12/23/2003 | (295471) | 43 | 05/02/2007 | (512684) |

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

Date 11/30/2002 (158381)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2002 (158385)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 01/06/2004 (251062)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

Description: Failure to keep and maintain a flare operation log.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(2)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.115b(a)(2)

Rqmt Prov: PERMIT 21472, Special Condition 21D
PERMIT 21472, Special Condition 2C

Description: Failure to inspect the integrity of the seals to the internal floating roofs of 3 storage vessels and keep records of the results of the inspections.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 21472, Special Condition 22H

Description: Failure to identify valve numbers 78, 80, 128 & 130 as leaking components to be repaired at the next scheduled shutdown with a tag as required by TCEQ Air Permit 21472, Special Condition 22H.

Date 01/31/2004 (295453)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 06/30/2004 (352163)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2004 (381862)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 01/25/2005 (343978)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to properly calibrate the pH meter with pH buffers when the sample pH is below 7.

Date 07/19/2005 (397993)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)

Rqmt Prov: PERMIT No. 21472, Special Condition 22D
OP No. O-01363, SC 10A

Description: failure to submit notification of the filling of Storage Tanks T-1009, T-1010, T-1404 and T-1405.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.115b(a)(1)

Rqmt Prov: PERMIT No. 21472, SC 2C
OP No. O-01363, SC 10A

Description: failure to submit notification describing the condition of the seals to the internal floating roofs to Storage Tanks T-1009, T-1010, T-1404 and T-1405.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(a)(7)

Rqmt Prov: PERMIT No. 21472, SC 2C
OP No. O-01363, SC 10A
OP No. O-01363, SC 8A

Description: failure to submit notification of actual startup date of Storage Tanks T-1009, T-1010, T-1404 and T-1405.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.132(a)(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT No. 21472, SC 20
OP No. O-01363, SC 10A
OP No. O-01363, SC 1C

Description: failure to equip oil water separators A-1 and A-2 with vapor tight covers.

Date 06/22/2006 (457517)

Self Report? NO Classification Moderate

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

Rqmt Prov: PA NSR Permit 21472, SC 24F
OP Operating Permit O-01383, SC 10
OP Operating Permit O-01383, SC 9

Description: Failure to monitor VOC-water separators.

Self Report? NO Classification Moderate

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

Rqmt Prov: PA NSR Permit 21472, SC 24E
OP Operating Permit O-01383, SC 10

Description: Failure to cap open-ended lines.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | **TEXAS COMMISSION ON** |
| **TEXMARK CHEMICALS, INC.** | § | |
| **RN100238740** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2007-0796-AIR-E**

## I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texmark Chemicals, Inc. ("Texmark") 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 Texmark appear before the Commission and together stipulate that:

1. Texmark owns and operates a chemical manufacturing plant at 900 Clinton Drive in Galena Park, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Texmark agree that the Commission has jurisdiction to enter this Agreed Order, and that Texmark is subject to the Commission's jurisdiction.

4. Texmark received notice of the violations alleged in Section II ("Allegations") on or about May 7, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Texmark of any violation alleged in the Allegations, nor of any statute or rule.

6. An administrative penalty in the amount of Seventy-Five Thousand Six Hundred Ninety-Two Dollars ($75,692) is assessed by the Commission in settlement of the violations alleged in the Allegations. Texmark has paid Thirty Thousand Two Hundred Seventy-Seven Dollars ($30,277)

of the administrative penalty and Fifteen Thousand One Hundred Thirty-Eight Dollars ($15,138) is deferred contingent upon Texmark's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Texmark fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Texmark to pay all or part of the deferred penalty. Thirty Thousand Two Hundred Seventy-Seven Dollars ($30,277) shall be conditionally offset by Texmark's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Texmark have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Texmark has implemented the following corrective measures at the Plant:

   a. Implemented procedures by May 16, 2007 to ensure compliance with the monitoring requirements for API Separator A-1;

   b. Submitted all overdue fugitive emissions monitoring reports on December 1, 2006, and implemented procedures by May 16, 2007 to ensure the timely submittal of future reports;

   c. Reinitiated the quarterly monitoring of the sulfur content in the fuel for the B-ZURN boiler beginning April 2005; and

   d. Implemented procedures by May 16, 2007 to ensure the proper submission of tank refilling notifications.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Texmark has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to monitor API Separator A-1 during the second quarter of 2006, in violation of Federal Operating Permit ("FOP") O-01363, Special Terms and Conditions ("STC") 9, 30 TEX. ADMIN.

CODE § 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006.

2. Failed to submit fugitive emissions monitoring reports, in violation of New Source Review ("NSR") Permit No. 21472, Special Condition ("SC") 3.A., FOP O-01363, STC 1.A. and 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 60.487(a), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark has failed to submit the required semiannual reports on volatile organic compounds ("VOC").

3. Failed to report deviations in semiannual and annual compliance certification reports, in violation of FOP O-01363, General Terms and Conditions, 30 TEX. ADMIN. CODE § 122.145(2)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark had deviations in each of five semiannual report periods beginning January 12, 2004 and ending July 11, 2006, but reported no deviations in the semiannual nor annual reports.

4. Failed to sample the sulfur content of fuel, in violation of FOP O-01363, STC 9., 30 TEX. ADMIN. CODE § 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark failed to perform quarterly monitoring of the sulfur content in the fuel for the B-ZURN boiler during the first quarter of 2005.

5. Failed to include the applicability of provisions in FOP O-01363, in violation of 30 TEX. ADMIN. CODE § 122.132(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark is subject to the provisions of 40 CFR 61, Subpart FF (National Emission Standard for Benzene Waste Operations) and 40 CFR 60, Subpart NNN (Standards of Performance for VOC Emissions From Synthetic Organic Chemical Manufacturing Industry Distillation Operations), but failed to include these in the permit.

6. Failed to install a flow indicator for a distillation column, in violation of NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.663(b)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, on or before July 20, 2002, when Texmark started its distillation columns, FIN: 5222, installation of a flow indicator was required, but Texmark has failed to install one.

7. Failed to submit notification for refilling a tank in VOC service, in violation of NSR Permit No. 21472, SC 3, FOP O-01363, STC 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), and 122.143(4), 40 CFR § 60.113(b)(a)(5), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark refilled Tank 1405 on February 17, 2006, but failed to notify the TCEQ prior to doing so.

8. Failed to test the flare (EPN FLR), in violation of NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), 40 CFR § 60.664(d), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark was required to perform an initial flare performance test at the maximum production rate at which distillation column 5222 was to be

operated, no later than 180 days following the start up of that column. Start up occurred no later than July 20, 2002, but the required testing has yet to be performed.

9. Failed to submit a provision applicability notification to the TCEQ for its distillation column, FIN: 5222, in violation of NSR Permit No. 21472, SC 3.B., FOP O-01363, STC 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.665(a), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark was required to submit a notification as to the specific provisions of 40 CFR Subpart NNN for distillation columns that it elected to comply with. This notification was required by August 4, 2002, but it has not been submitted.

10. Failed to submit to the TCEQ initial and semiannual reports relating to the operation of distillation column, FIN: 5222, in violation of NSR Permit No. 21472, SC 3.B., FOP O-0163, STC 10, 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c) and 122.143(4), 40 CFR § 60.665(l), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted November 20 to 21, 2006. Specifically, Texmark was required to submit the initial report no later than January 20, 2003 and semiannual reports thereafter, but no reports have been submitted.

## III. DENIALS

Texmark generally denies each allegation in the Allegations.

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Texmark pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Texmark's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texmark Chemicals, Inc., Docket No. 2007-0796-AIR-E" to:

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

2. Texmark shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Thirty Thousand Two Hundred Seventy-Seven Dollars ($30,277) of the assessed administrative penalty shall be offset with the condition that Texmark implement the SEP defined in Attachment A, incorporated herein by reference. Texmark's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that Texmark shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order:

i. Submit to the TCEQ deviation reports, and corrected annual reports, for each of the six semiannual report periods beginning January 12, 2004 and ending July 11, 2006;

ii. Submit to the TCEQ a request to revise FOP O-01363 to include the provisions of 40 CFR 61, Subpart FF (National Emission Standard for Benzene Waste Operations) and 40 CFR 60, Subpart NNN (Standards of Performance for VOC Emissions From Synthetic Organic Chemical Manufacturing Industry Distillation Operations);

iii. Complete the installation of a flow indicator from the distillation column (FIN: 5222) to the flare;

iv. Perform a flare performance test at the maximum production rate at which the distillation column (FIN: 5222) is operated;

v. Submit notification to the TCEQ as to the election of the specific provisions of 40 CFR Subpart NNN for the distillation column (FIN: 5222) that are to be complied with; and

vi. Submit to the TCEQ the overdue initial and semiannual reports relating to the operation of the distillation column (FIN: 5222);

b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.vi. The certification shall be notarized by a State of Texas Notary Public and 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

c. Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning the FOP Permit revision within 30 days of the date of such letters, or by any other deadline specified in writing; and

d. Within 145 days after the effective date of this Agreed Order, submit written certification as described in 2.b. above that either Federal Operating Permits program authorization to operate a source of air emissions has been obtained or that operation of unauthorized sources has ceased until such time that appropriate authorization is obtained.

4. The provisions of this Agreed Order shall apply to and be binding upon Texmark. Texmark is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

5. If Texmark fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Texmark's failure to comply is not a violation of this Agreed Order. Texmark shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Texmark shall notify the Executive Director within seven days after Texmark becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any `plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Texmark shall be made in writing to the Executive Director. Extensions are not effective until Texmark receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Texmark in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

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

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 12/03/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

_____ 8-31-07
Signature Date

ROBERT R. KAUTZMAN PLANT MANAGER
Name (Printed or typed) Title
Authorized Representative of
Texmark Chemicals, Inc.

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

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

**Attachment A**
**Docket Number: 2007-0796-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

| | |
|---|---|
| **Respondent:** | **Texmark Chemicals, Inc.** |
| **Payable Penalty Amount:** | **Sixty Thousand Five Hundred Fifty-Four Dollars ($60,554)** |
| **SEP Amount:** | **Thirty-Thousand Two Hundred Seventy-Seven Dollars ($30,277)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program** |
| **Location of SEP:** | **Harris County** |

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 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 will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality***. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP 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. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.