

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-0299-AIR-E TCEQ ID: RN101613511 CASE NO.: 37239
RESPONDENT NAME: KMCO, L.P.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: KMCO Ramsey Road Plant, 16503 Ramsey Road, Crosby, Harris County</p> <p>TYPE OF OPERATION: Industrial organic chemical production plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Artie R. McFerrin, President, KMCO, L.P., 16503 Ramsey Road, Crosby, Texas 77532-5916 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 21 through August 12, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 10, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to report a deviation for the deviation reporting period of January 20, 2005 to July 19, 2005 and for the deviation reporting period of July 20, 2006 to January 19, 2007. Specifically, permit compliance certifications were submitted for these two periods, but did not contain any deviations [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operation Permit ("FOP") No. O-01441, General Terms and Conditions and Special Condition 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to submit the results of sampling/testing of the cooling tower system volatile organic compound ("VOC") emissions to the TCEQ within 30 days after completion. Specifically, the El Paso Method of sampling was initiated on June 22, 2006, but the results were not submitted to the TCEQ [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), FOP No. O-01441, Special Condition 8, New Source Review ("NSR") Permit No. 9383, Special Condition 27, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain at least two years of records of leak test and control method used for tank truck/railcar loading and unloading operations. Specifically, at the time of the investigation, the tank truck/railcar records did not include the</p>	<p>Total Assessed: \$21,128</p> <p>Total Deferred: \$4,225 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$16,903</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent began maintaining temperature records of the ethylene oxide storage tanks on December 13, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Report the unreported deviations in the next deviation report submitted to the TCEQ;</p> <p>ii. Submit sampling results of the cooling tower system VOC emissions;</p> <p>iii. Develop and maintain a recordkeeping system for tank truck/railcar operations and the ethylene oxide storage tanks;</p> <p>iv. Implement measures designed to ensure that visible emission observations are conducted on the 98 stationary vents;</p> <p>v. Maintain records of production records and operating hours for the 98 stationary vents in order to determine compliance with the MAERT; and</p> <p>vi. Implement measures designed to ensure that opacity from the natural gas-fired heater, emission point number HJ-2, is limited to 20 percent.</p> <p>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 a.</p>

date of the last leak testing or control method used [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Condition 8, NSR Permit No. 9383, Special Conditions 36, 41.B., and 41.F., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4) Failure to conduct annual visible emission observations of 98 stationary vents during the 12 months prior to the investigation and to demonstrate compliance with the annual mass emissions for the stationary vents by maintaining records of production and operating hours for each individual vent, as described in 30 TEX. ADMIN. CODE § 115.160(2). Specifically, there were no visible emission observations being conducted on the 98 stationary vents and there were no records to show that they were being evaluated for compliance with the maximum allowable emission rate table ("MAERT") [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(E)(i), and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Conditions 3.B.iii. and 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5) Failure to maintain temperature records of the ethylene oxide storage tanks for at least two years. Specifically, no temperature records were available prior to December 13, 2007 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Condition 8 and NSR Permit No. 9383, Special Conditions 31, 36, and 45, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6) Failure to limit opacity from the natural gas-fired heater, emission point number HJ-2, to 20 percent. Specifically, on January 24, 2005, opacity was 30 percent for approximately 15 minutes [30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Condition 3.B.i., and TEX. HEALTH & SAFETY CODE § 382.085(b)].



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	17-Feb-2009	Screening	4-Mar-2009	EPA Due	7-Nov-2009
	PCW	21-Apr-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	KMCO, L.P.
Reg. Ent. Ref. No.	RN101613511
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37239	No. of Violations	6
Docket No.	2009-0299-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Trina Grieco
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,200
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	39.0% Enhancement	Subtotals 2, 3, & 7 \$5,928
Notes	Penalty enhancement due to one NOV issued for same or similar violations, seven NOVs issued for dissimilar violations, and one Agreed Order issued with a denial of liability.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		Subtotal 5 \$0
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$891	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,600	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,128
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	Final Penalty Amount	\$21,128
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$21,128
DEFERRAL	20.0% Reduction	Adjustment -\$4,225
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$16,903

Screening Date 4-Mar-2009	Docket No. 2009-0299-AIR-E	PCW
Respondent KMCO, L.P.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 37239		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN101613511		
Media [Statute] Air		
Enf. Coordinator Trina Grieco		

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 <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

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) 39%

>> **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

Penalty enhancement due to one NOV issued for same or similar violations, seven NOVs issued for dissimilar violations, and one Agreed Order issued with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 39%

Screening Date 4-Mar-2009	Docket No. 2009-0299-AIR-E	PCW		
Respondent KMCO, L.P.	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37239	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101613511				
Media [Statute] Air				
Enf. Coordinator Trina Grieco				
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit ("FOP") No. O-01441, General Terms and Conditions and Special Condition 8 and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to report a deviation for the deviation reporting period of January 20, 2005 to July 19, 2005 and for the deviation reporting period of July 20, 2006 to January 19, 2007. Specifically, permit compliance certifications were submitted for these two periods, but did not contain any deviations.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="0%"/>
>>Programmatic Matrix				
		Falsification		
		Major	Moderate	Minor
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="25%"/>
Matrix Notes	More than 70% of the rule requirements were not met (the certifications were submitted, but did not contain deviations).			
Adjustment				\$7,500
				\$2,500
Violation Events				
Number of Violation Events		<input type="text" value="2"/>	Number of violation days	
		<input type="text" value="1474"/>		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input checked="" type="checkbox"/>		
				Violation Base Penalty <input type="text" value="\$5,000"/>
Two single events are recommended for the two reports that were substantially deficient.				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction	
		Before NOV NOV to EDRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<small>(mark with x)</small>	
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				\$5,000
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$45"/>	Violation Final Penalty Total	
		<input type="text" value="\$6,950"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$6,950"/>

Economic Benefit Worksheet

Respondent **KMCO, L.P.**
 Case ID No. **37239**
 Reg. Ent. Reference No. **RN101613511**
 Media **Air**
 Violation No. **1**

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Other (as needed)	\$200	19-Aug-2005	19-Feb-2010	4.51	\$45	n/a	\$45
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit two semi-annual deviation reports. The date required is the date the first deviation report was due. The final date is the date the deviations are projected to be reported.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$45

Screening Date 4-Mar-2009	Docket No. 2009-0299-AIR-E	PCW														
Respondent KMCO, L.P.		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 37239		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No. RN101613511																
Media [Statute] Air																
Enf. Coordinator Trina Grieco																
Violation Number	2															
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), and 122.143(4), FOP No. O-01441, Special Condition 8, New Source Review ("NSR") Permit No. 9383, Special Condition 27 and Tex. Health & Safety Code § 382.085(b)															
Violation Description	Failed to submit the results of sampling/testing of the cooling tower system volatile organic compound emissions to the TCEQ within 30 days after completion. Specifically, the EI Paso Method of sampling was initiated on June 22, 2006, but the results were not submitted to the TCEQ.															
	Base Penalty	\$10,000														
>> Environmental, Property and Human Health Matrix																
OR	Harm															
	Release Major Moderate Minor															
	Actual	<input type="text"/>														
	Potential	<input type="text"/>														
	Percent	0%														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	<input type="text"/> <input checked="" type="text"/> <input type="text"/> <input type="text"/>															
	Percent	25%														
Matrix Notes	100% of the rule requirements were not met.															
	Adjustment	\$7,500														
		\$2,500														
Violation Events																
	Number of Violation Events	1														
		957														
		Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>weekly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input checked="" type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="text"/>	
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input checked="" type="text"/>															
	Violation Base Penalty	\$2,500														
	One single event is recommended for the report that was not submitted.															
Good Faith Efforts to Comply																
	0.0% Reduction	\$0														
	Before NOV NOV to EDRP/Settlement Offer															
	Extraordinary	<input type="text"/>														
	Ordinary	<input type="text"/>														
	N/A	<input checked="" type="text"/> (mark with x)														
Notes	The Respondent does not meet the good faith criteria for this violation.															
	Violation Subtotal	\$2,500														
Economic Benefit (EB) for this violation																
	Statutory Limit Test															
Estimated EB Amount	\$16	Violation Final Penalty Total \$3,475														
		This violation Final Assessed Penalty (adjusted for limits) \$3,475														

Economic Benefit Worksheet

Respondent **KMCO, L.P.**
 Case ID No. **37239**
 Reg. Ent. Reference No. **RN101613511**
 Media **Air**
 Violation No. **2**

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	22-Jul-2006	1-Nov-2009	3.28	\$16	n/a	\$16

Notes for DELAYED costs

Estimated cost to submit sampling results to the TCEQ. The date required is the date the report was due. The final date is the date corrective actions are projected to be completed.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$16

Screening Date	4-Mar-2009	Docket No.	2009-0299-AIR-E	PCW
Respondent	KMCO, L.P.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37239			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101613511			
Media [Statute]	Air			
Enf. Coordinator	Trina Grieco			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Condition 8, NSR Permit No. 9383, Special Conditions 36, 41.B., and 41.F. and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain at least two years of records of leak test and control method used for tank truck/railcar loading and unloading operations. Specifically, at the time of the investigation, the tank truck/railcar records did not include the date of the last leak testing or control method used.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential			0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				X	
					1%

Matrix Notes: Most (at least 30%, or 11 of 13) of the rule requirements were met.

Adjustment: \$9,900

\$100

Violation Events

Number of Violation Events: 2 958 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	X	

Violation Base Penalty: \$200

Two single events are recommended for the two records that were not maintained.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal: \$200

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount: \$64 Violation Final Penalty Total: \$278

This violation Final Assessed Penalty (adjusted for limits): \$278

Economic Benefit Worksheet

Respondent KMCO, L.P.
Case ID No. 37239
Reg. Ent. Reference No. RN101613511
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	21-Jul-2008	1-Nov-2009	1.28	\$64	n/a	\$64
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and maintain a recordkeeping system for tank truck/railcar operations. The date required is the investigation date. The final date is the date corrective actions are projected to be completed.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$64

Screening Date	4-Mar-2009	Docket No.	2009-0299-AIR-E	PCW
Respondent	KMCO, L.P.			Policy Revision 2 (September 2002)
Case ID No.	37239			PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN101613511			
Media [Statute]	Air			
Enf. Coordinator	Trina Grieco			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(E)(i) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Conditions 3.B.iii. and 8 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct annual visible emission observations of 98 stationary vents during the 12 months prior to the investigation and to demonstrate compliance with the annual mass emissions for the stationary vents by maintaining records of production and operating hours for each individual vent, as described in 30 Tex. Admin. Code § 115.160(2). Specifically, there were no visible emission observations being conducted on the 98 stationary vents and there were no records to show that they were being evaluated for compliance with the maximum allowable emission rate table ("MAERT").

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="25%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	X	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes Human health or the environment will 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

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	X
single event	<input type="text"/>	

Violation Base Penalty

One annual event is recommended for the one year prior to the investigation date of July 21, 2008.

Good Faith Efforts to Comply

0.0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent **KMCO, L.P.**
 Case ID No. **37239**
 Reg. Ent. Reference No. **RN101613511**
 Media **Air**
 Violation No. **4**

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,500	29-Jun-2001	1-Nov-2009	8.35	\$626	n/a	\$626
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	21-Jul-2008	1-Nov-2009	1.28	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to implement measures designed to ensure that visible emission observations of 98 stationary vents are conducted (\$100) and estimated cost to maintain records of production records and operating hours for the 98 stationary vents in order to determine compliance with the MAERT (\$1,500). The required date is the date of the investigation (for visible emission observation), and the date authorization for the vents was obtained. The final date is the date corrective actions are projected to be completed.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,600

TOTAL

\$633

Screening Date 4-Mar-2009	Docket No. 2009-0299-AIR-E	PCW		
Respondent KMCO, L.P.		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37239		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101613511				
Media [Statute] Air				
Enf. Coordinator Trina Grieco				
Violation Number <input type="text" value="5"/>				
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Condition 8 and NSR Permit No. 9383, Special Conditions 31, 36, and 45 and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain temperature records of the ethylene oxide storage tanks for at least two years. Specifically, no temperature records were available prior to December 13, 2007.			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	<input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
			Percent	<input type="text" value="25%"/>
Matrix Notes	100% of the rule requirements were not met.			
			Adjustment	<input type="text" value="\$7,500"/>
				<input type="text" value="\$2,500"/>
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="730"/>
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
			Violation Base Penalty	<input type="text" value="\$2,500"/>
	One single event is recommended for the temperature records that were not maintained.			
Good Faith Efforts to Comply				
	0.0%	Reduction		<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
			Violation Subtotal	<input type="text" value="\$2,500"/>
Economic Benefit (EB) for this violation				
	Statutory Limit Test			
Estimated EB Amount	<input type="text" value="\$13"/>	Violation Final Penalty Total	<input type="text" value="\$3,475"/>	
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$3,475"/>	

Economic Benefit Worksheet

Respondent **KMCO, L.P.**
 Case ID No. **37239**
 Reg. Ent. Reference No. **RN101613511**
 Media **Air**
 Violation No. **5**

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	21-Jul-2008	1-Nov-2009	1.28	\$13	n/a	\$13
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to record the temperature of the ethylene oxide storage tanks. The date required is the investigation date. The final date is the date corrective actions are projected to be completed.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$13

Screening Date 4-Mar-2009	Docket No. 2009-0299-AIR-E	PCW
Respondent KMCO, L.P.		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 37239		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN101613511		
Media [Statute] Air		
Enf. Coordinator Trina Grieco		
Violation Number	6	
Rule Cite(s)	30 Tex. Admin. Code §§ 111.111(a)(1)(B) and 122.143(4), FOP No. O-01441, Special Condition 3.B.i. and Tex. Health & Safety Code 382.085(b)	
Violation Description	Failed to limit opacity from the natural gas-fired heater, emission point number HJ-2, to 20 percent. On January 24, 2005, opacity was 30 percent for approximately 15 minutes.	
	Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="25%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>

Matrix Notes
Human health or the environment in the Houston-Galveston-Brazoria nonattainment area has been exposed to insignificant amounts of contaminants that did not exceed protective levels as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty

One quarterly event is recommended for the January 24, 2005 opacity exceedance.

Good Faith Efforts to Comply Reduction

	<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>

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

Violation Subtotal

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

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent KMCO, L.P.
Case ID No. 37239
Reg. Ent. Reference No. RN101613511
Media Air
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	24-Jan-2005	9-Nov-2009	4.79	\$120	n/a	\$120

Notes for DELAYED costs
 Estimated cost to implement measures designed to prevent opacity exceedances. The date required is the date of the opacity exceedance. The final date is the anticipated date corrective measures will be completed.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$120
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Compliance History Report

Customer/Respondent/Owner-Operator: CN601482870 KMCO, L.P. Classification: AVERAGE Rating: 3.07
 Regulated Entity: RN101613511 KMCO RAMSEY ROAD PLANT Classification: AVERAGE Site Rating: 1.33

ID Number(s):	WASTEWATER	PERMIT	WQ0002712000
	WASTEWATER	PERMIT	TPDES0095559
	WASTEWATER	PERMIT	TX0095559
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0426B
	AIR OPERATING PERMITS	PERMIT	1441
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD074198961
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31904
	AIR NEW SOURCE PERMITS	PERMIT	3954
	AIR NEW SOURCE PERMITS	PERMIT	9383
	AIR NEW SOURCE PERMITS	PERMIT	16943
	AIR NEW SOURCE PERMITS	PERMIT	47535
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0426B
	AIR NEW SOURCE PERMITS	AFS NUM	4820100381
	AIR NEW SOURCE PERMITS	PERMIT	50336
	AIR NEW SOURCE PERMITS	REGISTRATION	72308
	WASTEWATER LICENSING	LICENSE	WQ0002712000

Location: 16503 RAMSEY RD, CROSBY, TX, 77532

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 18, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 18, 2004 to February 18, 2009

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

Name: Trina Grieco Phone: (210) 403-4006

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
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 08/30/2004

ADMINORDER 2004-0202-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter H 101.359

5C THC Chapter 382, SubChapter A 382.085(b)

Description: KMCO, L.P. failed to submit their Form ECT-1, Annual Compliance Report, by March 31, 2003. The ECT-1 was received on July 23, 2003.

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	02/23/2004	(320045)
2	03/18/2004	(320047)
3	04/22/2004	(362688)
4	05/20/2004	(362689)
5	06/23/2004	(362690)
6	07/23/2004	(362691)
7	08/24/2004	(362692)
8	09/22/2004	(362693)
9	10/25/2004	(387851)
10	11/29/2004	(387852)
11	12/27/2004	(387853)
12	01/27/2005	(387854)
13	02/25/2005	(430498)
14	03/28/2005	(387850)
15	04/25/2005	(430499)
16	05/19/2005	(392522)
17	05/23/2005	(430500)
18	06/16/2005	(379977)
19	06/27/2005	(397705)
20	06/27/2005	(430501)
21	06/30/2005	(393387)
22	07/15/2005	(446064)
23	08/22/2005	(446065)
24	09/09/2005	(431124)
25	09/20/2005	(446066)
26	10/27/2005	(478229)
27	11/28/2005	(478230)
28	12/27/2005	(478231)
29	01/26/2006	(478232)
30	02/22/2006	(478227)
31	03/20/2006	(478228)
32	04/24/2006	(504505)
33	06/21/2006	(504506)
34	07/21/2006	(526824)
35	08/21/2006	(526825)
36	09/25/2006	(526826)
37	10/26/2006	(550814)
38	11/27/2006	(550815)
39	01/23/2007	(587231)
40	02/27/2007	(587226)
41	02/27/2007	(587227)
42	04/25/2007	(587228)
43	05/22/2007	(587229)
44	06/21/2007	(587230)
45	07/24/2007	(604956)
46	08/16/2007	(568432)
47	08/28/2007	(604957)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.13(k)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.42(a)(2)
Description: Failure to obtain white manifest copies and submit an exception report.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)
30 TAC Chapter 335, SubChapter E 335.112(a)(9)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195(a)
Description: Failure to conduct required tank inspections and document them appropriately.

Date: 06/29/2005 (393387)

Self Report? NO Classification: Moderate
Citation: 02712-000 PERMIT
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with the permit limits for ammonia-nitrogen (NH3-N).
Self Report? NO Classification: Minor
Citation: 02712-000 PERMIT
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to report in writing to the Regional Office and to the Manager of the Water and Multimedia Section of the Enforcement Division within 5 days of becoming aware of an effluent violation of more than 40% of the permitted limitation.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4
Description: Failure to dispose of industrial sludge at an authorized disposal site.

Date: 11/30/2005 (478231)

CN601482870

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/14/2007 (562334)

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)
9383 SC 43G PERMIT
O-01441 SC 8A OP
Description: Failure to document the scrubber fluid flow rate as required by permit 9383 special condition 43:G
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)
O-01141- SC8A OP
Permit 9383 SC 12 PERMIT
Description: Failure to operate scrubber in accordance with attachment B of Permit 9383 special condition 12.

Date: 09/30/2007 (626809)

CN601482870

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2007 (626810)

CN601482870

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

48 08/30/2007 (571101)
 49 09/05/2007 (604958)
 50 09/06/2007 (570520)
 51 10/22/2007 (626809)
 52 11/28/2007 (626810)
 53 01/04/2008 (626811)
 54 01/17/2008 (609975)
 55 01/28/2008 (676006)
 56 02/18/2008 (676003)
 57 03/20/2008 (676004)
 58 04/18/2008 (676005)
 59 05/19/2008 (694378)
 60 06/18/2008 (694379)
 61 07/21/2008 (694380)
 62 08/20/2008 (715777)
 63 08/27/2008 (636413)
 64 09/24/2008 (715778)
 65 10/20/2008 (703823)
 66 10/23/2008 (715779)
 67 11/20/2008 (731453)
 68 01/07/2009 (731454)
 69 01/20/2009 (731455)
 70 01/27/2009 (709545)
 71 02/10/2009 (681758)

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

Date: 12/31/2004 (387854) CN601482870
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (430499) CN601482870
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/19/2005 (392522) CN601482870
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
Description: Failure to update NOR.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.6(h)
Description: Failure to submit recycling notification.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.13(k)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.42
Description: Failure to submit exception reports.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)
Description: Failure to submit complete and accurate annual waste summaries.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)
Description: Failure to label hazardous waste container.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.8(b)
Description: Failure to properly close waste management units.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.10(d)(3)
Description: Failure to maintain green copies of manifests.

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KMCO, L.P.
RN101613511

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0299-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 KMCO, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an industrial organic chemical production plant at 16503 Ramsey Road in Crosby, 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 15, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-One Thousand One Hundred Twenty-Eight Dollars (\$21,128) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Sixteen Thousand Nine Hundred Three Dollars (\$16,903) of the administrative penalty and Four Thousand Two Hundred Twenty-Five Dollars

(\$4,225) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 the Respondent 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 the Respondent began maintaining temperature records of the ethylene oxide storage tanks on December 13, 2007.
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 the Respondent 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, the Respondent is alleged to have:

1. Failed to report a deviation for the deviation reporting period of January 20, 2005 to July 19, 2005 and for the deviation reporting period of July 20, 2006 to January 19, 2007, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operation Permit ("FOP") No. O-01441, General Terms and Conditions and Special Condition 8 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted July 21 through August 12, 2008. Specifically, permit compliance certifications were submitted for these two periods, but did not contain any deviations.
2. Failed to submit the results of sampling/testing of the cooling tower system volatile organic compound emissions to the TCEQ within 30 days after completion, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), FOP No. O-01441, Special Condition 8, New Source Review ("NSR") Permit No. 9383, Special Condition 27 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted July 21 through August 12, 2008. Specifically, the El Paso Method of sampling was initiated on June 22, 2006, but the results were not submitted to the TCEQ.

3. Failed to maintain at least two years of records of leak test and control method used for tank truck/railcar loading and unloading operations, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Condition 8, NSR Permit No. 9383, Special Conditions 36, 41.B., and 41.F. and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted July 21, through August 12, 2008. Specifically, at the time of the investigation, the tank truck/railcar records did not include the date of the last leak testing or control method used.
4. Failed to conduct annual visible emission observations of 98 stationary vents during the 12 months prior to the investigation and to demonstrate compliance with the annual mass emissions for the stationary vents by maintaining records of production and operating hours for each individual vent, as described in 30 TEX. ADMIN. CODE § 115.160(2), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(E)(i), and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Conditions 3.B.iii. and 8 and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted July 21 through August 12, 2008. Specifically, there were no visible emission observations being conducted on the 98 stationary vents and there were no records to show that that they were being evaluated for compliance with the maximum allowable emission rate table ("MAERT").
5. Failed to maintain temperature records of the ethylene oxide storage tanks for at least two years, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Condition 8 and NSR Permit No. 9383, Special Conditions 31, 36, and 45 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted July 21 through August 12, 2008. Specifically, no temperature records were available prior to December 13, 2007.
6. Failed to limit opacity from the natural gas-fired heater, emission point number HJ-2, to 20 percent, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(1)(B) and 122.143(4), FOP No. O-01441, General Terms and Conditions and Special Condition 3.B.i. and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted July 21 through August 12, 2008. Specifically, on January 24, 2005, opacity was 30 percent for approximately 15 minutes.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: KMCO, L.P., Docket No. 2009-0299-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. It is further ordered that the Respondent shall undertake the following technical requirements:

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

- i. Report the unreported deviations in the next deviation report submitted to the TCEQ;
- ii. Submit sampling results of the cooling tower system VOC emissions, in accordance with Special Condition 27 of NSR Permit No. 9383 to:

Air Permits Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- iii. Develop and maintain a recordkeeping system for tank truck/railcar operations and the ethylene oxide storage tanks;
 - iv. Implement measures designed to ensure that visible emission observations are conducted on the 98 stationary vents;
 - v. Maintain records of production records and operating hours for the 98 stationary vents in order to determine compliance with the MAERT; and
 - vi. Implement measures designed to ensure that opacity from the natural gas-fired heater, emission point number HJ-2, is limited to 20 percent.
- 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 No. 2.a. 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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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.
4. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.

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

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

[Signature]
For the Executive Director

9/3/2009
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.

[Signature]
Signature

5/05/2009
Date

Artie R. McFerrin
Name (Printed or typed)
Authorized Representative of
KMCO, L.P.

President
Title

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.

