

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1543-AIR-E TCEQ ID: RN101613511 CASE NO.: 36581

RESPONDENT NAME: KMCO, L.P.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Batch chemical manufacturing 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 February 16, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. William Glushko, Environmental Manager, KMCO, L.P., 16503 Ramsey Road, Crosby, Texas 77532 Mr. Artie R. M^cFerrin, President, KMCO, L.P., 16503 Ramsey Road, Crosby, Texas 77532 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: February 8, 2008</p> <p>Date of NOV/NOE Relating to this Case: September 3, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to control unauthorized emissions during an emissions event in the Reaction 2 Unit on January 24, 2008. Specifically, the Respondent failed to control the temperature in the K5 Reactor resulting in an exothermic chemical reaction that led to the opening of a pressure relief valve and the release of 15 tons of ethylene glycol emissions to the atmosphere during an emissions event lasting five minutes. The unit is authorized under Permit No. 9383 which does not authorize relief valve emissions. TCEQ staff determined that the release was an excessive emissions event [30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and (c), Permit No. 9383, Special Condition 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to timely provide additional information requested by the TCEQ - Houston Regional Office regarding the January 24, 2008 emissions event. On February 22, 2008, TCEQ staff requested that the Respondent submit air dispersion modeling to show off-property impacts by March 14, 2008. Additionally, on February 28, 2008, a list of questions was sent to the Respondent via e-mail which requested additional information by March 13, 2008. The information was not provided before the due dates [30 TEX. ADMIN. CODE § 101.201(f) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$10,222</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$10,222</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>Findings Orders Justification: The violation involves unauthorized emissions which were determined to be an excessive emissions event.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Provided the air dispersion modeling information on March 27, 2008 and the other additional information on March 28, 2008; and</p> <p>b. Submitted a corrective action plan ("CAP") for the emissions event on August 29, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submitted in connection with the excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing;</p> <p>b. Upon Commission approval, implement the CAP in accordance with the approved schedule; and</p> <p>c. Within 15 days upon completion of the CAP implementation, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision b.</p> <p>Additional ID No(s): HG0426B</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	2-Sep-2008	Screening	22-Sep-2008	EPA Due	
	PCW	24-Sep-2008				

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.	36581	No. of Violations	2
Docket No.	2008-1543-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 4
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$10,200

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 36.0% Enhancement Subtotals 2, 3, & 7 \$3,672

Notes: The penalty was enhanced for eight unrelated NOV's and one 1660 order.

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 \$50

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$144
Approx. Cost of Compliance	\$2,400

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$13,822

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$13,822

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$10,222

DEFERRAL 0.0% Reduction Adjustment \$0

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$10,222

Screening Date 22-Sep-2008

Docket No. 2008-1543-AIR-E

PCW

Respondent KMCO, L.P.

Policy Revision 2 (September 2002)

Case ID No. 36581

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101613511

Media [Statute] Air

Enf. Coordinator Miriam Hall

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)	0	0%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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%
<i>Please Enter Yes or No</i>			
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) 36%

>> 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 for eight unrelated NOVs and one 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 36%

Screening Date 22-Sep-2008
Respondent KMCO, L.P.
Case ID No. 36581
Reg. Ent. Reference No. RN101613511
Media [Statute] Air
Enf. Coordinator Miriam Hall
Violation Number 1

Docket No. 2008-1543-AIR-E

PCW

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(F) and (c), Permit No. 9383, Special Condition 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to control unauthorized emissions during an emissions event in the Reaction 2 Unit on January 24, 2008. Specifically, the Respondent failed to control the temperature in the K5 Reactor resulting in an exothermic chemical reaction that led to the opening of a pressure relief valve and the release of 15 tons of ethylene glycol emissions to the atmosphere during an emissions event lasting five minutes. TCEQ staff determined that the release was an excessive emissions event. The affirmative defense in 30 Tex. Admin. Code § 101.222 is not applicable to excessive emissions events.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			100%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes
 Human health or the environment has been exposed to significant emissions which exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events: 1 1 Number of violation days

<i>mark only one with an x</i>	daily	x
	monthly	
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$10,000

One daily event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$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 for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$143

Violation Final Penalty Total: \$13,600

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent KMCO, L.P.
Case ID No. 36581
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
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	24-Jan-2008	30-Jun-2009	1.43	\$143	n/a	\$143

Notes for DELAYED costs

The estimated cost of taking corrective measures from the violation date to estimated completion date.

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

\$2,000

TOTAL

\$143

<p>Screening Date 22-Sep-2008 Respondent KMCO, L.P. Case ID No. 36581 Reg. Ent. Reference No. RN101613511 Media [Statute] Air Enf. Coordinator Miriam Hall Violation Number <input type="text" value="2"/> Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 101.201(f) and Tex. Health & Safety Code § 382.085(b)"/> Violation Description <input type="text" value="Failed to timely provide information requested by the TCEQ Houston Regional Office regarding the January 24, 2008 emissions event. On February 22, 2008, TCEQ staff requested that the Respondent submit air dispersion modeling to show off-property impacts by March 14, 2008. Additionally, on February 28, 2008, a list of questions was sent to the Respondent via e-mail which requested additional information by March 13, 2008. The air dispersion modeling information was provided on March 27, 2008 and the other additional information was provided on March 28, 2008."/></p>	<p>Docket No. 2008-1543-AIR-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 12, 2008</i></p>																								
Base Penalty <input type="text" value="\$10,000"/>																									
>> Environmental, Property and Human Health Matrix																									
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">Percent</td> <td><input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> <td></td> </tr> </table>			Harm				Release	Major	Moderate	Minor			Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
		Harm																							
Release	Major	Moderate	Minor																						
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="0%"/>																				
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																						
>> Programmatic Matrix																									
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">Percent</td> <td><input type="text" value="1%"/></td> </tr> <tr> <td style="text-align: center;">Matrix Notes</td> <td colspan="4" style="text-align: center;"><input type="text" value="The Respondent complied with at least 70% of the rule requirement."/></td> <td></td> </tr> </table>			Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="1%"/>	Matrix Notes	<input type="text" value="The Respondent complied with at least 70% of the rule requirement."/>										
		Major	Moderate	Minor																					
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="1%"/>																				
Matrix Notes	<input type="text" value="The Respondent complied with at least 70% of the rule requirement."/>																								
Adjustment <input type="text" value="\$9,900"/>																									
<input type="text" value="\$100"/>																									
Violation Events																									
Number of Violation Events <input type="text" value="2"/>	<input type="text" value="15"/> Number of violation days																								
<i>mark only one with an x</i> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> </table>	daily	<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="\$200"/>												
daily	<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"/>																								
<input type="text" value="One event is recommended for each request."/>																									
Good Faith Efforts to Comply <input type="text" value="25.0%"/> Reduction <input type="text" value="\$50"/>																									
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td><input type="text"/></td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>	N/A	<input type="text"/>	(mark with x)												
	Before NOV	NOV to EDPRP/Settlement Offer																							
Extraordinary	<input type="text"/>	<input type="text"/>																							
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>																							
N/A	<input type="text"/>	(mark with x)																							
Notes	<input type="text" value="All the information was provided by March 28, 2008 and the NOE was issued on August 27, 2008."/>																								
Violation Subtotal <input type="text" value="\$150"/>																									
Economic Benefit (EB) for this violation <input type="text" value="\$1"/>																									
Statutory Limit Test																									
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$222"/>																								
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$222"/>																									

Economic Benefit Worksheet

Respondent KMCO, L.P.
Case ID No. 36581
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
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)	\$400	13-Mar-2008	28-Mar-2008	0.04	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost of providing the additional information from the first due date to compliance date.

Avoided Costs

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
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

\$400

TOTAL

\$1

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

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 09, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 07, 2003 to October 09, 2008

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

Name: Miriam Hall Phone: (512) 239-1044

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.

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 | 10/21/2003 | (320054) |
| 2 | 11/24/2003 | (320055) |

3	12/22/2003	(320056)
4	01/26/2004	(320057)
5	02/17/2004	(263193)
6	02/23/2004	(320045)
7	03/18/2004	(320047)
8	04/22/2004	(362688)
9	05/20/2004	(362689)
10	06/23/2004	(362690)
11	07/23/2004	(362691)
12	08/24/2004	(362692)
13	09/22/2004	(362693)
14	10/25/2004	(387851)
15	11/29/2004	(387852)
16	12/27/2004	(387853)
17	01/27/2005	(387854)
18	02/25/2005	(430498)
19	03/28/2005	(387850)
20	04/25/2005	(430499)
21	05/19/2005	(392522)
22	05/23/2005	(430500)
23	06/16/2005	(379977)
24	06/27/2005	(397705)
25	06/27/2005	(430501)
26	06/30/2005	(393387)
27	07/15/2005	(446064)
28	08/22/2005	(446065)
29	09/09/2005	(431124)
30	09/20/2005	(446066)
31	10/27/2005	(478229)
32	11/28/2005	(478230)
33	12/27/2005	(478231)
34	01/26/2006	(478232)
35	02/22/2006	(478227)
36	03/20/2006	(478228)
37	04/24/2006	(504505)
38	06/21/2006	(504506)
39	07/21/2006	(526824)
40	08/21/2006	(526825)
41	09/25/2006	(526826)
42	10/26/2006	(550814)
43	11/27/2006	(550815)
44	01/23/2007	(587231)
45	02/27/2007	(587226)
46	02/27/2007	(587227)
47	04/25/2007	(587228)
48	05/22/2007	(587229)
49	06/21/2007	(587230)
50	07/24/2007	(604956)
51	08/16/2007	(568432)
52	08/28/2007	(604957)
53	08/30/2007	(571101)
54	09/05/2007	(604958)
55	09/06/2007	(570520)
56	10/22/2007	(626809)
57	11/28/2007	(626810)
58	01/04/2008	(626811)
59	01/17/2008	(609975)
60	01/28/2008	(676006)
61	02/18/2008	(676003)

62 03/20/2008 (676004)
 63 04/18/2008 (676005)
 64 05/19/2008 (694378)
 65 06/18/2008 (694379)
 66 07/21/2008 (694380)
 67 08/27/2008 (636413)

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

Date: 12/31/2004 (387854)
 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)
 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)
 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.
 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: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT 02712-000
 Description: Failure to comply with the permit limits for ammonia-nitrogen (NH3-N).
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT 02712-000
 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)

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)

Rqmt Prov: PERMIT 9383 SC 43G
OP O-01441 SC 8A

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)

Rqmt Prov: OP O-01141- SC8A
PERMIT Permit 9383 SC 12

Description: Failure to operate scrubber in accordance with attachment B of Permit 9383 special condition 12.

Date: 09/30/2007 (626809)

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)

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

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. 2008-1543-AIR-E

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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a batch chemical manufacturing 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. During an investigation on February 8, 2008, TCEQ staff determined that the Respondent failed to control unauthorized emissions during an emissions event in the Reaction 2 Unit on January 24, 2008. Specifically, the Respondent failed to control the temperature in the K5 Reactor resulting in an exothermic chemical reaction that led to the opening of a pressure relief valve and the release of 15 tons of ethylene glycol emissions to the atmosphere during an emissions event lasting five minutes. The unit is authorized under Permit No. 9383 which does not authorize relief valve emissions. TCEQ staff determined that the release was an excessive emissions event. The affirmative defense in 30 TEX. ADMIN. CODE § 101.222 is not applicable to excessive emissions events.
4. During an investigation on February 8, 2008, TCEQ staff documented that the Respondent failed to timely provide additional information requested by the TCEQ Houston Regional Office regarding the January 24, 2008 emissions event. On February 22, 2008, TCEQ staff requested that the Respondent submit air dispersion modeling to show off-property impacts by March 14, 2008. Additionally, on February 28, 2008, a list of questions was sent to the Respondent via e-mail which requested additional information by March 13, 2008. The information was not provided before the due dates.
5. The Respondent received notice of the violations on September 8, 2008.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. Provided the air dispersion modeling information on March 27, 2008 and the other additional information on March 28, 2008; and
 - b. Submitted a corrective action plan ("CAP") for the emissions event on August 29, 2008.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to control unauthorized emissions during an emissions event in the Reaction 2 Unit on January 24, 2008, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and (c), Permit No. 9383, Special Condition 6, and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely provide additional information requested by the TCEQ Houston Regional Office regarding the January 24, 2008 emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(f) and TEX. HEALTH & SAFETY CODE § 382.085(b).

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Ten Thousand Two Hundred Twenty-Two Dollars (\$10,222) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Ten Thousand Two Hundred Twenty-Two Dollar (\$10,222) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Two Hundred Twenty-Two Dollars (\$10,222) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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. 2008-1543-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. The Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the CAP submitted in connection with the excessive emissions event within 15 days after the date of such requests, or by any other deadline specified in writing;
 - b. Upon Commission approval, implement the CAP in accordance with the approved schedule; and
 - c. Within 15 days upon completion of the CAP implementation, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering

...the ... of ...

Provision No. 2.b. 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

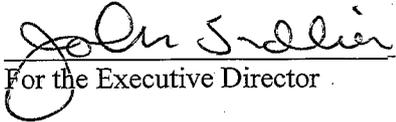
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/30/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of KMCO, L.P. I am authorized to agree to the attached Agreed Order on behalf of KMCO, L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, KMCO, L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

X 

Signature

11/21/2008
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.

