

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1514-AIR-E **TCEQ ID:** RN100238740 **CASE NO.:** 38382

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

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Texmark Chemicals, 900 Clinton Drive, Galena Park, Harris County</p> <p><b>TYPE OF OPERATION:</b> Chemical processing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 1, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Ms. Linda Salinas, Environmental Manager, Texmark Chemicals, Inc., P.O. Box 67, Galena Park, Texas 77547-0067                      Mr. Dario M. Smart, President/Owner, Texmark Chemicals, Inc., P.O. Box 67, Galena Park, Texas 77547-0067  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 10, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 31, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review investigation.</p> <p><b>AIR</b></p> <p>1) Failure to perform a stack test on Heater H-101 to determine compliance with permitted limits of 0.69 pounds per hour ("lbs/hr") of nitrogen oxides ("NOx") and 0.58 lbs/hr of carbon monoxide ("CO"). Specifically, the stack test was required to be conducted by March 31, 2005, but was not conducted until July 8, 2009. The results demonstrated that the heater was operating within permitted limits (0.37 lbs/hr of NOx and 0.58 lbs/hr of CO) [30 TEX. ADMIN. CODE §§ 117.2035(e)(1) and 122.143(4), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O-01363, Special Condition 1A].</p> <p>2) Failure to submit the annual compliance certification ("ACC") and two deviation reports within 30 days after the ACC and semi-annual deviation reporting periods, respectively. Specifically, the ACC for the January 12, 2008 to January 11, 2009 ACC period and the deviation report for the July 12, 2008 to January 11, 2009 semi-annual deviation reporting period were due on February 10, 2009, but were not submitted until February 12, 2009. Also, the deviation report for the January 12, 2008 to July 11, 2008 semi-annual deviation reporting period was due on August 10, 2008, but was not submitted until August 12, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(c), and</p>	<p><b>Total Assessed:</b> \$13,650</p> <p><b>Total Deferred:</b> \$2,730  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$5,460</p> <p><b>Total Paid to General Revenue:</b> \$5,460</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Conducted a stack test on Heater H-101 on July 7 and 8, 2009, and confirmed that it was operating within permitted limits;</p> <p>b. Submitted the delinquent ACC and second deviation report for the January 12, 2008 to January 11, 2009 ACC period by February 12, 2009;</p> <p>c. Submitted the deviation report for the January 12, 2008 to July 11, 2008 semi-annual deviation reporting period on August 12, 2008;</p> <p>d. Installed a totalizing fuel flow meter to measure the fuel usage of Heater H-101 on June 12, 2008; and</p> <p>e. Installed a continuous recorder for the flare pilot flame for Unit V-5222 on June 1, 2008, and upgraded its software on August 17, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A.)</p>

<p>122.146(2), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and FOP No. O-01363, General Terms and Conditions].</p> <p>3) Failure to install a totalizing fuel flow meter to measure the fuel usage for Heater H-101. Specifically, the meter was required to be installed by March 31, 2005, but was not installed until June 12, 2008 [30 TEX. ADMIN. CODE §§ 117.2035(a)(1) and 122.143(4), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and FOP No. O-01363, Special Condition 1A].</p> <p>4) Failure to install and maintain a continuous recorder for the flare pilot flame for Unit V-5222. Specifically, the recorder was not properly installed and working continuously until August 17, 2009 [40 CODE OF FEDERAL REGULATIONS § 60.665(b)(3), 30 TEX. ADMIN. CODE §§ 101.20(1) and 122.143(4), and FOP No. O-01363, Special Condition 1A, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): HG0134R



Attachment A  
Docket Number: 2009-1514-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Texmark Chemicals, Inc.  
**Payable Penalty Amount:** Ten Thousand Nine Hundred Twenty Dollars (\$10,920)  
**SEP Amount:** Five Thousand Four Hundred Sixty Dollars (\$5,460)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program  
**Location of SEP:** Texas Air Quality Control Region 216 – Houston-Galveston

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

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

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



**B. Environmental Benefit**

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

**C. Minimum Expenditure**

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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



Texmark Chemicals, Inc.  
Agreed Order - Attachment A

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

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

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

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned PCW</b>	8-Sep-2009	<b>Screening</b>	16-Sep-2009	<b>EPA Due</b>	28-May-2010
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Texmark Chemicals, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100238740
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38382	<b>No. of Violations</b>	4
<b>Docket No.</b>	2009-1514-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Trina Grieco
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	55.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$5,775
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**Notes:** Penalty enhancement due to three NOV's issued for same or similar violations, ten NOV's issued for unrelated violations, and one agreed order with a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$2,625
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<b>Economic Benefit</b>	0.0% Enhancement	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$1,340  
 Approx. Cost of Compliance: \$9,500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$13,650
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes:**

<b>Final Penalty Amount</b>	\$13,650
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$13,650
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$2,730
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only, e.g. 20 for 20% reduction.)

**Notes:** Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$10,920
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Screening Date 16-Sep-2009

Docket No. 2009-1514-AIR-E

PCW

Respondent Texmark Chemicals, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38382

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100238740

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 (number of NOVs meeting criteria)	3	15%
	Other written NOVs	10	20%
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%
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) 55%

>> 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 three NOVs issued for same or similar violations, ten NOVs issued for unrelated violations, and one agreed order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

<b>Screening Date:</b> 16-Sep-2009	<b>Docket No.:</b> 2009-1514-AIR-E	<b>PCW</b>	
<b>Respondent:</b> Texmark Chemicals, Inc.	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.:</b> 38382	<small>PCW Revision October 30, 2005</small>		
<b>Reg. Ent. Reference No.:</b> RN100238740			
<b>Media [Statute]:</b> Air			
<b>Enf. Coordinator:</b> Trina Grieco			
<b>Violation Number:</b> 1			
<b>Rule Cite(s):</b>	30 Tex. Admin. Code §§ 117.2035(e)(1) and 122.143(4), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O-01363, Special Condition 1A		
<b>Violation Description:</b>	Failed to perform a stack test on Heater H-101 to determine compliance with permitted limits of 0.69 pounds per hour ("lbs/hr") of nitrogen oxides ("NOx") and 0.58 lbs/hr of carbon monoxide ("CO"). Specifically, the stack test was required to be conducted by March 31, 2005, but was not conducted until July 8, 2009. The results demonstrated that the heater was operating within permitted limits (0.37 lbs/hr of NOx and 0.58 lbs/hr of CO).		
<b>Base Penalty:</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Release</b>	<b>Harm</b>	
		Major      Moderate      Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>
		<b>Percent</b>	<input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment in the Houston-Galveston-Brazoria non-attainment area could have been exposed to insignificant amounts of contaminants that would not likely exceed protective levels as a result of the violation.		
<b>Adjustment:</b>	\$9,000		
			<input type="text" value="\$1,000"/>
<b>Violation Events</b>			
<b>Number of Violation Events:</b>	<input type="text" value="1"/>	<b>Number of violation days:</b>	<input type="text" value="1560"/>
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty:</b> <input type="text" value="\$1,000"/>
	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" value="x"/>	
	One single event is recommended for the one test that was conducted late.		
<b>Good Faith Efforts to Comply</b>		<b>25.0% Reduction</b>	<input type="text" value="\$250"/>
	Before NOV	NOV to EDRP/ Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>	
N/A	<small>(mark with x)</small>		
<b>Notes:</b>	The Respondent completed corrective actions on July 8, 2009 (prior to the August 31, 2009 NOE).		
<b>Violation Subtotal:</b>			<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount:</b>	<input type="text" value="\$1,068"/>	<b>Violation Final Penalty Total:</b>	<input type="text" value="\$1,300"/>
		<b>This violation Final Assessed Penalty (adjusted for limits):</b>	<input type="text" value="\$1,300"/>

## Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.  
**Case ID No.** 38382  
**Reg. Ent. Reference No.** RN100238740  
**Media** Air  
**Violation No.** 1

<b>Percent Interest:</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							
<b>Delayed Costs</b>							
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)	\$5,000	31-Mar-2005	8-Jul-2009	4.27	\$1,068	n/a	\$1,068

Notes for DELAYED costs

Estimated cost for a stack test. The date required is the date the test was due and the final date is the date the test was conducted, demonstrating compliance with permitted limits.

**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

\$5,000

**TOTAL**

\$1,068

<b>Screening Date</b> 16-Sep-2009	<b>Docket No.</b> 2009-1514-AIR-E	<b>PCW</b>															
<b>Respondent</b> Texmark Chemicals, Inc.	<i>Policy Revision 2 (September 2002)</i>																
<b>Case ID No.</b> 38382	<i>PCW Revision October 30, 2008</i>																
<b>Reg. Ent. Reference No.</b> RN100238740																	
<b>Media [Statute]</b> Air																	
<b>Enf. Coordinator</b> Trina Grieco																	
<b>Violation Number</b> <input type="text" value="2"/>																	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(c), and 122.146(2), Tex. Health & Safety Code § 382.085(b), and FOP No. O-01363, General Terms and Conditions																
<b>Violation Description</b>	Failed to submit the annual compliance certification ("ACC") and two deviation reports within 30 days after the ACC and semi-annual deviation reporting periods, respectively. Specifically, the ACC for the January 12, 2008 to January 11, 2009 ACC period and the deviation report for the July 12, 2008 to January 11, 2009 semi-annual deviation reporting period were due on February 10, 2009, but were not submitted until February 12, 2009. Also, the deviation report for the January 12, 2008 to July 11, 2008 semi-annual deviation reporting period was due on August 10, 2008, but was not submitted until August 12, 2008.																
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																	
<b>OR</b>	<b>Release</b>	<b>Harm</b>															
		Major      Moderate      Minor															
	Actual	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>														
	Potential	<input type="text"/>															
<b>&gt;&gt; Programmatic Matrix</b>																	
	Falsification	Major      Moderate      Minor															
	<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<b>Percent</b> <input type="text" value="25%"/>														
<b>Matrix Notes</b>	<input type="text" value="The Respondent failed to comply with 100% of the rule requirements."/>																
	<b>Adjustment</b>	<input type="text" value="\$7,500"/>															
		<input type="text" value="\$2,500"/>															
<b>Violation Events</b>																	
	<b>Number of Violation Events</b>	<input type="text" value="3"/>	<b>Number of violation days</b>														
		<input type="text" value="4"/>															
	<i>mark only one with an x</i>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input checked="" type="checkbox"/></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="checkbox"/>	<b>Violation Base Penalty</b>
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"/>																
			<input type="text" value="\$7,500"/>														
	<input type="text" value="Three single events are recommended for the three late reports."/>																
<b>Good Faith Efforts to Comply</b>																	
	<b>25.0% Reduction</b>	<input type="text" value="\$1,875"/>															
	Before NOV      NOV to EDPRP/Settlement Offer																
	Extraordinary	<input type="text"/>															
	Ordinary	<input checked="" type="checkbox"/>															
	N/A	<input type="text"/>	<i>(mark with x)</i>														
<b>Notes</b>	<input type="text" value="The Respondent completed corrective actions on February 12, 2009 (prior to the August 31, 2009 NOE)."/>																
	<b>Violation Subtotal</b>	<input type="text" value="\$5,625"/>															
<b>Economic Benefit (EB) for this violation</b>																	
	<b>Estimated EB Amount</b>	<input type="text" value="\$13"/>	<b>Violation Final Penalty Total</b>														
			<input type="text" value="\$9,750"/>														
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>																
			<input type="text" value="\$9,750"/>														

## Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.  
**Case ID No.** 38382  
**Reg. Ent. Reference No.** RN100238740  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Item Description:</b> 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)	\$500	10-Aug-2008	12-Feb-2009	0.51	\$13	n/a

Notes for DELAYED costs

Estimated cost to complete and submit one ACC and two deviation reports. The date required is the date the first deviation report was due and the final date is the date the last report was received.

**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**

\$13

<b>Screening Date</b>	16-Sep-2009	<b>Docket No.</b>	2009-1514-AIR-E	<b>PCW</b>
<b>Respondent</b>	Texmark Chemicals, Inc.			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	38382			PCW Revision October 30, 2009
<b>Reg. Ent. Reference No.</b>	RN100238740			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Trina Grieco			
<b>Violation Number</b>	3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 117.2035(a)(1) and 122.143(4), Tex. Health & Safety Code § 382.085(b), and FOP No. O-01363, Special Condition 1A			
<b>Violation Description</b>	Failed to install a totalizing fuel flow meter to measure the fuel usage of Heater H-101. Specifically, the meter was required to be installed by March 31, 2005, but was not installed until June 12, 2008.			
<b>Base Penalty</b>	\$10,000			

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>				
	<b>Potential</b>			X	<b>Percent</b> 10%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b> 0%

**Matrix Notes**  
Human health or the environment in the Houston-Galveston-Brazoria non-attainment area could have been exposed to insignificant amounts of contaminants that would not likely exceed protective levels as a result of the violation.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

**Violation Base Penalty** \$1,000

One single event is recommended for the meter that was not installed by March 31, 2005.

**Good Faith Efforts to Comply**

**25.0% Reduction** \$250

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

**Notes**  
The Respondent completed corrective actions on June 12, 2008 (prior to the August 31, 2009 NOE).

**Violation Subtotal** \$750

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

**Statutory Limit Test**

**Estimated EB Amount** \$160 **Violation Final Penalty Total** \$1,300

**This violation Final Assessed Penalty (adjusted for limits)** \$1,300

## Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.  
**Case ID No.** 38382  
**Reg. Ent. Reference No.** RN100238740  
**Media** Air  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$1,000	31-Mar-2005	12-Jun-2008	3.20	\$160	n/a	\$160

Notes for DELAYED costs

Estimated cost to install a totalizing fuel flow meter. The date required is the date the meter was required to be installed and the final date is the date it was installed.

**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**

\$160

<b>Screening Date</b> 16-Sep-2009	<b>Docket No.</b> 2009-1514-AIR-E	<b>PCW</b>	
<b>Respondent</b> Texmark Chemicals, Inc.	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 38382	<small>PCW Revision October 30, 2009</small>		
<b>Reg. Ent. Reference No.</b> RN100238740			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Trina Grieco			
<b>Violation Number</b> <input type="text" value="4"/>			
<b>Rule Cite(s)</b>	40 Code of Federal Regulations § 60.665(b)(3), 30 Tex. Admin. Code §§ 101.20(1) and 122.143(4), and FOP No. O-01363, Special Condition 1A, and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to install and maintain a continuous recorder for the flare pilot flame for Unit V-5222. Specifically, the recorder was not properly installed and working continuously until August 17, 2009.		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Release</b>	<b>Harm</b>	
		Major      Moderate      Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input checked="" type="checkbox"/>
		<b>Percent</b>	<input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment in the Houston-Galveston-Brazoria non-attainment area could have been exposed to insignificant amounts of contaminants that would not likely exceed protective levels as a result of the violation.		
<b>Adjustment</b>		<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>	
<b>Violation Events</b>			
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>
		<input type="text" value="246"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b>
	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"/>	
<input type="text" value="\$1,000"/>			
<input type="text" value="One single event is recommended for the one recorder that was not timely installed and maintained."/>			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>
		<input type="text" value="\$250"/>	<input type="text" value="\$250"/>
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>	
N/A	<input type="text"/>	<input type="text"/>	
Notes	The Respondent completed corrective actions on August 17, 2009 (prior to the August 31, 2009 NOE).		
<b>Violation Subtotal</b>		<input type="text" value="\$750"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		<input type="text" value="\$99"/>	<b>Violation Final Penalty Total</b>
		<input type="text" value="\$1,300"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$1,300"/>	

### Economic Benefit Worksheet

**Respondent** Texmark Chemicals, Inc.  
**Case ID No.** 38382  
**Reg. Ent. Reference No.** RN100238740  
**Media** Air  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$2,000	13-Jan-2008	1-Jun-2008	0.38	\$38	n/a	\$38
Other (as needed)	\$1,000	1-Jun-2008	17-Aug-2009	1.21	\$61	n/a	\$61

**Notes for DELAYED costs**  
 Estimated cost to install and maintain a continuous recorder for the flare pilot flame (\$2,000) and to upgrade the software (\$1,000). The dates required are the date the recorder was required to be installed (January 13, 2008) and the date the recorder was installed, but needed upgraded software (June 1, 2008). The final dates are the date the recorder was installed (June 1, 2008) and the date the software was upgraded (August 17, 2009).

**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**    **\$3,000**    **TOTAL**    **\$99**

# Compliance History Report Pending

Customer/Respondent/Owner-Operator: CN600132864 Texmark Chemicals, Inc. Classification: AVERAGE Rating: 4.39  
 Regulated Entity: RN100238740 TEXMARK CHEMICALS Classification: AVERAGE Site Rating: 4.39

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0134R
	AIR OPERATING PERMITS	PERMIT	1363
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD088363692
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30654
	WASTEWATER	PERMIT	WQ0000786000
	WASTEWATER	PERMIT	TPDES0005860
	WASTEWATER	PERMIT	TX0005860
	AIR NEW SOURCE PERMITS	PERMIT	21472
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0134R
	AIR NEW SOURCE PERMITS	AFS NUM	4820101285
	AIR NEW SOURCE PERMITS	REGISTRATION	75077
	AIR NEW SOURCE PERMITS	REGISTRATION	83704
	AIR NEW SOURCE PERMITS	REGISTRATION	89367
	AIR NEW SOURCE PERMITS	REGISTRATION	86568
	AIR NEW SOURCE PERMITS	REGISTRATION	86557
	AIR NEW SOURCE PERMITS	REGISTRATION	84093
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30654
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG0134R

Location: 900 CLINTON DR, GALENA PARK, TX, 77547

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 09, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 09, 2004 to September 09, 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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: 02/18/2008

ADMINORDER 2007-0796-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-01363, Special Condition No. 9 OP

Description: Failed to monitor the AP-1 separator during the second quarter of 2006.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 21472, Special Condition No. 3A PERMIT

O-01363, Special Condition No. 10 OP

O-01363, Special Condition No. 1A OP

Description: Failed to submit fugitive emissions monitoring reports.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-01363, General Terms and Conditions OP

Description: Failed to report deviations in semiannual and annual compliance certification reports.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: O-01363, Special Condition No. 9 OP

Description: Failed to sample the sulfur content of fuel. Specifically, Texmark failed to perform quarterly monitoring of the sulfur content in the fuel for the B-ZURN boiler during the first quarter of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.132(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to include the applicability of provisions in FOP O-01363.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.663(b)(2)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 21472, Special Condition No. 3B PERMIT

O-01363, Special Condition No. 10 OP

Description: Failed to install a flow indicator for a distillation column.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 21472, Special Condition No. 3 PERMIT

O-01363, Special Condition No. 10 OP

O-01363, Special Condition No. 1A OP

Description: Failed to submit notification for refilling a tank in VOC service.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.664(d)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 21472, Special Condition No. 3B PERMIT

O-01363, Special Condition No. 10 OP

Description: Failed to test the flare (EPN FLR).

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(a)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 21472, Special Condition No. 3B PERMIT  
O-01363, Special Condition No. 10 OP

Description: Failed to submit a provision applicability notification to the TCEQ for its distillation column, FIN: 5222.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(l)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 21472, Special Condition No. 3B PERMIT  
O-01363, Special Condition No. 10 OP

Description: Failed to submit to the TCEQ initial and semiannual reports relating to the operation of distillation column, FIN: 5222.

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	09/22/2004	(352165)
2	10/22/2004	(352163)
3	10/22/2004	(352166)
4	11/24/2004	(352167)
5	12/22/2004	(575312)
6	01/24/2005	(381862)
7	01/26/2005	(343978)
8	02/24/2005	(381861)
9	03/03/2005	(372921)
10	03/23/2005	(575290)
11	04/28/2005	(575293)
12	05/23/2005	(575296)
13	06/22/2005	(575299)
14	07/19/2005	(397993)
15	07/22/2005	(575302)
16	08/24/2005	(575304)
17	09/22/2005	(575306)
18	10/24/2005	(575308)
19	11/25/2005	(575310)
20	12/23/2005	(575313)
21	02/23/2006	(575288)
22	03/22/2006	(575291)
23	04/24/2006	(575294)
24	05/26/2006	(575297)
25	06/21/2006	(575300)
26	06/22/2006	(457517)
27	08/23/2006	(575305)
28	09/01/2006	(497307)
29	09/25/2006	(575307)
30	10/12/2006	(511775)
31	10/23/2006	(575303)

32 10/23/2006 (575309)  
33 10/23/2006 (575315)  
34 11/24/2006 (575311)  
35 12/22/2006 (575314)  
36 01/22/2007 (575316)  
37 02/22/2007 (575289)  
38 03/21/2007 (575292)  
39 04/23/2007 (575295)  
40 05/02/2007 (512684)  
41 05/23/2007 (575298)  
42 06/21/2007 (575301)  
43 08/20/2007 (566921)  
44 08/22/2007 (607551)  
45 08/24/2007 (572359)  
46 08/28/2007 (572840)  
47 09/11/2007 (573047)  
  
48 09/25/2007 (607552)  
49 10/17/2007 (607550)  
50 10/17/2007 (607553)  
51 11/26/2007 (768363)  
52 12/07/2007 (594481)  
53 12/20/2007 (610502)  
54 01/07/2008 (768365)  
55 01/24/2008 (768367)  
56 02/22/2008 (768351)  
57 03/24/2008 (639453)  
58 03/24/2008 (768354)  
59 03/26/2008 (610300)  
60 05/08/2008 (774850)  
61 05/15/2008 (657209)  
62 05/22/2008 (768357)  
63 06/24/2008 (768358)  
64 07/23/2008 (768359)  
65 08/08/2008 (774851)  
66 08/13/2008 (685485)  
67 08/25/2008 (768360)  
68 10/21/2008 (768362)  
69 10/31/2008 (684541)  
70 11/24/2008 (768364)  
71 12/04/2008 (774852)  
72 12/29/2008 (768366)  
73 02/19/2009 (774849)  
74 02/23/2009 (768352)  
75 02/26/2009 (768355)  
76 02/26/2009 (768361)  
77 03/23/2009 (768353)  
78 04/01/2009 (740536)  
79 04/13/2009 (768368)  
80 04/23/2009 (768356)  
81 08/06/2009 (764777)  
82 08/31/2009 (747469)  
83 08/31/2009 (749594)

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

Date: 12/31/2004 (381862)

CN600132864

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: 01/25/2005 (343978) CN600132864

Self Report? NO Classification: Minor

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

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

Date: 07/19/2005 (397993) CN600132864

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)  
No. 21472, Special Condition 22D PERMIT  
No. O-01363, SC 10A OP

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

Self Report? NO Classification: Minor

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

40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.115b(a)(1)  
No. 21472, SC 2C PERMIT  
No. O-01363, SC 10A OP

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

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(a)(7)  
No. 21472, SC 2C PERMIT  
No. O-01363, SC 10A OP  
No. O-01363, SC 8A OP

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

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.132(a)(1)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
No. 21472, SC 20 PERMIT  
No. O-01363, SC 10A OP  
No. O-01363, SC 1C OP

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

Date: 06/22/2006 (457517) CN600132864

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)  
NSR Permit 21472, SC 24F PA  
Operating Permit O-01383, SC 10 OP  
Operating Permit O-01383, SC 9 OP

Description: Failure to monitor VOC-water separators.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
NSR Permit 21472, SC 24E PA  
Operating Permit O-01383, SC 10 OP

Description: Failure to cap open-ended lines.

Date: 08/30/2007 (572840) CN600132864

Self Report? NO Classification: Moderate  
Citation: 21472, Special Condition 16 PERMIT  
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-01363, SC 10.A. OP

Description: Failure to limit the throughput through loading rack L-1 to no more than 6,000 gallons per hour.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-01363, SC 10.A. OP

Description: Failure to load butanol bottoms through loading rack L-5 as described in the permit.

Date: 11/30/2007 (768365) CN600132864

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: 12/07/2007 (594481) CN600132864

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(4)

Description: Maintenance of personnel training records.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Description: Container storage inspections, the facility could not document that the required inspections were being conducted.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.176

Description: The main container storage area, NOR 002, appears to be located less than 50 feet from the property line.

Date: 05/08/2008 (774850) CN600132864

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/08/2008 (774851) CN600132864

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/13/2008 (685485) CN600132864  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THSC Chapter 382 382.085(b)  
O-01363 OP  
Description: Failure to submit the second semiannual deviation report within 30 days of the end of the deviation reporting period.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)  
O-01363 OP  
Description: The regulated entity failed to submit the Permit Compliance Certification (PCC) within 30 days of the end of the certification period.

Date: 12/04/2008 (774852) CN600132864.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 02/19/2009 (774849) CN600132864  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/31/2009 (747469) CN600132864  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.111(a)(2)(A)(i)  
5C THSC Chapter 382 382.085(b)  
Description: Failed to include all emissions from the facility in the initial permit application renewed on 4/10/2003. The regulated entity did not include 3,348 fugitive components. (Category B19g(5) Violation)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-1(a)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-5(a)  
5C THSC Chapter 382 382.085(b)  
Special Condition 11 PERMIT  
Special Terms and Condition 11 OP  
Special Terms and Condition 1A OP  
Description: Failed to modify the sampling connections in GRPFUG with a closed loop or purge less operation reported on 1/13/2008 through 7/12/2008 and 7/13/2008 through 1/12/2009. (Category B1 Violation)  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 106, SubChapter K 106.262(a)(3)  
30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Terms and Condition 12 OP  
Special Terms and Condition 1A OP  
Description: Failed to submit a Permit by Rule registration authorizing use of a gasoline blendstock processing for tanks in GRPT025F73 (T-403 and T-404) and V-5213. (Category B4 Violation)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)(I)  
5C THSC Chapter 382 382.085(b)  
Special Terms and Condition 1A OP  
Description: Failure to have internal roof tanks rest or float on the liquid surface during

2/4/2008 through 10/26/2008. (Category B18)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to report deviations in the semi annual deviation report dated 2/12/2009.  
(Category B3 Violation)

- 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  
TEXMARK CHEMICALS, INC.  
RN100238740

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-1514-AIR-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texmark Chemicals, Inc. ("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 a chemical processing plant at 900 Clinton Drive in Galena Park, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and 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 September 5, 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 Thirteen Thousand Six Hundred Fifty Dollars (\$13,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Four Hundred Sixty Dollars (\$5,460) of the administrative penalty and Two Thousand Seven Hundred Thirty Dollars (\$2,730) 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. Five Thousand Four Hundred Sixty Dollars (\$5,460) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
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 has implemented the following corrective measures at the Plant:
    - a. Conducted a stack test on Heater H-101 on July 7 and 8, 2009, and confirmed that it was operating within permitted limits;
    - b. Submitted the delinquent annual compliance certification ("ACC") and second deviation report for the January 12, 2008 to January 11, 2009 ACC period by February 12, 2009;
    - c. Submitted the deviation report for the January 12, 2008 to July 11, 2008 semi-annual deviation reporting period on August 12, 2008;
    - d. Installed a totalizing fuel flow meter to measure the fuel usage of Heater H-101 on June 12, 2008; and
    - e. Installed a continuous recorder for the flare pilot flame for Unit V-5222 on June 1, 2008, and upgraded its software on August 17, 2009.
  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 perform a stack test on Heater H-101 to determine compliance with permitted limits of 0.69 pounds per hour ("lbs/hr") of nitrogen oxides ("NOx") and 0.58 lbs/hr of carbon monoxide ("CO"), in violation of 30 TEX. ADMIN. CODE §§ 117.2035(e)(1) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O-01363, Special Condition 1A, as documented during a record review conducted on June 10, 2009. Specifically, the stack test was required to be conducted by March 31, 2005, but was not conducted until July 8, 2009. The results demonstrated that the heater was operating within permitted limits (0.37 lbs/hr of NOx and 0.58 lbs/hr of CO).
2. Failed to submit the ACC and two deviation reports within 30 days after the ACC and semi-annual deviation reporting periods, respectively, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(c), and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O-01363, General Terms and Conditions, as documented during a record review conducted on June 10, 2009. Specifically, the ACC for the January 12, 2008 to January 11, 2009 ACC period and the deviation report for the July 12, 2008 to January 11, 2009 semi-annual deviation reporting period were due on February 10, 2009, but were not submitted until February 12, 2009. Also, the deviation report for the January 12, 2008 to July 11, 2008 semi-annual deviation reporting period was due on August 10, 2008, but was not submitted until August 12, 2008.
3. Failed to install a totalizing fuel flow meter to measure the fuel usage for Heater H-101, in violation of 30 TEX. ADMIN. CODE §§ 117.2035(a)(1) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O-01363, Special Condition 1A, as documented during a record review conducted on June 10, 2009. Specifically, the meter was required to be installed by March 31, 2005, but was not installed until June 12, 2008.
4. Failed to install and maintain a continuous recorder for the flare pilot flame for Unit V-5222, in violation of 40 CODE OF FEDERAL REGULATIONS § 60.665(b)(3), 30 TEX. ADMIN. CODE §§ 101.20(1) and 122.143(4), and FOP No. O-01363, Special Condition 1A, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 10, 2009. Specifically, the recorder was not properly installed and working continuously until August 17, 2009.

### 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: Texmark Chemicals, Inc., Docket No. 2009-1514-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 implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Four Hundred Sixty Dollars (\$5,460) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. 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

John Szolter  
For the Executive Director

3/26/2010  
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.

Paul M. Smith  
Signature

December 20 '09  
Date

CEO/President  
Name (Printed or typed)  
Authorized Representative of  
Texmark Chemicals, Inc.

DAVID M. SWEET  
Title PRESIDENT / OWNER

**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.

Attachment A  
Docket Number: 2009-1514-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** Texmark Chemicals, Inc.  
**Payable Penalty Amount:** Ten Thousand Nine Hundred Twenty Dollars (\$10,920)  
**SEP Amount:** Five Thousand Four Hundred Sixty Dollars (\$5,460)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program  
**Location of SEP:** Texas Air Quality Control Region 216 – Houston-Galveston

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

Texmark Chemicals, Inc.  
Agreed Order - Attachment A

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

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

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

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

