

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-1126-AIR-E **TCEQ ID:** RN100238740 **CASE NO.:** 40010
RESPONDENT NAME: Texmark Chemicals, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Texmark Chemicals, 900 Clinton Drive, Galena Park, Harris County</p> <p>TYPE OF OPERATION: Chemical processing 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 January 24, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Robert R. Kautzman, Plant Manager, Texmark Chemicals, Inc., P.O. Box 67, Galena Park, Texas 77547 Ms. Linda Salinas, Environmental Manager, Texmark Chemicals, Inc., P.O. Box 67, Galena Park, Texas 77547 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: April 15, 2010</p> <p>Date of NOV/NOE Relating to this Case: June 16, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failed to properly operate an internal floating roof tank. Specifically, from January 21, 2009 through January 10, 2010, the Respondent failed to maintain liquid below the internal floating roof on tank T-1010 and failed to prevent the landing of the internal floating roof on Tanks T-407, T-405, T-1009, T-1010, T-1403, T-1404, and T-1405, resulting in the release of 0.8099 tons of volatile organic compounds [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.112b(a)(1)(i), Federal Operating Permit No. O-01363 Special Terms and Conditions Nos. 1A and 13, New Source Review Permit No. 21472 Special Condition No. 3, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to provide notice within ten days following the installation or modification of a facility operating under a Permit By Rule. Specifically, Tank T-1001 and Tank T-1002 changed service from feed stocks to alcohol bottoms and notice was not received [30 TEX. ADMIN. CODE §§ 106.262(a)(3), 116.110(a)(4) and 122.143(4), Federal Operating Permit No. O-01363 Special Terms and Conditions No. 13, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$21,625</p> <p>Total Deferred: \$4,325 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$8,650</p> <p>Total Paid to General Revenue: \$8,650</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on September 16, 2009, the Respondent obtained authorization for the change in service for Tanks T-1001 and T-1002.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, develop and implement procedures designed to ensure the proper operation of Tanks T-407, T-405, T-1009, T-1010, T-1403, T-1404, and T-1405 including maintenance of liquid levels within the tanks; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>

Attachment A
Docket Number: 2010-1126-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: **Texmark Chemicals, Inc.**

Penalty Amount: **Seventeen Thousand Three Hundred Dollars
(\$17,300)**

SEP Offset Amount: **Eight Thousand Six Hundred Fifty Dollars (\$8,650)**

Type of SEP: **Pre-approved SEP**

Third-Party Recipient: **The Sheltering Arms**

Project Name: **Sheltering Arms Weatherization Assistance
Program**

Location of SEP: **Harris County**

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP offset 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 **The Sheltering Arms** to be used for the Sheltering Arms Weatherization Assistance Program as set forth in the Agreement between the Third-Party Recipient and TCEQ. The SEP offset amount shall be used to perform energy efficiency upgrades on low-income homes in Harris County. Specifically, the SEP offset amount may only be used for: 1) purchase and installation of compact fluorescent light bulbs; 2) the incremental cost of replacement of energy-inefficient fans and refrigerators with energy-efficient models; 3) the incremental cost of replacement of energy-inefficient washers and dryers with energy-efficient models; 4) sheetrock repairs to sustain and protect new attic insulation; 5) floor repairs to prevent air leaks; 6) repairs to patches made to sheetrock during the addition of all new insulation; and 7) other direct costs authorized in advance by TCEQ.

The SEP offset amount shall not be used to perform weatherization inspections and generate computerized audits for the proposed weatherization work where Federal Weatherization Assistance Program (“WAP”) and Federal Low Income Home Energy Assistance Funds (“LIHEAP”) are available. WAP and LIHEAP funds are currently

limited to \$4,000 per house by regulation. The WAP and LIHEAP funds will also be used for 1) replacement of stoves, space heaters, and water heaters that leak carbon monoxide; 2) purchase and installation of carbon monoxide detectors; 3) replacement of central air conditioning systems and window units; 4) addition of wall and attic insulation; 5) caulking and weather-stripping; 5) replacement of window panels; 6) addition of solar screens; 7) new windows and doors. The SEP Offset Amount shall be used to enhance the proposed weatherization work not covered by the WAP and LIHEAP funds. The results of the weatherization audits along with any proposed modifications and associated budgets and scope of work shall be submitted to TCEQ. The SEP offset amount will be used solely for the direct cost of performing the project and no portion will be spent on administrative costs.

The Respondent certifies that it has no prior commitment to make this contribution to the Third-Party Recipient and that the SEP offset amount is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

Implementation of this project will reduce fuel and electricity usage for heating and cooling and day-to-day living operations. These reductions will reduce emissions of particulate matter, volatile organic carbon compounds, nitrogen oxides, and other pollutants associated with combustion of fuel and generation of electricity.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP offset 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 shall contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall make the contribution check payable to "The Sheltering Arms" and mail a copy of the Agreed Order with the check to:

The Sheltering Arms
Attention: Lynne Cooke, Vice President
3838 Aberdeen Way
Houston, Texas 77025

3. Records and Reporting

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

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
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 Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

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 a 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

TCEQ

DATES	Assigned	21-Jun-2010	Screening	29-Jun-2010	EPA Due	
	PCW	8-Nov-2010				

RESPONDENT/FACILITY INFORMATION

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

CASE INFORMATION

Enf./Case ID No.	40010	No. of Violations	2
Docket No.	2010-1126-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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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.

Compliance History	78.0% Enhancement	Subtotals 2, 3, & 7	\$9,750
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Notes: Enhancement for four same/similar NOVs, nine dissimilar NOVs, and two agreed orders with denial.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$540
Approx. Cost of Compliance	\$6,200

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$21,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,625
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DEFERRAL	20.0% Reduction	Adjustment	-\$4,325
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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.

PAYABLE PENALTY	\$17,300
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Screening Date 29-Jun-2010

Docket No. 2010-1126-AIR-E

PCW

Respondent Texmark Chemicals, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40010

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100238740

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	9	18%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of</i>	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 78%

>> 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

Enhancement for four same/similar NOVs, nine dissimilar NOVs, and two agreed orders with denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 78%

Screening Date 29-Jun-2010

Docket No. 2010-1126-AIR-E

PCW

Respondent Texmark Chemicals, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40010

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100238740

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), 40 Code of Federal Regulations § 60.112b(a)(1)(i), Federal Operating Permit No. O-01363 Special Terms and Conditions Nos. 1A and 13, New Source Review Permit No. 21472 Special Condition No. 3, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly operate an internal floating roof tank. Specifically, from January 21, 2009 through January 10, 2010, the Respondent failed to maintain liquid below the internal floating roof on Tank T-1010 and failed to prevent the landing of the internal floating roof on Tanks T-407, T-405, T-1009, T-1010, T-1403, T-1404, and T-1405, resulting in the release of 0.8099 tons of volatile organic compounds.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

354 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four quarterly events are recommended for the internal floating roof tanks that were not operated correctly beginning with the first date of non-compliance (January 21, 2009) and ending the last date of the compliance period (January 10, 2010).

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 \$530

Violation Final Penalty Total \$17,800

This violation Final Assessed Penalty (adjusted for limits) \$17,800

Economic Benefit Worksheet

Respondent Texmark Chemicals, Inc.
Case ID No. 40010
Req. Ent. Reference No. RN100238740
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)	\$5,000	21-Jan-2009	6-Mar-2011	2.12	\$530	n/a	\$530

Notes for DELAYED costs

Estimated costs to provide additional tank operation oversight. The date required is the date the violation began and the final date is the estimated date of compliance.

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 \$530

Screening Date 29-Jun-2010

Docket No. 2010-1126-AIR-E

PCW

Respondent Texmark Chemicals, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40010

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100238740

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 106.262(a)(3), 116.110(a)(4) and 122.143(4), Federal Operating Permit No. O-01363 Special Terms and Conditions No. 13, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to provide notice within ten days following the installation or modification of a facility operating under a Permit By Rule. Specifically, Tank T-1001 and Tank T-1002 changed service from feed stocks to alcohol bottoms and notice was not received.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

62 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended beginning ten days after the date of service change (July 16, 2009) to the date of registration (September 16, 2009).

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

On September 16, 2009, the Respondent registered for the Permit-By-Rule.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$3,825

This violation Final Assessed Penalty (adjusted for limits) \$3,825

Economic Benefit Worksheet

Respondent Texmark Chemicals, Inc.
Case ID No. 40010
Req. Ent. Reference No. RN100238740
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
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	\$1,200	16-Jul-2009	16-Sep-2009	0.17	\$10	n/a	\$10
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide notice of the change in service of Tank T-1001 and Tank T-1002. The date required is the date the written notice was due and the final date is the date of compliance.

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 \$1,200

TOTAL \$10

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.

Effective Date: 06/04/2010

ADMINORDER 2009-1514-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)

30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to submit the ACC and two deviation reports within 30 days after the ACC and semi-annual deviation reporting periods, respectively.

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter D 117.2035(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 1A OP

Description: Failed 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.

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter D 117.2035(e)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 1A OP

Description: 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).

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.665(b)(3)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Terms and Condition 1A OP

Description: 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. 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	07/19/2005	(397993)
2	07/22/2005	(575302)
3	08/24/2005	(575304)
4	09/22/2005	(575306)

5	10/24/2005	(575308)
6	11/25/2005	(575310)
7	12/23/2005	(575313)
8	02/23/2006	(575288)
9	03/22/2006	(575291)
10	04/24/2006	(575294)
11	05/26/2006	(575297)
12	06/21/2006	(575300)
13	06/22/2006	(457517)
14	08/23/2006	(575305)
15	09/01/2006	(497307)
16	09/25/2006	(575307)
17	10/12/2006	(511775)
18	10/23/2006	(575303)
19	10/23/2006	(575309)
20	10/23/2006	(575315)
21	11/24/2006	(575311)
22	12/22/2006	(575314)
23	01/22/2007	(575316)
24	02/22/2007	(575289)
25	03/21/2007	(575292)
26	04/23/2007	(575295)
27	05/02/2007	(512684)
28	05/23/2007	(575298)
29	06/21/2007	(575301)
30	08/20/2007	(566921)
31	08/22/2007	(607551)
32	08/24/2007	(572359)
33	08/28/2007	(572840)
34	09/11/2007	(573047)
35	09/25/2007	(607552)
36	10/17/2007	(607550)
37	10/17/2007	(607553)
38	11/26/2007	(768363)
39	12/07/2007	(594481)
40	12/20/2007	(610502)
41	01/07/2008	(768365)
42	01/24/2008	(768367)
43	02/22/2008	(768351)
44	03/24/2008	(639453)
45	03/24/2008	(768354)
46	03/26/2008	(610300)
47	05/08/2008	(774850)
48	05/15/2008	(657209)
49	05/22/2008	(768357)
50	06/24/2008	(768358)
51	07/23/2008	(768359)
52	08/08/2008	(774851)
53	08/13/2008	(685485)
54	08/25/2008	(768360)
55	10/21/2008	(768362)
56	10/31/2008	(684541)
57	11/24/2008	(768364)
58	12/04/2008	(774852)
59	12/29/2008	(768366)
60	02/19/2009	(774849)
61	02/23/2009	(768352)
62	02/26/2009	(768355)
63	02/26/2009	(768361)
64	03/23/2009	(768353)
65	04/01/2009	(740536)
66	04/13/2009	(768368)
67	04/23/2009	(768356)

68 05/22/2009 (804655)
 69 06/23/2009 (804656)
 70 08/06/2009 (764777)
 71 08/21/2009 (804658)
 72 08/31/2009 (747469)
 73 08/31/2009 (749594)
 74 09/23/2009 (804659)
 75 10/22/2009 (804657)
 76 10/22/2009 (804660)
 77 10/30/2009 (722191)
 78 11/19/2009 (777970)
 79 11/23/2009 (804661)
 80 12/28/2009 (804662)
 81 01/07/2010 (782092)
 82 01/22/2010 (804663)
 83 02/22/2010 (804654)
 84 06/15/2010 (796061)

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

Date: 07/19/2005 (397993) CN600132864

Self 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 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 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 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 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 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 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 are, 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 04/30/2009 (804655) 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 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)
 Date 06/16/2010 (796061) CN600132864

Self Report? NO Classification: Moderate
 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)
 GT&C OP
 SC14 OP
 Description: Failure to submit the first semi-annual deviation report dated August 11, 2009 within 30 days after the end of the certification period. (Category B 3 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 Kb 60.113b(a)(5)
 5C THSC Chapter 382 382.085(b)
 SC 3 PERMIT
 ST&C 11 OP
 ST&C 1A OP
 Description: Failure to submit a notification of the date in which tank T-1405 was to be filled 30 days prior to the filling of the tank. (Category B 3 violation)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 117, SubChapter D 117.2035(e)(9)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 STC 1A OP
 Description: Failure to submit the H-101 stack test within 60 days. (Category B3 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 QQQ 60.703(b)(2)(ii)
 5C THSC Chapter 382 382.085(b)
 SC 3C PERMIT
 STC 11 OP
 Description: Failure to conduct monthly visual inspections of car seals. (Category B1 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 NNN 60.665(b)(3)
 5C THSC Chapter 382 382.085(b)
 SC 3B PERMIT
 STC11 OP
 Description: Failure to maintain the flare pilot recording system. (Category B.19.g.1 violation)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 116, SubChapter B 116.116(a)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 SC 16 PERMIT
 STC 11 OP
 Description: Failure to operate within the parameters of the NSR permit. (Category B 19.g.1 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**

§
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§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1126-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 Respondent 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 June 21, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-One Thousand Six Hundred Twenty-Five Dollars (\$21,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Six

Hundred Fifty Dollars (\$8,650) of the administrative penalty and Four Thousand Three Hundred Twenty-Five Dollars (\$4,325) 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. Eight Thousand Six Hundred Fifty Dollars (\$8,650) 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 on September 16, 2009, the Respondent obtained authorization for the change in service for Tanks T-1001 and T-1002.
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 properly operate an internal floating roof tank, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.112b(a)(1)(i), Federal Operating Permit No. O-01363 Special Terms and Conditions Nos. 1A and 13, New Source Review Permit No. 21472 Special Condition No. 3, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 15, 2010. Specifically, from January 21, 2009 through January 10, 2010, the Respondent failed to maintain liquid below the internal floating roof on tank T-1010 and failed to prevent the landing of the internal floating roof on Tanks T-407, T-405, T-1009, T-1010, T-1403, T-1404, and T-1405, resulting in the release of 0.8099 tons of volatile organic compounds.
2. Failed to provide notice within ten days following the installation or modification of a facility operating under a Permit By Rule, in violation of 30 TEX. ADMIN. CODE §§ 106.262(a)(3), 116.110(a)(4) and 122.143(4), Federal Operating Permit No. O-01363

Special Terms and Conditions No. 13, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 15, 2010. Specifically, Tank T-1001 and Tank T-1002 changed service from feed stocks to alcohol bottoms and notice was not received.

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. 2010-1126-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, Eight Thousand Six Hundred Fifty Dollars (\$8,650) 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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, develop and implement procedures designed to ensure the proper operation of Tanks T-407, T-405, T-1009, T-1010, T-1403, T-1404, and T-1405 including maintenance of liquid levels within the tanks; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on

my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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

4. 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.
5. 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.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be

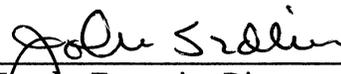
copied, scanned, digitized, converted to electronic portable document format (“pdf”), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term “signature” shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms “electronic transmission”, “owner”, “person”, “writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. 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



For the Executive Director

12/27/2010

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.



Signature

Nov. 17, 2010

Date

ROBERT R. KAUTZMAN

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

PLANT MANAGER -

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.

Attachment A
Docket Number: 2010-1126-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: **Texmark Chemicals, Inc.**

Penalty Amount: **Seventeen Thousand Three Hundred Dollars**
 (\$17,300)

SEP Offset Amount: **Eight Thousand Six Hundred Fifty Dollars (\$8,650)**

Type of SEP: **Pre-approved SEP**

Third-Party Recipient: **The Sheltering Arms**

Project Name: **Sheltering Arms Weatherization Assistance**
 Program

Location of SEP: **Harris County**

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP offset 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 **The Sheltering Arms** to be used for the Sheltering Arms Weatherization Assistance Program as set forth in the Agreement between the Third-Party Recipient and TCEQ. The SEP offset amount shall be used to perform energy efficiency upgrades on low-income homes in Harris County. Specifically, the SEP offset amount may only be used for: 1) purchase and installation of compact fluorescent light bulbs; 2) the incremental cost of replacement of energy-inefficient fans and refrigerators with energy-efficient models; 3) the incremental cost of replacement of energy-inefficient washers and dryers with energy-efficient models; 4) sheetrock repairs to sustain and protect new attic insulation; 5) floor repairs to prevent air leaks; 6) repairs to patches made to sheetrock during the addition of all new insulation; and 7) other direct costs authorized in advance by TCEQ.

The SEP offset amount shall not be used to perform weatherization inspections and generate computerized audits for the proposed weatherization work where Federal Weatherization Assistance Program (“WAP”) and Federal Low Income Home Energy Assistance Funds (“LIHEAP”) are available. WAP and LIHEAP funds are currently

limited to \$4,000 per house by regulation. The WAP and LIHEAP funds will also be used for 1) replacement of stoves, space heaters, and water heaters that leak carbon monoxide; 2) purchase and installation of carbon monoxide detectors; 3) replacement of central air conditioning systems and window units; 4) addition of wall and attic insulation; 5) caulking and weather-stripping; 5) replacement of window panels; 6) addition of solar screens; 7) new windows and doors. The SEP Offset Amount shall be used to enhance the proposed weatherization work not covered by the WAP and LIHEAP funds. The results of the weatherization audits along with any proposed modifications and associated budgets and scope of work shall be submitted to TCEQ. The SEP offset amount will be used solely for the direct cost of performing the project and no portion will be spent on administrative costs.

The Respondent certifies that it has no prior commitment to make this contribution to the Third-Party Recipient and that the SEP offset amount is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

Implementation of this project will reduce fuel and electricity usage for heating and cooling and day-to-day living operations. These reductions will reduce emissions of particulate matter, volatile organic carbon compounds, nitrogen oxides, and other pollutants associated with combustion of fuel and generation of electricity.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP offset 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 shall contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall make the contribution check payable to "The Sheltering Arms" and mail a copy of the Agreed Order with the check to:

The Sheltering Arms
Attention: Lynne Cooke, Vice President
3838 Aberdeen Way
Houston, Texas 77025

3. Records and Reporting

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

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
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 Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.