

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-1446-AIR-E **TCEQ ID:** RN101613511 **CASE NO.:** 40337

**RESPONDENT NAME:** KMCO, L.P.

<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

**SITE WHERE VIOLATION(S) OCCURRED:** KMCO RAMSEY ROAD PLANT, 16503 Ramsey Road, Crosby, Harris County

**TYPE OF OPERATION:** Custom chemical distillation and manufacturing plant

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on February 21, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

**Respondent:** Mr. William Glushko, Environmental Manager, KMCO, L.P., 16503 Ramsey Road, Crosby, Texas 77532  
Mr. Jeff McFerrin, Vice President, KMCO, L.P., 16503 Ramsey Road, Crosby, Texas 77532

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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> July 7, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 9, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failed to submit the Permit Compliance Certification ("PCC") within 30 days of the end of the certification period. Specifically, the Respondent did not timely submit the PCC for the period of January 21, 2009 through January 20, 2010 by February 19, 2010 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01441, General Terms and Conditions].</p>	<p><b>Total Assessed:</b> \$4,450</p> <p><b>Total Deferred:</b> \$890  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,560</p> <p><b>Compliance History Classifications:</b>                      Person/CN - Average                      Site/RN - Average</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 submitted the PCC on August 12, 2010.</p>

Additional ID No(s): HGo426B



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	16-Aug-2010	<b>Screening</b>	2-Sep-2010	<b>EPA Due</b>	6-May-2011
	<b>PCW</b>	7-Sep-2010				

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

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	1
<b>Enf./Case ID No.</b>	40337	<b>Order Type</b>	1660
<b>Docket No.</b>	2010-1446-AIR-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Roshondra Lowe
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for one NOV with same/similar violation, four NOVs with dissimilar violations, one order with denial, one order without denial, and one court order with denial.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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**

Screening Date 2-Sep-2010

Docket No. 2010-1446-AIR-E

PCW

Respondent KMCO, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40337

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613511

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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> )	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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) 88%

>> 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 one NOV with same/similar violation, four NOVs with dissimilar violations, one order with denial, one order without denial, and one court order with denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 88%

Screening Date 2-Sep-2010

Docket No. 2010-1446-AIR-E

PCW

Respondent KMCO, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40337

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613511

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(1), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-01441, General Terms and Conditions

Violation Description Failed to submit the Permit Compliance Certification ("PCC") within 30 days of the end of the certification period. Specifically, the Respondent did not timely submit the PCC for the period of January 21, 2009 through January 20, 2010 by February 19, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%
100% of the rule requirement was not met.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 174 Number of violation days

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

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes Corrective actions were completed on August 12, 2010, after the August 9, 2010 NOE.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$4,450

This violation Final Assessed Penalty (adjusted for limits) \$4,450

# Economic Benefit Worksheet

**Respondent** KMCO, L.P.  
**Case ID No.** 40337  
**Reg. Ent. Reference No.** RN101613511  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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	19-Feb-2010	12-Aug-2010	0.48	\$24	n/a	\$24

Notes for DELAYED costs

Estimated cost to implement measures and procedures to submit a PCC within the required timeframe. The date required is the date the PCC was due. The final date is based on 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

\$1,000

**TOTAL**

\$24

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601482870 — KMCO, L.P. Classification: AVERAGE Rating: 8.68  
 Regulated Entity: RN101613511 KMCO RAMSEY ROAD PLANT Classification: AVERAGE Site Rating: 15.79

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

Location: 16503 RAMSEY RD, CROSBY, TX, 77532

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 25, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 25, 2005 to August 25, 2010

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

Name: Roshondra Lowe Phone: (713) 767-3553

### 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 judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 03/23/2009ADMINORDER 2008-1543-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition #6 PERMIT

Description: The Respondent failed to control unauthorized emissions during an emissions event in the Reaction 2 Unit on January 24, 2008.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(f)  
5C THSC Chapter 382 382.085(b)

Description: The Respondent failed to timely provide additional information requested by the TCEQ Houston Regional Office regarding the January 24, 2008 emissions event,

Effective Date: 07/24/2009

COURTORDER

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about January 5, 2005 an inspector with Harris County collected a water sample from Outfall No. 1 at the KMCO facility. An analysis of the sample shows that the ammonia levels are 60.5 mg/l which exceeds the maximum level set by WQ02712 of 10mg/l. This is a violation of Chapter 26.121 of the Texas Water Code and a violation of TDPES permit number WQ02712.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about November 1, 2005 an inspector with Harris County collected a water sample from Outfall No. 1 at the KMCO facility. An analysis of the sample shows that the ammonia levels are 11.8 mg/l which exceeds the maximum level set by WQ02712 of 10mg/l. Additionally, the TOC levels contained 244 mg/l which violates the TDPES permit condition of 200 mg/l. This is a violation of Chapter 26.121 of the Texas Water Code and a violation of TDPES permit number WQ02712.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about December 1, 2005 an investigator from Harris County conducted an investigation of the facility. The investigation included an odor survey. The inspector found a strong plastic like odor from an ethanol/ ethyl acrylate spill at the facility and found the odor to be in such concentration and of such duration as to interfere with the normal use and enjoyment of property located adjacent to the facility. The complainant stated that the odor was strong enough and lasted long enough to

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
TWC Chapter 26 26.121

Description: On or about February 16, 2006 an investigator from Harris County inspected the facility. The investigation included an odor survey. The complainant stated that her eyes became watery before she was forced to leave the area due to nausea caused by the odors. This constitutes a violation of 30 TAC 101.4 and the permanent injunction entered by the court on. May 6, 1990.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about March 4, 2006 an investigator from Harris County collected samples of the water directly from Outfall 001. The analysis of the samples revealed BOD at 1020 mg/l, TSS measured 800 mg/l, TOC measured 839 mg/l, and COD measured 2503 mg/l. This constitutes a violation of TDPES permit WQ02712 and Section 26.121 of the Texas Water Code.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

Description: On or about March 31, 2006 an investigator from Harris County inspected the facility. The investigation included an odor survey. The investigator collected an air sample at the facility. The next day she became ill as a result of her re-exposure to the odor of propionic acid that lingered in her vehicle from the inspection. This constitutes a violation of 30 TAC 101.4 and the permanent injunction entered by the court on. May 6, 1990.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THSC Chapter 382 382.015

Description: On or about April 1, 2006 an investigator from Harris County returned to inspect the facility as a result of the propionic acid spill from the previous day. The investigation included an odor survey. The inspector found a moderately strong acrylate type odor coming from the KNMCO facility. This constitutes a violation of 30 TAC 101.4 and the Texas Health and Safety Code Section 382.015.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about April 6, 2006 an investigator from Harris County inspected the facility and took water samples from Outfall 001. The analysis of the samples shows ammonia at 14.1 mg/l in excess of the 10 mg/l set by NPDES permit WQ02712

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THSC Chapter 382 382.015

Description: On or about November 2, 2006 an investigator from Harris County responded to complaints at the Crosby Elementary School. At the facility the investigator learned that the scrubbers that service the

sulfurized isobutylene units, K-1/ K-9 were not working and that approximately 10% to 15% of the waste gas from the unit was allowed to bleed into the a This constitutes a violation of 30 TAC 101.4, the permanent injunction entered by the court on. May 6, 1990 and Texas Health and Safety Code 382.085.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about March 21, 2007 an investigator from Harris County inspected the facility and took water samples from an outfall at the wastewater treatment plant. The analysis of the samples shows TSS at 140 mg/l in excess of the 90 mg/l set by NPDES permit WQ02712.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about March 27, 2007- unpermitted discharge of wastewater was documented and analyzed for CBOD, TOC, and BCOD. It constitutes violation of the Texas Water Code 26.121.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about August 17, 2007 - foam was observed in the discharge. This is in violation of condition No. 3 TDPEs Permit No. WQ02712.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

Description: On or about October 21, 2007 an investigator from Harris County responded to complaints of odors emanating from the facility as a result of a spill of a material called Tergitol. The inspector felt enough discomfort to determine that the odor was of such concentration and for such duration as to constitute a nuisance. This constitutes a violation of 30 TAC 101.4 and the permanent injunction entered by the court on. May 6, 1990.

Effective Date: 10/18/2009

ADMINORDER 2009-0299-AIR-E

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)

Rqmt Prov: FOP O-01441, General Terms and Condition PERMIT  
Special Condition 8 OP

Description: Failed to report a deviation for the deviation reporting period of January 20, 2005 to July 19, 2005 and for the deviation reporting period of July 20, 2006 to January 19, 2007. Specifically, permit compliance certifications were submitted for these two periods, but did not contain any deviations.

Classification: Moderate

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

Rqmt Prov: Special Condition 27 PA  
Special Condition 8 OP

Description: Failed to submit the results of sampling/testing of the cooling tower system volatile organic compound emissions to the TCEQ within 30 days after completion. Specifically, the El Paso Method of sampling was initiated on June 22, 2006, but the results were not submitted to the TCEQ.

Classification: Minor

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

Rqmt Prov: FOP No. O-01441, General Terms and Cond. OP  
O-01441, Special Condition 8 OP  
Special Condition 31 PA  
Special Condition 36 PA  
Special Condition 45 PA

Description: Failed to maintain temperature records of the ethylene oxide storage tanks for at least two years. Specifically, no temperature records were available prior to December 13, 2007

Classification: Moderate

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

Rqmt Prov: FOP O-01441, General Terms & Conditions OP  
Special Condition 8 OP  
Special Condition 36 PA  
Special Condition 41(B) PA  
Special Condition 41(F) PA

Description: Failed to maintain at least two years of records of leak test and control method used for tank truck/railcar loading and unloading operations. Specifically, at the time of the investigation, the tank

truck/railcar records did not include the date of the last leak testing or control method used.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter B 115.160(2)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01441, General Terms & Conditions OP  
FOP O-01441, Special Condition 8 OP  
Special Condition 3B(iii) OP

Description: Failed to conduct annual visible emission observations of 98 stationary vents during the 12 months prior to the investigation and to demonstrate compliance with the annual mass emissions for the stationary vents by maintaining records of production and operating hours for each individual vent.

Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01441, General Terms & Conditions OP  
O-01441, Special Condition 3B(i) OP

Description: Failed to limit opacity from the natural gas-fired heater. Specifically, on January 24, 2005, opacity was 30 percent for approximately 15 minutes.

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	09/09/2005	(431124)
2	09/20/2005	(446066)
3	10/27/2005	(478229)
4	11/28/2005	(478230)
5	12/27/2005	(478231)
6	01/26/2006	(478232)
7	02/22/2006	(478227)
8	03/20/2006	(478228)
9	04/24/2006	(504505)
10	06/21/2006	(504506)
11	07/21/2006	(526824)
12	08/21/2006	(526825)
13	09/25/2006	(526826)
14	10/26/2006	(550814)
15	11/27/2006	(550815)
16	01/23/2007	(587231)
17	02/27/2007	(587226)
18	02/27/2007	(587227)
19	04/25/2007	(587228)
20	05/22/2007	(587229)
21	06/21/2007	(587230)
22	07/24/2007	(604956)
23	08/16/2007	(568432)
24	08/28/2007	(604957)
25	08/30/2007	(571101)
26	09/05/2007	(604958)
27	09/06/2007	(570520)
28	10/22/2007	(626809)
29	11/28/2007	(626810)
30	01/04/2008	(626811)
31	01/17/2008	(609975)
32	01/28/2008	(676006)

33 02/18/2008 (676003)  
 34 03/20/2008 (676004)  
 35 04/18/2008 (676005)  
 36 05/19/2008 (694378)  
 37 06/18/2008 (694379)  
 38 07/21/2008 (694380)  
 39 08/20/2008 (715777)  
 40 08/27/2008 (636413)  
 41 09/24/2008 (715778)  
 42 10/20/2008 (703823)  
 43 10/23/2008 (715779)  
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 55 06/30/2009 (737084)  
 56 11/20/2009 (815999)  
 57 12/18/2009 (816000)  
 58 01/12/2010 (816001)  
 59 01/19/2010 (788219)  
 60 02/17/2010 (815998)  
 61 03/25/2010 (834813)  
 62 04/14/2010 (797984)  
 63 04/19/2010 (834814)  
 64 05/17/2010 (834815)  
 65 06/10/2010 (847467)  
 66 08/09/2010 (826932)  
 67 08/09/2010 (830100)

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

Date: 11/30/2005 (478231) CN601482870  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/14/2007 (562334)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 9383 SC 43G PERMIT  
 O-01441 SC 8A OP  
 Description: Failure to document the scrubber fluid flow rate as required by permit 9383 special condition 43:G

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 O-01141- SC8A OP  
 Permit 9383 SC 12 PERMIT  
 Description: Failure to operate scrubber in accordance with attachment B of Permit 9383 special condition 12.

Date: 09/30/2007 (626809) CN601482870  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2007 (626810) CN601482870  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2009 (737084) CN601482870  
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 all instances of deviations within the first semi-annual reporting period of January 21, 2008 through July 20, 2008. (Category B3)

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1446-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KMCO, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a custom chemical distillation and manufacturing plant at 16503 Ramsey Road in Crosby, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. 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 August 14, 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 Four Thousand Four Hundred Fifty Dollars (\$4,450) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Five Hundred Sixty Dollars (\$3,560) of the administrative penalty and Eight Hundred Ninety Dollars (\$890) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent submitted the Permit Compliance Certification ("PCC") on August 12, 2010.
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 failed to submit the PCC within 30 days of the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01441, General Terms and Conditions, as documented during an investigation conducted on July 7, 2010. Specifically, the Respondent did not timely submit the PCC for the period of January 21, 2009 through January 20, 2010 by February 19, 2010.

## **III. DENIALS**

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

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KMCO, L.P., Docket No. 2010-1446-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 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.
3. 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.
4. 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.
5. 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 Zedler  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 1/24/2011

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 [Handwritten Signature]

\_\_\_\_\_  
Date 11-30-10

\_\_\_\_\_  
Name (Printed or typed) Jeff McFerrin  
Authorized Representative of  
KMCO, L.P.

\_\_\_\_\_  
Title Vice President

**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.