

**Executive Summary – Enforcement Matter – Case No. 48032**

**KMCO, LLC**

**RN101613511**

**Docket No. 2013-2188-AIR-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

KMCO Crosby Plant, 16503 Ramsey Road, Crosby, Harris County

**Type of Operation:**

Industrial organic chemical manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 21, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$3,500

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$3,500

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** October 11, 2013 to November 13, 2013

**Date(s) of NOE(s):** November 19, 2013

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**KMCO, LLC**

**RN101613511**

**Docket No. 2013-2188-AIR-E**

***Violation Information***

Failed to report all instances of deviations [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. 01441, General Terms and Conditions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On November 5, 2013, the Respondent submitted an amended semi-annual deviation report that included the deviations which should have been documented in the deviation report postmarked September 28, 2012 for the March 29, 2012 through September 28, 2012 reporting period.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, implement measures designed to ensure that all instances of deviations are included in deviation reports; and
- b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Rachel Bekowies, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2608; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Jeff McFerrin, President, KMCO, LLC, 16503 Ramsey Road, Crosby, Texas 77532

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	25-Nov-2013	<b>Screening</b>	12-Dec-2013	<b>EPA Due</b>	
	<b>PCW</b>	13-Dec-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	KMCO, LLC
<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>Enf./Case ID No.</b>	48032	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-2188-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Heather Podlipny
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,750
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	100.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,750
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Notes: Enhancement for one court order with denial of liability, one order without denial of liability, three orders with denial of liability, and three NOV's with dissimilar violations. Reduction for one notice of intent to conduct an audit.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$134  
 Approx. Cost of Compliance: \$1,750  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$3,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,500
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$3,500
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**Screening Date** 12-Dec-2013

**Docket No.** 2013-2188-AIR-E

**PCW**

**Respondent** KMCO, LLC

Policy Revision 3 (September 2011)

**Case ID No.** 48032

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101613511

**Media [Statute]** Air

**Enf. Coordinator** Heather Podlipny

### 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> )	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	3	60%
	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> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 120%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one court order with denial of liability, one order without denial of liability, three orders with denial of liability, and three NOVs with dissimilar violations. Reduction for one notice of intent to conduct an audit.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 120%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 100%

Screening Date 12-Dec-2013

Docket No. 2013-2188-AIR-E

PCW

Respondent KMCO, LLC

Policy Revision 3 (September 2011)

Case ID No. 48032

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613511

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O1441, General Terms and Conditions

Violation Description Failed to report all instances of deviations. Specifically, the Respondent failed to include four deviations in the deviation report for the March 29, 2012 through September 28, 2012 reporting period.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
		x		7.0%

Matrix Notes 67% of the rule requirement was not met.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 1 Number of violation days 373

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

Violation Base Penalty \$1,750

One single event is recommended for the deficient report.

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 \$1,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$134

Violation Final Penalty Total \$3,500

This violation Final Assessed Penalty (adjusted for limits) \$3,500

## Economic Benefit Worksheet

**Respondent** KMCO, LLC  
**Case ID No.** 48032  
**Reg. Ent. Reference No.** RN101613511  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,500	28-Oct-2012	12-Jun-2014	1.62	\$122	n/a	\$122
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	28-Oct-2012	5-Nov-2013	1.02	\$13	n/a	\$13

Notes for DELAYED costs

Estimated cost to implement measures and procedures to ensure that all instances of deviations are included in deviation reports and to submit an amended semi-annual deviation report. The Date Required is the date the deviation report was due and the Final Dates are the date the deviation report was submitted and 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

\$1,750
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**TOTAL**

\$134
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# TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN604105221, RN101613511, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN604105221, KMCO, LLC **Classification:** SATISFACTORY **Rating:** 45.47

**Regulated Entity:** RN101613511, KMCO CROSBY PLANT **Classification:** SATISFACTORY **Rating:** 45.47

**Complexity Points:** 19 **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 16503 RAMSEY ROAD, CROSBY, TX 77532-5916, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

## ID Number(s):

**WASTEWATER PERMIT** WQ0002712000

**AIR OPERATING PERMITS ACCOUNT NUMBER** HG0426B

**AIR NEW SOURCE PERMITS PERMIT** 3954

**AIR NEW SOURCE PERMITS REGISTRATION** 47535

**AIR NEW SOURCE PERMITS AFS NUM** 4820100381

**WASTEWATER LICENSING LICENSE** WQ0002712000

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER**  
HG0426B

**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR)** 31904

**WASTEWATER EPA ID** TX0095559

**AIR OPERATING PERMITS PERMIT** 1441

**AIR NEW SOURCE PERMITS PERMIT** 9383

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** HG0426B

**AIR NEW SOURCE PERMITS REGISTRATION** 72308

**IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR)** 31904

**INDUSTRIAL AND HAZARDOUS WASTE EPA ID**  
TXD074198961

**POLLUTION PREVENTION PLANNING ID NUMBER**  
P01630

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** December 12, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 12, 2008 to December 12, 2013

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Heather Podlipny

**Phone:** (512) 239-2603

## Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 03/23/2009 ADMINORDER 2008-1543-AIR-E (Findings Order-Agreed Order Without Denial)  
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,

2 Effective Date: 07/24/2009 COURTORDER (Final Judgement-Agreed Order With Denial)

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.

3 Effective Date: 10/18/2009 ADMINORDER 2009-0299-AIR-E (1660 Order-Agreed Order With Denial)

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.

4 Effective Date: 04/18/2011 ADMINORDER 2010-1446-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(1)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP O-01441 General Terms and Conditions OP

Description: Failure to submit a PCC report for the period of January 21, 2009 - January 20, 2010 within 30 days.  
Category A8 (c) (1) (E)

5 Effective Date: 05/02/2013 ADMINORDER 2012-1602-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.335(a)(1)  
30 TAC Chapter 117, SubChapter B 117.335(c)  
30 TAC Chapter 117, SubChapter G 117.8000(a)  
30 TAC Chapter 117, SubChapter H 117.9020(2)(C)(i)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov:ST&C 11 A i 2 OP

Description: Failed to conduct a stack test on the Salt Heater (EPN HA), the Distillation Unit Hot Oil Heater (HJ2), and the Reaction Hot Oil Heater (HH2), by the March 31, 2007 deadline.

Classification: Moderate

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

Rqmt Prov:MAER PERMIT  
ST&C 7 OP

Description: Failed to comply with the permitted carbon monoxide ("CO") emissions rate of 0.48 pound per hour ("lb/hr").

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	January 07, 2009	(731454)
Item 2	January 20, 2009	(731455)
Item 3	January 27, 2009	(709545)
Item 4	February 20, 2009	(754775)
Item 5	April 16, 2009	(736603)
Item 6	May 18, 2009	(771985)
Item 7	June 11, 2009	(771986)

Item 8	October 13, 2009	(929001)
Item 9	November 10, 2009	(929000)
Item 10	November 20, 2009	(815999)
Item 11	December 18, 2009	(816000)
Item 12	January 12, 2010	(816001)
Item 13	January 19, 2010	(788219)
Item 14	February 17, 2010	(815998)
Item 15	March 25, 2010	(834813)
Item 16	April 14, 2010	(797984)
Item 17	April 19, 2010	(834814)
Item 18	May 17, 2010	(834815)
Item 19	May 25, 2010	(928998)
Item 20	June 10, 2010	(847467)
Item 21	July 13, 2010	(861887)
Item 22	August 09, 2010	(826932)
Item 23	August 17, 2010	(868388)
Item 24	October 13, 2010	(875311)
Item 25	November 18, 2010	(889268)
Item 26	December 20, 2010	(897656)
Item 27	January 13, 2011	(903540)
Item 28	February 18, 2011	(910445)
Item 29	March 21, 2011	(917676)
Item 30	April 19, 2011	(877589)
Item 31	April 20, 2011	(928997)
Item 32	May 20, 2011	(939379)
Item 33	June 20, 2011	(946791)
Item 34	July 08, 2011	(934912)
Item 35	August 21, 2011	(960639)
Item 36	August 22, 2011	(954052)
Item 37	September 19, 2011	(966709)
Item 38	October 20, 2011	(972708)
Item 39	November 18, 2011	(978849)
Item 40	December 19, 2011	(985687)
Item 41	January 20, 2012	(992016)
Item 42	February 20, 2012	(999350)
Item 43	March 14, 2012	(1004867)
Item 44	April 20, 2012	(1011437)
Item 45	May 18, 2012	(1017792)
Item 46	June 08, 2012	(1025577)
Item 47	July 18, 2012	(1032913)
Item 48	August 20, 2012	(1039419)
Item 49	September 20, 2012	(1048326)
Item 50	October 10, 2012	(1067888)
Item 51	November 13, 2012	(1067889)
Item 52	December 18, 2012	(1067890)
Item 53	January 18, 2013	(1081923)
Item 54	February 15, 2013	(1081922)
Item 55	March 20, 2013	(1090747)
Item 56	April 15, 2013	(1097098)
Item 57	May 16, 2013	(1108077)
Item 58	June 18, 2013	(1111702)
Item 59	July 11, 2013	(1118598)
Item 60	August 20, 2013	(1126390)
Item 61	September 18, 2013	(1130939)
Item 62	October 18, 2013	(1136695)





Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
EL&MR PERMIT

Description: Failed to maintain compliance with the permitted effluent limits.  
Classification: Moderate

Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 305, SubChapter D 305.65

Description: Failed to submit a permit renewal application at least 180 days before the expiration date of the effective permit.

\* NOVs applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

## Appendix B

### All Investigations Conducted During Component Period December 12, 2008 and December 12, 2013

Item 1*	January 07, 2009**	(731454) For Informational Purposes Only
Item 2*	January 20, 2009**	(731455) For Informational Purposes Only
Item 3*	January 27, 2009**	(709545) For Informational Purposes Only
Item 4	February 10, 2009**	(681758) For Informational Purposes Only
Item 5*	February 20, 2009**	(754775) For Informational Purposes Only
Item 6*	April 16, 2009**	(736603) For Informational Purposes Only
Item 7*	May 18, 2009**	(771985) For Informational Purposes Only
Item 8*	June 11, 2009**	(771986) For Informational Purposes Only
Item 9	June 30, 2009**	(737084) For Informational Purposes Only
Item 10*	October 13, 2009**	(929001) For Informational Purposes Only
Item 11*	November 10, 2009**	(929000) For Informational Purposes Only
Item 12*	November 20, 2009**	(815999) For Informational Purposes Only
Item 13*	December 18, 2009**	(816000) For Informational Purposes Only
Item 14*	January 12, 2010**	(816001) For Informational Purposes Only
Item 15*	January 19, 2010**	(788219) For Informational Purposes Only
		(815998)

Item 16*	February 17, 2010**	For Informational Purposes Only (834813)
Item 17*	March 25, 2010**	For Informational Purposes Only (797984)
Item 18*	April 14, 2010**	For Informational Purposes Only (834814)
Item 19*	April 19, 2010**	For Informational Purposes Only (834815)
Item 20*	May 17, 2010**	For Informational Purposes Only (928998)
Item 21*	May 25, 2010**	For Informational Purposes Only (847467)
Item 22*	June 10, 2010**	For Informational Purposes Only (861887)
Item 23*	July 13, 2010**	For Informational Purposes Only (826932)
Item 24*	August 09, 2010**	For Informational Purposes Only (868388)
Item 25*	August 17, 2010**	For Informational Purposes Only (875311)
Item 26*	October 13, 2010**	For Informational Purposes Only (889268)
Item 27*	November 18, 2010**	For Informational Purposes Only (897656)
Item 28*	December 20, 2010**	For Informational Purposes Only (903540)
Item 29*	January 13, 2011**	For Informational Purposes Only (910445)
Item 30*	February 18, 2011**	For Informational Purposes Only (917676)
Item 31*	March 21, 2011**	For Informational Purposes Only (877589)
Item 32*	April 19, 2011**	For Informational Purposes Only (928997)
Item 33*	April 20, 2011**	For Informational Purposes Only (939379)
Item 34*	May 20, 2011**	For Informational Purposes Only (946791)
Item 35*	June 20, 2011**	For Informational Purposes Only (934912)
Item 36*	July 08, 2011**	For Informational Purposes Only (960639)

Item 37\* August 21, 2011\*\* For Informational Purposes Only  
(954052)

Item 38\* August 22, 2011\*\* For Informational Purposes Only  
(966709)

Item 39\* September 19, 2011\*\* For Informational Purposes Only  
(943599)

Item 40 September 21, 2011\*\* For Informational Purposes Only  
(972708)

Item 41\* October 20, 2011\*\* For Informational Purposes Only  
(978849)

Item 42\* November 18, 2011\*\* For Informational Purposes Only  
(985687)

Item 43\* December 19, 2011\*\* For Informational Purposes Only  
(992016)

Item 44\* January 20, 2012\*\* For Informational Purposes Only  
(999350)

Item 45\* February 20, 2012\*\* For Informational Purposes Only  
(1004867)

Item 46\* March 14, 2012\*\* For Informational Purposes Only  
(1011437)

Item 47\* April 20, 2012\*\* For Informational Purposes Only  
(1017792)

Item 48\* May 18, 2012\*\* For Informational Purposes Only  
(1025577)

Item 49\* June 08, 2012\*\* For Informational Purposes Only  
(1032913)

Item 50\* July 18, 2012\*\* For Informational Purposes Only  
(997743)

Item 51 July 27, 2012\*\* For Informational Purposes Only  
(976095)

Item 52 August 10, 2012\*\* For Informational Purposes Only  
(1039419)

Item 53\* August 20, 2012\*\* For Informational Purposes Only  
(970581)

Item 54 September 12, 2012\*\* For Informational Purposes Only  
(1048326)

Item 55\* September 20, 2012\*\* For Informational Purposes Only  
(1067888)

Item 56\* October 10, 2012\*\* For Informational Purposes Only  
(1067889)

Item 57\* November 13, 2012\*\* For Informational Purposes Only

Item 58*	December 18, 2012**	(1067890) For Informational Purposes Only
Item 59	December 21, 2012**	(1050677) For Informational Purposes Only
Item 60*	January 18, 2013**	(1081923) For Informational Purposes Only
Item 61*	February 15, 2013**	(1081922) For Informational Purposes Only
Item 62	March 07, 2013**	(1044376) For Informational Purposes Only
Item 63	March 18, 2013**	(1053444) For Informational Purposes Only
Item 64*	March 20, 2013**	(1090747) For Informational Purposes Only
Item 65*	April 15, 2013**	(1097098) For Informational Purposes Only
Item 66*	May 16, 2013**	(1108077) For Informational Purposes Only
Item 67	June 14, 2013**	(1076433) For Informational Purposes Only
Item 68*	June 18, 2013**	(1111702) For Informational Purposes Only
Item 69*	July 11, 2013**	(1118598) For Informational Purposes Only
Item 70*	August 20, 2013**	(1126390) For Informational Purposes Only
Item 71*	September 18, 2013	(1130939) For Informational Purposes Only
Item 72*	October 18, 2013	(1136695) For Informational Purposes Only
Item 73	November 19, 2013	(1116499) For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
KMCO, LLC  
RN101613511**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2013-2188-AIR-E**

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

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates an industrial organic chemical manufacturing plant at 16503 Ramsey Road in Crosby, Harris County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted from October 11, 2013 to November 13, 2013, TCEQ staff documented that the Respondent failed to report all instances of deviations. Specifically, the Respondent failed to include four deviations in the deviation report for the March 29, 2012 through September 28, 2012 reporting period.
4. The Respondent received notice of the violations on November 21, 2013.
5. The Executive Director recognizes that on November 5, 2013, the Respondent submitted an amended semi-annual deviation report that included the deviations which should have been documented in the deviation report postmarked September 28, 2012 for the March 29, 2012 through September 28, 2012 reporting period.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O1441, General Terms and Conditions.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Three Thousand Five Hundred Dollar (\$3,500) administrative penalty.

## **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty

and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KMCO, LLC, Docket No. 2013-2188-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that all instances of deviations are included in deviation reports; 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. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pamela Rowley  
For the Executive Director

5/16/14  
Date

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

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

x *[Signature]*  
Signature

x 2/20/2014  
Date

x J.H. McFerrin  
Name (Printed or typed)  
Authorized Representative of  
KMCO, LLC

x President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.