

Executive Summary – Enforcement Matter – Case No. 51301
KM Liquids Terminals LLC
RN100224815
Docket No. 2015-1447-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Pasadena Terminal, 530 Witter Street, Pasadena, Harris County

Type of Operation:

Bulk liquid storage terminal

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 6, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$88,650

Amount Deferred for Expedited Settlement: \$17,730

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$35,460

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$35,460

Name of SEP: Houston-Galveston Area Council (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 20, 2015 through August 14, 2015

Date(s) of NOE(s): August 31, 2015

**Executive Summary – Enforcement Matter – Case No. 51301
KM Liquids Terminals LLC
RN100224815
Docket No. 2015-1447-AIR-E**

Violation Information

Failed to maintain the combustion zone temperatures at or above the required minimum temperature for the vapor combustor units, Emissions Point Numbers (“EPNs”) TKVCU-1, TKVCU-2, TKVCU-3, and TKVCU-4. Specifically, during the time periods of January 22, 2014 through April 2, 2014 and July 28, 2014 through January 13, 2015, EPNs TKVCU-1 and TKVCU-2 were operated below the required combustion zone temperatures of 1,650 degrees Fahrenheit (“°F”) and 1,650°F, respectively, while the tanks were landed for approximately 33 hours and during the time period of January 22, 2014 through January 19, 2015, EPNs TKVCU-3 and TKVCU-4 were operated below the required combustion zone temperatures of 1,568°F and 1,550°F, respectively, while the tanks were landed for approximately 4,570 hours [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143, New Source Review Permit No. 5171, Special Conditions No. 29, Federal Operating Permit No. O984, Special Terms and Conditions No. 17, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
 - a. Within 30 days, implement measures and/or procedures to ensure that EPNs TKVCU-1, TKVCU-2, TKVCU-3, and TKVCU-4 comply with the minimum combustion zone temperatures; and
 - b. Within 45 days, submit written certification to demonstrate compliance with 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

Executive Summary – Enforcement Matter – Case No. 51301
KM Liquids Terminals LLC
RN100224815
Docket No. 2015-1447-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Carol McGrath, Enforcement Division,
Enforcement Team 4, MC R-13, (210) 403-4063; Melissa Cordell, Enforcement
Division, MC 219, (512) 239-2483

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Jeffery A. Hersperger, General Manager, KM Liquids Terminals LLC,
906 Clinton Drive, Galena Park, Texas 77547

William Brown, Vice President, KM Liquids Terminals LLC, 906 Clinton Drive, Galena
Park, Texas 77547

Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-1447-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	KM Liquids Terminals LLC
Penalty Amount:	Seventy Thousand Nine Hundred Twenty Dollars (\$70,920)
SEP Offset Amount:	Thirty-Five Thousand Four Hundred Sixty Dollars (\$35,460)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO
Project Name:	<i>Clean Vehicles Partnership Project</i>
<u>Location of SEP:</u> Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

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 Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency (“EPA”) emissions standards (“Old Buses”) with new, lower emission buses that meet the most recent EPA emissions standards (“New Buses”) or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities (“SEP Administrators”) that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for

purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

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

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. 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 Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

KM Liquids Terminals LLC
Agreed Order - Attachment A

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 and/or project, 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. Recognition

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 Offset Amount identified in this Attachment A and in the attached 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 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	8-Sep-2015	Screening	21-Sep-2015	EPA Due	
	PCW	1-Mar-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	KM Liquids Terminals LLC		
Reg. Ent. Ref. No.	RN100224815		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	51301	No. of Violations	1
Docket No.	2015-1447-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Carol McGrath
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

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 Adjustment **Subtotals 2, 3, & 7**

Notes: Enhancement for two NOVs with same/similar violations, two orders with a denial of liability, one order without a denial of liability, and one final court judgement with a denial of liability. Reduction for four notices of intent to conduct an audit and two disclosures of violations.

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	\$1,044
Estimated Cost of Compliance	\$8,000

*Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **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 21-Sep-2015

Docket No. 2015-1447-AIR-E

PCW

Respondent KM Liquids Terminals LLC

Policy Revision 4 (April 2014)

Case ID No. 51301

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Carol McGrath

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>)	2	10%
	Other written NOVs	0	0%
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	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 judgments 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>)	4	-4%
	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>)	2	-4%

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) 97%

>> 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 two NOVs with same/similar violations, two orders with a denial of liability, one order without a denial of liability, and one final court judgement with a denial of liability. Reduction for four notices of intent to conduct an audit and two disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 97%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 97%

Screening Date 21-Sep-2015
Respondent KM Liquids Terminals LLC
Case ID No. 51301

Docket No. 2015-1447-AIR-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Carol McGrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143, New Source Review Permit No. 5171, Special Conditions No. 29, Federal Operating Permit No. O984, Special Terms and Conditions No. 17, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain the combustion zone temperatures at or above the required minimum temperature for the vapor combustor units, Emissions Point Numbers ("EPNs") TKVCU-1, TKVCU-2, TKVCU-3, and TKVCU-4. Specifically, during the time periods of January 22, 2014 through April 2, 2014 and July 28, 2014 through January 13, 2015, EPNs TKVCU-1 and TKVCU-2 were operated below the required combustion zone temperatures of 1,650 Degrees Fahrenheit ("°F") and 1,650°F, respectively, while the tanks were landed for approximately 33 hours and during the time period of January 22, 2014 through January 19, 2015, EPNs TKVCU-3 and TKVCU-4 were operated below the required combustion zone temperatures of 1,568°F and 1,550°F, respectively, while the tanks were landed for approximately 4,570 hours.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$21,250
 \$3,750

Violation Events

Number of Violation Events 12 362 Number of violation days

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

Violation Base Penalty \$45,000

Twelve quarterly events are recommended for the period of non-compliance from January 22, 2014 through January 19, 2015 (two quarters each for EPNs TKVCU-1 and TKVCU-2 and four quarters each for EPNs TKVCU-3 and TKVCU-4).

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/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 \$45,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,044 **Violation Final Penalty Total** \$88,650

This violation Final Assessed Penalty (adjusted for limits) \$88,650

Economic Benefit Worksheet

Respondent KM Liquids Terminals LLC
Case ID No. 51301
Reg. Ent. Reference No. RN100224815
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)	\$8,000	22-Jan-2014	1-Sep-2016	2.61	\$1,044	n/a	\$1,044

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures to ensure that EPNs TKVCU-1, TKVCU-2, TKVCU-3, and TKVCU-4 comply with the minimum combustion zone temperatures. The Date Required is the first date of non-compliance and the Final Date is the expected 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

\$8,000

TOTAL

\$1,044

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PENDING Compliance History Report for CN603254707, RN100224815, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN603254707, KM Liquids Terminals LLC **Classification:** SATISFACTORY **Rating:** 2.27

Regulated Entity: RN100224815, PASADENA TERMINAL **Classification:** SATISFACTORY **Rating:** 8.44

Complexity Points: 18 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 530 WITTER ST PASADENA, TX 77506-2436, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0261J

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD070137161

POLLUTION PREVENTION PLANNING ID NUMBER

P00263

AIR NEW SOURCE PERMITS PERMIT 8477

AIR NEW SOURCE PERMITS REGISTRATION 75933

AIR NEW SOURCE PERMITS REGISTRATION 74333

AIR NEW SOURCE PERMITS REGISTRATION 76487

AIR NEW SOURCE PERMITS REGISTRATION 107194

AIR NEW SOURCE PERMITS REGISTRATION 135688

STORMWATER PERMIT TXR05AG59

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION

(SWR) 30772

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0261J

AIR OPERATING PERMITS PERMIT 984

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 30772

AIR NEW SOURCE PERMITS PERMIT 5171

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0261J

AIR NEW SOURCE PERMITS REGISTRATION 75567

AIR NEW SOURCE PERMITS REGISTRATION 75160

AIR NEW SOURCE PERMITS AFS NUM 4820100092

AIR NEW SOURCE PERMITS REGISTRATION 117360

AIR NEW SOURCE PERMITS REGISTRATION 135545

STORMWATER PERMIT TXR150014319

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION

(SWR) T3219

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: September 22, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 22, 2010 to September 22, 2015

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

Name: Carol McGrath

Phone: (210) 403-4063

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: 12/20/2010 COURTORDER (Final Judgement-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 5171, Special Condition 1 PERMIT

Description: Failed to prevent a leak of gasoline from a thinned piece of piping at the Pit 3 Manifold, which caused an

unauthorized emissions event.

- 2 Effective Date: 03/07/2011 ADMINORDER 2010-1205-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Condition No. 1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,551.69 pounds of volatile organic compounds from Tank 150-66 during an emissions event that began on August 15, 2009 and lasted 21 hours and 48 minutes (Incident No. 136110) due to an excess fill rate while Tank 150-66 was being refilled.
- 3 Effective Date: 04/08/2012 ADMINORDER 2011-1726-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: General Terms and Conditions OP
Description: the Respondent is alleged to have failed to submit a complete and accurate semi-annual deviation report.
- 4 Effective Date: 10/18/2013 ADMINORDER 2013-0369-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: SC 1 PERMIT
Description: Failure to meet the excessive emissions event criteria for unauthorized emissions.

B. Criminal convictions: N/A

C. Chronic excessive emissions events: N/A

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

Item 1	April 28, 2011	(913200)
Item 2	May 31, 2011	(878133)
Item 3	August 11, 2011	(942112)
Item 4	October 05, 2011	(936854)
Item 5	May 15, 2013	(1088920)
Item 6	November 19, 2013	(1132703)
Item 7	January 31, 2014	(1138658)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 08/14/2015 (1267466) CN603254707
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition (SC) 1 PERMIT
Description: Failure to meet the demonstration criteria for an affirmative defense for unauthorized emissions during an emissions event.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(f)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide requested information within the required timeframe.
- 2 Date: 08/31/2015 (1230005) CN603254707
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VVa 60.482-6a(a)(1)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 14E PA

Special Term and Condition 17 OP
 Special Term and Condition 1A OP
 Description: Failure to plug open-ended lines in VOC service (Category C10).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 117, SubChapter B 117.310(f)(3)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Term and Condition 1A OP
 Description: Failure to operate firewater pumps for testing only during hours outside of 6:00
 a.m. to 12:00 p.m. (Category C4).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter B 115.114(a)(4)
 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)
 Special Condition 12D PA
 Special Term and Condition 17 OP
 Special Term and Condition 1A OP
 Description: Failure to conduct the External Floating Roof (EFR) visual inspection of secondary
 seals within 6 months of the previous inspection (Category B1).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter B 115.114(a)(2)
 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)
 Special Condition 12D PA
 Special Term and Condition 1A OP
 Description: Failure to conduct secondary seal gap measurements within 12 months of the
 previous inspection (Category B1).
 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(b)(6)(ii)
 5C THSC Chapter 382 382.085(b)
 Special Condition 9 PA
 Special Term and Condition 17 OP
 Special Term and Condition 1A OP
 Description: Failure to provide 30 day notification to the administrator for tank T150-38 and
 T150-33 prior to refilling (Category B3).

F. Environmental audits:

Notice of Intent Date: 06/30/2011 (937004)
 Disclosure Date: 11/10/2011
 Viol. Classification: Minor
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)
 30 TAC Chapter 122, SubChapter B 122.142
 Description: Failed to have enclosed ground flares in compliance with visible emissions requirements for stationary
 vents.
 Notice of Intent Date: 05/13/2013 (1129223)
 No DOV Associated
 Notice of Intent Date: 07/01/2013 (1104703)
 No DOV Associated
 Notice of Intent Date: 01/08/2015 (1221908)
 Disclosure Date: 07/13/2015
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 106, SubChapter A 106.4(a)(1)
 30 TAC Chapter 106, SubChapter A 106.8(c)(5)
 Description: Failed to maintain records required to demonstrate compliance with the emissions limits in Texas
 Administrative Code § 106.4(a) for the parts washer and welding.
 Viol. Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter D 115.354(3)
 30 TAC Chapter 116, SubChapter B 116.115(c)

Description: Failed to maintain documentation of Audible, Visual, and Olfactory (AVO) inspection from the week of November 16-22, 2014.

Viol. Classification: Minor

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

Rqmt Prov: PERMIT NSR Permit 5171, SC 14.I.

Description: Failed to enter a leaking component into the delay of repair emissions calculations within 10 days after discovery of the leak.

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

Seven Hundred Thirty Dollars (\$17,730) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Thirty-Five Thousand Four Hundred Sixty Dollars (\$35,460) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. 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.
10. 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.
11. 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 maintain the combustion zone temperatures at or above the required minimum temperature for the vapor combustor units, Emissions Point Numbers ("EPNs") TKVCU-1, TKVCU-2, TKVCU-3, and TKVCU-4, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143, New Source Review Permit No. 5171, Special Conditions No. 29, Federal Operating Permit No. O984, Special Terms and Conditions No. 17, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 20, 2015 through August 14, 2015. Specifically, during the time periods of January 22, 2014 through April 2, 2014 and July 28, 2014 through January 13, 2015, EPNs TKVCU-1 and TKVCU-2 were operated below the required combustion zone temperatures of 1,650 Degrees Fahrenheit ("°F") and 1,650°F, respectively, while the tanks were landed for approximately 33 hours and during the time period of January 22, 2014 through January 19, 2015, EPNs TKVCU-3 and TKVCU-4 were operated below the required combustion zone temperatures of 1,568°F and 1,550°F, respectively, while the tanks were landed for approximately 4,570 hours.

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: KM Liquids Terminals LLC, Docket No. 2015-1447-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. 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, Thirty-Five Thousand Four Hundred Sixty Dollars (\$35,460) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. 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, implement measures and/or procedures to ensure that EPNs TKVCU-1, TKVCU-2, TKVCU-3, and TKVCU-4 comply with the minimum combustion zone temperatures; 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

7/7/16

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

4-4-16

Date

Jeffery A. Hersperger

Name (Printed or typed)
Authorized Representative of
KM Liquids Terminals LLC

GENERAL MANAGER

Title

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

Attachment A

Docket Number: 2015-1447-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	KM Liquids Terminals LLC
Penalty Amount:	Seventy Thousand Nine Hundred Twenty Dollars (\$70,920)
SEP Offset Amount:	Thirty-Five Thousand Four Hundred Sixty Dollars (\$35,460)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston-Galveston Area Council-AERCO
Project Name:	<i>Clean Vehicles Partnership Project</i>
<u>Location of SEP:</u> Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties	

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 Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency (“EPA”) emissions standards (“Old Buses”) with new, lower emission buses that meet the most recent EPA emissions standards (“New Buses”) or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities (“SEP Administrators”) that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for

purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

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

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. 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 Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

KM Liquids Terminals LLC
Agreed Order - Attachment A

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 and/or project, 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. Recognition

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 Offset Amount identified in this Attachment A and in the attached 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.