Executive Summary – Enforcement Matter – Case No. 54593
KMCO, LLC
RN101613511
Docket No. 2017-0837-AIR-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
AIR
Small Business:
No
Location(s) Where Violation(s) Occurred:
KMCO Crosby Plant, 16503 Ramsey Road, Crosby, Harris County
Type of Operation:
Chemical manufacturing plant
Other Significant Matters:
Additional Pending Enforcement Actions: Yes, Docket Nos. 2018-1464-AIR-E and 2018-0804-IHW-E
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: April 19, 2019
Comments Received: No

Penalty Information

Total Penalty Assessed: $95,437
Amount Deferred for Expedited Settlement: $19,087
Total Paid to General Revenue: $76,350
Total Due to General Revenue: $0
Payment Plan: N/A
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: November 10, 2016 through November 15, 2016
Date(s) of NOE(s): April 18, 2017

Violation Information

1. Failed to report all instances of deviations. Specifically, the deviation reports for the March 29, 2012 through September 28, 2012 and September 29, 2012 through March 28, 2013 reporting periods did not include a deviation for failing to obtain a revision for Federal Operating Permit ("FOP") No. O1441 to add the Plant's Flare; the deviation reports for the March 29, 2013 through September 28, 2013, September 29, 2013 through March 28, 2014, and March 29, 2014 through September 28, 2014 reporting periods did not include deviations for failing to monitor valves, pumps, pressure relief valves, and connectors and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare; the deviation report for the September 29, 2014 through March 28, 2015 reporting period did not include deviations for failing to perform quarterly visible emissions observations, failing to comply with the volatile organic compounds ("VOC") maximum allowable emissions rate ("MAER") for Tank R1-T, and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare; and the deviation report for the March 29, 2015 through September 28, 2015 reporting period did not include deviations for failing to perform quarterly visible emissions observations and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O1441, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to comply with the MAER. Specifically, the Respondent exceeded the VOC annual MAER of 0.47 ton per year based on a 12-month rolling period for the 12-month period ending in December 2014 by 0.0798 ton of VOC for Tank R1-T, Emissions Point Number ("EPN") R1-T [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), FOP No. O1441, Special Terms and Conditions ("STC") No. 10, New Source Review ("NSR") Permit No. 9383, Special Conditions ("SC") No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to perform quarterly visible emissions observations. Specifically, the Respondent had only been performing visible emissions observations on an annual basis from October 1, 2014 through September 30, 2016 but was required to perform visible emissions on a quarterly basis [30 TEX. ADMIN. CODE § 122.143(4), FOP No. O1441, STC No. 3(A)(iii)(1), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to conduct leak detection and repair ("LDAR") monitoring. Specifically, the Respondent did not perform monthly monitoring on 978 valves and 28 pumps, initial monitoring on 210 connectors, and quarterly monitoring on 22 pressure relief valves from September 1, 2013 through July 31, 2015 [30 TEX. ADMIN. CODE §§ 101.20(2), 113.520, 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS §§ 61.242-2(a)(1), 61.242-7(a), 63.1023(b)(1), and 63.1025(b)(3), NSR Permit No. 9383, SC Nos. 8B and 27A, FOP No. O1441, STC Nos. 1A and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to submit a revision application for a FOP for those activities at a site that change, add, or remove one or more permit terms or conditions. Specifically, the Respondent did not submit an application to revise FOP No. O1441 to include the Flare, EPN FLR-1 [30 TEX. ADMIN. CODE §§ 122.121 and 122.210(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. On March 14, 2014, submitted an administratively complete permit revision application for FOP No. O1441 to include EPN FLR-1;

b. On April 28, 2015, submitted the deviation report for the September 29, 2014 through March 28, 2015 reporting period to include the deviations for failing to monitor valves, pumps, pressure relief valves, and connectors;

c. By August 26, 2015, began conducting LDAR monitoring on 978 valves, 28 pumps, 210 connectors, and 22 pressure relief valves;

d. On October 27, 2015, submitted the deviation report for the March 29, 2015 through September 28, 2015 reporting period to include the deviations for failing to monitor valves, pumps, pressure relief valves, and connectors;

e. By September 26, 2017, retrained Plant personnel and initiated a quarterly visible emission observation monitoring and documentation program;

f. On September 26, 2017, submitted the revised deviation report for the March 29, 2015 through September 28, 2015 reporting period to include deviations for failing to perform quarterly visible emissions observations, failing to obtain a revision for FOP No. O1441 to add the Plant's Flare, and failing to comply with the VOC MAER for Tank R1-T; and

g. By December 21, 2018, implemented measures and procedures to ensure all instances of deviations are reported.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Comply with the VOC MAER for Tank R1-T, in accordance with NSR Permit No. 9383; or

ii. Submit an administratively complete permit amendment application for NSR Permit No. 9383 to increase the VOC MAERs for Tank R1-T.

b. Within 45 days, submit written certification to demonstrate compliance with a.

c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit revision application for FOP No. O1441 and, if submitted, the amendment application for NSR Permit No. 9383 within 30 days after the date of such requests, or by any other deadline specified in writing.

d. Within 180 days, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate that:

i. If the permit amendment application for NSR Permit No. 9383 is submitted, the amendment for NSR Permit No. 9383 has been obtained; and

ii. Either the revision for FOP No. O1441 has been obtained or that operations have ceased until the proper authorization has been obtained.

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Amanda Diaz, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2601; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548
Respondent: Mark Kaulen, Health, Safety, Security and Environment Director, KMCO, LLC, 16503 Ramsey Road, Crosby, Texas 77352
David Spacek, Plant Manager, KMCO, LLC, 16503 Ramsey Road, Crosby, Texas 77352
Respondent's Attorney: Edward Lewis, Norton Rose Fulbright US LLP, 1301 McKinney, Suite 5100, Houston, Texas 77010-3295

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES

Assigned	25-Apr-2017				
PCW	15-Jan-2019	**Screening**	9-May-2017	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	KMCO, LLC		
Reg. Ent. Ref. No.	RN101613511		
Facility/Site Region	12-Houston	**Major/Minor Source**	Major

CASE INFORMATION

Enf./Case ID No.	54593	**No. of Violations**	5
Docket No.	2017-0837-AIR-E	**Order Type**	1660
Media Program(s)	Air	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Amanda Diaz
		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*** **$49,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **72.0%** Adjustment — ***Subtotals 2, 3, & 7*** **$35,820**

Notes: Enhancement for one NOV with same or similar violations, one NOV with dissimilar violations, two orders containing a denial of liability, and one order without a denial of liability.

Culpability No — **0.0%** Enhancement — ***Subtotal 4*** **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — ***Subtotal 5*** **-$7,500**

Economic Benefit — **50.0%** Enhancement* — ***Subtotal 6*** **$17,367**

**Capped at the Total EB $ Amount*

Total EB Amounts	$17,367
Estimated Cost of Compliance	$30,130

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$95,437**

OTHER FACTORS AS JUSTICE MAY REQUIRE — **0.0%** — ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$95,437**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$95,437**

DEFERRAL — **20.0%** Reduction — ***Adjustment*** **-$19,087**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$76,350**

Screening Date 9-May-2017 **Docket No.** 2017-0837-AIR-E **PCW**

Respondent KMCO, LLC

Case ID No. 54593

Reg. Ent. Reference No. RN101613511

Media Air

Enf. Coordinator Amanda Diaz

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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) 72%

>> 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 NOV with same or similar violations, one NOV with dissimilar violations, two orders containing a denial of liability, and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 72%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 72%

Screening Date 9-May-2017
Respondent KMCO, LLC
Case ID No. 54593
Reg. Ent. Reference No. RN101613511
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2017-0837-AIR-E

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

Violation Number 1

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

Violation Description Failed to report all instances of deviations. Specifically, the deviation reports for the March 29, 2012 through September 28, 2012 and September 29, 2012 through March 28, 2013 reporting periods did not include a deviation for failing to obtain a revision for FOP No. O1441 to add the Plant's Flare; the deviation reports for the March 29, 2013 through September 28, 2013, September 29, 2013 through March 28, 2014, and March 29, 2014 through September 28, 2014 reporting periods did not include deviations for failing to monitor valves, pumps, pressure relief valves, and connectors and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare; the deviation report for the September 29, 2014 through March 28, 2015 reporting period did not include deviations for failing to perform quarterly visible emissions observations, failing to comply with the volatile organic compounds ("VOC") maximum allowable emissions rate ("MAER") for Tank R1-T, and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare; and the deviation report for the March 29, 2015 through September 28, 2015 reporting period did not include deviations for failing to perform quarterly visible emissions observations and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment $24,750

$250

Violation Events

Number of Violation Events: 7

1654 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,750

Seven single events are recommended (one for each incomplete report).

Good Faith Efforts to Comply

0.0%

Reduction $0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal $1,750

Economic Benefit (EB) for this violation

Estimated EB Amount $590

Statutory Limit Test

Violation Final Penalty Total $6,483

This violation Final Assessed Penalty (adjusted for limits) $6,483

Economic Benefit Worksheet

Respondent KMCO, LLC
Case ID No. 54593
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	Costs Saved	EB Amount
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	21-Dec-2018	6.15	$461	n/a	$461
Other (as needed)	$250	28-Oct-2012	28-Apr-2015	2.50	$31	n/a	$31
Other (as needed)	$250	28-Oct-2012	26-Sep-2017	4.92	$61	n/a	$61
Other (as needed)	$250	28-Oct-2012	27-Oct-2015	3.00	$37	n/a	$37

Notes for DELAYED costs

Estimated cost to submit the deviation reports for the September 29, 2014 through March 28, 2015 and March 29, 2015 through September 28, 2015 reporting periods to include the deviations for failing to monitor valves, pumps, pressure relief valves, and connectors ($500); to submit a revised deviation report for the March 29, 2015 through September 28, 2015 reporting period to include deviations for failing to perform quarterly visible emissions observations, failing to obtain a revision for FOP No. O1441 to add the Plant's Flare, and failing to comply with the VOC MAER for Tank R1-T ($250); and to implement measures and procedures to ensure all instances of deviations are reported ($1,500). The Date Required is the date the initial deviation report was due and the Final Dates are the dates of compliance.

Avoided Costs — **ANNUALIZE 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				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $2,250

TOTAL $590

Screening Date 9-May-2017
Respondent KMCO, LLC
Case ID No. 54593
Reg. Ent. Reference No. RN101613511
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2017-0837-AIR-E

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

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), FOP No. O1441, Special Terms and Conditions ("STC") No. 10, New Source Review ("NSR") Permit No. 9383, Special Conditions ("SC") No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the MAER. Specifically, the Respondent exceeded the VOC annual MAER of 0.47 ton per year based on a 12-month rolling period for the 12-month period ending in December 2014 by 0.0798 ton of VOC for Tank R1-T, Emissions Point Number ("EPN") R1-T.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 15.0%

>>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: 1

60 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One quarterly event is recommended based on the first date of non-compliance of November 1, 2014 to December 31, 2014.

Good Faith Efforts to Comply

0.0%

Reduction $0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $2,418

Statutory Limit Test

Violation Final Penalty Total $9,923

This violation Final Assessed Penalty (adjusted for limits) $9,923

Economic Benefit Worksheet

Respondent KMCO, LLC
Case ID No. 54593
Reg. Ent. Reference No. RN101613511
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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)	$10,000	1-Nov-2014	1-Sep-2019	4.84	$2,418	n/a	$2,418

Notes for DELAYED costs: Estimated cost to comply with the VOC MAER for Tank R1-T or obtain an amendment for NSR Permit No. 9383 to increase the VOC MAERs for Tank R1-T. The Date Required is the first date of non-compliance. The Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE 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				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $10,000

TOTAL $2,418

Screening Date 9-May-2017
Respondent KMCO, LLC
Case ID No. 54593
Reg. Ent. Reference No. RN101613511
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2017-0837-AIR-E

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

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 122.143(4), FOP No. O1441, STC No. 3(A)(iii)(1), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to perform quarterly visible emissions observations. Specifically, the Respondent had only been performing visible emissions observations on an annual basis from October 1, 2014 through September 30, 2016, but was required to perform visible emissions on a quarterly basis.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $23,250

$1,750

Violation Events

Number of Violation Events: 6

545 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $10,500

Six single events are recommended (one event for each missed quarterly observation).

Good Faith Efforts to Comply

0.0%

Reduction $0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal $10,500

Economic Benefit (EB) for this violation

Estimated EB Amount $1,622

Statutory Limit Test

Violation Final Penalty Total $21,533

This violation Final Assessed Penalty (adjusted for limits) $21,533

Economic Benefit Worksheet

Respondent KMCO, LLC
Case ID No. 54593
Reg. Ent. Reference No. RN101613511
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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	10-Nov-2016	26-Sep-2017	0.88	$66	n/a	$66
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to retrain Plant personnel and initiate a quarterly visible emission observation monitoring and documentation program. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs	ANNUALIZE 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				0.00	$0	$0	$0
ONE-TIME avoided costs	$750	1-Jan-2015	30-Sep-2015	0.75	$28	$750	$778
Other (as needed)	$750	1-Jan-2016	30-Sep-2016	0.75	$28	$750	$778

Notes for AVOIDED costs: Estimated avoided costs to conduct quarterly visible emissions observations ($250 per observation x 6 missed quarterly observations). The Dates Required are the first days a quarterly observation could have been conducted. The Final Dates are the last days a quarterly observation could have been conducted.

Approx. Cost of Compliance $3,000

TOTAL $1,622

Screening Date 9-May-2017 **Docket No.** 2017-0837-AIR-E **PCW**
Respondent KMCO, LLC *Policy Revision 4 (April 2014)*
Case ID No. 54593 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101613511
Media Air
Enf. Coordinator Amanda Diaz

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 113.520, 116.115(c), and 122.143(4), 40 Code of Federal Regulations §§ 61.242-2(a)(1), 61.242-7(a), 63.1023(b)(1), and 63.1025(b)(3), NSR Permit No. 9383, SC Nos. 8B and 27A, FOP No. O1441, STC Nos. 1A and 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct leak detection and repair monitoring. Specifically, the Respondent did not perform monthly monitoring on 978 valves and 28 pumps, initial monitoring on 210 connectors, and quarterly monitoring on 22 pressure relief valves from September 1, 2013 through July 31, 2015.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants that would 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 8 698 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $30,000

Eight quarterly events are recommended for the period of non-compliance from September 1, 2013 through July 31, 2015.

Good Faith Efforts to Comply

25.0% Reduction $7,500

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes: The Respondent achieved compliance by August 26, 2015, prior to the Notice of Enforcement dated April 18, 2017.

Violation Subtotal $22,500

Economic Benefit (EB) for this violation

Estimated EB Amount $10,846

Statutory Limit Test

Violation Final Penalty Total $47,573

This violation Final Assessed Penalty (adjusted for limits) $47,573

Economic Benefit Worksheet

Respondent KMCO, LLC
Case ID No. 54593
Reg. Ent. Reference No. RN101613511
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE 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				0.00	$0	$0	$0
ONE-TIME avoided costs	$9,880	1-Sep-2013	31-Jul-2015	1.91	$966	$9,880	$10,846
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Actual avoided cost to monitor 978 valves ($0.42 per component x 978 components x 23 missed months), 28 pumps ($0.42 per pump x 28 pumps x 23 missed months), 210 connectors ($0.42 per connector x 210 connectors), and 22 valves ($0.42 per valve x 22 valves x eight missed quarters). The Date Required is the first day monitoring could have been conducted and the Final Date is the last day monitoring could have been conducted.						

Approx. Cost of Compliance $9,880

TOTAL $10,846

Screening Date 9-May-2017
Respondent KMCO, LLC
Case ID No. 54593
Reg. Ent. Reference No. RN101613511
Media Air
Enf. Coordinator Amanda Diaz

Docket No. 2017-0837-AIR-E

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

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 122.121 and 122.210(a) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit a revision for an FOP for those activities at a site that change, add, or remove one or more permit terms or conditions. Specifically, the Respondent did not submit an application to revise FOP No. O1441 to incude the Flare, EPN FLR-1.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events: 1

1734 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction $0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $1,891

Statutory Limit Test

Violation Final Penalty Total $9,923

This violation Final Assessed Penalty (adjusted for limits) $9,923

Economic Benefit Worksheet

Respondent KMCO, LLC
Case ID No. 54593
Reg. Ent. Reference No. RN101613511
Media Air
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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	$5,000	9-Aug-2012	1-Mar-2020	7.56	$1,891	n/a	$1,891
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to obtain a revision for FOP No. O1441 to include EPN FLR-1. The Date Required in the last date FOP No. O1441 was revised. The Final Date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE 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				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $5,000

TOTAL $1,891

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

Compliance History Report for CN604105221, RN101613511, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator: CN604105221, KMCO, LLC **Classification:** SATISFACTORY **Rating:** 4.57

Regulated Entity: RN101613511, KMCO CROSBY PLANT **Classification:** SATISFACTORY **Rating:** 4.57

Complexity Points: 16 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

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

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER PERMIT WQ0002712000
STORMWATER PERMIT TXR15167A
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
AIR NEW SOURCE PERMITS REGISTRATION 147213
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0426B
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 31904
WASTEWATER EPA ID TX0095559
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 1197
AIR OPERATING PERMITS PERMIT 1441
AIR NEW SOURCE PERMITS PERMIT 9383
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0426B
AIR NEW SOURCE PERMITS REGISTRATION 72308
WASTEWATER LICENSING LICENSE WQ0002712000
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD074198961
POLLUTION PREVENTION PLANNING ID NUMBER P01630

Compliance History Period: September 01, 2011 to August 31, 2016 **Rating Year:** 2016 **Rating Date:** 09/01/2016

Date Compliance History Report Prepared: June 27, 2017

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 27, 2012 to June 27, 2017

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

Name: Shelby Orme **Phone:** (512) 239-4575

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

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

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

1 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").

2 Effective Date: 07/11/2014 ADMINORDER 2013-2188-AIR-E (Findings Order-Agreed Order Without 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: Failure to report all instances of deviations. (Category B3)

See addendum for information regarding federal actions.

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

Item 1	July 18, 2012	(1032913)
Item 2	August 20, 2012	(1039419)
Item 3	September 20, 2012	(1048326)
Item 4	October 10, 2012	(1067888)
Item 5	November 13, 2012	(1067889)
Item 6	December 18, 2012	(1067890)
Item 7	January 18, 2013	(1081923)
Item 8	February 15, 2013	(1081922)
Item 9	March 20, 2013	(1090747)
Item 10	April 15, 2013	(1097098)
Item 11	May 16, 2013	(1108077)
Item 12	June 18, 2013	(1111702)
Item 13	July 11, 2013	(1118598)
Item 14	August 20, 2013	(1126390)
Item 15	September 18, 2013	(1130939)
Item 16	October 18, 2013	(1136695)
Item 17	November 19, 2013	(1142106)
Item 18	December 16, 2013	(1148551)
Item 19	January 21, 2014	(1154621)
Item 20	February 20, 2014	(1161942)
Item 21	March 20, 2014	(1168562)
Item 22	April 16, 2014	(1175729)
Item 23	May 19, 2014	(1181938)
Item 24	June 20, 2014	(1188832)
Item 25	July 18, 2014	(1200648)
Item 26	August 20, 2014	(1200649)
Item 27	September 18, 2014	(1207184)
Item 28	October 17, 2014	(1213590)
Item 29	November 19, 2014	(1219846)
Item 30	November 26, 2014	(1192947)
Item 31	December 26, 2014	(1225645)
Item 32	January 13, 2015	(1232647)
Item 33	February 20, 2015	(1243645)
Item 34	March 17, 2015	(1250018)
Item 35	April 17, 2015	(1256910)
Item 36	May 20, 2015	(1263674)

Item 37	June 18, 2015	(1270780)
Item 38	July 16, 2015	(1278332)
Item 39	August 20, 2015	(1284515)
Item 40	September 21, 2015	(1291638)
Item 41	October 20, 2015	(1297811)
Item 42	November 20, 2015	(1303262)
Item 43	December 17, 2015	(1310248)
Item 44	January 14, 2016	(1317008)
Item 45	February 18, 2016	(1326367)
Item 46	March 17, 2016	(1333126)
Item 47	April 15, 2016	(1340269)
Item 48	May 16, 2016	(1347088)
Item 49	June 20, 2016	(1353500)
Item 50	July 12, 2016	(1360481)
Item 51	August 10, 2016	(1366919)
Item 52	September 08, 2016	(1373632)
Item 53	October 20, 2016	(1379790)
Item 54	November 14, 2016	(1385733)
Item 55	December 19, 2016	(1391875)
Item 56	January 19, 2017	(1398490)
Item 57	February 17, 2017	(1405402)
Item 58	April 10, 2017	(1403478)
Item 59	April 19, 2017	(1418970)

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: 02/28/2017 (1412472)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

2 Date: 04/18/2017 (1358551)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 115, SubChapter H 115.783(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.242-6(a)(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UU 63.1033(b)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 27(E) PERMIT
Special Term and Condition 1A OP
Special Term and Condition 7 OP

Description: Failure to keep plugged or otherwise sealed 192 open ended lines. (Category C10)

Self Report? NO 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)
General Condition 7 PERMIT
Special Condition 14 PERMIT
Special Term and Condition 7 OP

Description: Failure to record all scrubber log entries. (Category C1)

Self Report? NO 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)
Special Condition 13 PERMIT
Special Term and Condition 7 OP

Description: Failure to use an authorized solution in scrubber. (Category C1)

Self Report? NO 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)
Special Condition 6 PERMIT

Special Condition 7 PERMIT
Special Term and Condition 7 OP

Description: Failure to use an authorized emissions control operation. (Category C4)

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Addendum to Compliance History Federal Enforcement Actions

Reg Entity Name: **KMCO CROSBY PLANT**

Reg Entity Add: 16503 RAMSEY RD

Reg Entity City: CROSBY ***Reg Entity No:*** **RN101613511**

EPA Case No: ***06-2015-3364*** ***Order Issue Date (yyyymmdd):*** 20151102

Case Result: Final Order With Penalty ***Statute:*** CAA ***Sect of Statute:*** 112[R][7]

Classification: Minor ***Program:*** Risk Management Progr ***Citation:***

Violation Type: ***Cite Sect:*** ***Cite Part:***

Enforcement Action: Administrative Penalty Order With or Without Inj

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
KMCO, LLC	§	
RN101613511	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2017-0837-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KMCO, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Edward Lewis of the law firm of Norton Rose Fulbright US LLP, together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant located at 16503 Ramsey Road in Crosby, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.

3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

4. An administrative penalty in the amount of $95,437 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid $76,350 of the penalty and $19,087 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. 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). 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.

6. 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 Order.

7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:

   a. On March 14, 2014, submitted an administratively complete permit revision application for Federal Operating Permit ("FOP") No. O1441 to include Emissions Point Number ("EPN") FLR-1, in accordance with 30 TEX. ADMIN. CODE § 122.216;

   b. On April 28, 2015, submitted the deviation report for the September 29, 2014 through March 28, 2015 reporting period to include the deviations for failing to monitor valves, pumps, pressure relief valves, and connectors;

   c. By August 26, 2015, began conducting leak detection and repair ("LDAR") monitoring on 978 valves, 28 pumps, 210 connectors, and 22 pressure relief valves;

   d. On October 27, 2015, submitted the deviation report for the March 29, 2015 through September 28, 2015 reporting period to include the deviations for failing to monitor valves, pumps, pressure relief valves, and connectors;

   e. By September 26, 2017, retrained Plant personnel and initiated a quarterly visible emission observation monitoring and documentation program;

   f. On September 26, 2017, submitted the revised deviation report for the March 29, 2015 through September 28, 2015 reporting period to include deviations for failing to perform quarterly visible emissions observations, failing to obtain a revision for FOP No. O1441 to add the Plant's Flare, and failing to comply with the volatile organic compounds ("VOC") maximum allowable emissions rate ("MAER") for Tank R1-T; and

   g. By December 21, 2018, implemented measures and procedures to ensure all instances of deviations are reported.

II. ALLEGATIONS

During an investigation conducted from November 10, 2016 through November 15, 2016, an investigator documented that the Respondent:

1. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O1441, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the deviation reports for the March 29, 2012 through September 28, 2012 and September 29, 2012 through March 28, 2013 reporting periods did not include a deviation for failing to obtain a revision for FOP No. O1441 to add the Plant's Flare; the deviation reports for the March 29, 2013 through September 28, 2013, September 29, 2013 through March 28, 2014, and March 29, 2014 through September 28, 2014 reporting periods did not include deviations for failing to monitor valves, pumps, pressure relief valves, and connectors and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare; the deviation report for the September 29, 2014 through March 28, 2015 reporting period did not include deviations for failing to perform quarterly visible emissions observations, failing to comply with the VOC MAER for Tank R1-T, and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare; and the deviation report for the March 29, 2015 through September 28, 2015 reporting period did not include deviations for failing to perform quarterly visible emissions observations and failing to obtain a revision for FOP No. O1441 to add the Plant's Flare.

2. Failed to comply with the MAER, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), FOP No. O1441, Special Terms and Conditions ("STC") No. 10, New Source Review ("NSR") Permit No. 9383, Special Conditions ("SC") No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the VOC annual MAER of 0.47 ton per year based on a 12-month rolling period for the 12-month period ending in December 2014 by 0.0798 ton of VOC for Tank R1-T, EPN R1-T.

3. Failed to perform quarterly visible emissions observations, in violation of 30 TEX. ADMIN. CODE § 122.143(4), FOP No. O1441, STC No. 3(A)(iii)(1), and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent had only been performing visible emissions observations on an annual basis from October 1, 2014 through September 30, 2016, but was required to perform visible emissions on a quarterly basis.

4. Failed to conduct LDAR monitoring, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 113.520, 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS §§ 61.242-2(a)(1), 61.242-7(a), 63.1023(b)(1), and 63.1025(b)(3), NSR Permit No. 9383, SC Nos. 8B and 27A, FOP No. O1441, STC Nos. 1A and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not perform monthly monitoring on 978 valves and 28 pumps, initial monitoring on 210 connectors, and quarterly monitoring on 22 pressure relief valves from September 1, 2013 through July 31, 2015.

5. Failed to submit a revision application for an FOP for those activities at a site that change, add, or remove one or more permit terms or conditions, in violation of 30 TEX. ADMIN. CODE §§ 122.121 and 122.210(a) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not submit an application to revise FOP No. O1441 to include the Flare, EPN FLR-1.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KMCO, LLC, Docket No. 2017-0837-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 undertake the following technical requirements:

   a. Within 30 days after the effective date of this Order:

      i. Comply with the VOC MAER for Tank R1-T, in accordance with NSR Permit No. 9383; or

      ii. Submit an administratively complete permit amendment application for NSR Permit No. 9383 to increase the VOC MAERs for Tank R1-T, in accordance with 30 TEX. ADMIN. CODE § 116.111, to:

      Air Permits Division, MC 163
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-3087

   b. Within 45 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.d to demonstrate compliance with Ordering Provision No. 2.a;

   c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit revision application for FOP No. O1441 and, if submitted, the amendment application for NSR Permit No. 9383 within 30 days after the date of such requests, or by any other deadline specified in writing; and

d. Within 180 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate that:

i. If the permit amendment application for NSR Permit No. 9383 is submitted, the amendment for NSR Permit No. 9383 has been obtained; and

ii. Either the revision for FOP No. O1441 has been obtained or that operations have ceased until the proper authorization has been obtained.

The certification shall be signed by the Respondent and shall 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 Street, Suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.

5. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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 Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. This 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 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 Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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 — Date 5/9/19

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 — Date 2/27/19

Mark Kaulen — HSSE Director

Name (Printed or typed) — Title

Authorized Representative of
KMCO, LLC

☐ *If mailing address has changed, please check this box and provide the new address below:*

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