

Executive Summary – Enforcement Matter – Case No. 61557
Texmark Chemicals, Inc.
RN100238740
Docket No. 2021-1528-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Texmark Chemicals, 900 Clinton Drive, Galena Park, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 10, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,300

Amount Deferred for Expedited Settlement: \$1,860

Total Paid to General Revenue: \$3,720

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$3,720

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

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 31, 2021 through September 3, 2021 and September 23, 2021 through October 8, 2021

Date(s) of NOE(s): October 15, 2021 and October 28, 2021

Executive Summary – Enforcement Matter – Case No. 61557
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RN100238740
Docket No. 2021-1528-AIR-E

Violation Information

1. Failed to prevent unauthorized emissions. Specifically, the Respondent released 464.00 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 364395) that occurred on August 5, 2021 and lasted seven hours. The emissions event occurred due to a spill while loading a railcar, resulting in the release to the atmosphere. The Respondent did not assert an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), New Source Review ("NSR") Permit No. 21472, Special Conditions ("SC") No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent unauthorized emissions. Specifically, the Respondent released 205.14 lbs of VOC from the Wastewater Treatment, Emissions Point Number W-1, during an emissions event (Incident No. 366238) that occurred on September 8, 2021 and lasted 14 hours and 15 minutes. The emissions event occurred when some floating hydrocarbons were inadvertently discharged to the aeration pond while routinely transferring wastewater from the Equalization Tank into the wastewater treatment system's aeration pond and pumping process wastewater from the lift station to the Equalization Tank, resulting in the release to the atmosphere. The Respondent did not assert an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 21472, SC No. 1, 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:
 - i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364395; and
 - ii. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 366238.
 - b. Within 45 days, submit written certification to demonstrate compliance with a.

**Executive Summary – Enforcement Matter – Case No. 61557
Texmark Chemicals, Inc.
RN100238740
Docket No. 2021-1528-AIR-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mackenzie Mehlmann, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-2572; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: Houston-Galveston Area Council-AERCO, 3555 Timmons Lane, Suite 120, Houston, Texas 77027

Respondent: David McNeil, President, Texmark Chemicals, Inc., 900 Clinton Drive, Galena Park, Texas 77547-3461

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Oct-2021	Screening	20-Oct-2021	EPA Due	
	PCW	8-Jan-2023				

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

CASE INFORMATION			
Enf./Case ID No.	61557	No. of Violations	2
Docket No.	2021-1528-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mackenzie Mehlmann
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	24.0% Adjustment	Subtotals 2, 3, & 7	\$1,800
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Notes: Enhancement for two NOVs with dissimilar violations and one order containing a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,857
 Estimated Cost of Compliance: \$20,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,300
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$9,300
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,300
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,860
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,440
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Screening Date 20-Oct-2021

Docket No. 2021-1528-AIR-E

PCW

Respondent Texmark Chemicals, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61557

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100238740

Media Air

Enf. Coordinator Mackenzie Mehlmann

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 24%

>> **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 dissimilar violations and one order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 24%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 24%

Screening Date 20-Oct-2021 **Docket No.** 2021-1528-AIR-E **PCW**
Respondent Texmark Chemicals, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61557 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100238740
Media Air
Enf. Coordinator Mackenzie Mehlmann

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), New Source Review ("NSR") Permit No. 21472, Special Conditions ("SC") No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to prevent unauthorized emissions. Specifically, the Respondent released 464.00 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 364395) that occurred on August 5, 2021 and lasted seven hours. The emissions event occurred due to a spill while loading a railcar, resulting in the release to the atmosphere. The Respondent did not assert an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="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

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One monthly event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="text"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Texmark Chemicals, Inc.
Case ID No. 61557
Reg. Ent. Reference No. RN100238740
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	5-Aug-2021	1-Jul-2023	1.90	\$952	n/a	\$952

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364395. The Date Required is the date the emissions event occurred and 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 \$952

Screening Date 20-Oct-2021

Docket No. 2021-1528-AIR-E

PCW

Respondent Texmark Chemicals, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61557

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100238740

Media Air

Enf. Coordinator Mackenzie Mehlmann

Violation Number

2

Rule Cite(s)

30 Tex. Admin. Code § 116.115(c), NSR Permit No. 21472, SC No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 205.14 lbs of VOC from the Wastewater Treatment, Emissions Point Number W-1, during an emissions event (Incident No. 366238) that occurred on September 8, 2021 and lasted 14 hours and 15 minutes. The emissions event occurred when some floating hydrocarbons were inadvertently discharged to the aeration pond while routinely transferring wastewater from the Equalization Tank into the wastewater treatment system's aeration pond and pumping process wastewater from the lift station to the Equalization Tank, resulting in the release to the atmosphere. The Respondent did not assert an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty

\$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

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

1

Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty

\$3,750

One monthly 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

Statutory Limit Test

Estimated EB Amount

\$905

Violation Final Penalty Total

\$4,650

This violation Final Assessed Penalty (adjusted for limits)

\$4,650

Economic Benefit Worksheet

Respondent Texmark Chemicals, Inc.
Case ID No. 61557
Reg. Ent. Reference No. RN100238740
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	8-Sep-2021	1-Jul-2023	1.81	\$905	n/a	\$905

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 366238. The Date Required is the date the emissions event occurred and 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 \$905

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 CN600132864, RN100238740, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN600132864, Texmark Chemicals, Inc. **Classification:** SATISFACTORY **Rating:** 2.23
Regulated Entity: RN100238740, Texmark Chemicals **Classification:** SATISFACTORY **Rating:** 2.23
Complexity Points: 16 **Repeat Violator:** NO
CH Group: 05 - Chemical Manufacturing
Location: 900 Clinton Drive, Galena Park, Harris County, Texas 77547-3461
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0134R
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0134R
AIR NEW SOURCE PERMITS REGISTRATION 121759
AIR NEW SOURCE PERMITS REGISTRATION 136142
AIR NEW SOURCE PERMITS REGISTRATION 140777
AIR NEW SOURCE PERMITS REGISTRATION 130085
AIR NEW SOURCE PERMITS REGISTRATION 154634
AIR NEW SOURCE PERMITS REGISTRATION 151284
AIR NEW SOURCE PERMITS REGISTRATION 158435
WASTEWATER EPA ID TX0005860
POLLUTION PREVENTION PLANNING ID NUMBER P00714
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30654

AIR NEW SOURCE PERMITS PERMIT 21472
AIR NEW SOURCE PERMITS AFS NUM 4820101285
AIR NEW SOURCE PERMITS REGISTRATION 140769
AIR NEW SOURCE PERMITS REGISTRATION 125387
AIR NEW SOURCE PERMITS REGISTRATION 124550
AIR NEW SOURCE PERMITS REGISTRATION 152297
AIR NEW SOURCE PERMITS REGISTRATION 166245
AIR NEW SOURCE PERMITS REGISTRATION 146285
WASTEWATER PERMIT WQ0000786000
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0134R
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD088363692

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: November 21, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 21, 2017 to November 21, 2022

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

Name: Mackenzie Mehlmann

Phone: (512) 239-2572

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: 07/09/2019 ADMINORDER 2018-1283-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: FOP General Terms and Conditions OP
Description: Failure to submit the PCC within the required time. [Category A12(i)(7)]
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	December 14, 2017	(1467820)
Item 2	January 18, 2018	(1474525)
Item 3	February 14, 2018	(1486751)
Item 4	April 17, 2018	(1493665)
Item 5	May 16, 2018	(1500583)
Item 6	June 13, 2018	(1507700)
Item 7	July 11, 2018	(1514017)
Item 8	August 14, 2018	(1520079)
Item 9	August 29, 2018	(1511874)
Item 10	September 14, 2018	(1527244)
Item 11	October 11, 2018	(1533602)
Item 12	November 19, 2018	(1541437)
Item 13	December 10, 2018	(1545221)
Item 14	February 11, 2019	(1559636)
Item 15	March 13, 2019	(1559637)
Item 16	April 16, 2019	(1571818)
Item 17	May 10, 2019	(1583245)
Item 18	June 17, 2019	(1583246)
Item 19	July 16, 2019	(1593131)
Item 20	August 05, 2019	(1581533)
Item 21	August 13, 2019	(1599477)
Item 22	September 13, 2019	(1606382)
Item 23	October 14, 2019	(1613228)
Item 24	November 11, 2019	(1619042)
Item 25	December 11, 2019	(1626394)
Item 26	January 10, 2020	(1634035)
Item 27	February 11, 2020	(1640654)
Item 28	March 10, 2020	(1647174)
Item 29	April 15, 2020	(1653510)
Item 30	May 28, 2020	(1660096)
Item 31	June 10, 2020	(1666601)
Item 32	July 20, 2020	(1673558)
Item 33	August 11, 2020	(1680333)
Item 34	September 17, 2020	(1686902)
Item 35	October 19, 2020	(1693249)
Item 36	November 18, 2020	(1712437)
Item 37	December 14, 2020	(1712438)
Item 38	January 18, 2021	(1712439)
Item 39	February 23, 2021	(1725492)
Item 40	March 11, 2021	(1725493)
Item 41	April 16, 2021	(1725494)
Item 42	May 13, 2021	(1740053)
Item 43	June 17, 2021	(1747575)
Item 44	July 16, 2021	(1751698)
Item 45	August 17, 2021	(1757162)
Item 46	October 08, 2021	(1766242)
Item 47	October 19, 2021	(1776645)
Item 48	November 18, 2021	(1783614)

Item 49	December 20, 2021	(1790638)
Item 50	February 21, 2022	(1806308)
Item 51	March 18, 2022	(1813373)
Item 52	April 14, 2022	(1819945)
Item 53	May 18, 2022	(1828785)
Item 54	June 20, 2022	(1835075)
Item 55	July 19, 2022	(1842281)
Item 56	August 18, 2022	(1848415)

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: 12/31/2021 (1798433) | | |
| | 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: 08/31/2022 (1856211) | | |
| | 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 | | |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXMARK CHEMICALS, INC.
RN100238740

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1528-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 Texmark Chemicals, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant located at 900 Clinton Drive in Galena Park, 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 \$9,300 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$3,720 of the penalty and \$1,860 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$3,720 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

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.

II. ALLEGATIONS

1. During a record review for the Plant conducted from August 31, 2021 through September 3, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), New Source Review ("NSR") Permit No. 21472, Special Conditions ("SC") No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 464.00 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 364395) that occurred on August 5, 2021 and lasted seven hours. The emissions event occurred due to a spill while loading a railcar, resulting in the release to the atmosphere. The Respondent did not assert an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
2. During a record review for the Plant conducted from September 23, 2021 through October 8, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 21472, SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 205.14 lbs of VOC from the Wastewater Treatment, Emissions Point Number W-1, during an emissions event (Incident No. 366238) that occurred on September 8, 2021 and lasted 14 hours and 15 minutes. The emissions event occurred when some floating hydrocarbons were inadvertently discharged to the aeration pond while routinely transferring wastewater from the Equalization Tank into the wastewater treatment system's aeration pond and pumping process wastewater from the lift station to the Equalization Tank, resulting in the release to the atmosphere. The Respondent did not assert an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

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 No. 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: Texmark Chemicals, Inc., Docket No. 2021-1528-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 the SEP as set forth in Section I, Paragraph No. 4. The amount of \$3,720 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements at the Plant:
 - a. Within 30 days after the effective date of this Order:
 - i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364395; and
 - ii. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 366238.
 - b. Within 45 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 compliance with Ordering Provision No. 3.a. 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:

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

4. All relief not expressly granted in this Order is denied.
5. 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.
6. 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.
7. 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 Enforcement Division at the address listed above.
8. 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.
9. 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.


10. 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



4/12/2023

For the Executive Director

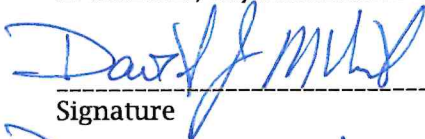
Date

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 OAG 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 OAG 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

JANUARY 20, 2023

Date

DAVID J. MCNIER

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

PRESIDENT

Title

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.

Attachment A
Docket Number: 2021-1528-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texmark Chemicals, Inc.
Payable Penalty Amount:	\$7,440
SEP Offset Amount:	\$3,720
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>
Location of SEP: 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 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.

Texmark Chemicals, Inc.
Docket No. 2021-1528-AIR-E
Agreed Order - Attachment A

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 to settle this enforcement action. The Respondent shall not profit 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 many 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
Emission Reduction Credit Corporation
Attn: Air Quality Program Manager
3555 Timmons Lane, Suite 120
Houston, Texas 77027

3. **Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the 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:

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.