

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0586-MLM-E **TCEQ ID:** RN100238898 **CASE NO.:** 33184

**RESPONDENT NAME:** Motiva Enterprises LLC

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Motiva Port Arthur Terminal, 3901 Texaco Island Road, Port Arthur, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> Petroleum storage facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2007-0203-AIR-E.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 17, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Mr. Daniel Siringi, Enforcement Division, Enforcement Team 5, R-10, (409) 899-8799; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Todd Monette, General Manager, Motiva Enterprises LLC, P.O. Box 712, Port Arthur, Texas 77641  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 31, 2007</p> <p><b>Date of NOE Relating to this Case:</b> April 2, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Eight violations were documented.</p> <p><b>AIR/WASTE</b></p> <p>1) Failure to maintain records to verify the weight percentage Benzene content in the gasoline loaded on each barge [30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), Federal Operating Permit ("FOP") No. O-00357, General Terms and Conditions and Special Condition 12, Air Permit No. 56286, General Condition 4 and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain the hourly throughput loading records for loadings occurring at the Plant [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(E)(i) and (c), 122.143(4), FOP No. O-00357, General Terms and Conditions and Special Condition 12, Air Permit No. 56286, General Condition 7 and Special Condition 3 and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain records of leak tests performed, once every twelve months, on barges and ships loaded at the Plant [30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), FOP No. O-00357, General Terms and Conditions, Air Permit No. 56286 Special Condition 8, 40 CODE OF FEDERAL REGULATIONS ("CFR") § 61.305(h) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failure to obtain authorization for Hydrogen Sulfide ("H2S") emissions from</p>	<p><b>Total Assessed:</b> \$29,362</p> <p><b>Total Deferred:</b> \$5,872  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$11,745</p> <p><b>Total Paid to General Revenue:</b> \$11,745</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Initiated documentation of hourly loading rates per vessel beginning the week of April 9, 2007;</p> <p>b. Started maintaining records of vessel tightness prior to loading as of April 9, 2007 to certify leak testing is being completed;</p> <p>c. Submitted a revision request on November 21, 2006, for Federal Operating Permit ("FOP") No. O-00357 to reflect the change from internal floating roof to external floating roof for tank 1546;</p> <p>d. Submitted permit amendments for Permit Nos. 7238 and 56286 on November 21, 2006, to obtain authorization for Hydrogen Sulfide ("H2S") emissions from tanks 1594 and 1595 and the sumps located at berths 6 and 7; and</p> <p>e. Removed the container with gasoline and water from the pump house area and all logistics terminal personnel received proper hazardous waste handling awareness training on January 31, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).</p> <p>3) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin keeping records at the Plant of the weight percent benzene content when each barge is loaded with gasoline; and</p> <p>ii. Report Allegations 1 through 7 as described in Section II of this Agreed Order on the next deviation report;</p>

Tanks 1594 and 1595 under Permit Nos. 7238 and 56286. Specifically, Permit Nos. 7238 and 56286 only allow Volatile Organic Compound ("VOC") emissions from these tanks [30 TEX. ADMIN. CODE § 116.110(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5) Failure to obtain authorization for the emissions associated with the sumps located at berths 6 and 7 used to capture over flow of materials from the transfer pipes located at the Plant [30 TEX. ADMIN. CODE § 116.110(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6) Failure to revise FOP No. O-00357 when Tank 1546 was changed from an internal floating roof to external floating roof as reported on the deviation report for the period of May 22, 2006, through November 21, 2006 [30 TEX. ADMIN. CODE § 122.222(k)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7) Failure to properly collect and handle industrial solid waste. Specifically, the investigators documented an open container containing gasoline and water directly exposed to the atmosphere [30 TEX. ADMIN. CODE § 335.4(1)].

8) Failure to report deviations on the semi-annual deviation report for the period ending May 21, 2006 or the annual certification for the year ending November 21, 2006 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), 122.146(5)(D), FOP No. O-00357 General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].

b. Within 45 days after the effective date of this Agreed Order, submit documentation to demonstrate compliance with Ordering Provision Nos. 3.a.i through 3.a.ii. in the Agreed Order;

c. Respond completely, as determined by the TCEQ, to all requests for information concerning the applications for amendment to permit Nos. 7238 and 56286 and revision to FOP No. O-00357, within 30 days after the date of such request, or by any other deadline specified in writing;

d. Within 180 days after the effective date of this Agreed Order, submit written certification that amendments to permit Nos. 7238 and 56286 and the revision of FOP No. O-00357 has been obtained; and

e. The certifications described in Ordering Provision Nos. 3.b. and 3.d. shall include detailed supporting documentation including photographs, receipts, and/or other records and shall be notarized by a State of Texas Notary Public.



Attachment A

Docket Number: 2007-0586-MLM-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Motiva Enterprises LLC  
**Payable Penalty Amount:** Twenty-Three Thousand Four Hundred Ninety Dollars (\$23,490)  
**SEP Amount:** Eleven Thousand Seven Hundred Forty-Five Dollars (\$11,745)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** South East Texas Regional Planning Commission-West Port Arthur Home Energy Efficiency Program  
**Location of SEP:** Jefferson County

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 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to conduct home energy audits and to assist low income residents in the West Port Arthur area by weatherizing their homes which will improve their homes’ energy efficiency. SEP monies will be used to pay for the cost of caulking and insulating homes, replacing heating and cooling systems and major appliances with new, energy efficient equipment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and nitrogen oxides associated with the combustion of fuel and generation of electricity. Additionally, the improvements will improve homes as shelters for responding to emergency releases.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

South East Texas Regional Planning Commission  
Transportation and Environmental Resources  
Bob Dickenson, Director  
2210 Eastex Freeway  
Beaumont, Texas 77703

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.



**5. Publicity**

Any public statements concerning this SEP 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. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

**TCEQ**

DATES	Assigned	9-Apr-2007	Screening	11-Apr-2007	EPA Due	6-Jan-2008
	PCW	12-Jul-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Motiva Enterprises LLC
Reg. Ent. Ref. No.	RN100238898
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	33184	No. of Violations	8
Docket No.	2007-0586-MLM-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Daniel Siringi
Multi-Media	Industrial and Hazardous Waste	EC's Team	Enforcement Team 5
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

## Penalty Calculation Section

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

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

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

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

Notes: Enhancement for one (1) order with denial of liability and one (1) NOV without same or similar violations in the past five years at this plant. Penalty reduction due to one notice of audit letter submitted, Environmental Management System in place and participation in a voluntary pollution reduction program.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**  Reduction **Subtotal 5**

Before NOV      NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A  X  (mark with x)

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

**Total EB Amounts**  **Subtotal 6**

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

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

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

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements 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)	1	-1%
	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	Yes	-10%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	Yes	-5%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 6%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one (1) order with denial of liability and one (1) NOV without same or similar violations in the past five years at this plant. Penalty reduction due to one notice of audit letter submitted, Environmental Management System in place and participation in a voluntary pollution reduction program.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 6%

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 122.143(4), Federal Operating Permit ("FOP") No. O-00357, General Terms and Conditions and Special Condition 12, Air Permit No. 56286, General Condition 4 and Texas Health & Safety Code § 382.085(b)

Violation Description Failed to maintain records to verify the weight percentage Benzene content in the gasoline loaded on each barge.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

70 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$2,650

This violation Final Assessed Penalty (adjusted for limits) \$2,650

## Economic Benefit Worksheet

**Respondent** Motiva Enterprises LLC  
**Case ID No.** 33184  
**Reg. Ent. Reference No.** RN100238898  
**Media Air**  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$250	31-Jan-2007	8-Oct-2007	0.7	\$9	n/a	\$9

**Notes for DELAYED costs**  
 Estimated cost of keeping records at the Plant site to verify the weight percent benzene content when each barge or ship is loaded with gasoline. Date required is the date of investigation and the final date is the estimated date of corrective action completion.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 (This section is currently blank)

**Approx. Cost of Compliance** \$250 **TOTAL** \$9

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(E)(i) and (c), 122.143(4), FOP No. O-00357, General Terms and Conditions and Special Condition 12, Air Permit No. 56286, General Condition 7 and Special Condition 3 and Texas Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the hourly throughput loading records for loadings occurring at the Plant.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 68 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$2,650

This violation Final Assessed Penalty (adjusted for limits) \$2,650

## Economic Benefit Worksheet

**Respondent** Motiva Enterprises LLC  
**Case ID No.** 33184  
**Reg. Ent. Reference No.** RN100238898  
**Media Air**  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	31-Jan-2007	9-Apr-2007	0.2	\$5	n/a	\$5
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of Initiating documentation of hourly loading rate per vessel. Date required is the date of investigation and final date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$5

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c), 122.143(4), FOP No.O-00357, General Terms and Conditions, Air Permit No. 56286 Special Condition 8, 40 Code of Federal Reg. ("CFR") § 61.305(h) and Texas Health & Safety Code § 382.085(b)

Violation Description Failed to maintain records of leak tests performed, once every twelve months, on barges and ships loaded at the Plant.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 68

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

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$2,650

This violation Final Assessed Penalty (adjusted for limits) \$2,650

## Economic Benefit Worksheet

**Respondent** Motiva Enterprises LLC  
**Case ID No.** 33184  
**Reg. Ent. Reference No.** RN100238898  
**Media** Air  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$1,500	31-Jan-2007	9-Apr-2007	0.2	\$14	n/a	\$14
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of maintaining records to certify testing is being performed before chemical loading. Date required is the date of investigation and final date is the date compliance was achieved.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$14

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a)(1) and Texas Health & Safety Code § 382.085(b)

Violation Description Failed to obtain authorization for Hydrogen Sulfide ("H2S") emissions from Tanks 1594 and 1595 under Permit Nos. 7238 and 56286. Specifically, Permit Nos. 7238 and 56286 only allow Volatile Organic Compound ("VOC") emissions from these tanks.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

70 Number of violation days

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

Violation Base Penalty \$7,500

Three (3) monthly events are recommended from the January 31, 2007 investigation date to the April 11, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$7,950

This violation Final Assessed Penalty (adjusted for limits) \$7,950

## Economic Benefit Worksheet

**Respondent** Motiva Enterprises LLC  
**Case ID No.** 33184  
**Reg. Ent. Reference No.** RN100238898  
**Media** Air  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,000	31-Jan-2007	8-Oct-2007	0.7	\$34	n/a	\$34
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of obtaining a permit amendment. Date required is the date of investigation and the final date is the estimated date of corrective action completion.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$34

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a)(1) and Texas Health & Safety Code § 382.085(b)

Violation Description Failed to obtain authorization for the emissions associated with the sumps located at berths 6 and 7 used to capture over flow of materials from the transfer pipes located at the Plant.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 Number of violation days 70

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

Violation Base Penalty \$7,500

Three (3) monthly events are recommended from the January 31, 2007 investigation date to the April 11, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$51

Violation Final Penalty Total \$7,950

This violation Final Assessed Penalty (adjusted for limits) \$7,950

## Economic Benefit Worksheet

**Respondent** Motiva Enterprises LLC  
**Case ID No.** 33184  
**Reg. Ent. Reference No.** RN100238898  
**Media Air**  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,500	31-Jan-2007	8-Oct-2007	0.7	\$51	n/a	\$51
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of obtaining a permit amendment. Date required is the date of investigation and the final date is the estimated date of corrective action completion.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,500
**TOTAL** \$51

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 122.222(k)(2) and Texas Health & Safety Code § 382.085(b)

Violation Description Failed to revise FOP No. O-00357 when Tank 1546 was changed from an internal floating roof to external floating roof as reported on the deviation report for the period of May 22, 2006, through November 21, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 70

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

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$2,650

This violation Final Assessed Penalty (adjusted for limits) \$2,650

## Economic Benefit Worksheet

**Respondent** Motiva Enterprises LLC  
**Case ID No.** 33184  
**Reg. Ent. Reference No.** RN100238898  
**Media Air**  
**Violation No.** 6

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$500	31-Jan-2007	8-Oct-2007	0.7	\$17	n/a	\$17
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of revising the Title V permit. Date required is the date of investigation and the final date is the estimated date of corrective action completion.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$17

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 335.4(1)

Violation Description Failed to properly collect and handle industrial solid waste. Specifically, the investigators documented an open container containing gasoline and water directly exposed to the atmosphere.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

1

1

Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,650

This violation Final Assessed Penalty (adjusted for limits) \$2,650

## Economic Benefit Worksheet

Respondent Motiva Enterprises LLC  
 Case ID No. 33184  
 Reg. Ent. Reference No. RN100238898  
 Media Air  
 Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$400	31-Jan-2007	31-Jan-2007	0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of properly removing and disposing of gasoline located in an open container near the pump house area. Date required is the investigation date and final date is the completion date.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$400

TOTAL \$0

Screening Date 11-Apr-2007

Docket No. 2007-0586-MLM-E

PCW

Respondent Motiva Enterprises LLC

Policy Revision 2 (September 2002)

Case ID No. 33184

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100238898

Media [Statute] Air

Enf. Coordinator Daniel Siringi

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A), 122.146(5)(D), FOP No.O-00357 General Terms and Conditions and Texas Health & Safety Code § 382.085(b)

Violation Description Failed to report deviations on the semi-annual deviation report for the period ending May 21, 2006 or the annual certification for the year ending November 21, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes 75% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

2 294 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$96

Violation Final Penalty Total \$212

This violation Final Assessed Penalty (adjusted for limits) \$212

## Economic Benefit Worksheet

**Respondent** Motiva Enterprises LLC  
**Case ID No.** 33184  
**Reg. Ent. Reference No.** RN100238898  
**Media Air**  
**Violation No.** 8

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	26-Jun-2006	8-Oct-2007	1.3	\$96	n/a	\$96

Notes for DELAYED costs

Estimated submitting a semi-annual and annual certification. Date required is the date certification was due and the final date is the estimated date of corrective action completion.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,500	<b>TOTAL</b>	\$96
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# Compliance History

Customer/Respondent/Owner-Operator: CN600124051 Motiva Enterprises LLC Classification: AVERAGE Rating: 1.26  
 Regulated Entity: RN100238898 MOTIVA PORT ARTHUR Classification: HIGH Site Rating: 0.00

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0094F
	AIR OPERATING PERMITS	PERMIT	2889
	WASTEWATER	PERMIT	WQ0000415000
	WASTEWATER	PERMIT	TPDES0007102
	WASTEWATER	PERMIT	TX0007102
	AIR NEW SOURCE PERMITS	PERMIT	7238
	AIR NEW SOURCE PERMITS	PERMIT	26705
	AIR NEW SOURCE PERMITS	PERMIT	26298
	AIR NEW SOURCE PERMITS	PERMIT	43807
	AIR NEW SOURCE PERMITS	PERMIT	44581
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0094F
	AIR NEW SOURCE PERMITS	AFS NUM	4824500012
	AIR NEW SOURCE PERMITS	PERMIT	56286
	AIR NEW SOURCE PERMITS	REGISTRATION	75190
	AIR NEW SOURCE PERMITS	REGISTRATION	78610
	AIR NEW SOURCE PERMITS	REGISTRATION	81546

Location: 3901 TEXACO ISLAND RD, PORT ARTHUR, TX, 77640 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: October 11, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 11, 2002 to April 11, 2007

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

Name: Daniel Siringi Phone: 409/899-8799

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 02/18/2007 ADMINORDER 2006-1259-AIR-E  
 Classification: Major
- Citation: 30 TAC Chapter 122, SubChapter B 122.121  
 30 TAC Chapter 122, SubChapter B 122.143(2)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter C 122.241(b)  
 5C THC Chapter 382, SubChapter D 382.085(b)
- Description: Facility operating with an expired permit when a permit is required.
- B. Any criminal convictions of the state of Texas and the federal government.  
 N/A
- C. Chronic excessive emissions events.  
 N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 04/19/2002 | (160182) |
| 2 | 05/17/2002 | (87001)  |

3	05/17/2002	(106339)
4	05/22/2002	(160185)
5	06/20/2002	(160188)
6	07/23/2002	(160190)
7	08/19/2002	(160193)
8	09/20/2002	(160195)
9	10/22/2002	(160198)
10	11/22/2002	(160201)
11	12/27/2002	(160203)
12	01/21/2003	(160206)
13	01/30/2003	(20599)
14	02/19/2003	(160178)
15	03/20/2003	(160181)
16	04/21/2003	(296228)
17	05/19/2003	(31006)
18	05/23/2003	(296229)
19	06/24/2003	(296230)
20	07/18/2003	(296232)
21	08/19/2003	(296233)
22	09/23/2003	(296234)
23	10/16/2003	(248277)
24	10/24/2003	(296235)
25	11/20/2003	(296237)
26	12/29/2003	(296238)
27	01/20/2004	(296239)
28	02/18/2004	(296226)
29	03/22/2004	(296227)
30	04/22/2004	(352496)
31	05/20/2004	(352497)
32	06/21/2004	(296231)
33	07/26/2004	(352498)
34	08/10/2004	(352499)
35	08/17/2004	(285147)
36	08/20/2004	(352500)
37	09/21/2004	(352501)
38	10/21/2004	(352502)
39	10/25/2004	(335633)
40	11/17/2004	(352503)
41	11/23/2004	(382003)
42	12/20/2004	(382004)
43	02/23/2005	(430062)
44	03/18/2005	(382002)
45	04/14/2005	(374831)
46	04/22/2005	(430063)
47	05/23/2005	(430064)
48	06/22/2005	(430065)
49	07/21/2005	(430066)
50	08/19/2005	(440977)
51	09/23/2005	(440978)
52	10/24/2005	(468685)
53	11/18/2005	(468686)
54	12/27/2005	(468687)
55	01/23/2006	(468688)
56	02/22/2006	(468682)
57	02/27/2006	(457044)
58	02/27/2006	(457069)
59	02/27/2006	(457102)
60	03/15/2006	(468683)
61	04/13/2006	(468684)
62	05/12/2006	(498380)
63	06/20/2006	(498381)
64	07/18/2006	(498382)
65	08/11/2006	(487858)

66	08/18/2006	(520389)
67	09/11/2006	(488832)
68	09/19/2006	(520390)
69	10/16/2006	(520391)
70	11/15/2006	(544732)
71	11/29/2006	(531805)
72	12/05/2006	(532294)
73	12/18/2006	(544733)
74	01/17/2007	(544734)
75	02/15/2007	(544731)
76	03/09/2007	(575657)
77	04/02/2007	(541634)

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

Date	11/30/2006	(531805)		
Self Report?	NO		Classification	Moderate
Citation:	TWC Chapter 26 26.121(a)[G]			
Rqmt Prov:	PERMIT PC 2 g, page 7			
Description:	Failure by Motiva Enterprise's Port Arthur Terminal (ME) to prevent unauthorized discharges into or adjacent to the waters of the state.			

F. Environmental audits.

Notice of Intent Date: 12/15/2006 (536679)  
No DOV Associated

G. Type of environmental management systems (EMSs).

Type	Tier	Certification Date
30 TAC CERTIFIED	ACHIEVEMENT	05/03/2006

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

Type	Tier	Certification Date
CLEAN TEXAS PROGRAM	LEADER	05/03/2006

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MOTIVA ENTERPRISES LLC  
RN100238898**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0586-MLM-E**

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

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Motiva Enterprises LLC ("Motiva") 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 Motiva appear before the Commission and together stipulate that:

1. Motiva owns and operates a petroleum storage facility at 3901 Texaco Island Road in Port Arthur, Jefferson County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Motiva agree that the Commission has jurisdiction to enter this Agreed Order, and that Motiva is subject to the Commission's jurisdiction.
4. Motiva received notice of the violations alleged in Section II ("Allegations") on or about April 7, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Motiva of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Nine Thousand Three Hundred Sixty-Two Dollars (\$29,362) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Motiva has paid Eleven Thousand Seven Hundred Forty-Five Dollars (\$11,745) of the administrative penalty and Five Thousand Eight Hundred Seventy-Two Dollars (\$5,872) is deferred contingent upon Motiva's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Motiva fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Motiva to pay all or part of the deferred penalty. Eleven Thousand Seven Hundred Forty-Five Dollars (\$11,745) shall be conditionally offset by Motiva's completion of a Supplemental Environmental Project ("SEP").



7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Motiva have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Motiva has implemented the following corrective measures at the Plant:
  - a. Initiated documentation of hourly loading rates per vessel beginning the week of April 9, 2007;
  - b. Started maintaining records of vessel tightness prior to loading as of April 9, 2007 to certify leak testing is being completed;
  - c. Submitted a revision request on November 21, 2006, for Federal Operating Permit ("FOP") No. O-00357 to reflect the change from internal floating roof to external floating roof for tank 1546;
  - d. Submitted permit amendments for Permit Nos. 7238 and 56286 on November 21, 2006, to obtain authorization for Hydrogen Sulfide ("H<sub>2</sub>S") emissions from tanks 1594 and 1595 and the sumps located at berths 6 and 7; and
  - e. Removed the container with gasoline and water from the pump house area and all logistics terminal personnel received proper hazardous waste handling awareness training on January 31, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Motiva has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Motiva is alleged to have:

1. Failed to maintain records of the weight percentage Benzene content in the gasoline loaded on each barge, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), FOP No. O-00357, General Terms and Conditions and Special Condition 12, Air Permit No. 56286, Special Condition 4 and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted on January 31, 2007. Specifically, Motiva failed to test the Benzene content of the gasoline loaded at the Plant.



2. Failed to maintain the hourly throughput loading records for loadings occurring at the Plant, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(E)(i) and (c), 122.143(4), FOP No. O-00357, General Terms and Conditions and Special Condition 12, Air Permit No. 56286, General Condition 7 and Special Condition 3 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 31, 2007.
3. Failed to maintain records of leak tests performed, once every twelve months, on barges and ships loaded at the Plant, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 122.143(4), FOP No. O-00357, General Terms and Conditions, Air Permit No. 56286, Special Condition 8, 40 CODE OF FEDERAL REG. ("CFR") § 61.305(h) and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted on January 31, 2007.
4. Failed to obtain authorization for H2S emissions from Tanks 1594 and 1595 under Permit 7238 and 56286, in violation of 30 TEX. ADMIN. CODE § 116.110(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted on January 31, 2007. Specifically, Permit Nos. 7238 and 56286 only allows Volatile Organic Compound ("VOC") emissions from these tanks.
5. Failed to obtain authorization for the emissions associated with the sumps located at berths 6 and 7 used to capture over flow of materials from the transfer pipes located at the Plant, in violation of 30 TEX. ADMIN. CODE § 116.110(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 31, 2007.
6. Failed to revise FOP No. O-00357 when Tank 1546 was changed from an internal floating roof to external floating roof as reported on the deviation report for the period of May 22, 2006, through November 21, 2006, in violation of 30 TEX. ADMIN. CODE § 122.222(k)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 31, 2007.
7. Failed to properly collect and handle industrial solid waste, in violation of 30 TEX. ADMIN. CODE § 335.4(1), as documented during an investigation conducted on January 31, 2007. Specifically, the investigators documented an open container containing gasoline and water directly exposed to the atmosphere.
8. Failed to report deviations on the semi-annual deviation report for the period ending May 21, 2006 or the annual certification for the year ending November 21, 2006, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), 122.146(5)(D), FOP No. O-00357 General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 31, 2007.

### III. DENIALS

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

### IV. ORDERING PROVISIONS



1. It is, therefore, ordered by the TCEQ that Motiva pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Motiva's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Motiva Enterprises LLC, Docket No. 2007-0586-MLM-E" to:

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

2. Motiva shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I Paragraph 6 above, Eleven Thousand Seven Hundred Forty-Five Dollars (\$11,745) of the assessed administrative penalty shall be offset with the condition that Motiva implement the SEP defined in Attachment A, incorporated herein by reference. Motiva's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that Motiva shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Begin keeping records at the Plant of the weight percent benzene content when each barge is loaded with gasoline; and
    - ii. Report Allegations 1 through 7 as described in Section II of this Agreed Order on the next deviation report;
  - b. Within 45 days after the effective date of this Agreed Order, submit documentation as described in Ordering Provision No. 3.e. below, to demonstrate compliance with Ordering Provision Nos. 3.a.i through 3.a.ii.
  - c. Respond completely, as determined by the TCEQ, to all requests for information concerning the applications for amendment to permit Nos. 7238 and 56286 and revision to FOP No. O-00357, within 30 days after the date of such request, or by any other deadline specified in writing; and
  - d. Within 180 days after the effective date of this Agreed Order, submit written certification that amendments to permit Nos. 7238 and 56286 and the revision of FOP No. O-00357 has been obtained.
  - e. The certifications described in Ordering Provision Nos. 3.b. and 3.d. shall include detailed supporting documentation including photographs, receipts, and/or other records and shall be notarized by a State of Texas Notary Public and include the following certification language:



"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine 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  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon Motiva. Motiva is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Motiva fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Motiva's failure to comply is not a violation of this Agreed Order. Motiva shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Motiva shall notify the Executive Director within seven days after Motiva becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Motiva shall be made in writing to the Executive Director. Extensions are not effective until Motiva receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Motiva in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by



facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Motiva, or three days after the date on which the Commission mails notice of the Order to Motiva, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Sredler  
For the Executive Director

12/28/2007  
Date

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

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

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

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

Todd Monette  
Signature

12/5/07  
Date

Todd Monette  
Name (Printed or typed)  
Authorized Representative of  
Motiva Enterprises LLC

General Manager  
Title

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



Attachment A  
Docket Number: 2007-0586-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

<b>Respondent:</b>	<b>Motiva Enterprises LLC</b>
<b>Payable Penalty Amount:</b>	<b>Twenty-Three Thousand Four Hundred Ninety Dollars (\$23,490)</b>
<b>SEP Amount:</b>	<b>Eleven Thousand Seven Hundred Forty-Five Dollars (\$11,745)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>South East Texas Regional Planning Commission-West Port Arthur Home Energy Efficiency Program</b>
<b>Location of SEP:</b>	<b>Jefferson County</b>

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 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to conduct home energy audits and to assist low income residents in the West Port Arthur area by weatherizing their homes which will improve their homes' energy efficiency. SEP monies will be used to pay for the cost of caulking and insulating homes, replacing heating and cooling systems and major appliances with new, energy efficient equipment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and nitrogen oxides associated with the combustion of fuel and generation of electricity. Additionally, the improvements will improve homes as shelters for responding to emergency releases.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

South East Texas Regional Planning Commission  
Transportation and Environmental Resources  
Bob Dickenson, Director  
2210 Eastex Freeway  
Beaumont, Texas 77703

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.



**5. Publicity**

Any public statements concerning this SEP 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. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

