

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1158-PST-E TCEQ ID: RN101567725 CASE NO.: 36213
RESPONDENT NAME: MSMS INC. DBA GOLDEN STOP

| | | |
|---|--|--|
| ORDER TYPE: | | |
| <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 | |

| | | |
|--|---|---|
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input checked="" 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 |

SITE WHERE VIOLATION(S) OCCURRED: 1025 Dallas Drive, Denton, Denton County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired May 4, 2009. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Mr. Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
TCEQ Enforcement Coordinator: Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239
TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903
Respondent: Ms. Shehnaz Hooda, Director, MSMS Inc., 1025 Dallas Drive, Denton, Texas 76205
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|--|--|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 21, 2008</p> <p>Date of NOE Relating to this Case: June 24, 2008</p> <p>Background Facts: The EDPRP was filed December 30, 2008. A signed Agreed Order was received January 28, 2009.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery compatible systems and maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3)(A) and 115.242(1)(c) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to ensure that at least one Station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)]. | <p>Total Assessed: \$12,300</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$400/\$11,900</p> <p>The Respondent paid \$400 of the administrative penalty. The remaining amount of \$11,900 shall be payable in 35 monthly payments of \$340 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that as of October 30, 2008 Respondent implemented the following corrective actions:</p> <ol style="list-style-type: none"> Performed the required annual testing of the Stage II equipment; and Begun maintaining the Stage II Vapor Recovery System in proper operating condition, including but not limited to upgrading the Stage II Vapor Recovery System to an ORVR compatible system, installed the required Healy monitor, and conducted successful Stage II vapor recovery tests after completing the ORVR upgrade. <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, begin maintaining all UST records. Within 30 days: <ol style="list-style-type: none"> Ensure that at least one Station representative successfully completes the required Stage II training and each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II Vapor Recovery System; Implement a release detection method for all USTs; and Replace the spill bucket at the super unleaded tank. Within 45 days, submit written certification demonstrating compliance with these Ordering Provisions. |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|------------------------|-----------------------------------|
| <p>5. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>6. Failed to ensure that all spill and overflow prevention devices are maintained in good operating condition [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p> | | |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

| | | | | | | |
|--------------|----------|------------|-----------|-------------|---------|--|
| DATES | Assigned | 1-Jul-2008 | Screening | 15-Jul-2008 | EPA Due | |
| | PCW | 8-Jan-2009 | | | | |

| | | | |
|--|--------------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | MSMS Inc dba Golden Stop | | |
| Reg. Ent. Ref. No. | RN101567725 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

| | | | |
|---------------------------------|------------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36213 | No. of Violations | 6 |
| Docket No. | 2008-1158-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | John Shelton |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$9,600 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|----------------|
| Compliance History | 25.0% Enhancement | Subtotals 2, 3, & 7 | \$2,400 |
|---------------------------|-------------------|--------------------------------|----------------|

Notes: The Facility was issued one NOV with same or similar violations and one Agreed Order with an effective date of April 19, 2004.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|--------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$350 |
|--|-------------------|--------------|

| | | | |
|-------------------------|-------------------|-------------------|------------|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|------------|

Total EB Amounts: \$901
 Approx. Cost of Compliance: \$10,490
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$11,650 |
|-----------------------------|-----------------------|-----------------|

| | | | |
|---|------|-------------------|--------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 5.6% | Adjustment | \$650 |
|---|------|-------------------|--------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1.

| | |
|-----------------------------|-----------------|
| Final Penalty Amount | \$12,300 |
|-----------------------------|-----------------|

| | | |
|-----------------------------------|-------------------------------|-----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$12,300 |
|-----------------------------------|-------------------------------|-----------------|

| | | | |
|-----------------|----------------|-------------------|------------|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|------------|

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

Notes: Deferral not offered for non-expedited settlement.

| | |
|------------------------|-----------------|
| PAYABLE PENALTY | \$12,300 |
|------------------------|-----------------|

Screening Date 15-Jul-2008

Docket No. 2008-1158-PST-E

PCW

Respondent MSMS Inc dba Golden Stop

Policy Revision 2 (September 2002)

Case ID No. 36213

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101567725

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

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 <i>(number of NOVs meeting criteria)</i> | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| 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 judgements 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% |

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 25%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Facility was issued one NOV with same or similar violations and one Agreed Order with an effective date of April 19, 2004.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

| | | | |
|---|--|---|--|
| Screening Date 15-Jul-2008 | Docket No. 2008-1158-PST-E | PCW | |
| Respondent MSMS Inc dba Golden Stop | <i>Policy Revision 2 (September 2002)</i> | | |
| Case ID No. 36213 | <i>PCW Revision June 12, 2008</i> | | |
| Reg. Ent. Reference No. RN101567725 | | | |
| Media [Statute] Petroleum Storage Tank | | | |
| Enf. Coordinator John Shelton | | | |
| Violation Number <input type="text" value="1"/> | | | |
| Rule Cite(s) | <input type="text" value="30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)"/> | | |
| Violation Description | <input type="text" value="Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the annual compliance testing had not been successfully completed within the past 12 months."/> | | |
| Base Penalty | | <input type="text" value="\$10,000"/> | |
| >> Environmental, Property and Human Health Matrix | | | |
| OR | Release | Harm | |
| | | Major Moderate Minor | |
| | Actual | <input type="text"/> | <input type="text"/> |
| | Potential | <input type="text" value="x"/> | <input type="text"/> |
| | | | Percent <input type="text" value="25%"/> |
| >> Programmatic Matrix | | | |
| | Falsification | Major | Moderate |
| | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | | | Percent <input type="text" value="0%"/> |
| Matrix Notes | <input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/> | | |
| Adjustment | | | <input type="text" value="\$7,500"/> |
| | | | <input type="text" value="\$2,500"/> |
| Violation Events | | | |
| Number of Violation Events <input type="text" value="1"/> | | <input type="text" value="55"/> Number of violation days | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | Violation Base Penalty <input type="text" value="\$2,500"/> |
| | monthly | <input type="text"/> | |
| | quarterly | <input type="text"/> | |
| | semiannual | <input type="text"/> | |
| | annual | <input type="text" value="x"/> | |
| | single event | <input type="text"/> | |
| <input type="text" value="One annual event is recommended for the 12-month period preceding the May 21, 2008 investigation date."/> | | | |
| Good Faith Efforts to Comply | | 10.0% Reduction | \$250 |
| | Before NOV | NOV to EDRP/Settlement Offer | |
| Extraordinary | <input type="text"/> | <input type="text"/> | |
| Ordinary | <input type="text"/> | <input type="text" value="X"/> | |
| N/A | <input type="text" value="(mark with x)"/> | | |
| Notes | <input type="text" value="The Respondent came into compliance on August 12, 2008."/> | | |
| Violation Subtotal | | | <input type="text" value="\$2,250"/> |
| Economic Benefit (EB) for this violation | | Statutory Limit Test | |
| Estimated EB Amount <input type="text" value="\$650"/> | Violation Final Penalty Total | | <input type="text" value="\$3,035"/> |
| This violation Final Assessed Penalty (adjusted for limits) | | | <input type="text" value="\$3,035"/> |

Economic Benefit Worksheet

Respondent MSMS Inc dba Golden Stop
Case ID No. 36213
Reg. Ent. Reference No. RN101567725
Media Petroleum Storage Tank
Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

Item Description No commas or \$

Delayed Costs

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

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

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$650 | 11-May-2008 | 21-May-2008 | 0.00 | \$0 | \$650 | \$650 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Cost for annual testing to verify proper operation of the Stage II equipment. The Date Required is the date of ownership change and the Final Date is the investigation date.

Approx. Cost of Compliance

\$650

TOTAL

\$650

| | | | |
|--|--|---|--------------------------------------|
| Screening Date 15-Jul-2008 | Docket No. 2008-1158-PST-E | PCW | |
| Respondent MSMS Inc dba Golden Stop | <small>Policy Revision 2 (September 2002)</small> | | |
| Case ID No. 36213 | <small>PCW Revision June 12, 2008</small> | | |
| Reg. Ent. Reference No. RN101567725 | | | |
| Media [Statute] Petroleum Storage Tank | | | |
| Enf. Coordinator John Shelton | | | |
| Violation Number <input type="text" value="2"/> | | | |
| Rule Cite(s) | 30 Tex. Admin. Code §§ 115.242(3)(A), 115.242(1)(c) and Tex. Health & Safety Code § 382.085(b) | | |
| Violation Description | Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems and maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the Healy monitor was not observed as required by the CARB Executive Order for this system. | | |
| Base Penalty | | <input type="text" value="\$10,000"/> | |
| >> Environmental, Property and Human Health Matrix | | | |
| OR | Harm | | |
| | Major | Moderate | Minor |
| | Actual <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | Potential <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> |
| Percent | | <input type="text" value="10%"/> | |
| >> Programmatic Matrix | | | |
| Falsification | | | |
| Major | Moderate | Minor | |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| Percent | | <input type="text" value="0%"/> | |
| Matrix Notes | Human health or the environment will or could be exposed to significant amounts fo pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation. | | |
| Adjustment | | <input type="text" value="\$9,000"/> | |
| | | | <input type="text" value="\$1,000"/> |
| Violation Events | | | |
| Number of Violation Events <input type="text" value="1"/> | | Number of violation days <input type="text" value="55"/> | |
| <small>mark only one with an x</small> | daily | <input type="text"/> | |
| | monthly | <input type="text"/> | |
| | quarterly | <input checked="" type="text" value="x"/> | |
| | semiannual | <input type="text"/> | |
| | annual | <input type="text"/> | |
| | single event | <input type="text"/> | |
| Violation Base Penalty | | <input type="text" value="\$1,000"/> | |
| One quarterly event is recommended base on documentation of the violation during the May 21, 2008 investigation to the July 15, 2008 screening date. | | | |
| Good Faith Efforts to Comply | | | <input type="text" value="\$100"/> |
| 10.0% Reduction | | | |
| <small>Before NOV</small> | | <small>NOV to EDRP/Settlement Offer</small> | |
| Extraordinary | <input type="text"/> | <input type="text"/> | |
| Ordinary | <input type="text"/> | <input checked="" type="text" value="x"/> | |
| N/A | <input type="text" value="(mark with x)"/> | | |
| Notes | The Respondent came into compliance on August 12, 2008. | | |
| Violation Subtotal | | <input type="text" value="\$900"/> | |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$109"/> | | Violation Final Penalty Total <input type="text" value="\$1,214"/> | |
| This violation Final Assessed Penalty (adjusted for limits) | | | <input type="text" value="\$1,214"/> |

Economic Benefit Worksheet

Respondent MSMS Inc dba Golden Stop
Case ID No. 36213
Reg. Ent. Reference No. RN101567725
Media Petroleum Storage Tank
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|-----|-------|-------|
| Equipment | \$6,840 | 21-May-2008 | 12-Aug-2008 | 0.23 | \$5 | \$104 | \$109 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Cost to upgrade the Stage II equipment to ORVR compatible system and repair the Stage II system. Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

| | | | |
|----------------------------|---------|-------|-------|
| Approx. Cost of Compliance | \$6,840 | TOTAL | \$109 |
|----------------------------|---------|-------|-------|

| | | |
|--|---|---|
| Screening Date 15-Jul-2008 | Docket No. 2008-1158-PST-E | PCW |
| Respondent MSMS Inc dba Golden Stop | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 36213 | | <i>PCW Revision June 12, 2008</i> |
| Reg. Ent. Reference No. RN101567725 | | |
| Media [Statute] Petroleum Storage Tank | | |
| Enf. Coordinator John Shelton | | |
| Violation Number <input type="text" value="3"/> | | |
| Rule Cite(s) | <input type="text" value="30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)"/> | |
| Violation Description | <input type="text" value="Failed to ensure at least one station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment."/> | |
| | Base Penalty | <input type="text" value="\$10,000"/> |
| >> Environmental, Property and Human Health Matrix | | |
| OR | Harm | |
| | Major Moderate Minor | |
| Actual | <input type="text"/> | <input type="text"/> |
| Potential | <input type="text" value="x"/> | <input type="text"/> |
| | Percent | <input type="text" value="10%"/> |
| >> Programmatic Matrix | | |
| | Falsification Major Moderate Minor | |
| | <input type="text"/> | <input type="text"/> |
| | Percent | <input type="text" value="0%"/> |
| Matrix Notes | <input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/> | |
| | Adjustment | <input type="text" value="\$9,000"/> |
| | | <input type="text" value="\$1,000"/> |
| Violation Events | | |
| Number of Violation Events | <input type="text" value="1"/> | Number of violation days <input type="text" value="55"/> |
| <i>mark only one with an x</i> | daily | <input type="text"/> |
| | monthly | <input type="text"/> |
| | quarterly | <input type="text" value="x"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |
| | Violation Base Penalty | <input type="text" value="\$1,000"/> |
| <input type="text" value="One quarterly event is recommended based on documentation of the violation during the May 21, 2008 investigation to the July 15, 2008 screening date."/> | | |
| Good Faith Efforts to Comply | 0.0% Reduction | \$0 |
| | Before NOV NOV to EDRP/Settlement Offer | |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input type="text" value="x"/> | <input type="text" value="(mark with x)"/> |
| Notes | <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/> | |
| | Violation Subtotal | <input type="text" value="\$1,000"/> |
| Economic Benefit (EB) for this violation | | |
| Estimated EB Amount | <input type="text" value="\$22"/> | Statutory Limit Test |
| | Violation Final Penalty Total | <input type="text" value="\$1,320"/> |
| | This violation Final Assessed Penalty (adjusted for limits) | <input type="text" value="\$1,320"/> |

Economic Benefit Worksheet

Respondent MSMS Inc dba Golden Stop

Case ID No. 36213

Reg. Ent. Reference No. RN101567725

Media Petroleum Storage Tank

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 | | | | 0.00 | \$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 | \$500 | 21-May-2008 | 11-Apr-2009 | 0.89 | \$22 | n/a | \$22 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost of training Stage II Station representative. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$22

| | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|-------------------------------------|----------------------|-------------------------------------|--|----------------------|----------------------|------------|----------------------|----------------------|----------------------|--------------|---------------|--|----------------------|----------------------|----------------------|----------------------|--|--|-----------|----------------------|----------------------|----------------------|
| <p>Screening Date 15-Jul-2008</p> <p>Respondent MSMS Inc dba Golden Stop</p> <p>Case ID No. 36213</p> <p>Reg. Ent. Reference No. RN101567725</p> <p>Media [Statute] Petroleum Storage Tank</p> <p>Enf. Coordinator John Shelton</p> <p>Violation Number <input type="text" value="4"/></p> <p>Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 334.10(b)"/></p> <p>Violation Description <input type="text" value="Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, the Facility was not maintaining copies of the line tightness tests performed by the Veeder Root Automatic Tank Gauge."/></p> | <p>Docket No. 2008-1158-PST-E</p> <p style="text-align: right;">PCW</p> <p style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision June 12, 2008</p> | | | | | | | | | | | | | | | | | | | | | | | |
| Base Penalty <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | | | | | | | | | | | |
| >> Environmental, Property and Human Health Matrix | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>OR</p> | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td></td> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> | | | Harm | | | | | Release | Major | Moderate | Minor | | | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="0%"/> | | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | | Harm | | | | | | | | | | | | | | | | | | | | | | |
| | Release | Major | Moderate | Minor | | | | | | | | | | | | | | | | | | | | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="0%"/> | | | | | | | | | | | | | | | | | | | |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | | | | | | | |
| >> Programmatic Matrix | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Matrix Notes</p> | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Falsification</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> <td></td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td style="text-align: right;">Percent <input type="text" value="1%"/></td> </tr> </table> <p style="text-align: center; margin-top: 10px;">Less than 30% of the rule requirement was not met.</p> | | | Falsification | | | | | Major | Moderate | Minor | | | | <input type="text"/> | <input type="text"/> | x | <input type="text"/> | Percent <input type="text" value="1%"/> | | | | | |
| | | Falsification | | | | | | | | | | | | | | | | | | | | | | |
| | Major | Moderate | Minor | | | | | | | | | | | | | | | | | | | | | |
| | <input type="text"/> | <input type="text"/> | x | <input type="text"/> | Percent <input type="text" value="1%"/> | | | | | | | | | | | | | | | | | | | |
| Adjustment <input type="text" value="\$9,900"/> | | | | | | | | | | | | | | | | | | | | | | | | |
| \$100 | | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="55"/> Number of violation days</p> | | | | | | | | | | | | | | | | | | | | | | | | |
| <p><i>mark only one with an x</i></p> | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;">x</td> </tr> </table> | daily | <input type="text"/> | monthly | <input type="text"/> | quarterly | <input type="text"/> | semiannual | <input type="text"/> | annual | <input type="text"/> | single event | x | | | | | | | | | | | |
| daily | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | |
| monthly | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | |
| quarterly | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | |
| semiannual | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | |
| annual | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | |
| single event | x | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Base Penalty <input type="text" value="\$100"/> | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>One single event is recommended based on documentation of the violation during the May 21, 2008 investigation.</p> | | | | | | | | | | | | | | | | | | | | | | | | |
| Good Faith Efforts to Comply | | | | | | | | | | | | | | | | | | | | | | | | |
| 0.0% Reduction <input type="text" value="\$0"/> | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table> | | | Before NOV | NOV to EDRP/Settlement Offer | Extraordinary | <input type="text"/> | <input type="text"/> | Ordinary | <input type="text"/> | <input type="text"/> | N/A | x | (mark with x) | | | | | | | | | | | |
| | Before NOV | NOV to EDRP/Settlement Offer | | | | | | | | | | | | | | | | | | | | | | |
| Extraordinary | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | |
| Ordinary | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | |
| N/A | x | (mark with x) | | | | | | | | | | | | | | | | | | | | | | |
| <p>Notes</p> | <p>The Respondent does not meet the good faith criteria for this violation.</p> | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Subtotal <input type="text" value="\$100"/> | | | | | | | | | | | | | | | | | | | | | | | | |
| Economic Benefit (EB) for this violation | | | | | | | | | | | | | | | | | | | | | | | | |
| Statutory Limit Test | | | | | | | | | | | | | | | | | | | | | | | | |
| Estimated EB Amount <input type="text" value="\$22"/> | Violation Final Penalty Total <input type="text" value="\$132"/> | | | | | | | | | | | | | | | | | | | | | | | |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$132"/> | | | | | | | | | | | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent MSMS Inc dba Golden Stop
Case ID No. 36213
Reg. Ent. Reference No. RN101567725
Media Petroleum Storage Tank
Violation No. 4

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | \$500 | 21-May-2008 | 11-Apr-2009 | 0.89 | \$22 | n/a | \$22 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to maintain UST records. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|-----------|---------------|------------|------|----------------|---------------|-----------|
| Avoided Costs | | | | | | | |
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

| | | | |
|----------------------------|-------|--------------|------|
| Approx. Cost of Compliance | \$500 | TOTAL | \$22 |
|----------------------------|-------|--------------|------|

| | | | | |
|--|--|---|--|---|
| Screening Date 15-Jul-2008 | | Docket No. 2008-1158-PST-E | | PCW |
| Respondent MSMS Inc dba Golden Stop | | <i>Policy Revision 2 (September 2002)</i> | | |
| Case ID No. 36213 | | <i>PCW Revision June 12, 2008</i> | | |
| Reg. Ent. Reference No. RN101567725 | | | | |
| Media [Statute] Petroleum Storage Tank | | | | |
| Enf. Coordinator John Shelton | | | | |
| Violation Number | | <input type="text" value="5"/> | | |
| Rule Cite(s) | | <input type="text" value="30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)"/> | | |
| Violation Description | | <input type="text" value="Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring)."/> | | |
| Base Penalty | | | | <input type="text" value="\$10,000"/> |
| >> Environmental, Property and Human Health Matrix | | | | |
| OR | Harm | | | |
| | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="25%"/> |
| Potential | <input type="text" value="x"/> | <input type="text"/> | <input type="text"/> | |
| >> Programmatic Matrix | | | | |
| Falsification | | | | |
| Major | | | | |
| Moderate | | | | |
| Minor | | | | |
| | | | | Percent <input type="text" value="0%"/> |
| Matrix Notes | <input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/> | | | |
| Adjustment | | | | <input type="text" value="\$7,500"/> |
| | | | | <input type="text" value="\$2,500"/> |
| Violation Events | | | | |
| Number of Violation Events | | <input type="text" value="1"/> | Number of violation days | |
| | | <input type="text" value="55"/> | | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | Violation Base Penalty <input type="text" value="\$2,500"/> | |
| | monthly | <input type="text"/> | | |
| | quarterly | <input type="text" value="x"/> | | |
| | semiannual | <input type="text"/> | | |
| | annual | <input type="text"/> | | |
| | single event | <input type="text"/> | | |
| <input type="text" value="One quarterly event is recommended based on documentation of the violation during the May 21, 2008 investigation to the July 15, 2008 screening date."/> | | | | |
| Good Faith Efforts to Comply | | <input type="text" value="0.0%"/> | Reduction | |
| | | <input type="text"/> | <input type="text" value="\$0"/> | |
| | | <input type="text"/> | | |
| | | <input type="text" value="x"/> | <i>(mark with x)</i> | |
| Notes | | <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/> | | |
| Violation Subtotal | | | | <input type="text" value="\$2,500"/> |
| Economic Benefit (EB) for this violation | | | | |
| Statutory Limit Test | | | | |
| Estimated EB Amount | | <input type="text" value="\$67"/> | Violation Final Penalty Total | |
| | | | <input type="text" value="\$3,299"/> | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | <input type="text" value="\$3,299"/> |

Economic Benefit Worksheet

Respondent MSMS Inc dba Golden Stop
Case ID No. 36213
Reg. Ent. Reference No. RN101567725
Media Petroleum Storage Tank
Violation No. 5

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 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) | \$1,500 | 21-May-2008 | 11-Apr-2009 | 0.89 | \$67 | n/a | \$67 |

Notes for DELAYED costs

Estimated cost of monitoring all USTs for releases. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

| | | | |
|-----------------------------------|---------|--------------|------|
| Approx. Cost of Compliance | \$1,500 | TOTAL | \$67 |
|-----------------------------------|---------|--------------|------|

| | | | |
|--|--|---|--|
| Screening Date 15-Jul-2008 | Docket No. 2008-1158-PST-E | PCW | |
| Respondent MSMS Inc dba Golden Stop | <i>Policy Revision 2 (September 2002)</i> | | |
| Case ID No. 36213 | <i>PCW Revision June 12, 2008</i> | | |
| Reg. Ent. Reference No. RN101567725 | | | |
| Media [Statute] Petroleum Storage Tank | | | |
| Enf. Coordinator John Shelton | | | |
| Violation Number <input type="text" value="6"/> | | | |
| Rule Cite(s) | <input type="text" value="30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)"/> | | |
| Violation Description | <input type="text" value="Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket at the super unleaded fill riser was cracked."/> | | |
| Base Penalty | | <input type="text" value="\$10,000"/> | |
| >> Environmental, Property and Human Health Matrix | | | |
| OR | Harm | | |
| | Major | Moderate | Minor |
| | Actual <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | Potential <input type="text" value="x"/> | <input type="text"/> | <input type="text"/> |
| | | Percent | <input type="text" value="25%"/> |
| >>Programmatic Matrix | | | |
| Falsification | | | |
| Major | Moderate | Minor | |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| | | Percent | <input type="text" value="0%"/> |
| Matrix Notes | <input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/> | | |
| | | Adjustment | <input type="text" value="\$7,500"/> |
| | | <input type="text" value="\$2,500"/> | |
| Violation Events | | | |
| Number of Violation Events <input type="text" value="1"/> | | <input type="text" value="55"/> Number of violation days | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | Violation Base Penalty <input type="text" value="\$2,500"/> |
| | monthly | <input type="text"/> | |
| | quarterly | <input type="text" value="x"/> | |
| | semiannual | <input type="text"/> | |
| | annual | <input type="text"/> | |
| | single event | <input type="text"/> | |
| <input type="text" value="One quarterly event is recommended based on documentation of the violation during the May 21, 2008 investigation to the July 15, 2008 screening date."/> | | | |
| Good Faith Efforts to Comply | | 0.0% Reduction | <input type="text" value="\$0"/> |
| | | Before NOV | NOV to EDRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> | |
| Ordinary | <input type="text"/> | <input type="text"/> | |
| N/A | <input type="text" value="x"/> | <i>(mark with x)</i> | |
| Notes | <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/> | | |
| | | Violation Subtotal | <input type="text" value="\$2,500"/> |
| Economic Benefit (EB) for this violation | | Statutory Limit Test | |
| Estimated EB Amount <input type="text" value="\$31"/> | | Violation Final Penalty Total <input type="text" value="\$3,299"/> | |
| | | This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,299"/> | |

Economic Benefit Worksheet

Respondent MSMS Inc dba Golden Stop

Case ID No. 36213

Reg. Ent. Reference No. RN101567725

Media Petroleum Storage Tank

Violation No. 6

| 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 | \$500 | 21-May-2008 | 11-Apr-2009 | 0.89 | \$1 | \$30 | \$31 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to replace the spill bucket. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$31

Compliance History Report

Customer/Respondent/Owner-Operator: CN603364068 MSMS INC Classification: AVERAGE Rating: 20.50
Regulated Entity: RN101567725 GOLDEN STOP Classification: AVERAGE Site Rating: 20.50
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 16526
REGISTRATION
Location: 1025 DALLAS DR, DENTON, TX, 76205
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: December 19, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 19, 2003 to December 19, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: John Shelton Phone: (512) 239-2563

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? Yes
3. If Yes, who is the current owner? MSMS INC
4. If Yes, who was/were the prior owner(s)? Hamhood Incorporated dba Best Food
5. When did the change(s) in ownership occur? 05/11/2008
6. Rating Date: 9/1/2008 Repeat Violator: NO

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: 04/19/2004 ADMINORDER 2002-0849-PST-E
Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)
- Description: Failed to submit, upon request by the TCEQ, the appropriate forms documenting proof of financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of USTs.
- 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 | 02/28/2006 | (457179) |
| 2 | 08/10/2006 | (497086) |
| 3 | 06/24/2008 | (680114) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 02/28/2006 (457179) CN603364068
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)
Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), the U.S. Environmental Protection Agency (EPA), or any local air pollution control prog

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)

Description: Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the Texas Commission on Environmental Quality (TCEQ).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
Description: Failure to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)
Description: Failure to maintain the stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resource Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including for booted nozzles in vacuum assist type

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)
Description: Failure to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by California Air Resources Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component that is a part of the

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
MSMS INC. DBA GOLDEN STOP,
RN101567725

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1158-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MSMS Inc. dba Golden Stop ("MSMS") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and MSMS appear before the Commission and together stipulate that:

1. MSMS owns and operates a convenience store with retail sales of gasoline located at 1025 Dallas Drive, Denton, Denton County, Texas (the "Station").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The Commission and MSMS agree that the Commission has jurisdiction to enter this Agreed Order, and that MSMS is subject to the Commission's jurisdiction.
4. MSMS received notice of the violations alleged in Section II ("Allegations") on or about June 29, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by MSMS of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of twelve thousand three hundred dollars (\$12,300.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). MSMS has paid four hundred dollars (\$400.00) of the administrative penalty. The remaining amount of eleven thousand nine hundred dollars (\$11,900.00) of the administrative penalty shall be payable in 35 monthly payments of three hundred forty dollars (\$340.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If MSMS fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, MSMS's failure to meet the payment schedule of this Agreed Order constitutes the failure by MSMS to timely and satisfactorily comply with all of the terms of this Agreed Order
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 MSMS 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 MSMS has implemented the following corrective measures at the Station as of October 30, 2008 in response to this enforcement action:
 - a. The required annual testing of the Stage II equipment has been performed, in accordance with 30 TEX. ADMIN. CODE § 115.245; and
 - b. The Stage II vapor recovery system is being maintained in proper operating condition, including but not limited to upgrading the Stage II vapor recovery system to an ORVR compatible system, installation of the required Healy monitor, and conducting successful Stage II vapor recovery tests after completing the ORVR upgrade, in accordance with 30 TEX. ADMIN. CODE § 115.242.
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 MSMS 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

MSMS is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the annual compliance testing had not been successfully completed within the past 12 months, as documented on May 21, 2008.
2. 30 TEX. ADMIN. CODE § 115.242(3)(A) and 115.242(1)(c) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems and maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the Healy monitor was not observed as required by the CARB Executive Order for this system, as documented on May 21, 2008.
3. 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to ensure that at least one Station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment, as documented on May 21, 2008.
4. 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, the Facility was not maintaining copies of the line tightness tests performed by the Veeder Root Automatic Tank Gauge, as documented on May 21, 2008.
5. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), as documented on May 21, 2008.
6. 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2) by failing to ensure that all spill and overflow prevention devices are maintained in good operating condition. Specifically, the spill bucket at the super unleaded fill riser was cracked, as

documented on May 21, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that MSMS pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and MSMS'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: MSMS, Inc. dba Golden Stop, Docket No. 2008-1158-PST-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. MSMS shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, MSMS shall begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10.
 - b. Within 30 days after the effective date of this Agreed Order, MSMS shall:
 - i. Ensure that at least one Station representative successfully completes the required Stage II training and each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248;
 - ii. Implement a release detection method for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.50; and

- iii. Replace the spill bucket at the super unleaded tank, in accordance with 30 TEX. ADMIN. CODE § 334.51.

- c. Within 45 days after the effective date of this Agreed Order, MSMS shall submit written certification as described below and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Samuel L. Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon MSMS. MSMS is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

4. If MSMS 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, MSMS 's failure to comply is not a violation of this Agreed Order. MSMS

shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. MSMS shall notify the Executive Director within seven days after MSMS becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by MSMS shall be made in writing to the Executive Director. Extensions are not effective until MSMS receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against MSMS 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to MSMS, or three days after the date on which the Commission mails notice of the Order to MSMS, 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

Robert M. Perdue

For the Executive Director

5/13/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on MSMS's compliance history;
- Greater scrutiny of any permit applications submitted by MSMS;
- 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 against MSMS;
- Automatic referral to the Attorney General's Office of any future enforcement actions against MSMS; and
- TCEQ seeking other relief as authorized by law.
-

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

Shehmar Hooda

Signature

1-28-09

Date

Shehmar Hooda

Name (Printed or typed)

OWNER

Title

Authorized representative of
MSMS, Inc. dba Golden Stop