

3. Respondent, Motiva Enterprises LLC (“Motiva”) is a limited liability company doing business in the state of Texas. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(1)(B) and (a)(3)(A), 42 U.S.C. § 7413(a)(1)(B) and (a)(3)(A).

6. EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than a year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

7. On December 12, 2023, EPA issued to Respondent a Notice of Violation and Opportunity to Confer (“NOVOC”) and provided a copy of the NOVOC to the State of Texas. In the NOVOC, EPA provided notice to both Respondent and the State of Texas that EPA found that Respondent committed the alleged violations described in Section E of this CAFO and provided Respondent an opportunity to confer with EPA. On December 18, 2023, representatives of Respondent and EPA discussed the NOVOC.

8. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

9. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

10. The Act is designed “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” CAA § 101(b)(1), 42 U.S.C. § 7401(b)(1).

11. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in State Implementation Plans (“SIPs”).

Texas State Implementation Plan

12. Section 109(a) of the CAA, 42 U.S.C. § 7409(a), requires the Administrator of EPA to publish national ambient air quality standards (“NAAQS”) for certain air pollutants. Section 109(b) of the CAA, 42 U.S.C. § 7409(b), provides that the NAAQS establish primary air quality standards to protect public health and secondary standards to protect public welfare.

13. To achieve the objectives of the NAAQS and the CAA, Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each State to adopt a SIP that provides for the implementation, maintenance, and enforcement of the NAAQS, and to submit it to the Administrator of EPA for approval.

14. The State of Texas has adopted a SIP that has been approved by EPA. *See* 40 C.F.R. Part 52, Subpart SS. The Texas SIP includes authorization for Texas to establish a program for New Source Review permits, which can be found at 30 Tex. Admin. Code Chapter 116, Subchapter B – New Source Review Permits. *See* 40 C.F.R. § 52.2270(c).

15. Subchapter B of Chapter 116 of the Texas Administrative Code requires that, “any person who plans to construct any new facility or to engage in the modification of any existing facility which may emit air contaminants into the air of [the state of Texas],” shall either, 1) obtain a [New Source Review] permit under § 116.111 of Subchapter B of Chapter 116, 2) satisfy the conditions for a standard permit under Subchapter F of Chapter 116, 3) satisfy the conditions for a flexible permit under the requirements of Subchapter G of Chapter 116, 4) satisfy the conditions for facilities permitted by rule under Chapter 106, or 5) satisfy the criteria for a de minimis facility or source under § 116.119. *See* 30 Tex. Admin. Code § 116.110(a).

16. Pursuant to 30 Tex. Admin. Code § 116.615, a New Source Review permit may contain general and special conditions. New Source Review permit holders are required to comply with all special conditions in the permit document. *See* 30 Tex. Admin. Code § 116.115(c). Requirements and conditions in New Source Review permits issued by Texas pursuant to its federally-approved New Source Review program are federally enforceable. *See* 30 Tex. Admin. Code §§ 101.1(36) and 116.10(5).

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

17. Motiva Enterprises LLC (“Motiva” or “Respondent”) formerly owned and operated the Dallas Terminal located at 3900 Singleton Blvd., Dallas, Texas 75212 (the “Facility”).

18. Respondent owned and operated the Facility from the beginning of this proceeding, until December 21, 2023, when Motiva closed the sale of the Dallas Terminal to Global Companies LLC. Upon information and belief, Global Companies LLC currently owns and operates the facility.

19. From the beginning of this proceeding until December 21, 2023, when Respondent sold the Dallas Terminal, Respondent was the owner and operator of the Facility within the meaning of the Act, Section 112(a)(9), 42 U.S.C. § 7412(a)(9), and 40 C.F.R. § 63.2.

20. The Facility is a “stationary source” as that term is defined in Section 112(a)(3) of the Act, 42 U.S.C. § 7412(a)(3), and 40 C.F.R. § 63.2.

21. On August 26, 2022, the State of Texas approved Motiva’s permit renewal for New Source Review (“NSR”) Permit No. 1285, expiring August 26, 2032.

22. Special Condition 22, subparagraph A of NSR Permit No. 1285 required that “[t]he permit holder shall perform stack sampling and other testing as required to establish the actual pattern and quantities of air contaminants being emitted into the atmosphere from the [vapor combustion unit or ‘VCU’] to demonstrate that at all times VOC emissions will not exceed 10 mg per liter of gasoline loaded.” It also required that “[t]he appropriate TCEQ Regional Office in the region where the source is located shall be contacted as soon as testing is scheduled but not less than 45 days prior to sampling to schedule a pretest meeting” and that

“[t]he notice shall include: (1) Date for pretest meeting, (2) Date sampling will occur, (3) Name of firm conducting sampling, (4) Type of sampling equipment to be used, (5) Method or procedure to be used in sampling.” The relevant TCEQ Regional Office where the Facility is located is the TCEQ DFW Regional Office.

23. On July 28, 2022, Respondent submitted to the state of Texas an application for a Pollution Control Project for a Vapor Combustion Unit at the Facility. The purpose of the application was “to authorize the installation and operation of a new VCU to control truck loading operations.” TCEQ granted a Standard Permit 169783 on August 30, 2022, authorizing the construction of a new VCU.

24. On information and belief, Respondent began construction of the Standard Permit 169783 project on November 1, 2022, and commissioned the new VCU on March 16, 2023.

25. On information and belief, Respondent conducted performance testing of the new VCU on September 7, 2023. Respondent notified the TCEQ DFW Regional Office of its intent to test on July 24, 2023, but did not schedule a pre-test meeting with the TCEQ DFW Regional Office.

E. ALLEGED VIOLATION

Claim 1: Failure to request a pretest meeting with the appropriate TCEQ Regional Office prior to conducting stack testing of the VCU as required in Special Condition 22A of NSR Permit No. 1285.

26. Under 30 Tex. Admin. Code § 116.115(c), Respondent is required to comply with all special conditions in its NSR permit.

27. Respondent conducted performance testing of a new VCU at the Facility on September 7, 2023. Respondent notified the TCEQ DFW Regional Office of its intent to test on July 24, 2023, but did not schedule a pre-test meeting with the TCEQ DFW Regional Office.

28. Respondent violated 30 Tex. Admin. Code § 116.115(c) and Special Condition 22A of NSR Permit No. 1285 because it failed to schedule a pre-test meeting with the TCEQ DFW Regional Office at least 45 days before the performance test of the new VCU, with a notice including the date for the pretest meeting.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

29. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- i. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- ii. neither admits nor denies the specific factual allegations contained in this CAFO;
- iii. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.
- iv. consents to the assessment of a civil penalty as stated below;

- v. consents to the issuance of a specified compliance or corrective action order¹;
 - vi. consents to the conditions specified in this CAFO;
 - vii. consents to any stated Permit Action;
 - viii. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
 - ix. waives its rights to appeal the Final Order included in this CAFO.
30. For the purpose of this proceeding, Respondent:
- i. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
 - ii. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
 - iii. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
 - iv. consents to personal jurisdiction in an action to enforce this CAFO in the United States District Court for the Northern District of Texas.

¹ Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this CAFO, subparagraphs (v) and (vii) are not applicable to this particular case.

- v. waives any right it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and
- vi. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to this Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

Penalty Assessment and Collection

31. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$67,000 ("EPA Penalty").

The EPA Penalty has been determined in accordance with Section 113 of the Act, 42 U.S.C.

§ 7413 and at no time exceeded EPA's statutory authority.

32. Respondent agrees to:
- a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO, and
 - b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e.g. FedEx), payment should be remitted to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as "remittance express" or "REX"):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White
(301) 887-6548

For Online Payment:

<https://www.pay.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2025-3345 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number CAA-06-2025-3345. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following addresses:

Sarah Frey
U.S. EPA Region 6
frey.sarah@epa.gov

And

Lorena Vaughn
Region 6 Hearing Clerk
U.S. EPA Region 6
vaughn.lorena@epa.gov

33. Respondent agrees to pay the following on any overdue EPA Penalty:
- i. Interest. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).
 - ii. Nonpayment Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph a. of this paragraph.

34. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including but not limited to attorneys' fees incurred by the United States for collection proceedings.

35. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

- i. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate

United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;

- ii. collect the above-referenced debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- iii. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Terms of Settlement

36. Any information or correspondence submitted by Respondent to EPA under this CAFO shall be submitted by email to:

Sarah Frey, Physical Scientist
Air Toxics Enforcement Section (ECDAT)
U.S. EPA Region 6
frey.sarah@epa.gov

37. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement

(including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at Chalifoux.Jessica@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30

days after the Effective Date, then Respondent, using the same email address identified in the preceding subparagraph, shall further:

- i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Order per Section H of this CAFO; and
- ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

38. Respondent agrees that the time period from the Effective Date of this CAFO until all the terms specified in Paragraphs 31-34 are completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section E of this CAFO (the "Tolled Claims"). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

39. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns.

40. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. See 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

45. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Sections D and E above.

46. If Respondent fails to timely and satisfactorily complete every term stated in Paragraphs 31-34, then Complainant may compel Respondent to perform the terms in Paragraphs 31-34, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the Clean Air Act, pursuant to contract law, or both. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

47. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 31-34 is restitution, remediation, or required to come into compliance with the law.

48. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

49. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of all parties and approval of the Regional Judicial Officer.

50. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$124,426 per day of violation, or both, as provided in

Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

51. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

52. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

H. EFFECTIVE DATE

53. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of Motiva Enterprises, LLC, Docket No. CAA-06-2025-3345, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: _____

Amy Marlyse Plato
Digitally signed by Amy Marlyse Plato
Date: 2025.05.14 15:54:06 -05'00'

Motiva Enterprises, LLC
By: Amy Marlyse Plato, Executive Vice President,
Legal and Corporate Affairs
Motiva Enterprises LLC
500 Dallas Street, Houston, TX, 77002

FOR COMPLAINANT:

Date: _____

Cheryl T. Seager
Digitally signed by Seager, Cheryl
Date: 2025.05.19 10:27:00 -05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant:

Rosnell.Christian@epa.gov

Copy via Email to Respondent:

Nick.Graham@motiva.com
Nick Graham, Legal Counsel
Motiva Enterprises LLC
500 Dallas Street, Houston, TX, 77002

LORENA
VAUGHN

Digitally signed by
LORENA VAUGHN
Date: 2025.05.20
08:12:37 -05'00'

Office of Regional Counsel
EPA Region 6