

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-1149-AIR-E TCEQ ID: RN101615839 CASE NO.: 36210**

**RESPONDENT NAME: Cargill Meat Solutions Corporation**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Cargill Meat Solutions, located four miles west of Friona on US Highway 60 West, Parmer County</p> <p><b>TYPE OF OPERATION:</b> Meat packing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 12, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2134; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Jarrod L. Gillig, General Manager, Cargill Meat Solutions Corporation, Post Office Box 579, Friona, Texas 79035                  Mr. Jeremiah Smith, Assistant Environmental Manager, Cargill Meat Solutions Corporation, Post Office Box 579, Friona, Texas 79035  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> June 25, 2008</p> <p><b>Date of NOE Relating to this Case:</b> July 2, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>1) Failure to submit the annual compliance certification for the period of November 16, 2006 through November 15, 2007 within the required 30 day time frame, and failed to include all instances of deviations on the annual compliance certification for the time period of November 16, 2006 through November 15, 2007, and on two semi-annual deviation reports for the time periods of November 16, 2006 through May 15, 2007, and May 16, 2007 through November 15, 2007. Specifically, the certification was due to be submitted no later than December 15, 2007, and it was not submitted until May 27, 2008 [30 TEX. ADMIN. CODE §§ 122.145(2)(A), 122.146(1), (2), and (5), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to properly record and document actual amounts of fuel used at the steam boilers. Specifically, the amended compliance certifications for the time periods of November 16, 2005 through November 15, 2006, and for November 16, 2006 through November 15, 2007 stated that readings did not coincide with actual fuel usage [30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(b)(2)(E) and (c), 122.143(4), Air Permit No. 40299, Special Condition No. 7, Federal Operating Permit No. O-02613, General Terms and Conditions, 40 CODE OF FEDERAL REGULATIONS § 60.48c(g), and TEX.</p>	<p><b>Total Assessed:</b> \$19,294</p> <p><b>Total Deferred:</b> \$3,858  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$15,436.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a) On April 23, 2008, the Respondent submitted the amended compliance certification and the amended semi-annual deviation reports for the time periods of November 16, 2005 through November 15, 2006, and for November 16, 2005 through May 15, 2006, and May 16 through November 15, 2006; and</p> <p>b) On May 27, 2008, the Respondent submitted the amended compliance certification and the amended semi-annual deviation reports for the time periods of November 16, 2006 through November 15, 2007, and for November 16, 2006 through May 15, 2007, and May 16, 2007 through November 15, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, begin recording and documenting fuel usage;</p> <p>b) Within 30 days after the effective date of this Agreed Order, begin conducting monthly calibrations and performing necessary cleanings of the oxidation reduction potential meter; and</p> <p>c) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.</p>

<p>HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failure to include all instances of deviations on the annual compliance certification for the time period of November 16, 2005 through November 15, 2006, and on two semi-annual deviation reports for the time periods of November 16, 2005 through May 15, 2006, and May 16, 2006 through November 15, 2006 [30 TEX. ADMIN. CODE §§ 122.145(2)(A) and 122.146(5) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failure to calibrate the oxidation reduction potential meter on a monthly basis, and failed to clean it as necessary. Specifically, the records for November and December of 2006, and for January, May, June, and September of 2007 indicated that calibrations and cleanings had not been done [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 40299, Special Condition No. 11(D)(2), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): Air Account No. PD0019U





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	7-Jul-2008			
	PCW	11-Sep-2008	Screening	9-Jul-2008	EPA Due 29-Mar-2009

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Cargill Meat Solutions Corporation
Reg. Ent. Ref. No.	RN101615839
Facility/Site Region	1 - Amarillo
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36210	No. of Violations	4
Docket No.	2008-1149-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	<b>\$18,800</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		

<b>Compliance History</b>	13.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	<b>\$2,444</b>
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Notes: The Respondent has received one Notice of Violation ("NOV") for a same or similar violation, and has received four NOV's for non similar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<i>Subtotal 5</i>	<b>\$1,950</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<i>Subtotal 6</i>	<b>\$0</b>
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Total EB Amounts \$1,454  
 Approx. Cost of Compliance \$9,400  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	<b>\$19,294</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<i>Adjustment</i>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

*Final Penalty Amount* **\$19,294**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	<b>\$19,294</b>
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<b>DEFERRAL</b>	20.0% Reduction	<i>Adjustment</i>	<b>-\$3,858</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$15,436</b>
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<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1149-AIR-E	<b>PCW</b>
<b>Respondent</b> Cargill Meat Solutions Corporation		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 36210		<i>PCW Revision June 12, 2008</i>
<b>Reg. Ent. Reference No.</b> RN101615839		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Suzanne Walrath		

### 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	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	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%
<i>Please Enter Yes or No</i>			
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)** 13%

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

<span style="border: 1px solid black; padding: 2px;">No</span>	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">Average Performer</span>	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Summary**

<b>Compliance History Notes</b>	The Respondent has received one Notice of Violation ("NOV") for a same or similar violation, and has received four NOVs for non similar violations.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 13%

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1149-AIR-E	<b>PCW</b>		
<b>Respondent</b> Cargill Meat Solutions Corporation	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36210	<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101615839				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Suzanne Walrath				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.145(2)(A), 122.146(1), (2), and (5), and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to submit the annual compliance certification for the period of November 16, 2006 through November 15, 2007 within the required 30 day time frame, and failed to include all instances of deviations on the annual compliance certification for the time period of November 16, 2006 through November 15, 2007, and on two semi-annual deviation reports for the time periods of November 16, 2006 through May 15, 2007, and May 16, 2007 through November 15, 2007. Specifically, the certification was due to be submitted no later than December 15, 2007, and it was not submitted until May 27, 2008.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="25%"/>	
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
		<b>Adjustment</b>	<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="3"/>	<b>Number of violation days</b>	
		<input type="text" value="130"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semi-annual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
		<b>Violation Base Penalty</b>	<input type="text" value="\$7,500"/>	
Three single events are recommended (one event for each report).				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$1,875"/>	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	x	<input type="text"/>		
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	The Respondent achieved compliance for this violation on May 27, 2008.			
		<b>Violation Subtotal</b>	<input type="text" value="\$5,625"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$21"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$6,600"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		
		<input type="text" value="\$6,600"/>		

## Economic Benefit Worksheet

**Respondent** Cargill Meat Solutions Corporation  
**Case ID No.** 36210  
**Reg. Ent. Reference No.** RN101615839  
**Media** Air  
**Violation No.** 1

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

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$450	14-Jun-2007	27-May-2008	0.95	\$21	n/a	\$21

Notes for DELAYED costs

These are estimated costs for submitting a compliance certification and two deviation reports timely and correctly, beginning on the date the first correct semi-annual deviation report was due to be submitted with all deviations included, and ending on the date compliance was achieved.

**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

\$450

**TOTAL**

\$21

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1149-AIR-E	<b>PCW</b>
<b>Respondent</b> Cargill Meat Solutions Corporation		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 36210		<i>PCW Revision June 12, 2008</i>
<b>Reg. Ent. Reference No.</b> RN101615839		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Suzanne Walrath		
<b>Violation Number</b>	2	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 101.20(1), 116.115(b)(2)(E) and (c), 122.143(4), and Air Permit No. 40299, Special Condition No. 7, Federal Operating Permit No. O-02613, General Terms and Conditions, 40 Code of Federal Regulations § 60.48c(g), and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to properly record and document actual amounts of fuel used at the steam boilers. Specifically, the amended compliance certifications for the time periods of November 16, 2005 through November 15, 2006, and for November 16, 2006 through November 15, 2007 stated that readings did not coincide with actual fuel usage.	
<b>Base Penalty</b>		\$10,000

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>				
		Major	Moderate		Minor
	<b>Release</b>				
	<b>Actual</b>			<b>Percent</b> 0%	
	<b>Potential</b>				

**>> Programmatic Matrix**

	Major	Moderate	Minor	
<b>Falsification</b>				
	x			<b>Percent</b> 25%

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

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 2      728      Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$5,000

Two single events are recommended (one event for each reporting period).

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

**Violation Subtotal** \$5,000

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

Estimated EB Amount \$411      Violation Final Penalty Total \$5,650

This violation Final Assessed Penalty (adjusted for limits) \$5,650

## Economic Benefit Worksheet

**Respondent:** Cargill Meat Solutions Corporation  
**Case ID No.:** 36210  
**Reg. Ent. Reference No.:** RN101615839  
**Media:** Air  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

**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	\$2,500	16-Nov-2005	1-Mar-2009	3.29	\$411	n/a	\$411
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

These are costs to develop and implement procedures to ensure accurate fuel usage is recorded and reported, beginning on the starting date of the first deviation period, and ending on the projected 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

\$2,500

**TOTAL**

\$411

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1149-AIR-E	<b>PCW</b>	
<b>Respondent</b> Cargill Meat Solutions Corporation	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36210	<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101615839			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Suzanne Walrath			
<b>Violation Number</b> 3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.145(2)(A) and 122.146(5), and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to include all instances of deviations on the annual compliance certification for the time period of November 16, 2005 through November 15, 2006, and on two semi-annual deviation reports for the time periods of November 16, 2005 through May 15, 2006, and May 16, 2006 through November 15, 2006.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	Harm		
	Major	Moderate	Minor
	Actual	Potential	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 0%
<b>&gt;&gt; Programmatic Matrix</b>			
Falsification			
Major	Moderate	Minor	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> x	
		Percent	
		<input type="checkbox"/> 1%	
<b>Matrix Notes</b>	Less than 30% of the rule requirement was not met.		
<b>Adjustment</b>		\$9,900	
		\$100	
<b>Violation Events</b>			
<b>Number of Violation Events</b>	3	<b>Number of violation days</b>	
	3		
mark only one with an x	daily	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input checked="" type="checkbox"/> x	
<b>Violation Base Penalty</b>		\$300	
Three single events are recommended (one event for each report missing data).			
<b>Good Faith Efforts to Comply</b>			
25.0% Reduction		\$75	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/> x	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent achieved compliance for this violation on April 23, 2008.		
<b>Violation Subtotal</b>		\$225	
<b>Economic Benefit (EB) for this violation</b>			
<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>	\$42	<b>Violation Final Penalty Total</b>	
		\$264	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$264	

## Economic Benefit Worksheet

**Respondent** Cargill Meat Solutions Corporation  
**Case ID No.** 36210  
**Reg. Ent. Reference No.** RN101615839  
**Media** Air  
**Violation No.** 3

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

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

### Delayed Costs

Item Description	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)	\$450	14-Jun-2006	23-Apr-2008	1.86	\$42	n/a	\$42

**Notes for DELAYED costs**

These are estimated costs for submitting a compliance certification and two deviation reports correctly, beginning on the date the first correct semi-annual deviation report was due to be submitted with all deviations included, and ending on the date compliance was achieved.

### Avoided Costs

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

Item Description	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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$450

**TOTAL**

\$42

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1149-AIR-E	<b>PCW</b>			
<b>Respondent</b> Cargill Meat Solutions Corporation	<i>Policy Revision 2 (September 2002)</i>				
<b>Case ID No.</b> 36210	<i>PCW Revision June 12, 2008</i>				
<b>Reg. Ent. Reference No.</b> RN101615839					
<b>Media [Statute]</b> Air					
<b>Enf. Coordinator</b> Suzanne Walrath					
<b>Violation Number</b>	4				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.115(c), Air Permit No. 40299, Special Condition No. 11(D)(2), and Tex. Health & Safety Code § 382.085(b)				
<b>Violation Description</b>	Failed to calibrate the oxidation reduction potential meter on a monthly basis, and failed to clean it as necessary. Specifically, the records for November and December of 2006, and for January, May, June, and September of 2007 indicated that this had not been done.				
<b>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
				<b>Percent</b> 10%	
<b>&gt;&gt; Programmatic Matrix</b>					
Falsification			Major	Moderate	Minor
<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> 0%	
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.				
<b>Adjustment</b>				\$9,000	
				\$1,000	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		6	<b>Number of violation days</b> 183		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	<input type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input checked="" type="checkbox"/>			
				<b>Violation Base Penalty</b> \$6,000	
Six single events are recommended (one event for each month that the calibration was not performed).					
<b>Good Faith Efforts to Comply</b>		0.0% Reduction		\$0	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>		<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>		<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	(mark with x)			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.				
<b>Violation Subtotal</b>				\$6,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b> \$979		<b>Violation Final Penalty Total</b> \$6,780			
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$6,780	

## Economic Benefit Worksheet

**Respondent** Cargill Meat Solutions Corporation  
**Case ID No.** 36210  
**Reg. Ent. Reference No.** RN101615839  
**Media** Air  
**Violation No.** 4

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

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$6,000	1-Nov-2006	1-Mar-2009	2.33	\$47	\$933	\$979
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

These are costs to develop and begin implementing proper procedures to be followed concerning the cleaning and calibration of the oxidation reduction potential meter, beginning on the date of the first missed cleaning and calibration, and ending on the projected 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	\$6,000	<b>TOTAL</b>	\$979
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# Compliance History

Customer/Respondent/Owner-Operator: CN602700668 Cargill Meat Solutions Corporation Classification: AVERAGE Rating: 1.24  
 Regulated Entity: RN101615839 CARGILL MEAT SOLUTIONS Classification: AVERAGE Site Rating: 0.57  
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1850009  
 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD043161363  
 GENERATION  
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 30844  
 GENERATION (SWR)  
 WASTEWATER PERMIT WQ0001350000  
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER PD0019U  
 AIR NEW SOURCE PERMITS PERMIT PD0019U  
 AIR NEW SOURCE PERMITS PERMIT 40299  
 AIR NEW SOURCE PERMITS AFS NUM 4836900008  
 WASTEWATER LICENSING LICENSE WQ0001350000  
 WATER LICENSING LICENSE 1850009  
 AIR OPERATING PERMITS ACCOUNT NUMBER PD0019U  
 AIR OPERATING PERMITS PERMIT 2613

Location: 4 miles west of Friona on US Highway 60 west Rating Date: September 01 07 Repeat Violator: NO  
 TCEQ Region: REGION 01 - AMARILLO  
 Date Compliance History Prepared: July 09, 2008  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: July 09, 2003 to July 09, 2008

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

Name: Suzanne Walrath Phone: 512/239-2134

## 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? Cargill Meat Solutions Corporation
4. If Yes, who was/were the prior owner(s)? Excel Corporation
5. When did the change(s) in ownership occur? 08/24/2004

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

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

1	04/16/2004	(266177)
2	06/21/2004	(275194)
3	05/01/2005	(378907)
4	05/15/2005	(379109)
5	06/13/2005	(393319)
6	07/12/2005	(399286)
7	09/26/2005	(432547)
8	01/31/2006	(453298)
9	11/02/2006	(517969)
10	01/25/2007	(537727)
11	07/26/2007	(566111)
12	10/30/2007	(598300)

13 11/21/2007 (600564)  
 14 12/04/2007 (610365)  
 15 01/17/2008 (611702)  
 16 06/06/2008 (669008)  
 17 07/02/2008 (641405)

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

Date: 06/10/2005 (393319)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT VI. Special Provisions  
 Description: Failure to apply wastewater below the permitted maximum loading rate.  
 Date: 01/30/2006 (453298)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)  
 Description: failed to maintain a minimum of 10.0 ph. on their plant packed scrubber number 2. (30 TAC 116.115(a)).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)  
 Description: failed to maintain a minimum of 10.0 ph. in their blood scrubber. (30 TAC 116.115(a)).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)  
 Description: Failed to maintain minimum temperature and ph in their blood scrubber during the on-site inspection. (30 TAC 116.115(a)).  
 Date: 11/02/2006 (517969)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 Description: Failed to identify a violation noted on their November 3, 2005, Comprehensive Compliance Investigation. This is in violation of 30 TAC 122.145(2)(A).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
 Description: Failed to submit their semiannual deviation report after the 30-day time frame. This is violation of 30 TAC 122.145(2)(C).  
 Date: 07/27/2007 (566111)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)  
 Description: Failure to provide an operable flow meter on each well.  
 Date: 01/17/2008 (611702)  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
 2D TWC Chapter 26, SubChapter A 26.121(b)  
 2D TWC Chapter 26, SubChapter A 26.121(c)  
 2D TWC Chapter 26, SubChapter A 26.121(d)  
 2D TWC Chapter 26, SubChapter A 26.121(e)  
 30 TAC Chapter 305, SubChapter F 305.125(4)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 TWC Chapter 26 26.121  
 TWC Chapter 26 26.121(a)(2)  
 Description: Failure by the facility to prevent an unauthorized discharge from the collection system.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT Page 2, IV  
 Description: Failure by the facility to maintain pH from the playa within permitted limits.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125  
 Rqmt Prov: PERMIT Page 5, (D)  
 Description: Failure by the facility to add soil amendments to adjust the SAR to less than 10.

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.

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CARGILL MEAT SOLUTIONS  
CORPORATION  
RN101615839**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-1149-AIR-E**

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

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cargill Meat Solutions Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a meat packing plant located four miles west of Friona on US Highway 60 West in Parmer County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 7, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nineteen Thousand Two Hundred Ninety-Four Dollars (\$19,294) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Four Hundred Thirty-Six Dollars (\$15,436) of the administrative penalty and Three Thousand Eight Hundred Fifty-Eight



Dollars (\$3,858) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 the Respondent 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 the Respondent has implemented the following corrective measures at the Plant:
  - a. On April 23, 2008, the Respondent submitted the amended compliance certification and the amended semi-annual deviation reports for the time periods of November 16, 2005 through November 15, 2006, and for November 16, 2005 through May 15, 2006, and May 16 through November 15, 2006; and
  - b. On May 27, 2008, the Respondent submitted the amended compliance certification and the amended semi-annual deviation reports for the time periods of November 16, 2006 through November 15, 2007, and for November 16, 2006 through May 15, 2007, and May 16, 2007 through November 15, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit the annual compliance certification for the period of November 16, 2006 through November 15, 2007 within the required 30 day time frame, and failed to include all instances of deviations on the annual compliance certification for the time period of November 16, 2006 through November 15, 2007, and on two semi-annual deviation reports for the time periods of November 16, 2006 through May 15, 2007, and May 16, 2007 through November 15, 2007, in violation of 30 TEX. ADMIN. CODE §§ 122.145(2)(A), 122.146(1), (2), and (5) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on



June 25, 2008. Specifically, the certification was due to be submitted no later than December 15, 2007, and it was not submitted until May 27, 2008.

2. Failed to properly record and document actual amounts of fuel used at the steam boilers, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(b)(2)(E) and (c), 122.143(4), and Air Permit No. 40299, Special Condition No. 7, Federal Operating Permit No. O-02613, General Terms and Conditions, 40 CODE OF FEDERAL REGULATIONS § 60.48c(g), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 25, 2008. Specifically, the amended compliance certifications for the time periods of November 16, 2005 through November 15, 2006, and for November 16, 2006 through November 15, 2007 stated that readings did not coincide with actual fuel usage.
3. Failed to include all instances of deviations on the annual compliance certification for the time period of November 16, 2005 through November 15, 2006, and on two semi-annual deviation reports for the time periods of November 16, 2005 through May 15, 2006, and May 16, 2006 through November 15, 2006, in violation of 30 TEX. ADMIN. CODE §§ 122.145(2)(A) and 122.146(5), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 25, 2008.
4. Failed to calibrate the oxidation reduction potential meter on a monthly basis, and failed to clean it as necessary, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 40299, Special Condition No. 11(D)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 25, 2008. Specifically, the records for November and December of 2006, and for January, May, June, and September of 2007 indicated that calibrations and cleanings had not been done.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Cargill Meat Solutions Corporation, Docket No. 2008-1149-AIR-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, begin recording and documenting fuel usage;
  - b. Within 30 days after the effective date of this Agreed Order, begin conducting monthly calibrations and performing necessary cleanings of the oxidation reduction potential meter; and
  - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 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:

Air Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3928 Canyon Drive  
Amarillo, Texas 79109-4933

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days



after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

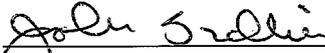
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

  
\_\_\_\_\_  
For the Executive Director

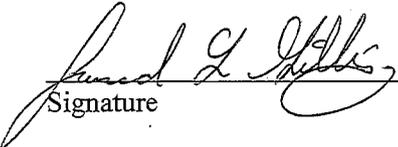
\_\_\_\_\_  
Date 12/29/2008

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 10-29-08

JARROD L. GILLIG  
Name (Printed or typed)  
Authorized Representative of  
Cargill Meat Solutions Corporation

GENERAL MANAGER  
Title

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

