

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-1469-AIR-E TCEQ ID: RN100219161 CASE NO.: 36514**  
**RESPONDENT NAME: Mitsubishi Caterpillar Forklift America Inc.**

Page 1 of 2

<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> Mitsubishi Caterpillar Forklift America, 2011 West Sam Houston Parkway North, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Forklift manufacturing 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 February 2, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Ms. Danielle Porras, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2602;  Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  Respondent: CT Corporation System, Registered Agent, Mitsubishi Caterpillar Forklift America Inc., 350 North Saint Paul Street, Dallas, Texas 75201  Mr. Michael R. Veillette, Vice President, Secretary, and General Counsel, Mitsubishi Caterpillar Forklift America Inc., 350 North Saint Paul Street, Dallas, Texas 75201  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2008-1469-AIR-E

## 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 Investigation Relating to this Case:</b> August 21, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 29, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to submit a Title V Compliance Certification no later than 30 days after the end of the certification period. Specifically, the certification for the reporting period from October 5, 2005 through October 4, 2006 was due to be submitted by November 4, 2006 and was not received until August 14, 2008 [30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$1,625</p> <p><b>Total Deferred:</b> \$325  <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> \$1,300</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input 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>The Executive Director recognizes that the Respondent submitted the Title V Compliance Certification for the reporting period of October 5, 2005 through October 4, 2006 on August 14, 2008.</p>

Additional ID No(s): HG4873N



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	2-Sep-2008	Screening	10-Sep-2008	EPA Due	26-May-2009
	PCW	21-Oct-2008				

## RESPONDENT/FACILITY INFORMATION

Respondent	Mitsubishi Caterpillar Forklift America Inc.		
Reg. Ent. Ref. No.	RN100219161		
Facility/Site Region	12-Houston	Major/Minor Source	Major

## CASE INFORMATION

Enf./Case ID No.	36514	No. of Violations	1
Docket No.	2008-1469-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		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** \$2,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -10.0% Enhancement **Subtotals 2, 3, & 7** -\$250

Notes: There are not any previous NOV's or orders during the last five years.  
The Respondent is classified as a high performer, resulting in a ten percent reduction.

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** \$625Economic Benefit 0.0% Enhancement\* **Subtotal 6** \$0

Total EB Amounts \$22  
Approx. Cost of Compliance \$250  
\*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,625OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** \$1,625STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$1,625DEFERRAL 20.0% Reduction **Adjustment** -\$325

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$1,300

Screening Date 10-Sep-2008

Docket No. 2008-1469-AIR-E

PCW

Respondent Mitsubishi Caterpillar Forklift America Inc.

Policy Revision 2 (September 2002)

Case ID No. 36514

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100219161

Media [Statute] Air

Enf. Coordinator Danielle Porras

## Compliance History Worksheet

## &gt;&gt; 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>	0	0%
	Other written NOVs	0	0%
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 judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
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) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

There are not any previous NOVs or orders during the last five years. The Respondent is classified as a high performer, resulting in a ten percent reduction.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) -10%

<b>Screening Date</b> 10-Sep-2008		<b>Docket No.</b> 2008-1469-AIR-E		<b>PCW</b>																
<b>Respondent</b> Mitsubishi Caterpillar Forklift America Inc.																				
<b>Case ID No.</b> 36514																				
<b>Reg. Ent. Reference No.</b> RN100219161																				
<b>Media [Statute]</b> Air																				
<b>Enf. Coordinator</b> Danielle Porras																				
<b>Violation Number</b>		<input type="text" value="1"/>																		
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin Code § 122.146(2) and Tex. Health &amp; Safety Code § 382.085(b)"/>																		
<b>Violation Description</b>		<input type="text" value="Failed to submit a Title V Compliance Certification no later than 30 days after the end of the certification period. Specifically, the certification for the reporting period of October 5, 2005 through October 4, 2006 was due to be submitted by November 4, 2006 and was not received until August 14, 2008, as documented during a record review investigation conducted on August 21, 2008."/>																		
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>																
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> </tr> <tr> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;"><b>Major</b></td> <td style="text-align: center;"><b>Moderate</b></td> <td style="text-align: center;"><b>Minor</b></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>					<b>Harm</b>			<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Harm</b>																		
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>																
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>																				
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;"><b>Falsification</b></td> <td style="text-align: center;"><b>Major</b></td> <td style="text-align: center;"><b>Moderate</b></td> <td style="text-align: center;"><b>Minor</b></td> </tr> <tr> <td></td> <td><input type="text" value="x"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>					<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>		<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>						
		<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>															
		<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>															
				<b>Percent</b> <input type="text" value="25%"/>																
<input type="text" value="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="1"/>	<input type="text" value="649"/>	<b>Number of violation days</b>																
mark only one with an x	daily	<input type="text"/>																		
	monthly	<input type="text"/>																		
	quarterly	<input type="text"/>																		
	semiannual	<input type="text"/>																		
	annual	<input type="text"/>																		
	single event	<input type="text" value="x"/>																		
<input type="text" value="One single event is recommended."/>																				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>	<input type="text" value="\$625"/>																
		Before NOV	NOV to EDPRP/Settlement Offer																	
Extraordinary	<input type="text"/>	<input type="text"/>																		
Ordinary	<input type="text" value="x"/>	<input type="text"/>																		
N/A	<input type="text"/>	(mark with x)																		
<b>Notes</b>		<input type="text" value="Report submitted August 14, 2008, before the NOE."/>																		
<b>Violation Subtotal</b>				<input type="text" value="\$1,875"/>																
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>																		
<b>Estimated EB Amount</b>		<input type="text" value="\$22"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,625"/>																
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$1,625"/>																

## Economic Benefit Worksheet

**Respondent** Mitsubishi Caterpillar Forklift America Inc.  
**Case ID No.** 36514  
**Reg. Ent. Reference No.** RN100219161  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	4-Nov-2006	14-Aug-2008	1.78	\$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 of preparation and submittal of an annual compliance certification. The Date Required is the date that the report should have been submitted and the Final Date is the date that the report was submitted.

### 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

\$250

TOTAL

\$22

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600130108 Mitsubishi Caterpillar Forklift America Inc. Classification: HIGH Rating: 0.00

Regulated Entity: RN100219161 MITSUBISHI CATERPILLAR FORKLIFT AMERICA Classification: HIGH Site Rating: 0.00

ID Number(s):

AIR NEW SOURCE PERMITS	PERMIT	22104
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG4873N
AIR NEW SOURCE PERMITS	AFS NUM	4820101436
AIR NEW SOURCE PERMITS	PERMIT	50381
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD982561318
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	38660
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD982561318
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	38660
STORMWATER	PERMIT	TXR05P093

Location: 2011 W SAM HOUSTON PKWY N, HOUSTON, TX, 77043 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Received: October 10, 2008

Agency Decision Requiring Compliance: Enforcement

Compliance Period: October 10, 2003 to October 10, 2008

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

Name: Danielle Porras Phone: (512) 239-2602

## 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? Mitsubishi Caterpillar Forklift America Inc.
4. If Yes, who was/were the prior owner(s)? Mitsubishi Caterpillar Forklift America Inc.
5. When did the change(s) in ownership occur? 12/11/2006

## 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 01/22/2004 (259605)  
N/A

2	12/21/2004	(343759)
3	05/25/2006	(460515)
4	01/29/2007	(532803)
5	08/29/2008	(700056)

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

N/A

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  
MITSUBISHI CATERPILLAR  
FORKLIFT AMERICA INC.  
RN100219161

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-1469-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 Mitsubishi Caterpillar Forklift America Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a forklift manufacturing plant at 2011 West Sam Houston Parkway North in Houston, Harris 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 September 3, 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 One Thousand Six Hundred Twenty-Five Dollars (\$1,625) is assessed by the Commission in settlement of the violations alleged in Section II



("Allegations"). The Respondent has paid One Thousand Three Hundred Dollars (\$1,300) of the administrative penalty and Three Hundred Twenty-Five Dollars (\$325) 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 recognizes that the Respondent submitted the Title V Compliance Certification for the reporting period of October 5, 2005 through October 4, 2006 on August 14, 2008.
9. 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.
10. 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.
11. 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 failed to submit a Title V Compliance Certification no later than 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review investigation conducted on August 21, 2008. Specifically, the certification for the reporting period from October 5, 2005 through October 4, 2006 was due to be submitted by November 4, 2006 and was not received until August 14, 2008.

## **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: Mitsubishi Caterpillar Forklift America Inc., Docket No. 2008-1469-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. 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.
3. 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.
4. 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.
5. 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.

1. *Chlorophyll a* (Chl *a*) and *Chlorophyll b* (Chl *b*) were determined using a spectrophotometer (Shimadzu UV-1601) at 663 nm and 646 nm, respectively. The concentrations of Chl *a* and Chl *b* were calculated using the following equations: Chl *a* (mg/L) = 12.7 (OD<sub>663</sub> - 1.82 OD<sub>646</sub>) and Chl *b* (mg/L) = 22.9 (OD<sub>646</sub> - 0.21 OD<sub>663</sub>).

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

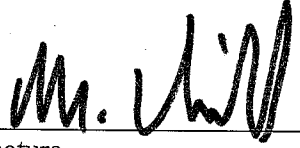
1/22/2009  
~~November 20, 2008~~  
Date

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


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

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

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

  
Signature

11-12-08  
Date

  
Michael R. Veillette  
Name (Printed or typed)  
Authorized Representative of  
Mitsubishi Caterpillar Forklift America Inc.

V.P., Secretary & General Counsel  
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.

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