

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1265-AIR-E **TCEQ ID:** RN101615839 **CASE NO.:** 40144  
**RESPONDENT NAME:** Cargill Meat Solutions Corporation

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Cargill Meat Solutions, 1530 West United States Highway 60, Friona, 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 one additional pending enforcement action regarding this facility location, Docket No. 2010-1265-AIR-E</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 13, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Jarrod Gillig, General Manager, Cargill Meat Solutions Corporation, P.O. 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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 12, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 14, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failed to submit an application for renewal at least six months, but no earlier than 18 months, prior to expiration of a permit and continued to operate the Plant without authorization after the permit expired. Specifically, the Respondent failed to renew New Source Review ("NSR") Permit No. 40299 before the permit expiration date of August 2, 2009 [30 TEX. ADMIN. CODE §§ 116.110(a) and 116.315(a) and TEX. HEALTH &amp; SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p> <p>2) Failed to maintain information and data sufficient to demonstrate compliance with the permit. Specifically, the Respondent failed to maintain records of boiler fuel usage for natural gas and biogas, scrubber temperatures, oxidation reduction potential meter readings, and chlorine residual readings on 71 occasions during the November 16, 2008 through November 15, 2009 reporting period [30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(c), 40 CODE OF FEDERAL REGULATIONS § 60.48c(g)(1), NSR Permit No. 40299 Special Conditions Nos. 7 and 14, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$37,926</p> <p><b>Total Deferred:</b> \$7,585  <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> \$30,341</p> <p><b>Compliance History Classification:</b>                  Person/CN – Average                  Site/RN – Average</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 a permit application for NSR Permit No. 92141 on March 24, 2010.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, until such time as authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the provisions in expired NSR Permit No. 40299 including maintenance of all records required by NSR Permit No. 40299 such as records of boiler fuel usage for natural gas and biogas, scrubber temperatures, oxidation reduction potential meter readings, and chlorine residual readings;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and</p> <p>d. Submit required written certifications and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): PD0019U



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	19-Jul-2010	<b>Screening</b>	29-Jul-2010	<b>EPA Due</b>	
	<b>PCW</b>	31-Aug-2010				

## RESPONDENT/FACILITY INFORMATION

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

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40144	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1265-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	James Nolan
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$30,100**

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

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

**Compliance History** **26.0%** Enhancement **Subtotals 2, 3, & 7** **\$7,826**

Notes: Enhancement for three previous dissimilar NOV's and one order with denial.

**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** **\$0**

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

Total EB Amounts \$558  
 Approx. Cost of Compliance \$6,400  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$37,926**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$37,926**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$37,926**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$7,585**

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** **\$30,341**

**Screening Date** 29-Jul-2010

**Docket No.** 2010-1265-AIR-E

**PCW**

**Respondent** Cargill Meat Solutions Corporation

Policy Revision 2 (September 2002)

**Case ID No.** 40144

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101615839

**Media [Statute]** Air

**Enf. Coordinator** James Nolan

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("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	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

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

**Adjustment Percentage (Subtotal 2)** 26%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for three previous dissimilar NOVs and one order with denial.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 26%

Screening Date 29-Jul-2010

Docket No. 2010-1265-AIR-E

PCW

Respondent Cargill Meat Solutions Corporation

Policy Revision 2 (September 2002)

Case ID No. 40144

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101615839

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.110(a) and 116.315(a), and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to submit an application for renewal at least six months, but no earlier than 18 months, prior to expiration of a permit and continued to operate the Plant without authorization after the permit expired. Specifically, the Respondent failed to renew New Source Review Permit No. 40299 before the permit expiration date of August 2, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 12

361 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$30,000

Twelve monthly events are recommended based upon the permit expiration date (August 2, 2009) through the case screening date (July 29, 2010).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$498

Violation Final Penalty Total \$37,800

This violation Final Assessed Penalty (adjusted for limits) \$37,800

# Economic Benefit Worksheet

**Respondent** Cargill Meat Solutions Corporation  
**Case ID No.** 40144  
**Reg. Ent. Reference No.** RN101615839  
**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
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,900	2-Aug-2009	10-Apr-2011	1.69	\$498	n/a	\$498
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for obtaining a New Source Review Permit. The date required is the date the permit expired and the final date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,900

**TOTAL**

\$498

Screening Date 29-Jul-2010

Docket No. 2010-1265-AIR-E

PCW

Respondent Cargill Meat Solutions Corporation

Policy Revision 2 (September 2002)

Case ID No. 40144

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101615839

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1) and 116.115(c), 40 Code of Federal Regulations § 60.48c(g)(1), New Source Review Permit No. 40299 Special Conditions Nos. 7 and 14, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain information and data sufficient to demonstrate compliance with the permit. Specifically, the Respondent failed to maintain records of boiler fuel usage for natural gas and biogas, scrubber temperatures, oxidation reduction potential meter readings, and chlorine residual readings on 71 occasions during the November 16, 2008 through November 15, 2009 reporting period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 365

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

Violation Base Penalty \$100

One single event is recommended.

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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$60

Violation Final Penalty Total \$126

This violation Final Assessed Penalty (adjusted for limits) \$126

## Economic Benefit Worksheet

**Respondent** Cargill Meat Solutions Corporation  
**Case ID No.** 40144  
**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
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	16-Nov-2008	10-Apr-2011	2.40	\$30	n/a	\$30
Training/Sampling	\$250	16-Nov-2008	10-Apr-2011	2.40	\$30	n/a	\$30
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement changes in policies or procedures to maintain records of boiler fuel usage for natural gas and biogas, scrubber temperatures, oxidation reduction potential meter reading, and chlorine residual readings as required by the permit. The Date Required is the first date of the compliance period and the Final Date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$60

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602700668 Cargill Meat Solutions Corporation	Classification: AVERAGE	Rating: 4.23
Regulated Entity:	RN101615839 CARGILL MEAT SOLUTIONS	Classification: AVERAGE	Site Rating: 14.43
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY INDUSTRIAL AND HAZARDOUS WASTE INDUSTRIAL AND HAZARDOUS WASTE  WASTEWATER AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS WASTEWATER LICENSING AIR OPERATING PERMITS AIR OPERATING PERMITS AIR EMISSIONS INVENTORY	REGISTRATION EPA ID SOLID WASTE REGISTRATION # (SWR) PERMIT ACCOUNT NUMBER AFS NUM PERMIT LICENSE ACCOUNT NUMBER PERMIT ACCOUNT NUMBER	1850009 TXD043161363 30844  WQ0001350000 PD0019U 4836900008 92141 WQ0001350000 PD0019U 2613 PD0019U
Location:	1530 W US HIGHWAY 60, FRIONA, TX, 79035		
TCEQ Region:	REGION 01 - AMARILLO		
Date Compliance History Prepared:	July 29, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 29, 2005 to July 29, 2010		

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

Name: James Nolan Phone: (512) 239-6634

### 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

**Components (Multimedia) for the Site :**

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 02/22/2009 ADMINORDER 2008-1149-AIR-E

Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
30 TAC Chapter 122, SubChapter B 122.146(1)  
  
30 TAC Chapter 122, SubChapter B 122.146(2)  
30 TAC Chapter 122, SubChapter B 122.146(5)  
5C THSC Chapter 382 382.085(b)

Description: 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.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)  
  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Dc 60.48c(g)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP  
Spec. Cond. No. 7 PERMIT

Description: Failed to properly record and document actual amounts of fuel used at the steam boilers.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
30 TAC Chapter 122, SubChapter B 122.146(5)

5C THSC Chapter 382 382.085(b)

Description: 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.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Spec. Cond. No. 11(D)(2) PERMIT

Description: Failed to calibrate the oxidation reduction potential meter on a monthly basis, and failed to clean it as necessary.

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 01/31/2006 (453298)
- 2 11/02/2006 (517969)
- 3 01/25/2007 (537727)
- 4 07/26/2007 (566111)
- 5 10/30/2007 (598300)
- 6 11/21/2007 (600564)
- 7 12/04/2007 (610365)
- 8 07/02/2008 (641405)
- 9 04/15/2009 (740924)
- 10 07/02/2009 (748469)
- 11 07/08/2010 (826048)
- 12 07/14/2010 (841124)

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

Date: 01/30/2006 (453298) CN602700668

Self 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 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 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) CN602700668

Self 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 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) CN602700668

Self 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.

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. 2010-1265-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 at 1530 West United States Highway 60 in Friona, Parmer County, Texas (the "Plant").
2. The Respondent 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 19, 2010.
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 Thirty-Seven Thousand Nine Hundred Twenty-Six Dollars (\$37,926) is assessed by the Commission in settlement of the

violations alleged in Section II ("Allegations"). The Respondent has paid Thirty Thousand Three Hundred Forty-One Dollars (\$30,341) of the administrative penalty and Seven Thousand Five Hundred Eighty-Five Dollars (\$7,585) 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 submitted a permit application for New Source Review ("NSR") Permit No. 92141 on March 24, 2010.
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 an application for renewal at least six months, but no earlier than 18 months, prior to expiration of a permit and continued to operate the Plant without authorization after the permit expired, in violation of 30 TEX. ADMIN. CODE §§ 116.110(a) and 116.315(a), and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on July 12, 2010. Specifically, the Respondent failed to renew NSR Permit No. 40299 before the permit expiration date of August 2, 2009.
2. Failed to maintain information and data sufficient to demonstrate compliance with the permit, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(c), 40 CODE OF FEDERAL REGULATIONS § 60.48c(g)(1), NSR Permit No. 40299 Special Conditions Nos. 7 and 14, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 12, 2010. Specifically, the Respondent failed to maintain records of boiler fuel usage for natural gas and biogas, scrubber temperatures, oxidation

reduction potential meter readings, and chlorine residual readings on 71 occasions during the November 16, 2008 through November 15, 2009 reporting period.

### 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. 2010-1265-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. Immediately upon the effective date of this Agreed Order, until such time as authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the provisions in expired NSR Permit No. 40299 including maintenance of all records required by NSR Permit No. 40299 such as records of boiler fuel usage for natural gas and biogas, scrubber temperatures, oxidation reduction potential meter readings, and chlorine residual readings;
  - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
  - c. Within 180 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. that either authorization to construct and operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and
  - d. Submit required written certifications as described below, and include detailed supporting documentation including photographs, receipts, and/or other records

to demonstrate compliance. 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 fines 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  
3918 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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

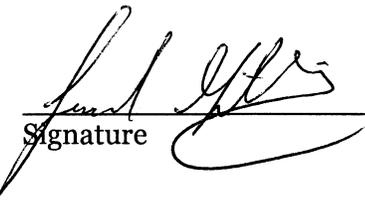
\_\_\_\_\_  
Date 11/9/2010

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 10-15-10

JARROD 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.