

**Executive Summary – Enforcement Matter – Case No. 50334
RD Food Manufacturing, Inc
RN101058386
Docket No. 2015-0518-AIR-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Productos Real, 1100 Pendale Road, El Paso, El Paso County

Type of Operation:

Food processing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 18, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,937

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$3,937

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 3, 2015

Date(s) of NOE(s): February 17, 2015

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Violation Information

Failed to prevent the release of odors which are in such concentration and of such duration as are or may be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days, submit a plan to (i) the Air Section Manager of the TCEQ El Paso Regional Office, (ii) the TCEQ Order Compliance Team, and (iii) the City of El Paso Environmental Services Department – Air Quality Program, setting forth best management practices designed to prevent the emission of odors from all potential sources at the “Plant”. The Plan shall, at a minimum, include schedules, standard operating procedures, plans for implementation, and maintenance practices designed to:

i. Minimize odors from:

(1) All cooking room vents;

(2) All long stacks located on top of the roof;

(3) All waste water from the cooking process; and

(4) All waste water treatment areas, associated equipment, and buildings, including air vents, doorways, and crevices.

ii. Minimize the storage of solid and liquid wastes in containers at the Plant, including 55-gallon drums;

iii. Ensure that all containers used for the storage or disposal of solid and liquid waste are enclosed;

iv. Implement a comprehensive Plant maintenance program;

v. Equip the Plant with exhaust abatement equipment;

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- vi. Contract an industrial consultant who is knowledgeable and experienced with best available control technologies for organic compounds;
 - vii. Operate the ozone dispersing unit during processes;
 - viii. Replace the charcoal filters on the charcoal filtering system on a as needed basis;
 - ix. Repair the ozonators and vapor misters and maintain them in good condition and operated properly during Plant operation;
 - x. Ensure all Plant doors and windows are closed during processes; and
 - xi. Ensure the proper disposal of solid and liquid waste on a daily basis, unless a less frequent basis is determined by the TCEQ, upon a showing of good cause by the Respondent, to be adequate to eliminate the odor nuisance.
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information and/or modification made by the Executive Director concerning the Plan within 30 days after the date of such request, or by any other deadline specified in writing.
- c. Upon the Executive Director's approval of the Plan, implement all provisions of the approved Plan.
- d. Within 30 days after completion of the approved Plan implementation, submit written certification to demonstrate compliance with c.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Raime Hayes-Falero, Enforcement Division, Enforcement Team 4, MC R-12, (713) 767-3567; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: Ramon Dominguez, Owner, RD Food Manufacturing, Inc, 1100 Pendale Road, El Paso, Texas 79907

Maricarmen Moncrief, Vice President, RD Food Manufacturing, Inc, 1100 Pendale Road, El Paso, Texas 79907

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	23-Feb-2015	Screening	12-Mar-2015	EPA Due	
	PCW	14-Apr-2015				

RESPONDENT/FACILITY INFORMATION			
Respondent	RD Food Manufacturing, Inc		
Reg. Ent. Ref. No.	RN101058386		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	50334	No. of Violations	1
Docket No.	2015-0518-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raime Hayes-Falero
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
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Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$187
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Notes: Enhancement for one NOV with same or similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$868
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,937
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$3,937

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,937
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$3,937
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Screening Date 12-Mar-2015

Docket No. 2015-0518-AIR-E

PCW

Respondent RD Food Manufacturing, Inc

Policy Revision 4 (April 2014)

Case ID No. 50334

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101058386

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 12-Mar-2015

Docket No. 2015-0518-AIR-E

PCW

Respondent RD Food Manufacturing, Inc

Policy Revision 4 (April 2014)

Case ID No. 50334

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101058386

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to prevent the release of odors which are in such concentration and of such duration as are or may be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property. Specifically, TCEQ staff documented highly offensive, moderately strong, rancid cooking odors emanating from the Plant at an off-site property on June 11, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$3,750

One single event is recommended for the documented odor nuisance on June 11, 2014.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

	Before NOE/NOV	NOE/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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$868

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent RD Food Manufacturing, Inc
Case ID No. 50334
Reg. Ent. Reference No. RN101058386
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				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	11-Jun-2014	6-Mar-2016	1.74	\$868	n/a	\$868

Notes for DELAYED costs

Estimated cost to implement measures and best management practices designed to prevent nuisance odor conditions from all potential sources at the Plant. The Date Required is the day the nuisance condition was confirmed 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

\$10,000

TOTAL

\$868



Compliance History Report

PUBLISHED Compliance History Report for CN603833476, RN101058386, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN603833476, RD Food Manufacturing, Inc	Classification:	SATISFACTORY	Rating:	0.80
Regulated Entity:	RN101058386, PRODUCTOS REAL	Classification:	SATISFACTORY	Rating:	0.80
Complexity Points:	4	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	1100 PENDALE RD EL PASO, TX 79907-1711, EL PASO COUNTY				
TCEQ Region:	REGION 06 - EL PASO				
ID Number(s):					

Compliance History Period:	September 01, 2009 to August 31, 2014	Rating Year:	2014	Rating Date:	09/01/2014
Date Compliance History Report Prepared:	June 18, 2015				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	June 18, 2010 to June 18, 2015				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Raime Hayes-Falero

Phone: (713) 767-3567

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 May 06, 2015 (1248393)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	07/25/2014 (1173691)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 101, SubChapter A 101.4 5C THSC Chapter 382 382.085(b)		

Description: Failure to comply with the Texas Commission on Environmental Quality (TCEQ) nuisance regulation 30 TAC §101.4 Nuisance.

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 6/18/2010 and 6/18/2015

- 1 Date: 04/14/2011 (912517)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THSC Chapter 382 382.085(b)
Description: Productos Real failed to comply with the Texas Commission on Environmental Quality (TCEQ)'s nuisance regulation.
- 2 Date: 05/11/2011 (907666)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to have a Multi-Sector Storm Water Discharge Permit or No Exposure Certification. The facility meets the SIC Code 2011 (Meat Products), which is subject to TPDES Multi-Sector General Permit (TXR050000) under Sector U.
- 3 Date: 06/03/2011 (913382)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 327 327.5
TWC Chapter 26 26.121
Description: Failure to prevent the unauthorized discharge of grease solid waste/water. Specifically, the entity discharged approximately 20 gallons of grease solid waste/water onto the entity's asphalted parking lot.
- 4 Date: 06/17/2011 (920686)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THSC Chapter 382 382.085(b)
Description: Failure to control spent facility grease and wastewater odor; specifically, the Productos Real facility spent grease and wastewater is creating a highly offensive odor that is creating an air quality nuisance in the general area per the 30 TAC § 101.4 agency rule.
- 5* Date: 07/25/2014 (1173691)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THSC Chapter 382 382.085(b)
Description: Failure to comply with the Texas Commission on Environmental Quality (TCEQ) nuisance regulation 30 TAC §101.4 Nuisance.

* NOVs applicable for the Compliance History rating period 9/1/2009 to 8/31/2014

Appendix B

All Investigations Conducted During Component Period June 18, 2010 and June 18, 2015

- Item 1 June 03, 2011** (913382)
Item 2 September 16, 2011** (956201)
Item 3 October 11, 2011** (962100)
Item 4 February 16, 2015 (1222732)
Item 5* May 06, 2015 (1248393)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2009 and 08/31/2014.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN § **BEFORE THE**
ENFORCEMENT ACTION §
CONCERNING § **TEXAS COMMISSION ON**
RD FOOD MANUFACTURING, INC §
RN101058386 § **ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2015-0518-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding RD Food Manufacturing, Inc ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a food processing plant located at 1100 Pendale Road in El Paso, El Paso County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review conducted on February 3, 2015, TCEQ staff documented highly offensive, moderately strong, rancid cooking odors emanating from the Plant at an off-site property on June 11, 2014.
4. The Respondent received notice of the violations on February 19, 2015.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382, TEX. WATER CODE ch. 7, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the release of odors which are in such concentration and of such duration as are or may be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Three Thousand Nine Hundred Thirty-Seven Dollars (\$3,937) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Three Thousand Nine Hundred Thirty-Seven Dollar (\$3,937) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand Nine Hundred Thirty-Seven Dollars (\$3,937) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: RD Food Manufacturing, Inc, Docket No. 2015-0518-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit a plan to (i) the Air Section Manager of the TCEQ El Paso Regional Office, (ii) the TCEQ Order Compliance Team, and (iii) the City of El Paso Environmental Services Department – Air Quality Program at the respective addresses listed in Ordering Provision No. 2.d., setting forth best management practices designed to prevent the emission of odors from all potential sources at the Plant (the “Plan”). The Plan shall, at a minimum, include schedules, standard operating procedures, plans for implementation, and maintenance practices designed to:
 - i. Minimize odors from:
 - (1) All cooking room vents;
 - (2) All long stacks located on top of the roof;
 - (3) All waste water from the cooking process; and
 - (4) All waste water treatment areas, associated equipment, and buildings, including air vents, doorways, and crevices.
 - ii. Minimize the storage of solid and liquid wastes in containers at the Plant, including 55-gallon drums;
 - iii. Ensure that all containers used for the storage or disposal of solid and liquid waste are enclosed;
 - iv. Implement a comprehensive Plant maintenance program;
 - v. Equip the Plant with exhaust abatement equipment;
 - vi. Contract an industrial consultant who is knowledgeable and experienced with best available control technologies for organic compounds;
 - vii. Operate the ozone dispersing unit during processes;
 - viii. Replace the charcoal filters on the charcoal filtering system on a as needed basis;
 - ix. Repair the ozonators and vapor misters and maintain them in good condition and operated properly during Plant operation;

- x. Ensure all Plant doors and windows are closed during processes; and
 - xi. Ensure the proper disposal of solid and liquid waste on a daily basis, unless a less frequent basis is determined by the TCEQ, upon a showing of good cause by the Respondent, to be adequate to eliminate the odor nuisance.
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information and/or modification made by the Executive Director concerning the Plan within 30 days after the date of such request, or by any other deadline specified in writing;
 - c. Upon Commission approval of the Plan, implement all provisions of the approved Plan, in accordance with the approved schedule; and
 - d. Within 30 days after completion of the approved Plan implementation, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. 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
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

and a copy to:

Air Quality Program, Supervisor
City of El Paso
Environmental Services Department – Air Quality Program
7968 San Paulo Drive
El Paso, Texas 79907

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Gracey Miller for Ramiro Garcia, Jr.
For the Executive Director

9.22.16
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of RD Food Manufacturing, Inc. I am authorized to agree to the attached Agreed Order on behalf of RD Food Manufacturing, Inc, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, RD Food Manufacturing, Inc waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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]
Signature

8/3/16
Date

Maricarmen Moncrief
Name (Printed or typed)
Authorized Representative of
RD Food Manufacturing, Inc

Vice-President
Title

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