

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0605-AIR-E **TCEQ ID:** RN100225523 **CASE NO.:** 33230

RESPONDENT NAME: Trinity Industries, Inc.

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <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 | |
| CASE TYPE: | | |
| <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>SITE WHERE VIOLATION(S) OCCURRED: Trinity Industries Plant 117, 1815 South Main Street, Vidor, Orange County</p> <p>TYPE OF OPERATION: Railcar refurbishing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 3, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, R-13, (210) 403-4006; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Larry Lewis, Plant Manager, Trinity Industries, Inc., 1815 South Main Street, Vidor, Texas 77882-9122 S. Theis Rice, Vice President and Chief Legal Officer, Trinity Industries, Inc., 1815 South Main Street, Vidor, Texas 77882-9122 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 6, 2007</p> <p>Date of NOE Relating to this Case: April 5, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Three violations were documented.</p> <p>AIR</p> <p>1) Failure to provide monthly gasoline throughput on an annual basis for 2004, 2005, and 2006 in order to demonstrate that the vehicle refueling operations are exempt from Stage II Vapor Recovery requirements [30 TEX. ADMIN. CODE §§ 115.247(2) and 122.143(4), Federal Operating Permit ("FOP") No. O-01656, General Terms and Conditions, Special Terms and Conditions 5.C. and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to operate Abrasive Cleaning Operation INTB-3 with a dust collection system in conjunction with sponge blasting [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), FOP No. O-01656, General Terms and Conditions, Special Terms and Conditions 6 and New Source Review Permit No. 19705, Special Provision 8 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to submit deviation reports that include the two deviations (one for not submitting gasoline throughput annually and one for not operating with a dust collection system) for four semi-annual deviation periods between November 3, 2004 and November 2, 2006 and in two annual compliance certification reports between November 3, 2004 and November 2, 2006 [30 TEX. ADMIN. CODE §§</p> | <p>Total Assessed: \$12,000</p> <p>Total Deferred: \$2,400 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$9,600</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement measures designed to ensure that gasoline throughput records are recorded monthly and submitted annually;</p> <p>ii. Install a dust collection system and ensure that it is operated in conjunction with sponge blasting operations; and</p> <p>iii. On the next deviation report, include deviations for not submitting gasoline throughput annually during calendar years 2004, 2005, and 2006 and for not operating with a dust collection system, as documented during the investigation on February 2, 2007.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.i. through a.iii.</p> |

| | | |
|---|--|--|
| 122.145(2)(A) and (B), 122.146(5)(D) and 122.143(4), FOP No. O-01656, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | | |
|---|--|--|



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 9-Apr-2007 | Screening | 17-Apr-2007 | EPA Due | |
| | PCW | 13-Apr-2007 | | | | |

| | | | |
|--|--------------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Trinity Industries, Inc. | | |
| Reg. Ent. Ref. No. | RN100225523 | | |
| Facility/Site Region | 10 - Beaumont | Major/Minor Source | Major |

| | | | | |
|-------------------------|-----------------|-------------------|-------------------|----------|
| CASE INFORMATION | | | | |
| Enf./Case ID No. | 33230 | No. of Violations | 3 | |
| Docket No. | 2007-0605-AIR-E | Order Type | 1660 | |
| Media Program(s) | Air | Enf. Coordinator | Trina Grieco | |
| Multi-Media | | EC's Team | EnforcementTeam 6 | |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$12,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7 \$0

Notes: No penalty enhancements or reductions due to Average Performer Classification.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$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.

Total EB Amounts 0% Enhancement* Subtotal 6 \$0
Approx. Cost of Compliance \$314 *Capped at the Total EB \$ Amount \$3,700

SUM OF SUBTOTALS 1-7 Final Subtotal \$12,000

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount \$12,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$12,000

DEFERRAL 20% Reduction Adjustment -\$2,400

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 \$9,600

Screening Date 17-Apr-2007

Docket No. 2007-0605-AIR-E

PCW

Respondent Trinity Industries, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33230

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100225523

Media [Statute] Air

Enf. Coordinator Trina Grieco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component Number of... Enter Number Here Adjust.

| | | | |
|-------------------------------|--|---|----|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 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 (number of judgments or consent decrees meeting criteria) | 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 (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 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 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 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%

>> 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

No penalty enhancements or reductions due to Average Performer Classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 17-Apr-2007

Docket No. 2007-0605-AIR-E

PCW

Respondent Trinity Industries, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33230

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100225523

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 115.247(2) and 122.143(4), Federal Operating Permit ("FOP") No. O-01656, General Terms and Conditions, Special Terms and Conditions 5.C. and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to provide monthly gasoline throughput on an annual basis for 2004, 2005, and 2006 in order to demonstrate that the vehicle refueling operations are exempt from Stage II Vapor Recovery requirements.

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|----------------------|----------------------|---------------------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|-------------------------------------|--------------------------|--------------------------|----------------------------------|
| <input type="text"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="text" value="25%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | | |
|-------------------------|----------------------|-------------------------------------|
| mark only one with an x | daily | <input type="text"/> |
| | monthly | <input type="text"/> |
| | quarterly | <input type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input checked="" type="checkbox"/> |
| single event | <input type="text"/> | |

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Trinity Industries, Inc.
Case ID No. 33230
Reg. Ent. Reference No. RN100225523
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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|------------|-----|-------|-----|-------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,200 | 31-Jan-2005 | 1-Dec-2007 | 2.8 | \$170 | n/a | \$170 |

Notes for DELAYED costs

Estimated cost for an employee to record monthly gasoline throughput and submit the records annually. Date required based on the day the first annual report was due. Final date based on the projected compliance date.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,200

TOTAL

\$170

Screening Date 17-Apr-2007

Docket No. 2007-0605-AIR-E

PCW

Respondent Trinity Industries, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33230

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100225523

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), FOP No. O-01656, General Terms and Conditions, Special Terms and Conditions 6 and New Source Review Permit No. 19705, Special Provision 8 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to operate Abrasive Cleaning Operation INTB-3 with a dust collection system in conjunction with sponge blasting.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 25%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Human health and the environment in the Beaumont-Port Arthur non-attainment area has been exposed to an insignificant amount of pollutants which did not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

70 Number of violation days

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | monthly | |
| | quarterly | X |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of February 6, 2007 to the screening date of April 17, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$82

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Trinity Industries, Inc.
Case ID No. 33230
Reg. Ent. Reference No. RN100225523
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 |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$2,000 | 6-Feb-2007 | 1-Dec-2007 | 0.8 | \$82 | n/a | \$82 |

Notes for DELAYED costs

Estimated cost to have a dust collection system installed. Date required based on the investigation date. Final date based on the projected compliance date.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$82

Screening Date 17-Apr-2007

Docket No. 2007-0605-AIR-E

PCW

Respondent Trinity Industries, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33230

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100225523

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 122.145(2)(A) and (B), 122.146(5)(D) and 122.143(4), FOP No. O-01656, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit deviation reports that include the two deviations (one for not submitting gasoline throughput annually and one for not operating with a dust collection system) for four semi-annual deviation periods between November 3, 2004 and November 2, 2006 and in two annual compliance certification reports between November 3, 2004 and November 2, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 0% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | x | | 10% |

Matrix Notes

Approximately 50% of the rule requirements were not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 549

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | x |
| single event | |

mark only one with an x

Violation Base Penalty \$2,000

Two annual events are recommended for the two incomplete annual certifications that were submitted.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$62

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

Economic Benefit Worksheet

Respondent Trinity Industries, Inc.
Case ID No. 33230
Reg. Ent. Reference No. RN100225523
Media Air
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$500 | 2-Jun-2005 | 1-Dec-2007 | 2.5 | \$62 | n/a | \$62 |

Notes for DELAYED costs

Estimated expense to implement measures designed to ensure deviations are reported. Date required based on the date the first semi-annual deviation report was due. Final date based on the projected compliance date.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$62

Compliance History

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|--|-------------------|-----------------------|----------------|---------|-----------------------|--------|------|------------------------|--------|-------|------------------------|----------------|---------|------------------------|---------|------------|---|----------------------------------|-------|---|--------|--------------|---|--------|--------------|---|----------------------------------|-------|
| Customer/Respondent/Owner-Operator: | CN600127807 Trinity Industries, Inc. | Classification: AVERAGE | Rating: 11.28 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Regulated Entity: | RN100225523 TRINITY INDUSTRIES PLANT 117 | Classification: HIGH | Site Rating: 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ID Number(s): | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 25%;">ACCOUNT NUMBER</td> <td style="width: 25%;">OC0024J</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>1656</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>19705</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>OC0024J</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4836100023</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>70116</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXD072201080</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXD072201080</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>70116</td> </tr> </table> | | | AIR OPERATING PERMITS | ACCOUNT NUMBER | OC0024J | AIR OPERATING PERMITS | PERMIT | 1656 | AIR NEW SOURCE PERMITS | PERMIT | 19705 | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | OC0024J | AIR NEW SOURCE PERMITS | AFS NUM | 4836100023 | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 70116 | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD072201080 | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD072201080 | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 70116 |
| AIR OPERATING PERMITS | ACCOUNT NUMBER | OC0024J | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR OPERATING PERMITS | PERMIT | 1656 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | PERMIT | 19705 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | OC0024J | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | AFS NUM | 4836100023 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 70116 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD072201080 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD072201080 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 70116 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Location: | 1815 S MAIN ST, VIDOR, TX, 77662 | Rating Date: September 01 06 Repeat Violator: NO | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TCEQ Region: | REGION 10 - BEAUMONT | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date Compliance History Prepared: | April 12, 2007 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Compliance Period: | April 12, 2002 to April 12, 2007 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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

Name: Trina Grieco Phone: (210) 403-4006

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? | No |
| 3. If Yes; who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

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 | 02/26/2003 | (24729) |
| 2 | 02/26/2003 | (24734) |
| 3 | 07/16/2003 | (114078) |
| 4 | 02/25/2004 | (260845) |
| 5 | 12/27/2004 | (343645) |
| 6 | 01/14/2005 | (344741) |
| 7 | 01/25/2005 | (345308) |
| 8 | 01/25/2005 | (345302) |
| 9 | 01/25/2005 | (345310) |
| 10 | 01/25/2005 | (345289) |
| 11 | 01/25/2005 | (345304) |
| 12 | 01/25/2005 | (345305) |
| 13 | 01/25/2005 | (345312) |
| 14 | 01/25/2005 | (345298) |
| 15 | 03/11/2005 | (350421) |
| 16 | 03/11/2005 | (350412) |

17 03/29/2005 (373814)
18 04/14/2005 (377561)
19 05/31/2005 (393553)
20 06/23/2005 (397161)
21 11/03/2005 (432470)
22 11/03/2005 (432476)
23 11/03/2005 (432482)
24 01/04/2006 (451115)
25 04/05/2007 (542216)

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

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
TRINITY INDUSTRIES, INC.
RN100225523

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0605-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 Trinity Industries, Inc. ("Trinity Industries") 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 Trinity Industries appear before the Commission and together stipulate that:

1. Trinity Industries owns and operates a railcar refurbishing plant at 1815 South Main Street in Vidor, Orange 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 Trinity Industries agree that the Commission has jurisdiction to enter this Agreed Order, and that Trinity Industries is subject to the Commission's jurisdiction.
4. Trinity Industries received notice of the violations alleged in Section II ("Allegations") on or about April 10, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Trinity Industries of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Dollars (\$12,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Trinity Industries has paid Nine Thousand Six Hundred Dollars (\$9,600) of the administrative penalty and Two Thousand Four Hundred Dollars (\$2,400) is deferred contingent upon Trinity Industries'

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 Trinity Industries fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Trinity Industries 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 Trinity Industries have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
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 Trinity Industries 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, Trinity Industries is alleged to have:

1. Failed to provide monthly gasoline throughput on an annual basis for 2004, 2005, and 2006 in order to demonstrate that the vehicle refueling operations are exempt from Stage II Vapor Recovery requirements, in violation of 30 TEX. ADMIN. CODE §§ 115.247(2) and 122.143(4), Federal Operating Permit ("FOP") No. O-01656, General Terms and Conditions and Special Terms and Conditions 5.C. and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 6, 2007.
2. Failed to operate Abrasive Cleaning Operation INTB-3 with a dust collection system in conjunction with sponge blasting, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), FOP No. O-01656, General Terms and Conditions and Special Terms and Conditions 6 and New Source Review Permit No. 19705, Special Provision 8 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 6, 2007.
3. Failed to submit deviation reports that include the two deviations (one for not submitting gasoline throughput annually and one for not operating with a dust collection system) for four semi-annual deviation periods between November 3, 2004 and November 2, 2006 and in two annual compliance certification reports between November 3, 2004 and November 2, 2006, in violation of 30 TEX. ADMIN. CODE §§ 122.145(2)(A) and (B), 122.146(5)(D) and 122.143(4), FOP No. O-01656, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted on February 6, 2007.

III. DENIALS

Trinity Industries generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Trinity Industries pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Trinity Industries' 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: Trinity Industries, Inc., Docket No. 2007-0605-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 Trinity Industries shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement measures designed to ensure that gasoline throughput records are recorded monthly and submitted annually;
 - ii. Install a dust collection system and ensure that it is operated in conjunction with sponge blasting operations; and
 - iii. On the next deviation report, include deviations for not submitting gasoline throughput annually during calendar years 2004, 2005, and 2006 and for not operating with a dust collection system, as documented during the investigation on February 2, 2007.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

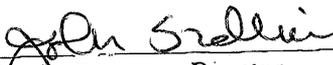
3. The provisions of this Agreed Order shall apply to and be binding upon Trinity Industries. Trinity Industries is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Trinity Industries fails to comply 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, Trinity Industries' failure to comply is not a violation of this Agreed Order. Trinity Industries shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Trinity Industries shall notify the Executive Director within seven days after Trinity Industries 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 Trinity Industries shall be made in writing to the Executive Director. Extensions are not effective until Trinity Industries 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 Trinity Industries in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Trinity Industries, or three days after the date on which the Commission mails notice of the Order to Trinity Industries, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Trinity Industries, Inc.
DOCKET NO. 2007-0605-AIR-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

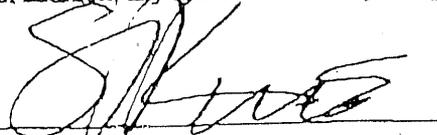
8/27/07
Date

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

June 18, 2007
Date

S. Theis Rice
Name (Printed or typed)
Authorized Representative of
Trinity Industries, Inc

Vice President and Chief Legal Officer
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.

