

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1235-AIR-E **TCEQ ID:** RN101638641 **CASE NO.:** 34344

RESPONDENT NAME: Griffin Industries, Inc.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Griffin Industries Bastrop Plant, 264 Farm-to-Market Road 2336, Bastrop County</p> <p>TYPE OF OPERATION: Rendering 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 February 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Shawn Griffin, General Manager, Griffin Industries, Inc., 264 Farm-to-Market Road 2336, Bastrop, Texas 78602 Mr. Martin W. Griffin, C.O.O., Griffin Industries, Inc., 264 Farm-to-Market Road 2336, Bastrop, Texas 78602 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 type="checkbox"/> Routine <input checked="" 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: June 13, 2007</p> <p>Date of NOV/NOE Relating to this Case: August 31, 2007</p> <p>Background Facts: This was a follow-up investigation to determine if the Respondent had resolved an NOV issued on June 22, 2006.</p> <p>AIR</p> <p>Failed to operate plant processes within TCEQ regulatory limits for hydrogen sulfide ("H₂S") [30 TEX. ADMIN. CODE § 112.32 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$5,250</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,250</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on September 22, 2006, the Respondent, in agreement with the TCEQ, voluntarily ordered a vapor recovery system for the Plant's anaerobic lagoon. On February 21, 2007 installation of the system lagoon cover was completed and on March 14, 2007, the six-inch pipe associated to the lagoon cover was tied into the system flare in order to reduce hydrogen sulfide emissions.</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, develop and submit for review and approval an H₂S perimeter monitoring plan which shall include provisions for sampling points around the Plant's perimeter; and</p> <p>b. Within 45 days after receiving approval of the perimeter monitoring plan, submit written certification that the protocol has been implemented and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): BC0024K



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

DATES	Assigned	2-Jul-2007	Screening	30-Jul-2007	EPA Due	
	PCW	4-Sep-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Griffin Industries, Inc.
Reg. Ent. Ref. No.	RN101638641
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34344	No. of Violations	1	
Docket No.	2007-1235-AIR-E	Order Type	Findings	
Media Program(s)	Air	Enf. Coordinator	Jessica Rhodes	
Multi-Media		EC's Team	EnforcementTeam 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 30-Jul-2007

Docket No. 2007-1235-AIR-E

PCW

Respondent Griffin Industries, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34344

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101638641

Media [Statute] Air

Enf. Coordinator Jessica Rhodes

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)	1	5%
	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 judgements 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) 5%

>> **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

Penalty enhancement due to one Notice of Violation for same or similar violations.

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

Screening Date 30-Jul-2007	Docket No. 2007-1235-AIR-E	PCW		
Respondent Griffin Industries, Inc.	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34344	<i>PCW Revision June 26, 2007</i>			
Reg. Ent. Reference No. RN101638641				
Media [Statute] Air				
Enf. Coordinator Jessica Rhodes				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 112.32 and Tex. Health & Safety Code § 382.085(b)"/>			
Violation Description	<input ("ppm")="" 0.12="" 1,="" 1.06="" 2,="" 2007="" 2007,="" 30-minute="" 6.70="" a="" at="" average="" averaged="" concentration="" concentrations="" conducted="" during="" event="" exceeded.="" fence="" ground="" h2s="" h2s").="" level="" line="" march="" million="" net="" of="" on="" over="" parts="" peak="" per="" period="" ppm,="" ppm."="" recorded="" sampling="" specifically,="" the="" through="" type="text" value="Failed to operate plant processes within TCEQ regulatory limits for hydrogen sulfide (" was="" were="" with=""/>			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="50%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="Human health or the environment was exposed to significant amounts of pollutants which exceeded levels that are protective of human health or environmental receptors as a result of the violation."/>			
		Adjustment	<input type="text" value="\$5,000"/>	
			<input type="text" value="\$5,000"/>	
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="2"/>	<input type="text"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text" value="x"/>		
		Violation Base Penalty	<input type="text" value="\$5,000"/>	
<input type="text" value="One single event is recommended for the sampling event."/>				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$251"/>	Violation Final Penalty Total	<input type="text" value="\$5,250"/>	
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$5,250"/>	

Economic Benefit Worksheet

Respondent Griffin Industries, Inc.
Case ID No. 34344
Reg. Ent. Reference No. RN101638641
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	n/a	\$0
Training/Sampling	\$2,000	1-Mar-2007	1-Mar-2008	1.0	\$100	n/a	\$100
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$3,000	1-Mar-2007	1-Mar-2008	1.0	\$150	n/a	\$150

Notes for DELAYED costs

Estimated cost to develop procedures to ensure that H2S is within the regulatory limits and to provide the TCEQ with a description of action taken as a result of the March 1, 2007 elevated levels of H2S. Date Required is based on the first day of the emissions exceedance. Final Date is based on the projected date of compliance.

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

\$5,000

TOTAL

\$251

Compliance History

Customer/Respondent/Owner-Operator:	CN600473482 Griffin Industries, Inc.	Classification: AVERAGE	Rating: 9.22
Regulated Entity:	RN101638641 GRIFFIN INDUSTRIES BASTROP PLANT	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	BC0024K
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	9576
	AIR NEW SOURCE PERMITS	PERMIT	15353A
	AIR NEW SOURCE PERMITS	PERMIT	19942
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BC0024K
	AIR NEW SOURCE PERMITS	AFS NUM	4802100008
	AIR NEW SOURCE PERMITS	REGISTRATION	80074
	AIR NEW SOURCE PERMITS	REGISTRATION	81948
STORMWATER	PERMIT	TXR05N797	
Location:	264 FM 2336, BASTROP COUNTY	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	July 30, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 30, 2002 to July 30, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jessica Rhodes	Phone:	512-239-2879

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 | 06/29/2006 | (482611) |
| 2 | 06/28/2007 | (564169) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|--------------|---|--------------------------|
| Date: | 07/05/2006 | (482611) |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 112, SubChapter B 112.32
5C THC Chapter 382, SubChapter D 382.085(b) | |
| Description: | Failure to operate plant process within TCEQ regulatory limits for Hydrogen Sulfide. | |
| | Specifically, the TCEQ Mobile Monitoring Team documented elevated fence line concentrations of Hydrogen Sulfide at the fence line of 1.06 ppmv (30-minute net average concentration). | |
- 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
GRIFFIN INDUSTRIES, INC.
RN101638641

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1235-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 Griffin Industries, Inc. ("Griffin") 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 Griffin presented this agreement to the Commission.

Griffin understands that they have 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, Griffin 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 Griffin.

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

I. FINDINGS OF FACT

1. Griffin owns and operates a rendering plant at 264 Farm-to-Market Road 2336 in Bastrop 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 an investigation on June 13, 2007, TCEQ staff documented Griffin failed to operate plant processes within TCEQ regulatory limits for hydrogen sulfide ("H₂S"). Specifically, during a sampling event conducted on March 1, 2007 through March 2, 2007, the net ground level H₂S concentration of 0.12 parts per million ("ppm") averaged over a 30-minute period was exceeded. Fence line 30-minute net average concentrations of H₂S were recorded at 1.06 ppm, with a peak of 6.70 ppm.
4. Griffin received notice of the violations on July 5, 2007.
5. The Executive Director recognizes that on September 22, 2006, Griffin, in agreement with the TCEQ, voluntarily ordered a vapor recovery system for the Plant's anaerobic lagoon. On February 21, 2007 installation of the system lagoon cover was completed and on March 14, 2007, the six-inch pipe associated to the lagoon cover was tied into the system flare in order to reduce hydrogen sulfide emissions.

II. CONCLUSIONS OF LAW

1. Griffin is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, Griffin failed to operate plant processes within TCEQ regulatory limits for H₂S, in violation of 30 TEX. ADMIN. CODE § 112.32 and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Griffin 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 Five Thousand Two Hundred Fifty Dollars (\$5,250) 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. Griffin has paid the Five Thousand Two Hundred Fifty Dollar (\$5,250) administrative penalty.

III. ORDERING PROVISIONS

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

1. Griffin is assessed an administrative penalty in the amount of Five Thousand Two Hundred Fifty Dollars (\$5,250) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Griffin'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: Griffin Industries, Inc., Docket No. 2007-1235-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. Griffin shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, develop and submit for review and approval an H₂S perimeter monitoring plan which shall include provisions for sampling points around the Plant's perimeter to:

Monitoring Operations
Office of Compliance and Enforcement, MC 165
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after receiving approval of the perimeter monitoring plan, submit written certification that the protocol has been implemented and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon Griffin. Griffin 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 Griffin 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, Griffin's failure to comply is not a violation of this Agreed Order. Griffin shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Griffin shall notify the Executive Director within seven days after Griffin 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 Griffin shall be made in writing to the Executive Director. Extensions are not effective until Griffin 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 Griffin if the Executive Director determines that Griffin 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 Griffin 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 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdien
For the Executive Director

2/6/2008
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Griffin Industries, Inc. I am authorized to agree to the attached Agreed Order on behalf of Griffin Industries, 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, Griffin Industries, 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.

Martin W. Griffin
Signature

11/16/07
Date

Martin W. Griffin
Name (Printed or typed)
Authorized Representative of
Griffin Industries, Inc.

C.O.O.
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.

