

**Executive Summary – Enforcement Matter – Case No. 46776**  
**Trinity Industries, Inc.**  
**RN100225804**  
**Docket No. 2013-0874-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Trinity North American Freight Car Plant 1192, 104 East Bailey Boswell Road, Saginaw,  
Tarrant County

**Type of Operation:**

Railcar manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 8, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$25,614

**Amount Deferred for Expedited Settlement:** \$5,122

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$20,492

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 29, 2013

**Date(s) of NOE(s):** May 7, 2013

**Executive Summary – Enforcement Matter – Case No. 46776**  
**Trinity Industries, Inc.**  
**RN100225804**  
**Docket No. 2013-0874-AIR-E**

***Violation Information***

1. Failed to conduct visible emissions observations of stationary vents at least once during each calendar quarter. Specifically, Respondent was not conducting quarterly visible emissions observations for two natural gas fired stress relief ovens and the abrasive blasting facility in the interior lining building [30 TEX. ADMIN. CODE § 122.143(4), Federal Operating Permit ("FOP") No. O1658, Special Terms and Conditions No. 3.B., and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to maintain a copy of all Permit By Rules ("PBRs") claimed at the Plant. Specifically, Respondent was operating two natural gas fired curing ovens for which it claimed authorization under 30 TEX. ADMIN. CODE § 106.183, but did not maintain a copy of the PBR [30 TEX. ADMIN. CODE § 106.8(c)(1) and (c)(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to comply with the 500 pounds ("lbs") per week emissions limit for volatile organic compounds ("VOC") for surface coating operations. Specifically, the VOC emissions from the surface coating operation located on the west end of the interior lining building were 609.48 lbs during the week of July 9, 2012 through July 14, 2012, resulting in the release of 109.48 lbs of unauthorized emissions [30 TEX. ADMIN. CODE § 106.433(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to submit a deviation report for at least each six-month period after permit issuance. Specifically, a deviation report was not submitted for the reporting periods from November 26, 2011 through May 25, 2012 and from May 26, 2012 through November 25, 2012, although deviations occurred during these reporting periods [30 TEX. ADMIN. CODE § 122.145(2)(B), FOP No. O1658, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].
5. Failed to authorize units under the Federal Operating Permit ("FOP"). Specifically, two natural gas fired curing ovens were not included in FOP No. O1658 [30 TEX. ADMIN. CODE § 122.121 and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

- a. On January 29, 2013, began maintaining copies of all PBRs claimed at the Plant;
- b. On March 18, 2013, began conducting quarterly visible emissions observations at the two curing ovens and the abrasive blasting unit; and
- c. On April 10, 2013, trained personnel to ensure that the weekly emission limits for surface coating operations are not exceeded.

**Technical Requirements:**

The Order will require the Respondent to:

**Executive Summary – Enforcement Matter – Case No. 46776**  
**Trinity Industries, Inc.**  
**RN100225804**  
**Docket No. 2013-0874-AIR-E**

- a. Within 30 days, implement measures to ensure that all deviations are reported as required;
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.;
- c. Within 90 days, implement measures to ensure that all emission units are authorized under FOP No. O1658; and
- d. Within 180 days, submit written certification demonstrating compliance with Ordering Provision 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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondents:** David West, Senior Environmental Manager, Trinity Industries, Inc., P.O. Box 568887, Dallas, Texas 75356-8887  
S. Theis Rice, Senior Vice President, Trinity Industries, Inc., P.O. Box 568887, Dallas, Texas 75356-8887,  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

**DATES** Assigned  PCW  Screening  EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent   
 Reg. Ent. Ref. No.   
 Facility/Site Region  Major/Minor Source

## CASE INFORMATION

Enf./Case ID No.  No. of Violations   
 Docket No.  Order Type   
 Media Program(s)  Government/Non-Profit   
 Multi-Media  Enf. Coordinator   
 EC's Team   
 Admin. Penalty \$ Limit Minimum  Maximum

## 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**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

Total EB Amounts   
 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.

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 2-May-2013

Docket No. 2013-0874-AIR-E

PCW

Respondent Trinity Industries, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46776

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225804

Media [Statute] Air

Enf. Coordinator Nadia Hameed

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
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) 20%

>> 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 order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 20%

Screening Date 2-May-2013  
 Respondent Trinity Industries, Inc.  
 Case ID No. 46776

Docket No. 2013-0874-AIR-E

PCW

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225804  
 Media [Statute] Air  
 Enf. Coordinator Nadia Hameed  
 Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 122.143(4), Federal Operating Permit ("FOP") No. O1658, Special Terms and Conditions No. 3.B. and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct visible emissions observations for stationary vents at least once during each calendar quarter. Specifically, the Respondent was not conducting quarterly visible emissions observations for two natural gas fired stress relief ovens and the abrasive blasting facility in the interior lining building.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				7.0%
	Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment will or could have been exposed to insignificant amounts of pollutants which would not have exceeded levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 3 Number of violation days 365

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

Violation Base Penalty \$5,250

Three single events are recommended for the three units.

Good Faith Efforts to Comply

25.0% Reduction \$1,312

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

Notes

The Respondent completed the corrective actions on March 18, 2013, prior to the May 7, 2013, NOE.

Violation Subtotal \$3,938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$4,988

This violation Final Assessed Penalty (adjusted for limits) \$4,988

# Economic Benefit Worksheet

**Respondent** Trinity Industries, Inc.  
**Case ID No.** 46776  
**Reg. Ent. Reference No.** RN100225804  
**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)	\$500	29-Jan-2013	18-Mar-2013	0.13	\$3	n/a	\$3

**Notes for DELAYED costs**

Estimated expense to conduct quarterly observations for visible emissions. The Date Required is the date of the investigation and the Final Date is the date the corrective actions were completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$3

Screening Date 2-May-2013  
 Respondent Trinity Industries, Inc.  
 Case ID No. 46776

Docket No. 2013-0874-AIR-E

PCW

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225804

Media [Statute] Air  
 Enf. Coordinator Nadia Hameed

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 106.8(c)(1) and (c)(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain a copy of all permits by rule ("PBRs") claimed at the Plant. Specifically, the Respondent was operating two natural gas fired curing ovens for which it claimed authorization under 30 Tex. Admin. Code § 106.183, but did not maintain a copy of the PBR.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes 100 percent of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 365 Number of violation days

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

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes The Respondent completed the corrective actions on January 29, 2013, prior to the May 7, 2013, NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,563

This violation Final Assessed Penalty (adjusted for limits) \$3,563

# Economic Benefit Worksheet

**Respondent** Trinity Industries, Inc.  
**Case ID No.** 46776  
**Reg. Ent. Reference No.** RN100225804  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$50	29-Jan-2013	29-Jan-2013	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to keep copies of the PBRs on file. The Date Required is the date of the investigation and the Final Date is the date the corrective actions were completed.

**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

\$50

TOTAL

\$0

Screening Date 2-May-2013  
 Respondent Trinity Industries, Inc.  
 Case ID No. 46776

Docket No. 2013-0874-AIR-E

PCW

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225804

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 106.433(7)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the 500 pounds ("lbs") per week emissions limit for volatile organic compounds ("VOC") for surface coating operations. Specifically, the VOC emissions from the surface coating operation located on the west end of the interior lining building were 609.48 lbs during the week of July 9, 2012 through July 14, 2012, resulting in 109.48 lbs of unauthorized emissions.

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 insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 5 Number of violation days

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

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes The Respondent completed the corrective actions on April 10, 2013, prior to the May 7, 2013, NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$3,563

This violation Final Assessed Penalty (adjusted for limits) \$3,563

# Economic Benefit Worksheet

**Respondent** Trinity Industries, Inc.

**Case ID No.** 46776

**Reg. Ent. Reference No.** RN100225804

**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
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	\$500	9-Jul-2012	10-Apr-2013	0.75	\$19	n/a	\$19
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated expense to conduct training to ensure that allowable emission limits are not exceeded. The Date Required is the date of the exceedance and the Final Date is the date the corrective actions were completed.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$500

**TOTAL**

\$19

Screening Date 2-May-2013  
 Respondent Trinity Industries, Inc.  
 Case ID No. 46776

Docket No. 2013-0874-AIR-E

PCW

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225804  
 Media [Statute] Air  
 Enf. Coordinator Nadia Hameed

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 122.145(2)(B), FOP No. O1658, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit a deviation report for at least each six-month period after permit issuance. Specifically, a deviation report was not submitted for the reporting period from November 26, 2011 through May 25, 2012 and from May 26, 2012 through November 25, 2012, although deviations occurred during these reporting periods.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes 100 percent of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 365

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

Violation Base Penalty \$7,500

Two single events are recommended for the two missed reports.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$40

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

## Economic Benefit Worksheet

**Respondent** Trinity Industries, Inc.

**Case ID No.** 46776

**Reg. Ent. Reference No.** RN100225804

**Media** Air

**Violation No.** 4

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)	\$500	24-Jun-2012	26-Jan-2014	1.59	\$40	n/a	\$40

Notes for DELAYED costs

Estimated expense to ensure that all the deviations are reported as required. The Date Required is the date the first report was due and the Final Date is the date the corrective actions are expected to be completed.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$40

Screening Date 2-May-2013  
 Respondent Trinity Industries, Inc.  
 Case ID No. 46776

Docket No. 2013-0874-AIR-E

PCW

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225804  
 Media [Statute] Air  
 Enf. Coordinator Nadia Hameed

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 122.121 and Tex. Health & Safety Code §§ 382.054 and 382.085(b)

Violation Description Failed to authorize units under the FOP. Specifically, two natural gas fired curing ovens were not included in FOP No. O1658.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			15.0%

Matrix Notes: 100 percent of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 365

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$885

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

# Economic Benefit Worksheet

**Respondent** Trinity Industries, Inc.  
**Case ID No.** 46776  
**Reg. Ent. Reference No.** RN100225804  
**Media** Air  
**Violation No.** 5

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	\$2,500	30-Mar-2007	27-Apr-2014	7.08	\$885	n/a	\$885
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated expense to authorize all emission units under the FOP. The Date Required is the date of the FOP issuance and the Final Date is the date the corrective actions are expected to be completed.

**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

\$2,500

**TOTAL**

\$885

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600127807, RN100225804, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600127807, Trinity Industries, Inc.      **Classification:** SATISFACTORY      **Rating:** 6.24

**Regulated Entity:** RN100225804, TRINITY NORTH      **Classification:** SATISFACTORY      **Rating:** 3.38  
AMERICAN FREIGHT CAR PLANT 1192

**Complexity Points:** 12      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 104 E BAILEY BOSWELL RD SAGINAW, TX 76179-5616, TARRANT COUNTY

**TCEQ Region:** REGION 04 - DFW METROPLEX

### ID Number(s):

<b>AIR OPERATING PERMITS PERMIT 1658</b>	<b>AIR OPERATING PERMITS ACCOUNT NUMBER TA0499A</b>
<b>AIR OPERATING PERMITS PERMIT 1650</b>	<b>AIR OPERATING PERMITS ACCOUNT NUMBER TA0499A</b>
<b>AIR OPERATING PERMITS ACCOUNT NUMBER TA0285V</b>	<b>INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD094263399</b>
<b>INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 32104</b>	<b>AIR NEW SOURCE PERMITS PERMIT 6832A</b>
<b>AIR NEW SOURCE PERMITS ACCOUNT NUMBER TA0499A</b>	<b>AIR NEW SOURCE PERMITS AFS NUM 4843900144</b>
<b>AIR NEW SOURCE PERMITS REGISTRATION 101070</b>	<b>AIR NEW SOURCE PERMITS REGISTRATION 100968</b>
<b>STORMWATER PERMIT TXR05U961</b>	<b>AIR EMISSIONS INVENTORY ACCOUNT NUMBER TA0499A</b>
<b>POLLUTION PREVENTION PLANNING ID NUMBER P01608</b>	

**Compliance History Period:** September 01, 2007 to August 31, 2012      **Rating Year:** 2012      **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** May 06, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 05, 2008 to May 05, 2013

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

**Name:** Nadia Hameed

**Phone:** (713) 767-3629

### 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:

- 1      **Effective Date:** 02/07/2010      **ADMINORDER 2009-1513-AIR-E (1660 Order-Agreed Order With Denial)**  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP O-1658 General Terms and Conditions OP

Description: Failed to submit an annual compliance certification within 30 days of the end of the certification period, as documented during an investigation conducted on July 16, 2009. Specifically, the Respondent failed to submit the annual compliance certification for the May 22, 2007 through May 21, 2008 reporting period until July 31, 2008.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	July 16, 2010	(824450)
Item 2	April 21, 2011	(905677)

**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.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TRINITY INDUSTRIES, INC.  
RN100225804**

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

**AGREED ORDER  
DOCKET NO. 2013-0874-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Trinity Industries, 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 together stipulate that:

1. The Respondent owns and operates a railcar manufacturing plant at 104 East Bailey Boswell Road in Saginaw, Tarrant 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 Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 12, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Five Thousand Six Hundred Fourteen Dollars (\$25,614) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty Thousand Four Hundred Ninety-Two Dollars (\$20,492) of the administrative penalty and Five Thousand

One Hundred Twenty-Two Dollars (\$5,122) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On January 29, 2013, began maintaining copies of all Permit By Rules ("PBRs") claimed at the Plant;
  - b. On March 18, 2013, began conducting quarterly visible emissions observations at the two curing ovens and the abrasive blasting unit; and
  - c. On April 10, 2013, trained personnel to ensure that the weekly emission limits for surface coating operations are not exceeded.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to conduct visible emissions observations of stationary vents at least once during each calendar quarter, in violation of 30 TEX. ADMIN. CODE § 122.143(4), Federal Operating Permit ("FOP") No. 01658, Special Terms and Conditions No. 3.B., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 29, 2013. Specifically, the Respondent was not conducting quarterly visible emissions observations for two natural gas fired stress relief ovens and the abrasive blasting facility in the interior lining building.

2. Failed to maintain a copy of all PBRs claimed at the Plant, in violation of 30 TEX. ADMIN. CODE § 106.8(c)(1) and (c)(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 29, 2013. Specifically, the Respondent was operating two natural gas fired curing ovens for which it claimed authorization under 30 TEX. ADMIN. CODE § 106.183, but did not maintain a copy of the PBR.
3. Failed to comply with the 500 pounds ("lbs") per week emissions limit for volatile organic compounds ("VOC") for surface coating operations, in violation of 30 TEX. ADMIN. CODE § 106.433(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 29, 2013. Specifically, the VOC emissions from the surface coating operation located on the west end of the interior lining building were 609.48 lbs during the week of July 9, 2012 through July 14, 2012, resulting in the release of 109.48 lbs of unauthorized emissions.
4. Failed to submit a deviation report for at least each six-month period after permit issuance, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(B), FOP No. O1658, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 29, 2013. Specifically, a deviation report was not submitted for the reporting periods from November 26, 2011 through May 25, 2012 and from May 26, 2012 through November 25, 2012, although deviations occurred during these reporting periods.
5. Failed to authorize units under the FOP, in violation of 30 TEX. ADMIN. CODE § 122.121 and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during an investigation conducted on January 29, 2013. Specifically, two natural gas fired curing ovens were not included in FOP No. O1658.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Trinity Industries, Inc., Docket No. 2013-0874-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures to ensure that all deviations are reported as required, in accordance with 30 TEX. ADMIN. CODE § 122.145;
  - 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 No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the certification language provided in Ordering Provision No. 2.d;
  - c. Within 90 days after the effective date of this Agreed Order, implement measures to ensure that all emission units are authorized under FOP No. O1658; and
  - d. Within 180 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 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

1/17/14  
\_\_\_\_\_  
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

September 16, 2013  
\_\_\_\_\_  
Date

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

SR Vice-President, Trinity Tank Car, Inc.  
\_\_\_\_\_  
Title

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