

FILE

17

PUCO EXHIBIT FILING

Date of Hearing: 3-4-11

Case No. 10 - 963 - TR - CVF

PUCO Case Caption: IN RE

TRIMAT CONSTRUCTION, INC

PUCO

2011 MAR 21 PM 1:57

RECEIVED-DOCKELING DIV

List of exhibits being filed:

STAFF EXHIBITS

- 1 - Driver/Vehicle Examination Report
- 2 - Photographs
- 3 - Forfeiture Assessment
- 4 - Civil Forfeiture Violations Chart
- 5 - Notice of Apparent Violation and Intent to Assess Forfeiture
- 6 - Notice of Preliminary Determination

Reporter's Signature: [Signature]

Date Submitted: 3-21-11

This is to certify that the exhibits appearing are an accurate and complete reproduction of the original document delivered in the regular course of business.
Technician [Signature] Date Processed 3/21/11

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of: :
Trimat Construction, Inc. : Case No. 10-963-TR-CVF
:
Notice of Apparent :
Violation and Intent to :
Assess Forfeiture. :
- - -

PROCEEDINGS

before Mr. Henry Phillips-Gary and Mr. Jonathan
Tauber, Attorney Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-C,
Columbus, Ohio, called at 10:00 a.m. on Friday, March
4, 2011.

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724
- - -

DRIVER/VEHICLE EXAMINATION REPORT

Ohio**Public Utilities
Commission**Transportation Department
Phone: (614) 466-0429
Fax: (614) 752-9274

Report Number: OH3208301399

Inspection Date: 4/21/2010 Certification Date:

Time Started: 08:49 Time Ended: 09:31

Inspection Level: I - Full Inspection

HM Inspection Type: Bulk Inspection

TRIMAT CONSTRUCTION INCORPORATED

13621 STATE RT 554

BIDWELL, OH 45614

Phone #: (740)388-9515

Fax #:

USDOT #: 1078794

MC/MX #:

State #:

Driver: RIEDEL, MICHAEL L

License #: RL706865

State: OH

Date of Birth: 02/19/1964

Location: ROADSIDE

MilePost:

Highway: RT 7

Origin: GALLIPOLIS, OH

Bill of Lading:

County: GALLIA

Destination: GALLIPOLIS, OH

Cargo: HAZ MAT (ALL)

Shipper:

VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Company #	Unit VIN	GVWR	Issued Decal#	Existing Decal#	OOS Stkr.#
1	TR	FORD	1990	OH	PEN5388		1FTHX26M7LKB23016	8,600			
2	FT	UNK	1990	OH	TNS2592		UNKNOWN	0			3208301399

BRAKE ADJUSTMENTS:

Axle #	1	2	3	4
Right	N/A	N/A	INOP	INOP
Left	N/A	N/A	INOP	INOP
Chamber	HYDR	HYDR	ELEC	ELEC

VIOLATIONS:

Section Code	St	Unit	OOS	Lvl 6	Citation #	Verify*	Crash	Violation Description
392.2	X	1	N	N		N	N	Company markings (intrastate), no markings on truck
177.823(a)		2	Y	N		U	N	No placards when required(4 OF 4)
177.823(a)		2	Y	N		U	N	No un markings (1993) when required (4 OF 4)
393.70(d)		2	N	N		N	N	No safety chains or cables for full trailer
393.42		2	N	N		N	N	No brakes as required, #3R INOP ELECTRIC
393.42		2	N	N		N	N	No brakes as required, #3 L INOP
393.42		2	N	N		N	N	No brakes as required, #4 L INOP
393.42		2	N	N		N	N	No brakes as required #4 R INOP
396.3(a)(1) 0 0 3		2	Y	N		U	N	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination
396.17(c)		1	N	N		N	N	Operating a CMV without periodic inspection
396.17(c)		2	N	N		N	N	Operating a CMV without periodic inspection
383.23(a)(2) 3208		D	Y	N	ALL TO D	N	N	Operating a CMV without a CDL, NEEDS CLASS C HM CDL
177.817(a) 6		1	Y	N		U	N	No shipping papers (carrier)

* N - Non-OOS or Driver OOS Violation; U - Unknown

2-6-1487

HazMat: 3 Flammable,

Placard: Yes Cargo Tank: OTH

Special Checks:

- ☐ Alcohol/Controlled Substance Check
☐ Conducted by Local Jurisdiction
☐ Size and Weight Enforcement

- ☐ Traffic Enforcement
☐ PASA Conducted Inspection
☐ Drug Interdiction Search

- ☐ Post Crash Inspection
☐ PBET Inspection
 Arrests:

Inspection Notes: TANK HAULING DIESEL FUEL TO SEWER LINE JOB.
TANK MEASURES 60" X 38"=294 GALLON

Report Prepared By:

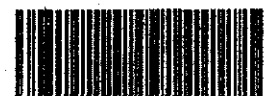
R Rohr

Badge #:

3208

Copy Received By:

RIEDEL, MICHAEL L



DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission

Transportation Department
Phone: (614) 466-0429
Fax: (614) 752-9274

Report Number: OH3208301399
Inspection Date: 4/21/2010 Certification Date:
Time Started: 08:49 Time Ended: 09:31
Inspection Level: I - Full Inspection
HM Inspection Type: Bulk Inspection

TRIMAT CONSTRUCTION INCORPORATED

13621 STATE RT 554

BIDWELL, OH 45614

Phone #: (740)388-9515

Fax #:

USDOT #: 1078794

MC/MX #:

State #:

Driver: RIEDEL, MICHAEL L

License #: RL706865

State: OH

Date of Birth: 02/19/1964

Special Study Fields:

Special Study1:

Special Study6:

Special Study2:

Special Study7:

Special Study3:

Special Study8:

Special Study4:

Special Study9:

Special Study5:

Special Study10:

Locally Defined Fields:

Loaded by Carrier (Y/N): Y

Haz Class A: 3

ID # A: NA1993

Packing Group A: II

Gross Weight A: TANK

For-Hire Carrier: N

Driver Address: 1825 CORA MILL RD

Driver City: GALLIPOLIS

Driver State: OH

Driver Zip: 45631

Photos Taken (Y/N): Y

Reason Code: OBVI

FMCSA Credentials Verified-Y/N: Y

CDL Verified (Y/N): Y

FMCSA OOS Order Issued(Y/N): N

HM Safety Permit Verified(Y/N): N

I hereby declare MICHAEL L. RIEDEL "Out of Service". This driver MAY NOT DRIVE any commercial motor vehicle nor may any carrier permit or require this driver to drive any commercial motor vehicle until Driver has Proper CDL Endorsement

All violations of the FHMR and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio-TASD; 180 E. Broad St.; Columbus, Oh; 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature of Carrier Official: X Title: _____ Date: _____

Signature of Repairer: X Facility: _____ Date: _____

Report Prepared By:

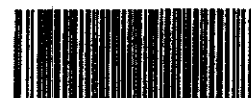
R Rohr

Badge #:

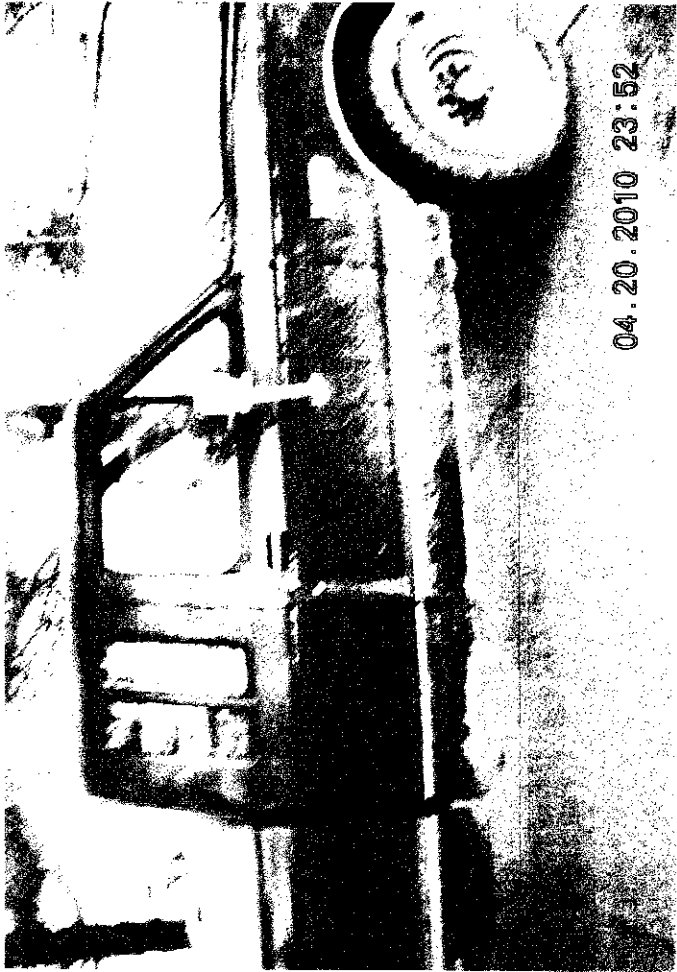
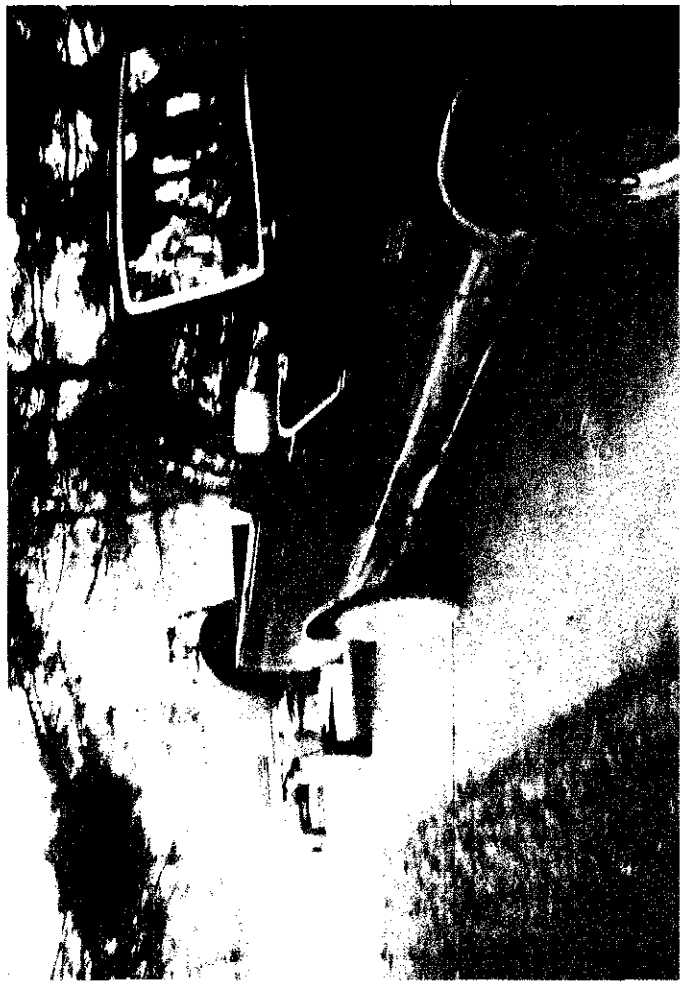
3208

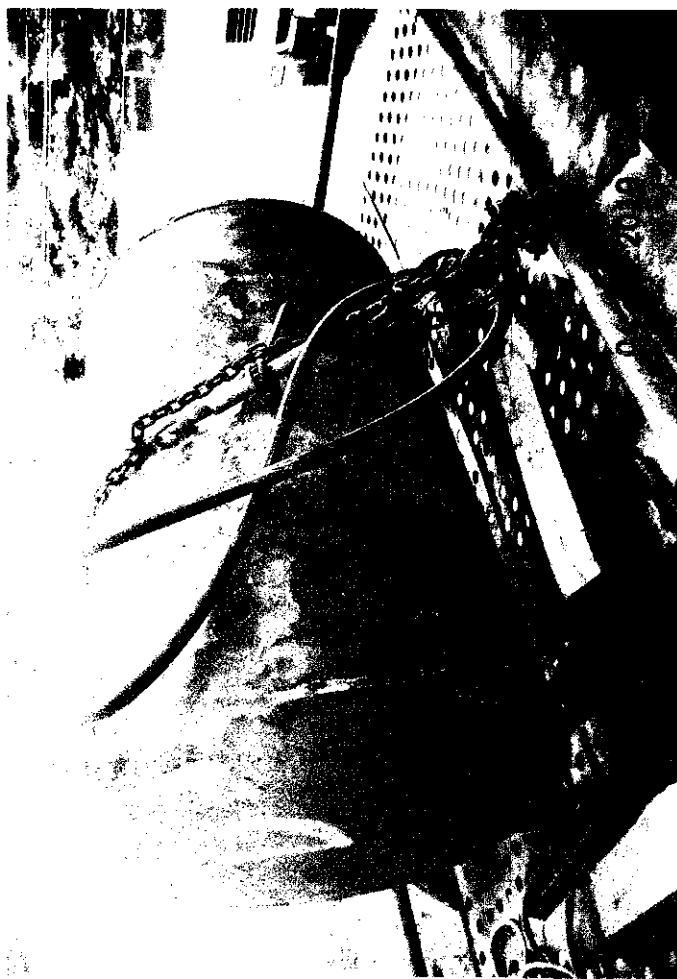
Copy Received By:

RIEDEL, MICHAEL L



2.8.24.2010





FORFEITURE ASSESSMENT

REPORT #

3208301399 COMPLETED BY T FORBES

REPORT DATE :

April 21, 2010

DATE ASSESSED

05/03/10

RESPONDENT :

Trimat Construction Incorporated

CARRIER CITED
DRIVER CITED

Riedel, Michael L

Page 1 OF 2

	VIOLATION CODE/ DESCRIPTION	177.823A No Placards None	177.823A No Markings None	396.3A1 Brakes - Defective OOS- 50%	383.23A2 No CDL None
	NATURE GRAVITY 0 -10 PTS.	6	6	3	3
	EXTENT OF VIOL. '-10 TO +10 PTS.'	0	0	0	0
	ACTUAL HARM 0 - 20 PTS.	0	0	0	0
	OTHER CIRCUMST. '-10 TO +10 PTS.	0	0	0	0
(A)	SUBTOTAL POINTS 0-50 PTS.	6	6	3	3
(B)	MATERIAL HAZARD	0.5	0.5	0.5	0.5
(C)	AMOUNT OF MATERIAL	0.4	0.4	0.4	0.4
(D)	SUBTOTAL POINTS = A*(B+C)	5.40	5.40	2.70	2.70
(E)	RESPONDENT CULPABILITY	1	1	1	1
(F)	RESPONDENT HISTORY 1,2,OR 4	1	1	1	1
(G)	TOTAL POINTS = D*E*F	5.40	5.40	2.70	2.70
	FORFEITURE ASSESSED AMOUNT = G * \$100.00	\$540.00	\$540.00	\$270.00	\$270.00

FORFEITURE ASSESSMENT

REPORT #

3208301399 COMPLETED BY T FORBES

REPORT DATE :

April 21, 2010

DATE ASSESSED

05/03/10

RESPONDENT :

Trimat Construction Incorporated

CARRIER CITED
DRIVER CITED

Riedel, Michael L

Page 2 OF 2

	VIOLETION CODE/ DESCRIPTION	177.817A No Shipping paper None	2-6-14A Uniform Permit		
	NATURE GRAVITY 0 -10 PTS.	6	0	0	0
	EXTENT OF VIOL. -10 TO +10 PTS.	0	0	0	0
	ACTUAL HARM 0 - 20 PTS.	0	0	0	0
	OTHER CIRCUMST. -10 TO +10 PTS.	0	0	0	0
(A)	SUBTOTAL POINTS 0-50 PTS.	6	0	0	0
(B)	MATERIAL HAZARD	0.5	0	0	0
(C)	AMOUNT OF MATERIAL	0.4	0	0	0
(D)	SUBTOTAL POINTS = A*(B+C)	5.40	0.00	0.00	0.00
(E)	RESPONDENT CULPABILITY	1	1	1	1
(F)	RESPONDENT HISTORY 1,2,OR 4	1	1	1	1
(G)	TOTAL FORFEIF. = D*E*F	5.4	0	0	0
	FORFEITURE ASSESSED AMOUNT = G * \$100.00	\$540.00	\$500.00	\$0.00	\$0.00

**Civil Forfeiture Violations Chart
Nature & Gravity Points**

10 points Leaking Container Violations

- 10 Package integrity failure
Package valves and closures not securely closed

6-8 points Packaging, Segregation, & Handling Violations

- 8 Segregation & Loading
Non-specification or non-performance packaging
HM Vehicle attendance
Relative motion among HM packages
Over 5% outage in propane home storage tank in transportation
- 6 Specification/performance packaging does not meet req.
(CT Double bulkhead drain/vent plugged 3 Pts)
Bulk package weight or temperature exceeds that allowed by specification
Packaging qualification and maintenance violations – CT test marking not displayed or CT tests not completed (Cargo Tanks: 6 points for first test/insp. Not Conducted OR DISPLAYED; +1 extent for each additional cargo tank Test/inspection not conducted OR DISPLAYED)
LPG Cargo Tank handheld remote shutoff inoperable
Violation of PHSMA Special Permit requirements
CT manual remote shutoff inoperable
Fail to have a HM Safety Permit on file as required.
HM Training Not As Required
(-2 extent for each completed, ie. Awareness)

6 points Hazard Communication Violations

- 6 Proper HM placards not offered/affixed
(+6 for each additional hazard class missing)
(1 not affixed=NAV, +1 extent for each additional)
Proper HM markings not offered/affixed
(+6 for each additional hazard class missing)
(1 not affixed=NAV, +1 extent for each additional)
No proper HM shipping paper
(+1 extent 172.203 violations for PIH, DWW; +3
For each technical names per 172.203 (c) or (k)
**each element worth 1 point
**If 1 element missing = NAV
Packages offered/accepted without proper HM markings
(+1 for required additional info)

Packages offered/accepted without proper HM labels
(+6 for subsidiary hazard class)
Hazardous waste manifest not as required
Misrepresenting hazmat present on vehicle

4 Points Hazardous Material Handling Violations

- 4 Failure to secure packages (no movement)

3 Points Hazardous Communications Violations

- 3 HM shipping papers – no technical names per 172.203 (c) or (k)
HM Marking – no technical name
Emergency response information (Subpart G) not as required
 ** No Written ER info
 ** No telephone no.
No emergency marking on CT emergency remote shutoff
Package not marked with special permit number when required
No emergency discharge procedure with LPG CT
Fail to maintain a copy of the HM safety Permit on the vehicle when required

2 Points Hazardous Communications Violations

- 2 Displaying a sign (drive safely, ect.) that could be confused with a Placard, as per 172.502 –NAV if only 1

3 Points Shipping Paper/ER Information Accessibility

- 3 Shipping papers/ER information not accessible
HM shipping papers not tabbed or first
HM entries not distinguished

0 Points Minor Hazard Communication Violations

- 0 Placard/markings/labeling visibility & display
No Ltd. Qty, RQ, DOT-E on shipping papers
Unauthorized abbreviation used in proper shipping name
Tech. Name not in association with proper shipping name – (out of sequence, not in parenthesis)
Minor shipping description sequence
“UN” instead of “NA”
Minor typographical errors
One placard visibility & display
CT Part 180 marking not properly placed

1-5 Points FMCSR Handling Violations

- 5 No route plan for radioactive materials or explosives
No emergency plan for radioactive materials
- 4 Failure to comply with local routing requirements
Locking devices on an intermodal container not secure while transporting hazardous materials
Non-English speaking driver
- 2 Railroad grade crossing violations – Only cite carrier for 2nd RR violation within a 24 month period. Issue NAV for first violation.
- 1 Failure to comply with local or state laws

2-3 Points FMCSR Violations (Must meet specific CVSA OOS Criteria)

- 3 Inoperative brake OOS
Hours of service violation
Ill or fatigued driver
Unauthorized passenger
Failure to have proper Commercial Drivers License
– Includes improper class, endorsement or operating in violation of restriction or in violation of learners permit
- 2 Slider handle assembly-Pin OOS; missing/broken OOS
5th wheel OOS Violation
Frame stress cracks OOS
Air brakes system (reserve pressure loss) OOS
- 1 Brake/Pushrod adjustment or defective brakes
If 20% of brakes out of adjustment or defective = 1 point violation
If > 20 % out of adjust., +1 extent for each full brake out of adjust or defective.
Broken leaf spring or spring hanger OOS
Defective air suspension system - OOS
Inoperative low air warning device OOS violation
- 0 Driver Smoking
Log Book Violations – form & manner only

0-1 Points FMCSR Violations (Must be 2 or more OOS Violations) –

- 1 Brake pad violations OOS
Cracked wheel/tire rim OOS
Other OOS Suspension Violations

Cut tire OOS
Worn tire, cord showing, OOS Violation, 4/32" & 2/32"
Lug nuts missing, OOS violation

- 0 Stoplights out OOS
Emergency brake inoperable
Improperly attached cargo tank appurtenance
No emergency equipment
Failure to carry Part 397 on vehicle placarded Class 1
Flat tire, OOS violation
Leaking tire OOS violation
Blocking and bracing of non-HM

1-4 points FMCSR Driver Violations

- 4 Failure to stop at check point
Driving after consumption of alcohol or controlled substance
Driving while disqualified
Failure to stop at railroad grade crossing
- 3 Improperly parked HM vehicle
Possession of alcohol or controlled substance upon a CMV
- 1 No log book OOS
Falsification of log book OOS
Late log book OOS
No or improper commercial driver's license –
Driver smoking
Seat belt violation
Radar detector in use/possession
Unauthorized passenger

ADDITIONAL ASSESSMENTS

Insurance violation	\$500.00 - C
Scope & Authority violation	\$500.00 - C
Avoiding or Bypass inspection	\$500.00 - D
Uniform HM Permit violation	\$500.00 - C
Uniform HW Permit violation	\$1,000.00 - C
Driving after being placed out of service	\$1,000.00 - D
Unified Carrier Registration (UCR)	\$100.00 - C

Chart Effective Date: On Inspection Occurring After October 1, 2008

MATERIAL HAZARD CHART

<u>POINTS</u>	<u>HAZARD CLASS/DIV.</u>
1.5	1.1 2.3 6.1 7 Any PIH
1.3	1.2 1.3 4.3
1.1	2.1 3 4.1 4.2
0.9	5.1 5.2 8
0.7	1.4 1.5
0.5	1.6 2.2 PGIII (Combustible Liq.) 6.2 9 ORM-D

Point Modifiers

PGI = + .3

PGII = 0.0

PGIII = - .3

Hazardous Waste = +.1

Hazardous Substance = + .1

MARPOL = + .1

HAZARDOUS AMOUNT CHART

POINTS

AMOUNT (WEIGHT)

Pounds/Kilograms

1.0

35,000+ lbs

15,876+ kg

(Cargo Tank w/flammable – Class 3 & 2.1)

0.6

10,000 – 34,999 lb.

4,536 – 15,875 kg

0.4

1,000 – 9,999 lb.

454 – 4,535 kg

0.2

<1,000 lb

< 454 kg

Residue (Not Flammable)

Less

0.1

If package < 100 lb./45 kg

0.2

If package < 5 lb./2 kg



**Public Utilities
Commission**

Ted Strickland, Governor
Alan R. Schriber, Chairman

Staff Ex. No. 5

Commissioners

Ronda Hartman Fergus
Valerie A. Lemmie
Paul A. Centolella
Cheryl Roberto

May 6, 2010

3208301399C
TRIMAT CONSTRUCTION INCORPORATED
13621 STATE RT 554
BIDWELL, OH 45614

RE: NOTICE OF APPARENT VIOLATION
AND INTENT TO ASSESS FORFEITURE
Case No. 3208301399C

Dear Sir or Madame:

On April 21, 2010, vehicle operated by TRIMAT CONSTRUCTION INCORPORATED, and driven by MICHAEL L RIEDEL inspected within the State of Ohio by staff of the Transportation Department of the Public Utilities Commission of Ohio. As the result of discovery of the following apparent violations, of rule 4901:2-5-02, O.A.C., the Commission intends to make a civil monetary assessment against TRIMAT CONSTRUCTION INCORPORATED in the following amounts:

CODE	UNIT	VIOLATION	FORFEITURE
177.823A	2	No placards when required(4 OF 4)	\$ 540.00
177.823A	2	No un markings (1993) when required (4 OF 4	\$ 540.00
396.3A1BOS	2	BRAKES OUT OF SERVICE: The number of defect	\$ 270.00
383.23A2	D	Operating a CMV without a CDL, NEEDS CLASS	\$ 270.00
177.817A	1	No shipping papers (carrier)	\$ 540.00
4901:2-6-14[A]	1	FAILURE TO FILE UNIFORM HAZMAT APPLICATION	\$ 500.00

Within 30 days, you must pay the forfeiture or send a written request for conference. Failure to pay the forfeiture or send a written request for a conference within 30 days will result in this forfeiture amount being referred to the Attorney General's office for collection, and may adversely affect your authority with the Public Utilities Commission of Ohio.

Please review the enclosed information concering this notice.

Sincerely,
Jonathan Frye, Chief
Compliance Division
Public Utilities Commission of Ohio
614-466-0351

TF



**Public Utilities
Commission**

Ted Strickland, Governor
Alan R. Schriber, Chairman

Staff Ex. No. 6

Commissioners

Valerie A. Lemmie
Paul A. Centolella
Cheryl Roberto
Steven D. Lesser

June 28, 2010

MR MAURICE TOLER
TRIMAT CONSTRUCTION INCORPORATED
13621 SR 554
BIDWELL, OH 45614

RE: NOTICE OF PRELIMINARY DETERMINATION
Case No. 3208301399C
Officer:

Dear MR TOLER:

On April 21, 2010, a vehicle operated by TRIMAT CONSTRUCTION INCORPORATED, and driven by MICHAEL L RIEDEL, was inspected within the State of Ohio. As the result of discovery of the following apparent violations the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment against Respondent in the following amounts:

Code	Violation	
177.823A	No placards when required(4 OF 4)	\$ 540.00
177.823A	No un markings (1993) when required (4 OF 4)	\$ 540.00
396.3A1BOS	BRAKES OUT OF SERVICE: The number of defectiv	\$ 270.00
383.23A2	Operating a CMV without a CDL, NEEDS CLASS C	\$ 270.00
177.817A	No shipping papers (carrier)	\$ 540.00
4901:2-6-14(A)	FAILURE TO FILE UNIFORM HAZMAT APPLICATION	\$ 500.00

Total Forfeiture Assessed :

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

(continued)



**Public Utilities
Commission**

Ted Strickland, Governor
Alan R. Schriber, Chairman

Commissioners

Valerie A. Lemmie
Paul A. Centolella
Cheryl Roberto
Steven D. Lesser

June 28, 2010
MR MAURICE TOLER
TRIMAT CONSTRUCTION INCORPORATED
3208301399C

PAGE -2

As a result of the conference, Staff has made a Preliminary Determination that the Commission should make a civil monetary assessment against TRIMAT CONSTRUCTION INCORPORATED in the following forfeitures:

Code	Violation	
177.823A	No placards when required(4 OF 4)	\$ 540.00
177.823A	No un markings (1993) when required (4 OF 4)	\$ 540.00
396.3A1BOS	BRAKES OUT OF SERVICE: The number of defectiv	\$ 270.00
383.23A2	Operating a CMV without a CDL, NEEDS CLASS C	\$ 270.00
177.817A	No shipping papers (carrier)	\$ 540.00
4901:2-6-14(A)	FAILURE TO FILE UNIFORM HAZMAT APPLICATION	\$ 500.00

Total Forfeiture Agreed :

Please include a certified check or money order for the N.P.D. forfeiture total, made payable to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St, 10th floor, Cols. OH 43215-3793. FOR PROPER CREDIT, BE SURE TO PUT THE CASE NUMBER ON THE FACE OF THE CHECK.

Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Robert E. Marvin, Director
Transportation Department
Public Utilities Commission of Ohio