

**Executive Summary – Enforcement Matter – Case No. 51219**  
**Grothe Industrial Coating, LLC**  
**RN105850119**  
**Docket No. 2015-1357-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

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

Grothe Industrial Coating, 23095 Yupon Street, Porter, Montgomery County

**Type of Operation:**

Industrial painting operation

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** April 29, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,313

**Amount Deferred for Expedited Settlement:** \$1,662

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

**Total Paid to General Revenue:** \$280

**Total Due to General Revenue:** \$6,371

Payment Plan: 23 payments of \$277 each

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

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

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***Investigation Information***

**Complaint Date(s):** April 21, 2015

**Complaint Information:** Alleged dust and odors were coming from a business in the area.

**Date(s) of Investigation:** April 27, 2015 through May 1, 2015

**Date(s) of NOE(s):** August 7, 2015

***Violation Information***

1. Failed to properly store and dispose of waste coatings and solvents. Specifically, on April 27, 2015 and May 1, 2015, TCEQ investigators observed that the Respondent failed to store the paints and solvents in closed containers and failed to dispose of the containers at a permitted on-site waste management facility or by an authorized disposal service [30 TEX. ADMIN. CODE § 106.433(2)(C), Permit by Rule ("PBR") Registration No. 92492, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to prevent particulate matter emissions. Specifically, the Respondent failed to install a proper fabric filter on one of the dry abrasive cleaning booths and properly operate the fabric filter at another one of the dry abrasive cleaning booths at the Site [30 TEX. ADMIN. CODE § 106.452(1)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to prevent visible fugitive emissions. Specifically, the Respondent failed to prevent visible fugitive emissions from seeping out of doors and cracks of the two dry abrasive cleaning booths at the Site as observed by TCEQ investigators on May 1, 2015 [30 TEX. ADMIN. CODE § 106.452(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to obtain proper authorization prior to construction and operation of a source of air emissions. Specifically, the Respondent failed to obtain authorization for a fourth paint booth at the Site prior to its construction and operation [30 TEX. ADMIN. CODE § 116.110(a) and and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].
5. Failed to maintain all records at the Site as required. Specifically, the Respondent failed to keep all necessary records at the Site in order to demonstrate compliance with PBR Registration No. 92492 [30 TEX. ADMIN. CODE §§ 106.433(8) and 106.8(c)(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. By May 2, 2015, installed and properly operated fabric filters for two enclosed dry abrasive cleaning booths at the Site;

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- b. By May 2, 2015, sealed cracks around doors and joints in the enclosed dry abrasive cleaning booths at the Site;
- c. By May 2, 2015, began maintaining and storing all records at the Site;
- d. By August 27, 2015, submitted Form PI-7 for the fourth surface coating booth at the Site; and
- e. By August 31, 2015, began properly storing and disposing of paint and solvent containers.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Respond completely and adequately to all requests for information concerning the registration within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days, submit written certification that either authorization to operate the paint booth has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

***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:** Raime Hayes-Falero, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3567; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Melvin Grothe, President, Grothe Industrial Coating, LLC, 23095 Yupon Street, Porter, Texas 77365  
Brett Grothe, Vice President of Operations, Grothe Industrial Coating, LLC, 23095 Yupon Street, Porter, Texas 77365  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	10-Aug-2015	<b>Screening</b>	27-Aug-2015	<b>EPA Due</b>	
	<b>PCW</b>	2-Oct-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Grothe Industrial Coating, LLC		
<b>Reg. Ent. Ref. No.</b>	RN105850119		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	51219	<b>No. of Violations</b>	5
<b>Docket No.</b>	2015-1357-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Raime Hayes-Falero
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$11,250**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** -10.0% Enhancement **Subtotals 2, 3, & 7** **-\$1,125**

Notes Reduction for High Performer classification.

**Culpability** No 0.0% Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **-\$1,812**

**Economic Benefit** 0.0% Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$344  
 Estimated Cost of Compliance \$8,500  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$8,313**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$8,313**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$8,313**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$1,662**

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

Notes Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$6,651**

Screening Date 27-Aug-2015

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Respondent Grothe Industrial Coating, LLC

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Case ID No. 51219

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Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	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> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% -10%

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Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 106.433(2)(C), Permit by Rule ("PBR") Registration No. 92492, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to properly store and dispose of waste coatings and solvents. Specifically, on April 27, 2015 and May 1, 2015, TCEQ investigators observed that the Respondent failed to store the paints and solvents in closed containers and failed to dispose of the containers at a permitted on-site waste management facility or by an authorized disposal service.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

2 Number of violation days

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

Violation Base Penalty \$2,500

Two single events are recommended for each date the violation was documented.

Good Faith Efforts to Comply

10.0%

Reduction \$250

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent completed corrective action on August 31, 2015, after the August 7, 2015 Notice of Enforcement ("NOE").

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$2,000

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

## Economic Benefit Worksheet

**Respondent** Grothe Industrial Coating, LLC  
**Case ID No.** 51219  
**Reg. Ent. Reference No.** RN105850119  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$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	\$500	27-Apr-2015	31-Aug-2015	0.35	\$9	n/a	\$9
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly store and dispose of paint and solvent containers as required. The Date Required is the first date the violation was documented and the Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$9

Screening Date 27-Aug-2015

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Respondent Grothe Industrial Coating, LLC

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Case ID No. 51219

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105850119

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 106.452(1)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent particulate matter emissions. Specifically, the Respondent failed to install a proper fabric filter on one of the dry abrasive cleaning booths and properly operate the fabric filter at another one of the dry abrasive cleaning booths at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended (one quarter for each cleaning booth) from the May 1, 2015 initial date of non-compliance to the May 2, 2015 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$625

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent completed corrective action on May 2, 2015, before the August 7, 2015 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

## Economic Benefit Worksheet

**Respondent** Grothe Industrial Coating, LLC  
**Case ID No.** 51219  
**Reg. Ent. Reference No.** RN105850119  
**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	\$1,500	1-May-2015	2-May-2015	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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install and to properly operate fabric filters for two enclosed dry abrasive cleaning booths at the Site. The Date Required is the investigation date and the Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$0

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Respondent Grothe Industrial Coating, LLC

Policy Revision 4 (April 2014)

Case ID No. 51219

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105850119

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 106.452(1)(B) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent visible fugitive emissions. Specifically, the Respondent failed to prevent visible fugitive emissions from seeping out of doors and cracks of the two dry abrasive cleaning booths at the Site as observed by TCEQ investigators on May 1, 2015.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended (one quarter for each cleaning booth) from the May 1, 2015 investigation date to the May 2, 2015 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$625

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent completed corrective action on May 2, 2015, before the August 7, 2015 NOE.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

# Economic Benefit Worksheet

**Respondent** Grothe Industrial Coating, LLC

**Case ID No.** 51219

**Reg. Ent. Reference No.** RN105850119

**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				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)	\$1,000	1-May-2015	2-May-2015	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to seal cracks around doors and joints in the enclosed dry abrasive cleaning booths at the Site. The Date Required is the investigation date and the Final Date is the date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$0

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Respondent Grothe Industrial Coating, LLC

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Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain proper authorization prior to construction and operation of a source of air emissions. Specifically, the Respondent failed to obtain authorization for a fourth paint booth at the Site prior to its construction and operation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%
100% of the rule requirement was not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 122 Number of violation days

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

Violation Base Penalty \$2,500

Two quarterly events are recommended from the April 27, 2015 investigation date to the August 27, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$334

Statutory Limit Test

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

# Economic Benefit Worksheet

**Respondent** Grothe Industrial Coating, LLC  
**Case ID No.** 51219  
**Reg. Ent. Reference No.** RN105850119  
**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
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	\$5,000	27-Apr-2015	27-Aug-2016	1.34	\$334	n/a	\$334
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization for the fourth surface coating booth at the Site. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$334

Screening Date 27-Aug-2015

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Respondent Grothe Industrial Coating, LLC

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PCW Revision March 26, 2014

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Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 106.433(8) and 106.8(c)(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain all records at the Site as required. Specifically, the Respondent failed to keep all necessary records at the Site in order to demonstrate compliance with PBR Registration No. 92492.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

5 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction

\$312

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent completed corrective action on May 2, 2015, before the August 7, 2015 NOE.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$813

This violation Final Assessed Penalty (adjusted for limits) \$813

# Economic Benefit Worksheet

**Respondent** Grothe Industrial Coating, LLC  
**Case ID No.** 51219  
**Reg. Ent. Reference No.** RN105850119  
**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
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	\$500	27-Apr-2015	2-May-2015	0.01	\$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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain and store all records at the Site. The Date Required is the investigation date and the Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$0



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  
GROTHE INDUSTRIAL  
COATING, LLC  
RN105850119**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2015-1357-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 Grothe Industrial Coating, LLC ("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 industrial painting operation located at 23095 Yupon Street in Porter, Montgomery County, Texas (the "Site").
2. The Site 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 August 12, 2015.
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 Eight Thousand Three Hundred Thirteen Dollars (\$8,313) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Eighty Dollars

(\$280) of the administrative penalty and One Thousand Six Hundred Sixty-Two Dollars (\$1,662) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty. The remaining amount of Six Thousand Three Hundred Seventy-One Dollars (\$6,371) of the administrative penalty shall be payable in 23 monthly payments of Two Hundred Seventy-Seven Dollars (\$277) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Site:
  - a. By May 2, 2015, installed and properly operated fabric filters for two enclosed dry abrasive cleaning booths at the Site;
  - b. By May 2, 2015, sealed cracks around doors and joints in the enclosed dry abrasive cleaning booths at the Site;
  - c. By May 2, 2015, began maintaining and storing all records at the Site;
  - d. By August 27, 2015, submitted Form PI-7 for the fourth surface coating booth at the Site; and
  - e. By August 31, 2015, began properly storing and disposing of paint and solvent containers.
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 Site, the Respondent is alleged to have:

1. Failed to properly store and dispose of waste coatings and solvents, in violation of 30 TEX. ADMIN. CODE § 106.433(2)(C), Permit by Rule ("PBR") Registration No. 92492, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted from April 27, 2015 through May 1, 2015. Specifically, on April 27, 2015 and May 1, 2015, TCEQ investigators observed that the Respondent failed to store the paints and solvents in closed containers and failed to dispose of the containers at a permitted on-site waste management facility or by an authorized disposal service.
2. Failed to prevent particulate matter emissions, in violation of 30 TEX. ADMIN. CODE § 106.452(1)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted from April 27, 2015 through May 1, 2015. Specifically, the Respondent failed to install a proper fabric filter on one of the dry abrasive cleaning booths and properly operate the fabric filter at another one of the dry abrasive cleaning booths at the Site.
3. Failed to prevent visible fugitive emissions, in violation of 30 TEX. ADMIN. CODE § 106.452(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted from April 27, 2015 through May 1, 2015. Specifically, the Respondent failed to prevent visible fugitive emissions from seeping out of doors and cracks of the two dry abrasive cleaning booths at the Site as observed by TCEQ investigators on May 1, 2015.
4. Failed to obtain proper authorization prior to construction and operation of a source of air emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted from April 27, 2015 through May 1, 2015. Specifically, the Respondent failed to obtain authorization for a fourth paint booth at the Site prior to its construction and operation.
5. Failed to maintain all records at the Site as required, in violation of 30 TEX. ADMIN. CODE §§ 106.433(8) and 106.8(c)(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted from April 27, 2015 through May 1, 2015. Specifically, the Respondent failed to keep all necessary records at the Site in order to demonstrate compliance with PBR Registration No. 92492.

### 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: Grothe Industrial Coating, LLC, Docket No. 2015-1357-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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the registration within 30 days after the date of such requests, or by any other deadline specified in writing; and
  - b. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to operate the paint booth has been obtained or that operation has ceased until such time that appropriate authorization is obtained, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

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 Site 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.

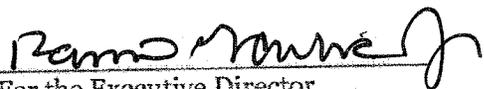
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

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

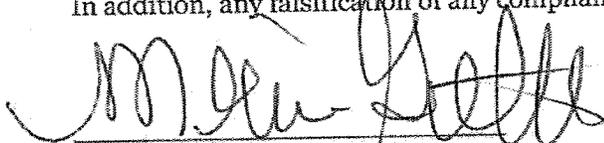
6/29/16  
\_\_\_\_\_  
Date

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

4/1/16  
\_\_\_\_\_  
Date

Melvin Grothe  
\_\_\_\_\_  
Name (Printed or typed)

Authorized Representative of  
Grothe Industrial Coating, LLC

President  
\_\_\_\_\_  
Title

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