

**Gary Goetz**  
**RN110858164**  
**Docket No. 2019-1610-MLM-E**

**Order Type:**  
 Agreed Order

**Media:**  
 MLM: IHW and AIR

**Small Business:**  
 Yes

**Location(s) Where Violation(s) Occurred:**  
 1108 Pulliam Street, San Angelo, Tom Green County (the “Site”)

**Type of Operation:**  
 industrial building for rent

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** September 30, 2022

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$11,250

**Total Paid to General Revenue:** \$330

**Total Due to General Revenue:** \$10,920

Payment Plan: 35 payments of \$312 each

**Compliance History Classifications:**

Person/CN - N/A  
 Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** September 18, 2019  
*Complaint Information:* Alleged an unauthorized activity.

**Date(s) of Investigation:** September 20, 2019

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** October 10, 2019

Gary Goetz  
RN110858164  
Docket No. 2019-1610-MLM-E

**Violation Information**

1. Failed to obtain authorization prior to constructing or modifying a source of air contaminants [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), and 30 TEX. ADMIN. CODE § 116.110(a)].
2. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste (ISW) [30 TEX. ADMIN. CODE § 335.4].
3. Failed to conduct hazardous waste determinations and waste classifications [30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a) and 40 C.F.R § 262.11].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. There is no longer a dry abrasive cleaning and outdoor surface coating operation operating at the Site as of November 15, 2019.
2. The waste has been removed from the Site as of March 31, 2021.

**Technical Requirements:**

1. Within 60 days, conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program (“TRRP”), and submit the results to the Executive Director.
2. Respond completely and adequately to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.
3. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, submit an Affected Property Assessment Report (“APAR”).
4. If the Executive Director determines that the APAR indicates that additional response actions are necessary, Respondent shall comply with and perform, all applicable requirements of TRRP, which may include plans, reports, and notices under Subchapter E.
5. If the Executive Director determines that the APAR indicates that additional response actions are necessary, Respondent shall submit written certification to demonstrate compliance with Technical Requirement No. 4.

**Litigation Information**

**Date Petition(s) Filed:** February 10, 2022  
**Date Green Card(s) Signed:** February 12, 2022  
**Settlement Date:** August 22, 2022

**Gary Goetz**  
**RN110858164**  
**Docket No. 2019-1610-MLM-E**

**Contact Information**

**TCEQ Attorneys:** Casey Kurnath, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575

**TCEQ Enforcement Coordinator:** Ken Moller, Enforcement Division, (512) 239-6111

**TCEQ Regional Contact:** Cain Cline, San Angelo Regional Office, (325) 655-9479

**Respondent Contact:** Gary Goetz, 1108 Pulliam Street, San Angelo, Texas 76903-4924

**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

## TCEQ

<b>DATES</b>	<b>Assigned</b>	14-Oct-2019	<b>Screening</b>	23-Oct-2019	<b>EPA Due</b>	
	<b>PCW</b>	4-Apr-2022				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Gary Goetz				
<b>Reg. Ent. Ref. No.</b>	RN110858164				
<b>Facility/Site Region</b>	8-San Angelo	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	58503	<b>No. of Violations</b>	3
<b>Docket No.</b>	2019-1610-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Air	<b>Enf. Coordinator</b>	Ken Moller
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$11,250</b>
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>0.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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<b>Notes</b>	No adjustment for compliance history.
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<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$2,250	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$50,671	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$11,250</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$11,250</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$11,250</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$11,250</b>
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**Screening Date** 23-Oct-2019

**Docket No.** 2019-1610-MLM-E

**PCW**

**Respondent** Gary Goetz

*Policy Revision 4 (April 2014)*

**Case ID No.** 58503

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN110858164

**Media** Industrial and Hazardous Waste

**Enf. Coordinator** Ken Moller

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	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%
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)**

N/A

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

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

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 0%

Screening Date 23-Oct-2019

Docket No. 2019-1610-MLM-E

PCW

Respondent Gary Goetz

Policy Revision 4 (April 2014)

Case ID No. 58503

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110858164

Media Industrial and Hazardous Waste

Enf. Coordinator Ken Moller

Violation Number 1

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 authorization prior to constructing or modifying a source of air contaminants. Specifically, dry abrasive cleaning and outdoor surface coating operations occurred prior to obtaining the proper authorization from the TCEQ.

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 33 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two monthly events are recommended from the September 20, 2019 investigation date to the October 23, 2019 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	

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$222

Violation Final Penalty Total \$2,500

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

## Economic Benefit Worksheet

**Respondent** Gary Goetz  
**Case ID No.** 58503  
**Reg. Ent. Reference No.** RN110858164  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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	20-Sep-2019	9-Aug-2020	0.89	\$222	n/a	\$222
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to obtain authorization for the outside dry abrasive cleaning operations and outdoor surface coating operations at the Site. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$222



Screening Date 23-Oct-2019

Docket No. 2019-1610-MLM-E

PCW

Respondent Gary Goetz

Policy Revision 4 (April 2014)

Case ID No. 58503

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110858164

Media Industrial and Hazardous Waste

Enf. Coordinator Ken Moller

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.4

Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW"). Specifically, Respondent allowed the disposal of approximately 229 cubic yards of ISW consisting of spent sandblasting media, empty paint containers, and discarded paint material on the ground at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				x	5.0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Human health or the environment has been exposed to significant 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 1 33 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the September 20, 2019 investigation date to the October 23, 2019 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	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,655

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

## Economic Benefit Worksheet

**Respondent** Gary Goetz  
**Case ID No.** 58503  
**Reg. Ent. Reference No.** RN110858164  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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	\$7,271	20-Sep-2019	9-Aug-2020	0.89	\$323	n/a	\$323
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$30,000	20-Sep-2019	9-Aug-2020	0.89	\$1,332	n/a	\$1,332

#### Notes for DELAYED costs

Estimated cost to remove all lead and oil-contaminated soils from the Site and dispose of them at an authorized facility (\$7,271). Estimated delayed cost to conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program (\$30,000). The Dates Required are the investigation date, and the Final Dates are the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$37,271

**TOTAL**

\$1,655

Screening Date 23-Oct-2019

Docket No. 2019-1610-MLM-E

PCW

Respondent Gary Goetz

Policy Revision 4 (April 2014)

Case ID No. 58503

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110858164

Media Industrial and Hazardous Waste

Enf. Coordinator Ken Moller

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62 and 335.503(a) and 40 Code of Federal Regulations § 262.11

Violation Description Failed to conduct hazardous waste determinations and waste classifications. Specifically, waste determinations and waste classifications were not conducted for the spent sandblasting media and discarded paint material.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would 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 2 33 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

Two single events are recommended (one event per waste stream).

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Extraordinary		
Ordinary		
N/A	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 \$373

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

## Economic Benefit Worksheet

**Respondent** Gary Goetz  
**Case ID No.** 58503  
**Reg. Ent. Reference No.** RN110858164  
**Media** Industrial and Hazardous Waste  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$8,400	20-Sep-2019	9-Aug-2020	0.89	\$373	n/a	\$373

Notes for DELAYED costs

Estimated delayed cost to conduct waste determinations and waste classifications on two waste streams (\$4,200 per waste stream). The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$8,400

**TOTAL**

\$373

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

Compliance History Report for CN605715150, RN110858164, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

**Customer, Respondent, or Owner/Operator:** CN605715150, Gary Goetz      **Classification:** NOT APPLICABLE      **Rating:** N/A

**Regulated Entity:** RN110858164, 1108 Pulliam Street      **Classification:** NOT APPLICABLE      **Rating:** N/A

**Complexity Points:** N/A      **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 1108 Pulliam Street, San Angelo, Tom Green County, Texas 76903-4924

**TCEQ Region:** REGION 08 - SAN ANGELO

**ID Number(s):**

**AIR QUALITY NON PERMITTED ID NUMBER**  
R08110858164

**Compliance History Period:** September 01, 2014 to August 31, 2019      **Rating Year:** 2019      **Rating Date:** 09/01/2019

**Date Compliance History Report Prepared:** October 24, 2019

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 24, 2014 to October 24, 2019

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

**Name:** Ken Moller

**Phone:** (512) 239-6111

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

N/A

**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  
GARY GOETZ;  
RN110858164

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER

DOCKET NO. 2019-1610-MLM-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Gary Goetz ("Respondent") under the authority of TEX. WATER CODE ch. 7, and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, together stipulate that:

1. Respondent owns an industrial building for rent located at 1108 Pulliam Street in San Angelo, Tom Green County, Texas (the "Site"). The Site consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). The Site contained and/or involved the management of industrial solid waste ("ISW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of eleven thousand two hundred fifty dollars (\$11,250.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred thirty dollars (\$330.00) of the penalty. The remaining amount of ten thousand nine hundred twenty dollars (\$10,920.00) shall be paid in thirty-five (35) monthly payments of three hundred twelve dollars (\$312.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.

6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that there is no longer a dry abrasive cleaning and outdoor surface coating operation operating at the Site as of November 15, 2019.
10. The Executive Director recognizes that the waste has been removed from the Site as of March 31, 2021.

## II. ALLEGATIONS

1. During an investigation conducted on September 20, 2019, an investigator documented that Respondent:
  - a. Failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), and 30 TEX. ADMIN. CODE § 116.110(a). Specifically, dry abrasive cleaning and outdoor surface coating operations occurred prior to obtaining the proper authorization from the TCEQ;
  - b. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW, in violation of 30 TEX. ADMIN. CODE § 335.4. Specifically, Respondent allowed the disposal of approximately 229 cubic yards of ISW consisting of spent sandblasting media, empty paint containers, and discarded paint material on the ground at the Site; and
  - c. Failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a) and 40 C.F.R. § 262.11. Specifically, waste determinations and waste classifications were not conducted for the spent sandblasting media and discarded paint material.

## III. DENIALS

Respondent generally denies each Allegation in Section II.

## IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent’s compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation “Re: Gary Goetz, Docket No. 2019-1610-MLM-E” to:



Financial Administration Division  
Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
- a. Within 60 days after the effective date of this Order, conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program ("TRRP") (30 TEX. ADMIN. CODE ch. 350) and submit the results to the Executive Director, via the Order Compliance Team, in accordance with Order Provision No. 2.f.
  - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.
  - c. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, by the deadline prescribed by the Executive Director, submit an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Order Compliance Team at the address listed in Ordering Provision No. 2.f. and to any additional addresses as directed by the Executive Director.
  - d. If the Executive Director determines that the APAR indicates that additional response actions are necessary, Respondents shall comply with and perform, by the deadline prescribed by the Executive Director, all applicable requirements of TRRP, which may include plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and institutional controls under Subchapter F (30 TEX. ADMIN. CODE § 350.111).
  - e. If the Executive Director determines that the APAR indicates that additional response actions are necessary, Respondent shall submit, by the deadline prescribed by the Executive Director, written certification, in accordance with Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provision No. 2.d.
  - f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager  
San Angelo Regional Office  
Texas Commission on Environmental Quality  
622 S Oakes, Suite K  
San Angelo, Texas 76903-7035

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
9. 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

Erin E. Chamallop

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

10/17/22

\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Gary Goetz

Signature - Gary Goetz,  
1108 Pulliam Street  
San Angelo, Texas 76903-4924

08-22-2022

\_\_\_\_\_  
Date

- If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_