EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0677-DCL-E TCEQ ID NOS: RN102315876 AND RN100715721 ENF. ID.: 29652

RESPONDENT NAME: SONNY NGUYEN DBA CRYSTAL CLEANERS & ALTERATION

ORDER TYPE:		
_1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
X_FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
___AIR	___MULTI-MEDIA (check all that apply)	___INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
___WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
___MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	_X_ DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 7847 Shoal Creek Boulevard and 2030 East Oltorf Street, Suite 108, Austin, Travis County

TYPE OF OPERATION: One dry cleaner and one drop station

SMALL BUSINESS: _x_ Yes ___ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Shawn Slack, Litigation Division, MC 175, (512) 239-0063
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Mr. Marlin Bullard, Enforcement Division, MC R-9, (254) 751-0335
TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929
Respondent: Mr. Sonny Nguyen, Owner, Crystal Cleaners & Alteration, 7847 Shoal Creek Boulevard, Austin, Texas 78757
Respondent's Attorney: Not represented by counsel on this enforcement matter.

DOCKET NO.: 2006-0677-DCL-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaints Relating to this Case:** None **Dates of Investigation Relating to this Case:** May 24, 2006, and June 15, 2006 **Date of NOE Relating to this Case:** July 24, 2006 (NOE) **Background Facts:** An EDPRP was filed on November 3, 2006. The Respondent received notice of the EDPRP on November 4, 2006. The Respondent has not filed an answer or requested a hearing. The Respondent in this case does not owe any other penalties according to the Administrative penalty Database Report. **DCL:** Failed to complete and submit the required registration form to the TCEQ for dry cleaning and/or drop station Facilities [30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102 (a)].	**Total Assessed:** $2,370 **Total Deferred:** $0 **Total Paid to General Revenue:** $2,370 This is a Default Order. The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this Order. **Site Compliance History Classification** 1. RN102315876: N/A 2. RN100715721: Average **Person Compliance History Classification** __ High _X_ Average __ Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy: September 2002**	**Ordering Provision(s)** The Respondent shall undertake the following technical requirements: 1. Within 15 days, complete and submit the required drycleaner and/or drop station registration form for the Facilities. 2. Within 30 days, submit written certification notarized by a State of Texas Notary Public and include detailed supporting documentation including photographs, receipts, and or other records to demonstrate compliance with the listed Ordering Provisions.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	05-Jun-2006				
PCW	14-Aug-2006	Screening	06-Jun-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Sonny Nguyen dba Crystal Cleaners & Alteration		
Reg. Ent. Ref. No.	RN102315876		
Facility/Site Region	11-Austin	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	29652	No. of Violations	1
Docket No.	2006-0677-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Marlin Bullard
Multi-Media		EC's Team	Enforcement Team 8
Admin. Penalty $ Limit Minimum	$0	Maximum	$50

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $1,185

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement *Subtotals 2, 3, & 7* $0

Notes: The respondent has no prior orders or NOVs.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: The respondent does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$18
Approx. Cost of Compliance	$250

SUM OF SUBTOTALS 1-7 Final Subtotal $1,185

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $1,185

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $1,185

DEFERRAL 0% Reduction Adjustment $0

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

Notes: No deferral because this is a non-expedited case.

PAYABLE PENALTY $1,185

Screening Date 06-Jun-2006 **Docket No.** 2006-0677-DCL-E **PCW**
Respondent Sonny Nguyen dba Crystal Cleaners & Alteration *Policy Revision 2 (September 2002)*
Case ID No. 29652 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102315876
Media [Statute] Drycleaner
Enf. Coordinator Marlin Bullard

Compliance History Worksheet

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

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

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

Adjustment Percentage (Subtotal 2) **0%**

>> **Repeat Violator (Subtotal 3)**

N/A ***Adjustment Percentage (Subtotal 3)*** **0%**

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

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

>> **Compliance History Summary**

Compliance History Notes The respondent has no prior orders or NOVs.

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

Screening Date 06-Jun-2006 **Docket No.** 2006-0677-DCL-E **PCW**

Respondent Sonny Nguyen dba Crystal Cleaners & Alteration *Policy Revision 2 (September 2002)*

Case ID No. 29652 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102315876

Media [Statute] Drycleaner

Enf. Coordinator Marlin Bullard

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 337.10(a)

Secondary Rule Cite(s) Tex. Health and Safety Code § 374.102(a)

Violation Description The respondent failed to complete and submit the required registration form to the TCEQ for a drycleaning and/or drop station facility. Specifically, the completed registration form was not submitted by the September 1, 2005 regulatory deadline.

Base Penalty $50

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment -$45

Base Penalty Subtotal $5

Violation Events

Number of Violation Events 237

mark only one use a small x	
daily	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,185

Two hundred thirty-seven daily events are recommended from the September 1, 2005 regulatory deadline to the April 26, 2006 deadline established by the TCEQ letter dated March 24, 2006.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount $18 **Violation Final Penalty Total** $1,185

This violation Final Assessed Penalty (adjusted for limits) $1,185

Economic Benefit Worksheet

Respondent Sonny Nguyen dba Crystal Cleaners & Alteration
Case ID No. 29652
Reg. Ent. Reference No. RN102315876
Media [Statute] Drycleaner
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$250	01-Sep-2005	30-Jan-2007	1.4	$18	n/a	$18
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The estimated cost to register a dry cleaning or drop station facility annually. The date required is the date that the completed registration form was due and the final date is the date the respondent is projected to come into compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $250

TOTAL $18

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	10-Jul-2006				
PCW	14-Aug-2006	Screening	11-Jul-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Sonny Nguyen dba Crystal Cleaners & Alteration		
Reg. Ent. Ref. No.	RN100715721		
Facility/Site Region	11-Austin	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	29652	No. of Violations	1
Docket No.	2006-0677-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Marlin Bullard
Multi-Media		EC's Team	Enforcement Team 8
Admin. Penalty $ Limit Minimum	$0	Maximum	$50

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $1,185

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement *Subtotals 2, 3, & 7* $0

Notes: The respondent has no prior orders or NOVs.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: The respondent does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$18
Approx. Cost of Compliance	$250

SUM OF SUBTOTALS 1-7 Final Subtotal $1,185

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $1,185

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $1,185

DEFERRAL 0% Reduction Adjustment $0

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

Notes: No deferral because this is a non-expedited case.

PAYABLE PENALTY $1,185

Screening Date 11-Jul-2006 **Docket No.** 2006-0677-DCL-E **PCW**
Respondent Sonny Nguyen dba Crystal Cleaners & Alteration *Policy Revision 2 (September 2002)*
Case ID No. 29652 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN100715721
Media [Statute] Drycleaner
Enf. Coordinator Marlin Bullard

Compliance History Worksheet

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

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

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

Adjustment Percentage (Subtotal 2) **0%**

>> **Repeat Violator (Subtotal 3)**

No ***Adjustment Percentage (Subtotal 3)*** **0%**

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

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

>> **Compliance History Summary**

Compliance History Notes The respondent has no prior orders or NOVs.

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

Screening Date 11-Jul-2006 **Docket No.** 2006-0677-DCL-E **PCW**

Respondent Sonny Nguyen dba Crystal Cleaners & Alteration *Policy Revision 2 (September 2002)*

Case ID No. 29652 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN100715721

Media [Statute] Drycleaner

Enf. Coordinator Marlin Bullard

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 337.10(a)

Secondary Rule Cite(s) Tex. Health and Safety Code § 374.102

Violation Description The respondent failed to complete and submit the required registration form to the TCEQ for a dry cleaning and/or drop station facility.

Base Penalty $50

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment -$45

Base Penalty Subtotal $5

Violation Events

Number of Violation Events 237

mark only one use a small x	
daily	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,185

Two hundred thirty-seven daily events are recommended from the September 1, 2005 deadline to the April 26, 2006 deadline established by the TCEQ letter dated March 24, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $18

Statutory Limit Test

Violation Final Penalty Total $1,185

This violation Final Assessed Penalty (adjusted for limits) $1,185

Economic Benefit Worksheet

Respondent Sonny Nguyen dba Crystal Cleaners & Alteration
Case ID No. 29652
Reg. Ent. Reference No. RN100715721
Media [Statute] Drycleaner
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$250	01-Sep-2005	30-Jan-2007	1.4	$18	n/a	$18
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The estimated cost to register a dry cleaning or drop station facility annually. The date required is the date the completed registration form was due. The final date is the date the respondent is projected to come into compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $250

TOTAL $18

Compliance History

Customer/Respondent/Owner-Operator:	CN603040981	NGUYEN, SONNY	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN102315876	CRYSTAL CLEANERS & ALTERATION	Classification:	Site Rating:
ID Number(s):				
Location:	7847 SHOAL CREEK BLVD, AUSTIN, TX, 78757			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	May 02, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 07, 2001 to June 07, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: N/A Phone: N/A

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	Yes
3. If Yes, who is the current owner?	N/A
4. if Yes, who was/were the prior owner(s)?	Jack Brown Cleaners, Inc.
5. When did the change(s) in ownership occur?	03/01/2003

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1 05/31/2006 (479712)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

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

Compliance History

Customer/Respondent/Owner-Operator:	CN603040981	NGUYEN, SONNY	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN100715721	CRYSTAL CLEANERS & ALTERATIONS	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION		EPA ID	TXD157202573
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION		SOLID WASTE REGISTRATION # (SWR)	74523
Location:	2030 E OLTORF ST STE 108, AUSTIN, TX, 78741		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	May 02, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 07, 2001 to June 07, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: N/A Phone: N/A

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

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 SONNY NGUYEN DBA CRYSTAL CLEANERS & ALTERATION RN102315876 AND RN100715721	§ § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

DEFAULT ORDER
DOCKET NO. 2006-0677-DCL-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 374, TEX. ADMIN. CODE chs. 70 and 337 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Sonny Nguyen dba Crystal Cleaners & Alteration ("Mr. Nguyen").

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

FINDINGS OF FACT

1. Mr. Nguyen owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates two dry cleaners, located at 7847 Shoal Creek Boulevard and 2030 East Oltorf Street, Suite 108, Austin, Travis County, Texas (the "Facilities").

2. The Facilities are retail commercial establishments that operate or have operated, in whole or in part for the purpose of cleaning garments or other fabrics using a process that involves any use of dry cleaning solvents. As such, the Facilities are dry cleaning facilities as defined in TEX. HEALTH & SAFETY CODE § 374.001(7).

3. During investigations conducted on May 24, 2006, and June 15, 2006, TCEQ staff documented that Mr. Nguyen violated 30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102(a) by failing to complete and submit the required registration form to the TCEQ for dry cleaning and/or drop station Facilities.

4. Mr. Nguyen received notice of the violations on or about July 29, 2006.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sonny Nguyen dba Crystal Cleaners & Alteration" (the "EDPRP") in the TCEQ Chief Clerk's office on November 3, 2006.

6. By letter dated November 3, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Nguyen with notice of the EDPRP. According to the return receipt "green card", Mr. Nguyen received notice of the EDPRP on November 4, 2006, as evidenced by the signature on the card.

7. More than 20 days have elapsed since Mr. Nguyen received notice of the EDPRP, provided by the Executive Director. Mr. Nguyen failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Nguyen is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE ch. 374 because the violations alleged herein are within the Commission's general jurisdiction, pursuant to TEX. WATER CODE § 5.013, as they involve violations of the state's dry cleaners registration program, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3, Mr. Nguyen failed to complete and submit the required registration form to the TCEQ for dry cleaning and/or drop station Facilities, in violation of 30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102(a).

3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Nguyen with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

4. As evidenced by Finding of Fact No. 7, Mr. Nguyen has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Nguyen and assess the penalty recommended by the Executive Director.

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Nguyen for violations of the Texas Water Code and

rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of two thousand three hundred seventy dollars ($2,370.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE §§ 7.053 and 7.0525.

7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Nguyen is assessed an administrative penalty in the amount of two thousand three hundred seventy dollars ($2,370.00) for violations of TEX. HEALTH & SAFETY CODE § 374.102(a) and rules of the TCEQ. The payment of this administrative penalty and Mr. Nguyen's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Sonny Nguyen dba Crystal Cleaners & Alteration; Docket No. 2006-0677-DCL-E" to:

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

2. Mr. Nguyen shall undertake the following technical requirements:

   a. Within 15 days after the effective date of the Commission Order, Mr. Nguyen shall complete and submit the required drycleaner and/or drop station registration form for the Facility, in accordance with 30 Tex. Admin. Code § 337.10 to:

Dry Cleaning Registration Team
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

b. Within 30 days after the effective date of the Commission Order, Mr. Nguyen shall submit written certification of compliance with Ordering Provision 2.a. as described below:

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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

and

Waste Section Manager
Texas Commission on Environmental Quality
Austin Regional Office
1921 Cedar Bend Drive, Suite 1200
Austin, Texas 78758

3. All relief not expressly granted in this Order is denied.

4. The provisions of this Order shall apply to and be binding upon Mr. Nguyen. Mr. Nguyen is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Order.

5. If Mr. Nguyen 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, Mr. Nguyen's failure to comply is not a violation of this Order. Mr. Nguyen shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Nguyen shall notify the Executive Director within seven days after Mr. Nguyen becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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 Mr. Nguyen shall be made in writing to the Executive Director. Extensions are not effective until Mr. Nguyen receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Nguyen if the Executive Director determines that Mr. Nguyen has not complied with one or more of the terms or conditions in this Order.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____

For the Commission

AFFIDAVIT OF SHAWN A. SLACK

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

"My name is Shawn A. Slack. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sonny Nguyen dba Crystal Cleaners & Alteration" (the "EDPRP") with the Office of the Chief Clerk on November 3, 2006.

I sent the EDPRP to Mr. Nguyen at his last known address on November 3, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", Mr. Nguyen received notice of the EDPRP on November 4, 2006, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Nguyen received notice of the EDPRP. Mr. Nguyen failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference".

Shawn A. Slack
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Shawn A. Slack, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this [illegible] day of [illegible], A.D., 2007.

JACQUELINE FRANCES DUCKWORTH
Notary Public, State of Texas
My Commission Expires
MARCH 07, 2007

Notary Stamp

Notary Signature

Notary without Bond