EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1336-DCL-E **TCEQ ID:** RN104408190and RN101870996 **CASE NO.:** 30798

RESPONDENT NAME: Jackie Rainey and Mark J. Rainey dba Classic Cleaners

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY	X DRY CLEANER REGISTRATION	

SITE WHERE VIOLATION(S) OCCURRED: Classic Cleaners, 7400 North 10th Street, Suite N ("Facility 1"), and 5219 North McColl Road ("Facility 2"), McAllen, Hidalgo County

TYPE OF OPERATION: Dry cleaning and/or drop stations

SMALL BUSINESS: __X__ Yes ____ No

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

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 January 22, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Libby Hogue, Enforcement Division, Enforcement Section II, MC 219, (512) 239-1165; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
TCEQ Field Investigator: Mr. Jacinto Hinojosa, Harlingen Regional Office, MC R-15, (956) 425-6010
Respondent: Ms. Jackie Rainey and Mr. Mark J. Rainey, Owners, Classic Cleaners, P.O. Box 5336, McAllen, Texas 78502
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Dates of Investigations Relating to this Case:** May 31, June 6, and August 28, 2006 **Dates of NOEs Relating to this Case:** August 11 and September 1, 2006 (NOEs) **Background Facts:** These were routine investigations. Three violations were documented. **WASTE** 1) Failed to renew the registration by completing and submitting the required registration form to the TCEQ for Facility 1 [30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102]. 2) Failed to renew the registration by completing and submitting the required registration form to the TCEQ for Facility 2 [30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102]. 3) Failed to pay Dry Cleaner registration fees and late fees for TCEQ Financial Administration Account No. 24002511 for fiscal years 2004 and 2005 [30 TEX. ADMIN. CODE § 337.14(c) and TEX. WATER CODE § 5.702].	**Total Assessed:** $2,370 **Total Deferred:** $474 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $296 (remaining $1,600 due in 16 monthly payments of $100 each) **Site Compliance History Classification:** __High __Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondents to: a. Within 15 days after the effective date of this Agreed Order, complete and submit the required drycleaner and/or drop station registration forms for the Facilities; b. Within 30 days after the effective date of this Agreed Order, Ms. Rainey and Mr. Rainey shall submit payment for all outstanding fees, including any associated penalties and interest; and c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. and b.

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	14-Aug-2006				
PCW	17-Aug-2006	Screening	16-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Jackie Rainey and Mark J. Rainey dba Classic Cleaners		
Reg. Ent. Ref. No.	RN104408190		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	30798	No. of Violations	2
Docket No.	2006-1336-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Libby Hogue
Multi-Media		EC's Team	Enforcement Team 4
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: Respondent does not have any other enforcement actions having occurred within the last five years.

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 20% Reduction Adjustment -$237

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $948

Screening Date	16-Aug-2006	**Docket No.** 2006-1336-DCL-E	**PCW**
Respondent	0		*Policy Revision 2 (September 2002)*
Case ID No.	30798		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN104408190		
Media [Statute]	Drycleaner		
Enf. Coordinator	Libby Hogue		

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 Respondent does not have any other enforcement actions having occurred within the last five years.

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

PCW

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

Screening Date	16-Aug-2006
Docket No.	2006-1336-DCL-E
Respondent	0
Case ID No.	30798
Reg. Ent. Reference No.	RN104408190
Media [Statute]	Drycleaner
Enf. Coordinator	Libby Hogue
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 337.11(e)
Secondary Rule Cite(s)	Tex. Health & Safety Code § 374.102
Violation Description	The respondent failed to renew the facility's registration by completing and submitting 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: 0
Case ID No.: 30798
Reg. Ent. Reference No.: RN104408190
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	31-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

PCW

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

Screening Date	16-Aug-2006
Docket No.	2006-1336-DCL-E
Respondent	0
Case ID No.	30798
Reg. Ent. Reference No.	RN104408190
Media [Statute]	Drycleaner
Enf. Coordinator	Libby Hogue
Violation Number	2
Primary Rule Cite(s)	30 Tex. Admin. Code § 337.14(c)
Secondary Rule Cite(s)	Tex. Water Code § 5.702
Violation Description	The respondent failed to pay Dry Cleaner registration fees and all associated late fees for TCEQ Financial Administration Account No. 24002511 for fiscal years 2004 and 2005.

Base Penalty $50

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Adjustment -$50

Base Penalty Subtotal $0

Violation Events

Number of Violation Events

mark only one use a small x

- *daily*
- *monthly*
- *quarterly*
- *semiannual*
- *annual*
- *single event*

Violation Base Penalty $0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

This violation Final Assessed Penalty (adjusted for limits) $0

Economic Benefit Worksheet

Respondent: 0
Case ID No.: 30798
Reg. Ent. Reference No.: RN104408190
Media [Statute]: Drycleaner
Violation No.: 2

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				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	N/A						
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: $0

TOTAL: $0

Compliance History

Customer/Respondent/Owner-Operator:	CN603075623	Mark J. Rainey	Classification: Average by Default	Rating: 3.01
Regulated Entity:	RN104408190	CLASSIC CLEANERS	Classification:	Site Rating:

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR00074310
Location:	7400 N 10TH ST STE N, MCALLEN, TX, 78504		

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: September 01, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 14, 2001 to August 14, 2006

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

Name: Libby Hogue Phone: 512-239-1165

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?
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.)

1 08/11/2006 (481135)

N/A

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

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

Compliance History

Customer/Respondent/Owner-Operator:	CN603075615	Jackie Rainey	Classification: Average by Default	Rating: 3.01
Regulated Entity:	RN104408190	CLASSIC CLEANERS	Classification:	Site Rating:
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION		EPA ID	TXR00074310
Location:	7400 N 10TH ST STE N, MCALLEN, TX, 78504			

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: September 01, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 14, 2001 to August 14, 2006

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

Name: Libby Hogue Phone: 512-239-1165

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?
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.)

1 08/11/2006 (481135)

N/A

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

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

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	05-Sep-2006				
PCW	13-Sep-2006	Screening	13-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Jackie Rainey and Mark J. Rainey dba Classic Cleaners		
Reg. Ent. Ref. No.	RN101870996		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	30798	No. of Violations	1
Docket No.	2006-1336-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Libby Hogue
Multi-Media		EC's Team	Enforcement Team 4
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: Respondent does not have any other enforcement actions having occurred within the last five years.

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 20% Reduction Adjustment -$237

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $948

Screening Date	13-Sep-2006	**Docket No.** 2006-1336-DCL-E	**PCW**
Respondent	0		*Policy Revision 2 (September 2002)*
Case ID No.	30798		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN101870996		
Media [Statute]	Drycleaner		
Enf. Coordinator	Libby Hogue		

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 Respondent does not have any other enforcement actions having occurred within the last five years.

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

Screening Date 13-Sep-2006 **Docket No.** 2006-1336-DCL-E **PCW**

Respondent 0 *Policy Revision 2 (September 2002)*

Case ID No. 30798 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101870996

Media [Statute] Drycleaner

Enf. Coordinator Libby Hogue

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 337.11(e)

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

Violation Description The respondent failed to renew the facility's registration by completing and submitting 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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

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: 0
Case ID No.: 30798
Reg. Ent. Reference No.: RN101870996
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	31-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

Compliance History

Customer/Respondent/Owner-Operator:	CN603075623	Mark J. Rainey	Classification: Average by Default	Rating: 3.01
Regulated Entity:	RN101870996	CLASSIC CLEANERS	Classification:	Site Rating:

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR00074310
Location:	5219 NORTH MCCOLL ROAD, MCALLEN,		
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	September 15, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 04, 2001 to September 04, 2006		

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

Name: Libby Hogue Phone: 512-239-1165

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Y
2. Has there been a (known) change in ownership of the site during the compliance period?
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.)

1 08/11/2006 (481135)

N/A

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

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

Compliance History

Customer/Respondent/Owner-Operator:	CN603075615	Jackie Rainey	Classification: Average by Default	Rating: 3.01
Regulated Entity:	RN101870996	CLASSIC CLEANERS	Classification:	Site Rating:

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR00074310
Location:	5219 NORTH MCCOLL ROAD, MCALLEN, TX, 78504		
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	September 15, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 04, 2001 to September 04, 2006		

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

Name: Libby Hogue Phone: 512-239-1165

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.)

1 08/11/2006 (481135)

N/A

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

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
JACKIE RAINEY AND MARK J.	§	**TEXAS COMMISSION ON**
RAINEY DBA CLASSIC CLEANERS	§	
RN104408190 AND RN101870996	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1336-DCL-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jackie Rainey and Mark J. Rainey dba Classic Cleaners ("Ms. Rainey and Mr. Rainey") under the authority of TEX. HEALTH & SAFETY CODE ch. 374 and TEX. WATER CODE chs. 5 and 7. The Executive Director of the TCEQ, through the Enforcement Division, and Ms. Rainey and Mr. Rainey appear before the Commission and together stipulate that:

1. Ms. Rainey and Mr. Rainey own and operate dry cleaning and/or drop station facilities at the following locations (the "Facilities"):

   a. Classic Cleaners, 7400 North 10th Street, Suite N in McAllen, Hidalgo County, Texas ("Facility 1").

   b. Classic Cleaners, 5219 North McColl Road, in McAllen, Hidalgo County, Texas ("Facility 2").

2. The TCEQ has general authority to regulate the Facilities pursuant to TEX. HEALTH & SAFETY CODE § 374.051.

3. The Commission and Ms. Rainey and Mr. Rainey agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Rainey and Mr. Rainey are subject to the Commission's jurisdiction.

4. Ms. Rainey and Mr. Rainey received notices of the violations alleged in Section II ("Allegations") on or about August 16, 2006 and September 6, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Rainey and Mr. Rainey of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Three Hundred Seventy Dollars ($2,370) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ms. Rainey and Mr. Rainey have paid Two Hundred Ninety-Six Dollars ($296) of the administrative penalty and Four Hundred Seventy-Four Dollars ($474) is deferred contingent upon Ms. Rainey and Mr. Rainey's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Ms. Rainey and Mr. Rainey fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Ms. Rainey and Mr. Rainey to pay all or part of the deferred penalty.

   The remaining amount of One Thousand Six Hundred Dollars ($1,600) of the administrative penalty shall be payable in 16 monthly payments of One Hundred Dollars ($100) 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 Ms. Rainey and Mr. Rainey fail 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 Ms. Rainey and Mr. Rainey to meet the payment schedule of this Agreed Order constitutes the failure by Ms. Rainey and Mr. Rainey 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 of the TCEQ and Ms. Rainey and Mr. Rainey have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. 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 Ms. Rainey and Mr. Rainey have not complied with one or more of the terms or conditions in this Agreed Order.

10. 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.

11. 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 owners and operators of the Facilities, Ms. Rainey and Mr. Rainey are alleged to have:

1. Failed to renew the registration by completing and submitting the required registration form to the TCEQ for Facility 1, in violation of 30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102, as documented during an investigation conducted on May 31, 2006.

2. Failed to renew the registration by completing and submitting the required registration form to the TCEQ for Facility 2, in violation of 30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102, as documented during an investigation conducted on June 6, 2006

3. Failed to pay Dry Cleaner registration fees and late fees for TCEQ Financial Administration Account No. 24002511 for fiscal years 2004 and 2005, in violation of 30 TEX. ADMIN. CODE § 337.14(c) and TEX. WATER CODE § 5.702, as documented during a record review conducted on August 28, 2006.

III. DENIALS

Ms. Rainey and Mr. Rainey generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ms. Rainey and Mr. Rainey pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Rainey and Mr. Rainey'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: Jackie Rainey and Mark J. Rainey dba Classic Cleaners, Docket No. 2006-1336-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. Ms. Rainey and Mr. Rainey are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.

3. It is further ordered that Ms. Rainey and Mr. Rainey shall undertake the following technical requirements:

a. Within 15 days after the effective date of this Agreed Order, complete and submit the required drycleaner and/or drop station registration forms for the Facilities, in accordance with 30 TEX. ADMIN. CODE ch. 337 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 this Agreed Order, Ms. Rainey and Mr. Rainey shall submit payment for all outstanding fees, including any associated penalties and interest with the notation, "Jackie Rainey and Mark J. Rainey dba Classic Cleaners", Financial Administration Account No. 24002511", 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

c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 3.a. and 3.b. as described below:

The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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

with a copy to:

Manager, Waste Section
Harlingen Regional Office

Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

4. The provisions of this Agreed Order shall apply to and be binding upon Ms. Rainey and Mr. Rainey. Ms. Rainey and Mr. Rainey are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Agreed Order.

5. If Ms. Rainey and Mr. Rainey fail 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, Ms. Rainey and Mr. Rainey's failure to comply is not a violation of this Agreed Order. Ms. Rainey and Mr. Rainey shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Rainey and Mr. Rainey shall notify the Executive Director within seven days after Ms. Rainey and Mr. Rainey become 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 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 Ms. Rainey and Mr. Rainey shall be made in writing to the Executive Director. Extensions are not effective until Ms. Rainey and Mr. Rainey receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Rainey and Mr. Rainey 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.

8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Ms. Rainey and Mr. Rainey, or three days after the date on which the Commission mails notice of the Order to Ms. Rainey and Mr. Rainey, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 2/13/07
For the Executive Director 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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

_____ 10/28/06
Signature Date

Jackie Rainey Member
Name (Printed or typed) Title
Authorized Representative of
Jackie Rainey dba Classic Cleaners

_____ 10/28/06
Signature Date

MARK J. RAINEY Member
Name (Printed or typed) Title
Authorized Representative of
Mark J. Rainey dba Classic Cleaners

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