EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1169-DCL-E **TCEQ ID:** RN104964580 **CASE NO.:** 30662

RESPONDENT NAME: Ha Yen dba 1.25 Super Cleaners

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__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: 1.25 Super Cleaners, 10776 Grant Road, Houston, Harris County

TYPE OF OPERATION: Dry cleaning 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 April 30, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-0577; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Ha Yen, Owner, 1.25 Cleaners, 10776 Grant Road, Houston, Texas 77070

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 __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** May 24, 2006 **Date of NOE Relating to this Case:** August 2, 2007 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **WASTE** Failed to complete and submit the required registration form to the TCEQ for the Facility [30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102].	**Total Assessed:** $1,185 **Total Deferred:** $237 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $122 (remaining $826 to be paid in 7 monthly payments of $118 each) **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** __ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 15 days after the effective date of this Agreed Order, complete and submit the required drycleaner and/or drop station registration form for the Facility; and b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	07-Aug-2006				
PCW	08-Aug-2006	Screening	08-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Ha Yen dba 1.25 Super Cleaners		
Reg. Ent. Ref. No.	RN104964580		
Facility/Site Region	12- Houston	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	30662	No. of Violations	1
Docket No.	2006-1169-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Rajesh Acharya
Multi-Media		EC's Team	Enforcement Team 7
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: No adjustment due to compliance history.

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 08-Aug-2006 **Docket No.** 2006-1169-DCL-E **PCW**
Respondent Ha Yen dba 1.25 Super Cleaners *Policy Revision 2 (September 2002)*
Case ID No. 30662 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN104964580
Media [Statute] Drycleaner
Enf. Coordinator Rajesh Acharya

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)

N/A ***Adjustment Percentage (Subtotal 7)*** **0%**

>> Compliance History Summary

Compliance History Notes No adjustment due to compliance history.

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

PCW

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

Screening Date	08-Aug-2006
Docket No.	2006-1169-DCL-E
Respondent	Ha Yen dba 1.25 Super Cleaners
Case ID No.	30662
Reg. Ent. Reference No.	RN104964580
Media [Statute]	Drycleaner
Enf. Coordinator	Rajesh Acharya

Violation Number 1

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

Secondary Rule Cite(s) Tex. Health & 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: Ha Yen dba 1.25 Super Cleaners
Case ID No.: 30662
Reg. Ent. Reference No.: RN104964580
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

Compliance History

Customer/Respondent/Owner-Operator:	CN603045147 Ha Yen		Classification:	Rating:
Regulated Entity:	RN104964580 1.25 SUPER CLEANERS		Classification:	Site Rating:
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXR000070276
Location:	10776 GRANT RD, HOUSTON, TX, 77070			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	August 08, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 08, 2001 to August 08, 2006			

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

Name: Rajesh Acharya Phone: (512) 239-0577

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 08/02/2006 (488181)

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	§	
HA YEN DBA 1.25 SUPER	§	**TEXAS COMMISSION ON**
CLEANERS	§	
RN104964580	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1169-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 Ha Yen dba 1.25 Super Cleaners ("Mr. Yen") under the authority of TEX. HEALTH & SAFETY CODE ch. 374 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Yen appear before the Commission and together stipulate that:

1. Mr. Yen owns and operates a dry cleaning drop station at 10776 Grant Road in Houston, Harris County, Texas (the "Facility").

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

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

4. Mr. Yen received notice of the violations alleged in Section II ("Allegations") on or about August 7, 2006.

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

6. An administrative penalty in the amount of One Thousand One Hundred Eighty-Five Dollars ($1,185) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Yen has paid One Hundred Twenty-Two Dollars ($122) of the administrative penalty and Two Hundred Thirty-Seven Dollars ($237) is deferred contingent upon Mr. Yen'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 Mr. Yen fails to timely and

satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Yen to pay all or part of the deferred penalty.

The remaining amount of Eight Hundred Twenty-Six Dollars ($826) of the administrative penalty shall be payable in seven monthly payments of One Hundred Eighteen Dollars ($118) 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 Mr. Yen fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Yen to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Yen 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 Mr. Yen 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 Mr. Yen has 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 owner and operator of the Facility, Mr. Yen is alleged to have failed to complete and submit the required registration form to the TCEQ for the Facility, in violation of 30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102, as documented during an investigation conducted on May 24, 2006.

III. DENIALS

Mr. Yen generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Yen pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Yen'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: Ha Yen dba 1.25 Super Cleaners, Docket No. 2006-1169-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. It is further ordered that Mr. Yen 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 form for the Facility, 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, submit written certification of compliance with Ordering Provision 2.a. 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:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

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

4. If Mr. Yen fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Yen's failure to comply is not a violation of this Agreed Order. Mr. Yen shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Yen shall notify the Executive Director within seven days after Mr. Yen becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Yen shall be made in writing to the Executive Director. Extensions are not effective until Mr. Yen receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Yen in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Yen, or three days after the date on which the Commission mails notice of the Order to Mr.

Yen, 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

For the Executive Director

5/15/07
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.

Signature

2-21-07
Date

HA YEN
Name (Printed or typed)
Authorized Representative of
Ha Yen dba 1.25 Super Cleaners

Title

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.