

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: May 30, 2006</p> <p>Date of NOE Relating to this Case: August 15, 2006</p> <p>Background Facts: This case was referred to the Litigation Division on January 18, 2007. The EDPRP was filed on February 9, 2007, and the Respondent received notice of the EDPRP on February 15, 2007. The Respondent has not filed a response or requested a hearing.</p> <p>DCL</p> <p>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 [30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102].</p>	<p>Total Assessed: \$1,185</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$1,185</p> <p>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 proposed Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s)</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 15 days, complete and submit the required dry cleaner and/or drop station registration form for the Facility. 2. Within 30 days, submit written certification of compliance with Ordering Provision No. 1.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	21-Aug-2006	Screening	29-Aug-2006	EPA Due
	PCW	18-Dec-2006			

RESPONDENT/FACILITY INFORMATION			
Respondent	125 Max Drycleaning Center, LLC dba 1.25 Max Dryclean		
Reg.-Ent.-Ref.-No.	RN103992012		
Facility/Site Region	12-Houston	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	31004	No. of Violations	1
Docket No.	2006-1497-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	J. Craig Fleming.
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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes 0% Enhancement

Culpability **Subtotal 4**

Notes No 0% Enhancement

Good Faith Effort to Comply **Subtotal 5**

Notes 0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	<i>(mark with a small x)</i>

Economic Benefit **Subtotal 6**

Notes 0% Enhancement*
*Capped at the Total EB \$ Amount

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes **Final Penalty Amount**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

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

Notes Reduction

PAYABLE PENALTY

Screening Date 29-Aug-2006	Docket No. 2006-1497-DCL-E	PCW
Respondent 125 Max Drycleaning Center, LLC dba 1.25 Max Dryclean	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31004	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN103992012		
Media [Statute] Drycleaner		
Enf. Coordinator J. Craig Fleming		

Compliance History Worksheet

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

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	0	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	0	0%
	Participation in a voluntary pollution reduction program	0	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	0	0%

Adjustment Percentage (Subtotal 2) 0%

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

N/A

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 enhancement is recommended because there have been no enforcement actions in the past five years.

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

Screening Date 29-Aug-2006	Docket No. 2006-1497-DCL-E	PCW
Respondent 125 Max Drycleaning Center, LLC dba 1.25 Max Dryclean	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31004	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN103992012		
Media [Statute] Drycleaner		
Enf. Coordinator J. Craig Fleming		
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 registration by completing and submitting the required registration form to the TCEQ for a dry cleaning and/or drop station facility.	

Base Penalty

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

Harm				
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	X	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	daily	X
	monthly	<input type="text"/>
<i>mark only one</i>	quarterly	<input type="text"/>
<i>use a small x</i>	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

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

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 125 Max Drycleaning Center, LLC dba 1.25 Max Dryclean
Case ID No. 31004
Reg. Ent. Reference No. RN103992012
Media [Statute] Drycleaner
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
Description No commas or \$								
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: CN602479271 125 Max Drycleaning Center, LLC Classification: Rating:
Regulated Entity: RN103992012 1.25 MAX DRYCLEAN Classification: Site Rating:

ID-Number(s): INDUSTRIAL-AND-HAZARDOUS-WASTE EPA-ID TXR000071670
GENERATION
Location: 12921 FM RD 1960 W, HOUSTON, TX, 77065

TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: August 26, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 26, 2001 to August 26, 2006

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

Name: J. Craig Fleming Phone: 239-5806

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 08/15/2006 (497604)
- 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
ENFORCEMENT ACTION
CONCERNING
125 MAX DRY CLEANING
CENTER, LLC dba 1.25 MAX
DRYCLEAN,
RN103992012

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-1497-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, 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 125 Max Dry Cleaning Center, LLC dba 1.25 Max Dryclean ("125 Max").

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

FINDINGS OF FACT

1. 125 Max owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates a dry cleaning facility located at 12921 Farm-to-Market Road 1960 West, Houston, Harris County, Texas (the "Facility").
2. The Facility is a retail commercial establishment that operates or has 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 Facility is a dry cleaning facility as defined in TEX. HEALTH & SAFETY CODE § 374.001(7).
3. During an inspection on May 30, 2006, a TCEQ Houston Regional Office investigator documented that 125 Max 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.
4. 125 Max received notice of the violation on or about August 20, 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 125 Max Dry Cleaning Center, LLC dba 1.25 Max Dryclean” (the “EDPRP”) in the TCEQ Chief Clerk’s office on February 9, 2007.

6. By letter dated February 9, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served 125 Max with notice of the EDPRP. According to the return receipt “green card,” 125 Max received notice of the EDPRP on February 15, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since 125 Max received notice of the EDPRP, provided by the Executive Director. 125 Max 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, 125 Max is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 374 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, 125 Max 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, in violation of 30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served 125 Max 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, 125 Max 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 125 Max 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 125 Max for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission’s jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of one thousand one hundred eighty-five dollars (\$1,185.00) 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. 125 Max is assessed an administrative penalty in the amount of one thousand one hundred eighty-five dollars (\$1,185.00) for violations of TEX. HEALTH & SAFETY CODE ch. 374 and rules of the TCEQ. The payment of this administrative penalty and 125 Max'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: 125 Max Dry Cleaning Center, LLC dba 1.25 Max Dryclean; Docket No. 2006-1497-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. 125 Max shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Order, 125 Max shall 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 Order, 125 Max shall 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 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

Nicole Bealle, Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
2524 Polk Avenue, suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon 125 Max. 125 Max is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If 125 Max 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, 125 Max's failure to comply is not a violation of this Order. 125 Max shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. 125 Max shall notify the Executive Director within seven days after 125 Max 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 125 Max shall be made in writing to the Executive Director. Extensions are not effective until 125 Max 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 125 Max if the Executive Director determines that 125 Max 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 BENJAMIN O. THOMPSON

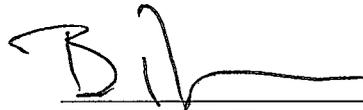
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Benjamin O. Thompson. 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 125 Max Dry Cleaning Center, LLC dba 1.25 Max Dryclean” (the “EDPRP”) with the Office of the Chief Clerk on February 9, 2007.

I sent the EDPRP to 125 Max at its last known address on February 9, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” 125 Max received notice of the EDPRP on February 15, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since 125 Max received notice of the EDPRP. 125 Max failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Benjamin O. Thompson, 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 29th day of March, A.D., 2007.



Notary Signature

Notary Stamp

