

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1473-PST-E TCEQ ID: RN102365392 CASE NO.: 30966
RESPONDENT NAME: CLASSIC CONVENIENCE INC. DBA STEP IN FOOD

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 5711 Irvington Boulevard, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: 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 December 29, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Air Enforcement Section, MC 149, (512) 239-6162

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Piyar Qassim Ali, Director, Classic Convenience Inc., 5711 Irvington Boulevard, Houston, Texas 77009;
 Mr. Piyar Q. Ali, Director, Classic Convenience Inc., 5711 Irvington Boulevard, Houston, Texas 77009;

Mr. Akbar Ali Momin, Director, Classic Convenience Inc., 12703 Veterans Memorial, Suite 105, Houston, Texas 77014

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 14, 2006</p> <p>Date of NOE Relating to this Case: August 17, 2006</p> <p>Background Facts: The EDPRP was filed on March 15, 2007 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," the Respondent received notice of the EDPRP on March 19, 2007, as evidenced by the signature on the cards. The Respondent has failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent no longer owns the Facility.</p> <p>PST:</p> <p>1. Failed to ensure that at least one station representative receives training and instruction in the operation and maintenance of the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2. Failed to maintain all required Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3. Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$4,725</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$4,725</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 <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent no longer owns the Facility.</p>

Penalty Calculation Worksheet (PCW)

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

DATES	Assigned	21-Aug-2006	Screening	28-Aug-2006	EPA Due	
	PCW	23-Jan-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Classic Convenience Inc. dba Step In Food		
Reg. Ent. Ref. No.	RN102365392		
Facility/Site Region	12-Houston	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	30966	No. of Violations	3
Docket No.	2006-1473-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Shontay Wilcher
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	5% Enhancement	Subtotals 2, 3, & 7
		\$225

Notes: Enhancement for one Notice of Violation with same or similar violations.

Culpability	No <input checked="" type="checkbox"/>	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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
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Total EB Amounts	\$819	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,750	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,725
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$4,725
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,725
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited case.

PAYABLE PENALTY	\$4,725
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Screening Date 28-Aug-2006	Docket No. 2006-1473-PST-E	PCW
Respondent Classic Convenience Inc. dba Step In Food	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 30966	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102365392		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Shontay Wilcher		

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>	1	5%
	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 disclosed)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Other	<i>Please Enter Yes or No</i>		
	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) 5%

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

Adjustment Percentage (Subtotal 3) 0%

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

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes	Enhancement for one Notice of Violation with same or similar violations.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date	28-Aug-2006	Docket No.	2006-1473-PST-E	PCW
Respondent	Classic Convenience Inc. dba Step In Food			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	30966			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102365392			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.248(1)			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to ensure that at least one station representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system.			
	Base Penalty	\$10,000		

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

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		10%

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.					

Adjustment - \$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

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

Violation Base Penalty \$1,000

One quarterly event is recommended for the period from the August 14, 2006 investigation date to the August 28, 2006 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$17"/>	Violation Final Penalty Total <input type="text" value="\$1,050"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,050"/>	

Economic Benefit Worksheet

Respondent Classic Convenience Inc. dba Step In Food

Case ID No. 30966

Reg. Ent. Reference No. RN102365392

Media [Statute] Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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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	\$500	14-Aug-2006	17-Apr-2007	0.7	\$17	n/a	\$17
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: Estimated cost of training. Date Required is the investigation date. Final Date is the projected date of 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 \$500

TOTAL \$17

Screening Date	28-Aug-2006	Docket No.	2006-1473-PST-E	PCW
Respondent	Classic Convenience Inc. dba Step In Food			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	30966			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102365392			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Shontay Wilcher			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.246(1)			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain all required Stage II records at the Station and make immediately available for review upon request by agency personnel. Specifically, the respondent did not maintain a copy of the CARB Executive Order(s) for the Stage II vapor recovery system.			
Base Penalty	\$10,000			

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent <input type="text"/>
	Potential				

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	X			Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One single event is recommended based on the August 14, 2006 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$15"/>	Violation Final Penalty Total <input type="text" value="\$1,050"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,050"/>	

Economic Benefit Worksheet

Respondent Classic Convenience Inc. dba Step In Food
 Case ID No. 30966
 Reg. Ent. Reference No. RN102365392
 Media [Statute] Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$500	14-Aug-2006	17-Mar-2007	0.6	\$15	n/a	\$15
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: Estimated cost of maintaining required records. Date required is the investigation date. Final date is the projected date of 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 \$500 TOTAL \$15

Screening Date 28-Aug-2006	Docket No. 2006-1473-PST-E	PCW
Respondent Classic Convenience Inc. dba Step In Food	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 30966	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102365392		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Shontay Wilcher		
Violation Number 3		
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.245(2)	
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the respondent did not conduct annual testing for operability of the Stage II equipment at the Station.	
Base Penalty		\$10,000

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

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent 25%	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text"/>

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or the environment as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$2,500

One annual event is recommended for the period preceding the August 14, 2006 investigation date.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$788

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent: Classic Convenience Inc. dba Step In Food
 Case ID No: 30966
 Reg. Ent. Reference No: RN102365392
 Media [Statute]: Petroleum Storage Tank
 Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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							

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)	\$750	28-Mar-2006	14-Aug-2006	1.0	\$38	\$750	\$788
Notes for AVOIDED costs							
Estimated cost of performing required annual test. Date Required is the date of ownership change. Final Date is the investigation date.							

Approx. Cost of Compliance \$750

TOTAL \$788

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
CLASSIC CONVENIENCE INC.
DBA STEP IN FOOD,
RN102365392

§
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§
§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-1473-PST-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 chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty, and corrective action of the respondent. The respondent made the subject of this Order is Classic Convenience Inc. dba Step In Food ("Classic Convenience").

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

FINDINGS OF FACT

1. Classic Convenience owns and operates a convenience store with retail sales of gasoline located at 5711 Irvington Boulevard, Houston, Harris County, Texas (the "Station").
2. Classic Convenience's four Underground Storage Tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or rules of the Commission. Classic Convenience's USTs contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review conducted on August 14, 2006, a TCEQ contractor from the University of Texas at Arlington documented that Classic Convenience:
 - a. Failed to ensure that at least one station representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system.
 - b. Failed to maintain all required Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically,

Classic Convenience did not maintain a copy of the California Air Resources Board ("CARB") Executive Order(s) for the Stage II vapor recovery system.

- c. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, Classic Convenience did not conduct annual testing for operability of the Stage II equipment at the Station.
4. Classic Convenience received notice of the violations on or about August 22, 2006.
5. The Executive Director recognizes that Classic Convenience no longer owns the Facility.
6. 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 Classic Convenience Inc. dba Step In Food" (the "EDPRP") in the TCEQ Chief Clerk's office on March 15, 2007.
7. By letter dated March 15, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Classic Convenience with notice of the EDPRP. According to the return receipt "green cards," Classic Convenience received notice of the EDPRP on March 19, 2007, as evidenced by the signature on the cards.
8. More than 20 days have elapsed since Classic Convenience received notice of the EDPRP, provided by the Executive Director. Classic Convenience 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, Classic Convenience is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Classic Convenience failed to ensure that at least one station representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., Classic Convenience failed to maintain all required Stage II records at the Station and make them immediately available for review upon request

by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).

4. As evidenced by Finding of Fact No. 3.c., Classic Convenience failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Classic Convenience with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 8, Classic Convenience 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 Classic Convenience and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Classic Convenience 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.
8. An administrative penalty in the amount of four thousand seven hundred twenty-five dollars (\$4,725.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Classic Convenience's UST delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of Classic Convenience's UST delivery certificate exists as justified by Findings of Fact Nos. 3.a., 3.b, 3.c, 6, 7, and 8 and Conclusions of Law Nos. 2, 3, 4, 5, and 6.

ORDERING PROVISIONS

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

1. Classic Convenience is assessed an administrative penalty in the amount of four thousand seven hundred twenty-five dollars (\$4,725.00) for violations of TEX. HEALTH & SAFETY CODE ch. 382 and rules of the TCEQ. The payment of this administrative penalty and Classic Convenience'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: Classic Convenience Inc. dba Step In Food; Docket No. 2006-1473-PST-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Classic Convenience. Classic Convenience is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
4. 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 Classic Convenience shall be made in writing to the Executive Director. Extensions are not effective until Classic Convenience receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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 Classic Convenience if the Executive Director determines that Classic Convenience has not complied with one or more of the terms or conditions in this Order.

6. 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.
7. 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.

Classic Convenience Inc. dba Step In Food
DOCKET NO. 2006-1473-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF DINNIAH M. CHAHIN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Dinniah M. Chahin. 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 Classic Convenience Inc. dba Step In Food” (the “EDPRP”) with the Office of the Chief Clerk on March 15, 2007.

I sent the EDPRP to Classic Convenience at its last known address on March 15, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green cards,” Classic Convenience received notice of the EDPRP on March 19, 2007, as evidenced by the signature on the cards.

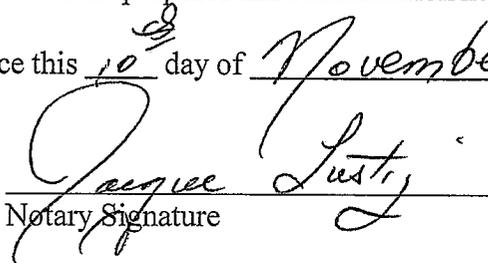
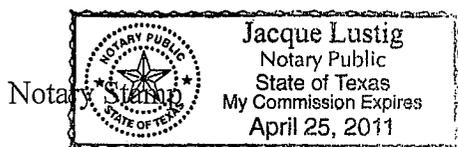
More than 20 days have elapsed since Classic Convenience received notice of the EDPRP. Classic Convenience failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Dinniah M. Chahin
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 10th day of November, A.D., 2008.



Notary Signature