

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1619-AIR-E    **TCEQ ID:** RN100214931    **CASE NO.:** 36648

**RESPONDENT NAME:** Maximus Coffee Group, LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input 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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Maximus Coffee Group, 3900 Harrisburg Boulevard, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Coffee processing plant</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 30, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Mr. Ross Fife, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2541; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  Respondent: Mr. David S. Geis, Technical Services Manager, Maximus Coffee Group, LP, 3900 Harrisburg Boulevard, Houston, Texas 77003  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 14, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 29, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review investigation.</p> <p><b>AIR</b></p> <p>Failure to timely submit the deviation report for the February 1, 2007 through July 31, 2007 period [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Air Operating Permit No. O-01018, General Terms and Conditions].</p>	<p><b>Total Assessed:</b> \$3,500</p> <p><b>Total Deferred:</b> \$700  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,800</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has submitted the deviation report for the period February 1, 2007 through July 31, 2007, to the TCEQ on February 28, 2008.</p>

Additional ID No(s): HG0473P



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	<b>Assigned</b>	2-Sep-2008			
	<b>PCW</b>	8-Oct-2008	<b>Screening</b>	8-Oct-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Maximus Coffee Group, LP
<b>Reg. Ent. Ref. No.</b>	RN100214931
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36648	<b>No. of Violations</b>	1
<b>Docket No.</b>	2008-1619-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ross Fife
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
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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.

<b>Compliance History</b>	65.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,625
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**Notes** Penalty enhancement due to one NOV issued for same or similar violation, and three agreed orders with a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$625
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$12  
 Approx. Cost of Compliance \$500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$3,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,500
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$700
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$2,800
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<b>Screening Date</b>	8-Oct-2008	<b>Docket No.</b>	2008-1619-AIR-E	<b>PCW</b>
<b>Respondent</b>	Maximus Coffee Group, LP			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	36648			PCW Revision June 12, 2008
<b>Reg. Ent. Reference No.</b>	RN100214931			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Ross Fife			

**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)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	3	60%
	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 submitted)	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%
<i>Please Enter Yes or No</i>			
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)** 65%

>> **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**  
 Penalty enhancement due to one NOV issued for same or similar violation, and three agreed orders with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 65%

<b>Screening Date</b> 8-Oct-2008	<b>Docket No.</b> 2008-1619-AIR-E	<b>PCW</b>
<b>Respondent</b> Maximus Coffee Group, LP	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 36648	<i>PCW Revision June 12, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN100214931		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Ross Fife		
<b>Violation Number</b> <input type="text" value="1"/>		

<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(C), Tex. Health & Safety Code § 382.085(b), and Air Operating Permit No. O-01018, General Terms and Conditions
<b>Violation Description</b>	Failed to timely submit the deviation report for the February 1, 2007 through July 31, 2007 period, as documented during an investigation conducted on August 14, 2008. Specifically, the report was due on August 30, 2007, but was not submitted until February 28, 2008.

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	<b>Actual</b>	<input type="text"/>	<input type="text"/>		<input type="text"/>
	<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>	

**>> Programmatic Matrix**

<b>Falsification</b>				
	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="25%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	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**

**Good Faith Efforts to Comply**

Reduction

<b>Before NOV</b>		<b>NOV to EDRP/Settlement Offer</b>	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)	

**Notes**

**Violation Subtotal**

**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:** Maximus Coffee Group, LP  
**Case ID No.:** 36648  
**Reg. Ent. Reference No.:** RN100214931  
**Media:** Air  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	30-Aug-2007	28-Feb-2008	0.50	\$12	n/a	\$12

Notes for DELAYED costs

Estimated cost for additional oversight and management practices designed to ensure proper reporting practices are followed. Date Required is the date the report was due and Final Date is the date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$12

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603143967 Maximus Coffee Group, LP Classification: AVERAGE Rating: 21.75  
 Regulated Entity: RN100214931 MAXIMUS COFFEE GROUP Classification: AVERAGE Site Rating: 21.75

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0473P
	AIR OPERATING PERMITS	PERMIT	1018
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD057185654
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32011
	AIR NEW SOURCE PERMITS	PERMIT	5500
	AIR NEW SOURCE PERMITS	PERMIT	12356
	AIR NEW SOURCE PERMITS	PERMIT	17241
	AIR NEW SOURCE PERMITS	PERMIT	17723
	AIR NEW SOURCE PERMITS	PERMIT	19177
	AIR NEW SOURCE PERMITS	PERMIT	37950
	AIR NEW SOURCE PERMITS	PERMIT	42618
	AIR NEW SOURCE PERMITS	PERMIT	44940
	AIR NEW SOURCE PERMITS	PERMIT	45208
	AIR NEW SOURCE PERMITS	PERMIT	45721
	AIR NEW SOURCE PERMITS	PERMIT	46557
	AIR NEW SOURCE PERMITS	PERMIT	46556
	AIR NEW SOURCE PERMITS	PERMIT	46558
	AIR NEW SOURCE PERMITS	PERMIT	46897
	AIR NEW SOURCE PERMITS	PERMIT	47197
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0473P
	AIR NEW SOURCE PERMITS	AFS NUM	4820100106
	AIR NEW SOURCE PERMITS	PERMIT	56398
	AIR NEW SOURCE PERMITS	REGISTRATION	70058
	AIR NEW SOURCE PERMITS	PERMIT	54368
	AIR NEW SOURCE PERMITS	REGISTRATION	76921
	STORMWATER	PERMIT	TXR05V674

Location: 3900 HARRISBURG BLVD, HOUSTON, TX, 77003

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 16, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 16, 2003 to December 16, 2008

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

Name: Ross Fife Phone: (512) 239-2541

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Maximus Coffee Group, LP
4. If Yes, who was/were the prior owner(s)? Kraft Foods Global, Inc.
5. When did the change(s) in ownership occur? N/A  
12/31/2006
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
  - Effective Date: 08/30/2004 ADMINORDER 2004-0317-AIR-E
  - Classification: Moderate
  - Citation: 30 TAC Chapter 101, SubChapter H 101.360(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit Form ECT-3, Level of Activity Certification, by June 30, 2001.

Effective Date: 08/07/2005

ADMINORDER 2004-1166-AIR-E

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter H 101.352(b)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to hold a quantity of allowances in its compliance account that was equal to or greater than the total emissions of nitrogen oxides emitted during the control period 2002.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter H 101.359

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit the 2002 Annual Compliance Report (ECT-1) by March 31, 2003.

Effective Date: 11/06/2005

ADMINORDER 2005-0149-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)

30 TAC Chapter 122, SubChapter B 122.146(2)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit annual compliance certifications within 30 days after the end of the 8/17/02 to 8/16/03 and 8/17/03 to 8/16/04 reporting periods and failed to submit a deviation report within 30 days after the end of the 8/17/03 to 2/16/04 semi-annual deviation reporting period.

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	01/08/2004	(256056)
2	03/11/2004	(147323)
3	08/09/2004	(287946)
4	01/06/2005	(338128)
5	08/29/2005	(399647)
6	08/20/2007	(566931)
7	08/29/2008	(680037)

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

Date: 08/29/2008 (680037)

CN603143967

Self NO  
Report?

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(A)

5C THSC Chapter 382 382.085(b)

General Terms and Conditions OP

Description: Failed to report all instances of deviations for the period February 1, 2007 through January 31, 2008.

Self NO  
Report?

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter C 117.305

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

General Terms and Conditions OP

Special Terms and Conditions OP

Description: Failed to maintain CO emissions of a gas boiler less than 400 ppmv at 3.0% O2, dry basis on a rolling 24-hour averaging period.

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  
MAXIMUS COFFEE GROUP, LP  
RN100214931

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1619-AIR-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 Maximus Coffee Group, LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a coffee processing plant at 3900 Harrisburg Boulevard in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.085(b).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 3, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Eight Hundred Dollars (\$2,800) of the administrative penalty and Seven Hundred Dollars (\$700) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has submitted the deviation report for the period February 1, 2007 through July 31, 2007, to the TCEQ on February 28, 2008.
10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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 Plant, the Respondent is alleged to have failed to timely submit the deviation report for the February 1, 2007 through July 31, 2007 period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), TEX. HEALTH & SAFETY CODE § 382.085(b), and Air Operating Permit No. O-01018, General Terms and Conditions, as documented during a record review conducted on August 14, 2008.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Maximus Coffee Group, LP, Docket No. 2008-1619-AIR-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

*John Sullivan*  
For the Executive Director

2/27/2009  
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 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

*DS. Geis*  
Signature

1/21/09  
Date

David S. Geis  
Name (Printed or typed)  
Authorized Representative of  
Maximus Coffee Group, LP

Technical Services Manager  
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.