

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations
of the Environmental Conservation Law
(ECL) Article 19 and Title 6 of the
Official Compilation of Codes, Rules
and Regulations of the State of
New York (6 NYCRR),

ORDER ON CONSENT

- by -

File No. R4-2008-0910-135

Clinton Columbia Corp.
627 Columbia Turnpike
East Greenbush, NY 12061

Respondent

WHEREAS:

1. The Department has jurisdiction in all matters pertaining to the control of air quality pursuant to ECL Article 19 and applicable regulations.
2. Respondent, Clinton Columbia Corp., owns and operates Crown Cleaners, located at 627 Columbia Turnpike, East Greenbush, New York, which is a dry cleaning facility ("facility").
3. The facility has a current and valid Air Registration (4-3824-00041/00003) with an effective date of December 28, 2001.
4. The facility has four dry cleaning machines which use perc as a cleaning solvent. The cleaning machines at the facility are all Bowe Permac Model P546 which are third generation dry cleaning machines which have been retrofitted with door fans. The door fans from the dry cleaning machines exhaust to an external carbon absorber which exhausts into the atmosphere.
5. On August 19, 2008, Department staff conducted an inspection of the facility.

First Violation

6. At the time of the August 19, 2008 inspection, Department staff checked the carbon absorber exhaust, with the door fan operating, and observed a reading of approximately 700 ppm while using a PID.
7. Regulations at 6 NYCRR 232.6 (a)(3)(iii) provide that "door fan/local exhaust ventilation emissions must be controlled to a design emission standard of five ppm perc with an in-use maximum compliance standard of 20 ppm."

8. Respondent violated regulations at 6 NYCRR 232.6 (a)(3)(iii) by failing to control their door fan/local exhaust ventilation emissions to a design emission standard of five ppm perc with an in-use maximum compliance standard of 20 ppm.

Second Violation

9. At the time of the inspection, Department staff observed the storage of lint, muck and other perc contaminated waste, in an unlabeled and uncovered container.

10. Regulations at 6 NYCRR 232.10 provide that:

(a) Any perc-contaminated wastes generated must be managed in accordance with Parts 370 through 376 of this Title. Perc-contaminated wastewater must be handled as provided in section 232.9 of this Part.

(b) All perc-contaminated wastes (including spent cartridge filters, spent carbon, still bottoms, and lint) must be stored in tightly sealed containers, which are impermeable to the solvent, so that no perc is emitted to the atmosphere.

(c) Containers must be appropriately labeled and stored in a designated area.

(d) Containers must be in good condition and must be kept closed except when necessary to add or remove waste.

(e) Receipts or records showing the date and volume of hazardous waste shipments must be retained for five years.

11. Respondent violated regulations at 6 NYCRR 232.10 (b), (c), and (d) by storing lint, muck and other perc contaminated waste in an unlabeled and uncovered container.

Third Violation

12. At the time of the inspection, there were no records on site at the facility.

13. Regulations at 6 NYCRR 232.12 provide that:

(a) Operators of all dry cleaning facilities or their designees must record the following:

(1) the date, duration and nature of any malfunction, spill, incident, or emergency response at the facility as outlined in section 232.11(d) of this Part;

(2) the date of maintenance on any air cleaning component or exhaust system (such as the regeneration and/or replacement of the carbon in a carbon adsorber);

(3) the number of loads between regenerations, cleaning and replacement of lint filters and carbon adsorber pre-filters, repair or replacement of exhaust fans;

(4) the amount of activated carbon in carbon adsorbers (dry weight in pounds);

(5) the date of maintenance of drying sensors;

(6) the date and volume of hazardous waste shipments; and

(7) the dates of perc-contaminated wastewater treatment unit carbon cartridge replacement.

(b) Each owner or operator of a dry cleaning facility must keep receipts of perc purchases, a log of the following information, maintain such information on-site and provide it upon request for a

period of five years:

(1) The volume of perc purchased each month by the dry cleaning facility as recorded from perc purchases; if no perc is purchased during a given month then the owner or operator would enter zero gallons into the log.

(2) The owner or operator must perform the following calculation on the first day of every month:

(i) sum the volume of all perc purchases made in each of the previous twelve months, as recorded in the log described in paragraph (1) of this subdivision;

(ii) if no perc purchases were made in a given month, then the perc consumption for that month is zero gallons;

(iii) the total sum calculated is the yearly perc consumption at the facility.

(iv) Each owner or operator of a dry cleaning facility must record the following information on an inspection checklist as described in section 232.7 of this Part.

(1) the dates when the dry cleaning system components are inspected for perceptible leaks as specified under the inspection and testing requirements, and the name or location of dry cleaning system components where perceptible leaks are detected;

(2) the date, time and colorimetric detector tube monitoring results as specified in section 232.7 of this Part, if a carbon adsorber is used for primary or secondary emission control;

(3) the date, time and temperature sensor monitoring results for refrigerated condensers, as specified in section 232.7 of this Part; and

(4) the dates of repair and records of written or verbal orders for repair parts to demonstrate compliance with the inspection and testing requirements in section 232.7 of this Part.

(d) Each owner or operator of a dry cleaning facility must retain on-site copies of the operation and maintenance checklists required under section 232.8 of this Part and compliance inspection reporting forms required under section 232.16 of this Part.

(e) Each owner or operator of a dry cleaning facility must retain on-site a copy of the design specifications and the operating manuals for each dry cleaning system and each emission control device located at the dry cleaning facility.

(f) All records must be maintained on-site for at least five years and must be made available to the department upon written or verbal request.

(g) New facilities, or facilities installing new equipment, must submit a compliance report within 30 days of commencing operation to certify compliance with the Federal NESHAP requirements.

This statement must include:

(1) the name and address of the owner or operator;

(2) the address (that is, physical location) of the dry cleaning facility;

(3) an estimation of the annual perc consumption;

(4) a description of the machines' control devices;

(5) a statement verifying compliance with each applicable requirement under 40 CFR sections 63.322, 63.323, and 63.324; and

(6) a statement certifying that all information contained in the statement is accurate and true.

(h) Facilities exceeding the consumption thresholds identified in 40 CFR section 63.620(d), (e), or (g) must submit a compliance report within 30 days of the compliance deadline of 180 days certifying compliance with any additional Federal requirements. This statement must include:

(1) the name and address of the owner or operator;

(2) the address (that is, physical location) of the dry cleaning facility;

- (3) an estimation of the annual perc consumption;
- (4) a description of the machines' control devices;
- (5) a statement verifying compliance with each applicable requirement under 40 CFR sections 63.322, 63.323, and 63.324; and
- (6) a statement certifying that all information contained in the statement is accurate and true.

14. Respondent violated regulations at 6 NYCRR 232.12 (a),(b), ©, (d), and (f) by failing to maintain records on site at the time of the inspection.

15. Respondent has affirmatively waived its right to notice and hearing in the manner provided by law, and has consented to the issuing and entering of this Order and agrees to be bound by the terms, provisions and conditions contained herein.

NOW, having considered this matter and being duly advised, it is ORDERED that:

I. With respect to the aforesaid violations, a civil penalty in the amount of ONE THOUSAND ONE HUNDRED AND TWENTY FIVE DOLLARS (\$1,125) is hereby assessed against the Respondent. Payment of the civil penalty is due upon the return of a signed and notarized copy of this Order to the Department. The civil penalty shall be paid by certified or bank check made payable to the NYS DEC.

II. The provisions of this Order shall be deemed to bind Respondent, its agents, employees, and all persons, firms, corporations acting under or for it.

III. The terms of this Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

IV. Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions hereof by Respondent, its directors, officers, employees, servants, agents, successors or assigns.

V. No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.

VI. Respondent shall allow duly authorized representatives of the DEC access to the site without proper notice, at such times as may be desirable or necessary in order for the DEC to inspect and determine the status of Respondent's compliance with this Order, the ECL and regulations promulgated thereunder.

VII. The Schedule of Compliance is incorporated into the Order and is enforceable thereunder.

VIII. All communications except where otherwise specifically directed should be sent to:

For Department:
Regional Air Engineer
New York State Department
of Environmental Conservation
Region 4

1130 N. Westcott Road
Schenectady, New York 12306

IX. This Order is deemed effective on the date signed by the Department.

X. Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

A. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against Respondent for any other violations of the ECL, rules or regulations promulgated thereunder or permits issued thereunder;

B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against anyone other than Respondent, its agents, its servants, its employees, its successors and its assigns;

C. Whatever right the Department has to bring any action or proceeding against Respondent and/or any of Respondent's employees, servants, agents, successors, and assigns with respect to claims for natural resource damages; and

D. Respondent's right to assert all available defenses to any claims, actions, proceedings, suits, causes of actions or demands made or commenced by the State or the Department provided, however, that Respondent waives all legal or equitable rights claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that it may have to a judicial review of the validity and binding effect of this Order and whether or not this Order has been entered into voluntarily by Respondent.

XI. A. Whenever the Department's approval of a submittal under the terms of this Order is required, the Department shall review such submittal to determine whether it was prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and applicable state and federal regulations and laws and generally accepted technical and scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of the submittal. All Department-approved plans and reports shall be incorporated into and become an enforceable part of this Order.

B. 1. If the Department disapproves a submittal, its notice shall specify the reasons for disapproval. Respondent shall make a revised submittal to the Department within thirty (30) days after receiving written notice of disapproval that specifically addresses all of the Department's stated reasons for disapproving the first submittal.

2. After receipt of the revised submittal from Respondent, the Department shall notify Respondent in writing of its approval or disapproval. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order. If the Department disapproves the revised submittal, it shall notify the Respondent in writing and specify its reasons. The Department reserves its right to take whatever action it deems necessary after the second disapproval of a submittal.

XII. Compliance with the terms and conditions of this Order, including the Schedule of Compliance, shall be in full civil settlement of the violations alleged in this Order.

DATED: _____, 2008
Rotterdam, New York

Alexander B. Grannis
Commissioner
New York State Department of
Environmental Conservation

BY:

Eugene J. Kelly
Regional Director
Region 4

SCHEDULE OF COMPLIANCE

1. Within seven (7) days of the effective date of the Order, the Respondent shall initiate the record keeping requirements contained in regulations at 40 CFR 63.324 (d), 6 NYCRR Parts 232.7, 232.8, 232.10 and 232.12, and all other applicable requirements contained in 6 NYCRR Part 232 that are not specifically addressed above and Respondent shall maintain such records on site for a period of at least five years.
2. Within seven (7) days of the effective date of the Order, Respondent shall maintain all perc contaminated wastes in accordance with 6 NYCRR Part 232.10.