

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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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. R4-2008-0917-140

Sunshine Cleaners of Loudonville, LLC  
549 New Loudon Road  
Latham, NY 12110

Respondent

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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, Sunshine Cleaners of Loudonville LLC, owns and operates a commercial dry cleaning facility located at 549 New Loudon Road, Latham, New York, ("facility").
3. The facility has a current and valid Air Registration (4-0126-00396/00002) with an effective date of September 12, 2000.
4. The facility has a dry cleaning machine which uses perc as a cleaning solvent. The dry cleaning machine at the facility is a Union Model L.55 fourth generation dry cleaning machine.
5. On August 21, 2008 and August 22, 2008, Department staff conducted inspections of the facility.

First Violation

6. At the time of the August 21, 2008 and August 22, 2008 inspections, Department staff observed that the vapor enclosure room had holes in the enclosure, cracked glass and cracks in the floor. Department staff further observed that the doors to the vapor enclosure were open.

7. Regulations at 6 NYCRR 232.6 (a)(1) require that vapor barriers must be constructed so that all joints and seams are sealed except for inlet make up air and exhaust openings and entry doors. Entry doors may only be open when a person is entering or exiting the room enclosure.

8. Respondent violated regulations at 6 NYCRR 232.6 (a)(1) by failing to ensure that the facility's vapor barriers are constructed so that all joints and seams are sealed and for failing to ensure that the entry doors were opened only when a person is entering or exiting the room enclosure.

### Second Violation

9. At the time of the August 21, 2008 and August 22, 2008 inspections, Department staff observed that the drum, after the completion of a dry cleaning schedule, indicated a reading of approximately 700 p.p.m. using a PID. The per concentration in the dry cleaning machine drum was rechecked for compliance with the regulations on August 26, 2008 and a reading of approximately 700 to 800 p.p.m. was obtained using a PID.

10. Regulations at 6 NYCRR 232.6(a)(6) provide that:

A secondary control system must:

(I) Be designed to function with a primary control system complying with all requirements for third generation equipment.

(ii) Be capable of reducing the perc concentration in the drum from 8600 p.p.m. or greater to 300 p.p.m.

(iii) Any integral carbon adsorber used as a secondary control system must be sized correctly for the machine and be capable of reducing the perc concentration in the drum from 8,600 p.p.m. or greater to 300 p.p.m. or less.

(iv) The integral carbon adsorber must be designed for non-contact steam or hot air stripping operation, and must be stripped or desorbed in accordance with manufacturer's instructions or at least weekly, whichever is more stringent.

11. Regulations at 6 NYCRR 232.6 (b)(6)(iv)(b) provide that for machines purchased prior to the effective date of the regulation operating in the best possible working condition the per concentration in the drum shall be less than 500 p.p.m.

12. Respondent violated regulations at 6 NYCRR 232.6 (a)(6) and 6 NYCRR 232.6 (b)(6)(iv)(b) by failing to reduce and maintain the per concentration in the dry cleaning machine drum to less than 500 p.p.m.

### Third Violation

13. At the time of the August 21, 2008 and August 22, 2008 inspections, Department staff observed that the facility's records which are maintained at the facility, are incomplete.

Specifically, the facility did not have:

1. The Weekly Leak Inspection Checklists for April 2008 through August 21, 2008;
2. The Weekly Operation and Maintenance Test records for April 2008 through August 21, 2008;
3. The Emergency Preparedness Checklist records for April 2008 through August 21, 2008;
4. The Equipment Maintenance Logs for April 2008 through August 21, 2008;
5. The Hazardous Waste Management records after January 15, 2008 and;
6. The Per Usage Log for March 2008 through August 21, 2008.

14. Regulations at 6 NYCRR 232.7(a) provide that “the trained operator, must inspect the dry cleaning system for perceptible liquid and vapor leaks and other fugitive emissions. The trained operator, or a designee, must record the status of each component on a checklist supplied by the department. Completed checklists must be kept for at least five years from the date of the inspection.”

15. Regulations at 6 NYCRR 232.7(e) provide that “preparedness and prevention equipment and conditions as required in section 232.8(d)(7) of this Part must be inspected weekly to ensure proper operation and maintenance. A notation must be made on the checklist at the time of inspection.”

16. Regulations at 6 NYCRR 232.8(c) provide that “the department will provide an operation and maintenance checklist to the facility. Each operation and maintenance function and the date performed must be recorded on the checklist. Completed checklists must be maintained on-site for at least five years from the date of the checklist.”

17. Regulations at 6 NYCRR 232.10(e) provide that “receipts or records showing the date and volume of hazardous waste shipments must be retained for five years.”

18. Regulations at 6 NYCRR 232.12 provide, in part, 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.

© 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.

19. Respondent violated regulations at 6 NYCRR 232.7(a), 6 NYCRR 232.7(e), 6 NYCRR 232.8©, 6 NYCRR 232.10(e), and 6 NYCRR 232.12(a)-(d) and (f), by failing to properly maintain at the facility, the Weekly Leak Inspection Checklists for April 2008 through August 21, 2008; the weekly Operation and Maintenance Test records for April 2008 through August 21, 2008; the Emergency Preparedness Checklist records for April 2008 through August 21, 2008; the Equipment Maintenance Logs for April 2008 through August 21, 2008; the Hazardous Waste Management records after January 15, 2008 and; the Per Usage Log for March 2008 through August 21, 2008.

#### Fourth Violation

20. At the time of the August 21, 2008 and August 22, 2008 inspections, Department staff observed in the boiler room, an approximately 15 gallon unlabeled container containing dry cleaning machine waste water.

21. Regulations at 6 NYCRR 232.10 © provide that “Containers must be appropriately labeled and stored in a designated area..”

22. Respondent violated regulations at 6 NYCRR 232.10 © by storing the dry cleaning machine waste water in an unlabeled container.

23. 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 EIGHT HUNDRED AND SEVENTY FIVE DOLLARS (\$1,875) 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

CONSENT BY RESPONDENT  
Sunshine Cleaners of Loudonville, LLC.

Respondent hereby consents to the issuing and entering of this Order, waives its right to a hearing herein, and agrees to be bound by the provisions, terms and conditions contained herein.

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

STATE OF NEW YORK    )  
  ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 200 , before me, the undersigned,  
personally appeared \_\_\_\_\_,  
*(Full name)*

personally known to me who, being duly sworn, did depose and say that he/she/they reside at  
\_\_\_\_\_  
*(Full mailing address)*

and that he/she/they is (are ) the \_\_\_\_\_  
*(President or other officer or director or attorney in fact duly appointed)*

of the \_\_\_\_\_,  
*(Full legal name of corporation)*

the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.

\_\_\_\_\_  
Notary Public, State of New York

## SCHEDULE OF COMPLIANCE

1. Within thirty (30) days of the effective date of the Order, Respondent shall repair the vapor enclosure. The Respondent shall notify the Department in writing within seven (7) days of completing the repairs.
2. Within thirty (30) days of the effective date of the Order, Respondent shall repair the dry cleaning machine to lower the drum concentration below 500 p.p.m. or install a door fan as required in regulations at 6 NYCRR Part 232.6(a)(3).
3. Within seven (7) days of the effective date of the Order, Respondent shall initiate the record keeping requirements contained in 40 CFR 63.324(d), 6 NYCRR Parts 232.7, 232.8, 232.10, and 232.12, and all other applicable requirements contained in the 6 NYCRR Part 232 that are not specifically addressed above.
4. Within seven (7) days of the effective date of the Order, Respondent shall manage and label all hazardous wastes in accordance with regulations at 6 NYCRR Part 232.10 and all other applicable regulations.
5. Within forty five (45) days of the effective date of this Order and after items numbers 1 - 4 have been completed, Respondent shall have the dry cleaning facility inspected by a registered compliance inspector in accordance with regulations at 6 NYCRR Part 232.16.