

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF BRAD YOUNG)
dba/L&M YOUNG, LLC)
FREMONT, NEBRASKA)
Facility #9225)
Respondent)

CASE NO. 3367

COMPLAINT, COMPLIANCE
ORDER, AND NOTICE OF
OPPORTUNITY FOR HEARING

I. INTRODUCTION

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. § 81-1507(1) of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to 81-1532 (Reissue 2014; Supp., 2015) and in conformance with Neb. Admin. Code, *Title 129 – Nebraska Air Quality Regulations*. The Complainant is Jim Macy, Director of the Nebraska Department of Environmental Quality (Department). The Respondent is Brad Young, owner of L&M Young, LLC whose designated office address is 247 W Military, Fremont, Nebraska 68025.

2. The Department is the agency of the state of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1), of exercising exclusive general supervision, administration, and enforcement of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to 81-1532, and all rules, regulations, and orders promulgated thereunder.

3. The Department is the agency of the state of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(4) of acting as the state air pollution control agency for all purposes of the Clean Air Act, as amended 42 U.S.C. § 7401 et seq., and the rules and regulations adopted and promulgated pursuant to such acts.



4. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules and regulations for the purpose of setting standards for air pollution control, as expressed in Neb. Rev. Stat. § 81-1505(1) and § 81-1505(12), the Council adopted and promulgated a rule codified as Neb. Adm. Code, *Title 129 – Nebraska Air Quality Regulations* .

5. Title 129, Ch. 28.001.09 adopts and incorporates the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (40 CFR Part 63, Subpart M).

6. 40 CFR part 63, Subpart M requires a dry cleaning facility to maintain and produce upon request by the Department the following information: receipts of perchloroethylene purchases, records of perchloroethylene usage, dates of leak inspections, the name and location of any leaking dry cleaning system components, and records of written or verbal orders for repairs.

7. The Complaint below establishes the violations of Respondent and the Compliance Order establishes a schedule for corrective actions to be taken by the Respondent.

II. COMPLAINT

8. The Respondent is a person as defined in Neb. Rev. Stat. § 81-1502(10).

9. At all times material herein, Respondent has operated a dry cleaning operation located at 247 W Military Avenue, Fremont, Nebraska 68025.

10. On or about January 14, 2016, Department personnel visited Respondent's dry cleaning operation and requested that the Respondent provide monitoring records regarding the use of perchloroethylene as a dry cleaning solvent as required by 40 CFR Part 63, Subpart M and *Title 129*.

11. On or about February 4, 2016 Department personnel contacted the Respondent via email and requested copies of the records required by 40 CFR Part 63, Subpart M and *Title 129*.

12. On or about February 17, 2016 Department personnel inspected Respondent's dry cleaning facility and again requested Respondent's monitoring records as required by 40 CFR Part 63, Subpart M and *Title 129*.

13. On or about March 2, 2016, the Department mailed a Letter of Warning to the Respondent requesting the submittal of the required records within 15 days of receipt of the letter.

14. The Department received a certified mail receipt for the Letter of Warning on March 7, 2016.

15. The Respondent's records as required by 40 CFR Part 63, Subpart M and *Title 129* have not been received by the Department.

16. Pursuant Neb. Rev. Stat. § 81-1506(4), it is unlawful for any person to violate any air quality standard established by the Council.

17. Respondent's failure to maintain and produce the monitoring records required by 40 CFR Part 63, Subpart M and *Title 129* is a violation of Neb. Rev. Stat. § 81- 1506(4).

III. COMPLIANCE ORDER

18. It is hereby ORDERED that the Respondent shall:

- a. By July 1, 2016, perform all monitoring and recordkeeping required by 40 CFR part 63, Subpart M and *Title 129*.
- b. By July 1, 2016, have a perchloroethylene detector with operating manual on-site and available for Department inspections.
- c. By October 15, 2016, and quarterly thereafter for one year (by January 15, 2017, April 15, 2017 and July 15, 2017), submit the following records to the Department

(Attention: Mr. Joseph Harris) as required by 40 CFR Part 63, Subpart M and *Title 129*:

- i. Receipts for perchloroethylene purchases or a statement that no perchloroethylene was purchased that quarter.
- ii. Rolling 12 month total of perchloroethylene used in gallons;
- iii. Records of maintenance and repairs on the dry cleaning system or a statement that no maintenance or repairs were performed that quarter.
- iv. Records of weekly visible leak inspection results; and
- v. Records of monthly leak detection and repair inspections using a perchloroethylene detector.

19. Respondent shall respond in writing within seven (7) working days to all requests for information requested by the Department.

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

20. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless the Respondent files an answer and requests, in writing, a hearing no later than thirty days after receipt of this Order. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

21. A written answer to the Complaint, Compliance Order, and Notice of Opportunity for Hearing must conform to the requirements of Title 115, Neb. Admin. Code, *Rules of Practice and Procedure*, Chapter 7. The answer and request for hearing may be filed by mail to:

Jim Macy, Director
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922

or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska.

V. SETTLEMENT CONFERENCE

22. Whether or not Respondent requests a hearing, an informal settlement conference may be requested by writing to Thomas O'Connor, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922; alternately, you may have your attorney make such a request.

23. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

24. The NDEQ reserves the right to pursue enforcement in the proper court of law for injunctive relief or to seek civil or criminal penalties for any violations that are the subject of this Complaint, Compliance Order, and Notice of Opportunity for Hearing. Nothing in this Complaint, Compliance Order, and Notice of Opportunity for Hearing precludes the Department from pursuing such enforcement. Failure to obey this order may result in fines up to \$10,000 per violation per day, as set out in Neb. Rev. Stat. § 81-1508.02.

June 10, 2016
Date



Jim Macy
Director
Nebraska Department of Environmental Quality

VII. CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing, with attachments, was served by certified United States mail, postage prepaid, return receipt requested this 13th day of JUNE 2016 upon the Respondent listed below:

Mr. Brad Young
c/o L&M Young, LLC
247 W Military
Fremont, Nebraska 68025



Thomas O'Connor
Staff Attorney