

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

<b>IN THE MATTER OF:</b>  <b>L &amp; D DRY CLEANING AND LAUNDRY, INC., dba PREMIER CLEANERS</b> Webster County, Iowa	<b>ADMINISTRATIVE CONSENT ORDER</b>  NO. 2010-AQ-25
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TO:

L & D Dry Cleaning and Laundry, Inc.,  
Dba Premier Cleaners  
816 1<sup>st</sup> Avenue North  
Fort Dodge, IA 50501

L & D Dry Cleaning and Laundry, Inc.,  
Annette McClintock, Registered Agent  
816 1<sup>st</sup> Avenue North  
Fort Dodge, Iowa 50501

**I. SUMMARY**

This administrative consent order (order) is entered into between the Iowa Department of Natural Resources (DNR) and L & D Dry Cleaning and Laundry, Inc., dba Premier Cleaners (Premier), for the purpose of resolving the air quality violations which occurred at the Premier facility in Fort Dodge, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Cindy Garza  
Iowa Department of Natural Resources  
Field Office No. 2  
2300 15<sup>th</sup> St. SW  
Mason City, IA 50401  
Phone: 641/424-4073

**Relating to legal requirements:**

Anne Preziosi, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Windsor Heights, Iowa 50324  
Phone: 515/281-6243

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

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**II. JURISDICTION**

This order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Premier is a dry cleaning facility located at 816 1<sup>st</sup> Ave. North in Fort Dodge, Iowa and is owned and operated by Tim & Annette McClintock, and their son Travis McClintock. Premier is registered with the DNR to operate its dry cleaning machines as facility # 94-01-051 and is registered with the DNR for the disposal of perchloroethylene.

2. On December 17, 2009, Cindy Garza of DNR Field Office No. 2 conducted an inspection of the Premier facility in Fort Dodge, Iowa. The following violations were observed during that inspection: Premier failed to operate and maintain the dry cleaning system according to the manufacturer's specifications and recommendations, in accordance with the requirements of 40 CFR Subpart M section 63.322(d); and Premier failed to store all perchloroethylene solvent and waste in sealed containers, in accordance with the requirements of 40 CFR Subpart M section 63.322(j). Ms. Garza observed that one of the machines was leaking steam from one of the pipes and water from another. Water had been leaking and filling the bottom tray area, which was rusty orange in color. Further, the smell of perchloroethylene was prevalent in the area.

3. During this inspection, the DNR also determined that Premier had failed to comply with the requirements contained in 40 CFR Subpart M, section 63.323 and 63.324, including failing to conduct weekly monitoring and recordkeeping of either the refrigerated condenser high and low pressure or measure the refrigerated condenser outlet temperature before the end of the cool down or drying cycle. Mr. Travis McClintock could not find the recordkeeping for the temperature and leaking detections, perchloroethylene purchases and waste manifests. The last entry for the required recordkeeping had occurred in August 2009.

4. Additionally, Premier had failed to perform weekly inspections of the dry cleaning system for perceptible leaks and document the results of those inspections, according to the provisions of 40 CFR Subpart M, sections 63.322(k) and 63.324(d)(3). Also in contravention of these rules, Premier had failed to timely

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repair and document any perceptible leaks discovered during weekly inspections; and Premier had failed to timely correct and document any deviations from the applicable standard of system pressure, temperature or perchloroethylene concentration. All recordkeeping for weekly leak detection and repairs stopped in August 2009.

5. An April 16, 2008, letter to Premier from DNR Field Office No. 2 summarized amended dry cleaner requirements that became effective July 28, 2008. After July 28, 2009, a halogenated hydrocarbon detector or PCE gas analyzer was required to be used to check for vapor leaks once a month. (This monitoring was allowed to replace the required weekly inspections.) Further, after July 28, 2009, the owner or operator was required to eliminate all perchloroethylene emissions resulting from transferring articles between a washer and dryer or reclaimer. As required by 40 CFR 63.324(f), Premier submitted a timely notification of compliance status, signed by Annette McClintock. However, during the December 17, 2009, inspection, Premier was not in compliance with the post-July 28 requirements. Premier did not have a vapor detector and claimed ignorance of the requirements. Further, records of weekly inspections were not being kept.

6. DNR Field Office No. 2 sent Premier a December 28, 2009, Notice of Violation letter summarizing these violations.

7. On January 6, 2010, Cindy Garza of DNR Field Office No. 2 received documentation from the facility demonstrating that Premier was back in compliance at that time.

Prior History

8. On June 26, 2003, Glen Carper of DNR Field Office 2 conducted an inspection of the Premier facility in Fort Dodge, Iowa. He determined there were numerous housekeeping violations, including failure to properly inspect and document weekly outlet temperature and leak checks. Premier also failed to perform or document the required perchloroethylene calculations and housekeeping. This inspection resulted in a July 7, 2003, Notice of Violation letter, and the company returned to compliance by August 4, 2003.

9. On March 17, 2006, Cindy Garza of DNR Field Office 2 conducted an inspection of the Premier facility in Fort Dodge, Iowa. She determined there were numerous housekeeping violations, including failure to properly inspect and document weekly outlet temperature and leak checks. This inspection resulted in a March 27, 2006, Notice of Violation letter to Premier, and the company returned to compliance by May 30, 2006.

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**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. Pursuant to the authority granted by Iowa Code section 455B.133, the Commission has adopted the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities located at 40 CFR Subpart M. Under Subpart M §§ 63.323 and 63.324, a dry cleaning facility is required to conduct and record weekly the outlet temperature for its equipment. The December 17, 2009, inspection indicated noncompliance with this rule.

3. Under the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities located at 40 CFR Subpart M §§ 63.322(k) and 63.324(d)(3), a dry cleaning facility is required to conduct and record weekly leak checks on its equipment. The December 17, 2009, inspection indicated noncompliance with this rule.

4. Under the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities located at 40 CFR Subpart M §§ 63.322(e) and 63.324, a dry cleaning facility is required to use a vapor detector for monitoring perchloroethylene and record the detector's findings. The December 17, 2009, inspection indicated noncompliance with this rule.

5. Under the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities located at 40 CFR Subpart M §§ 63.322 and 63.324, a dry cleaning facility is required to properly maintain its dry cleaning equipment according to the manufacturer's listed specifications. The December 17, 2009, inspection indicated noncompliance with this rule.

**V. ORDER**

THEREFORE, DNR orders Premier to do the following:

1. Pay a penalty of \$2,019.87 within 45 days of the date this order is signed by the Director;
2. In the future, properly maintain its dry cleaning machinery and vapor monitoring equipment, and conduct necessary perchloroethylene calculations and

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recordkeeping to ensure compliance with its air quality permits and protect the safety of both its employees and the public; and

3. In the future, properly inspect and document its weekly outlet temperatures and leak checks as required by state law.

## VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$2,019.87 is assessed by this order. The penalty must be paid within 45 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Premier has achieved an economic benefit by not purchasing the required vapor monitor (\$126.89), and by failing to perform proper inspections (\$96.00) and complete necessary documentation (\$80.00). It has saved time, labor, and repair costs by not properly maintaining its machines (\$95.50 + \$121.48). Based on the above calculations, a penalty of \$519.87 is assessed for this factor.

Gravity of the Violation – Perchloroethylene is classified as a hazardous air contaminant by the EPA and must be handled as a hazardous waste. To prevent it from getting into drinking water, dry cleaners that use perchloroethylene must take special precautions against site contamination. When released into the air, perchloroethylene can contribute to smog when it reacts with other volatile organic carbon substances. Premier's failure to maintain its dry cleaning equipment and operate that equipment according to the law could result in a release of perchloroethylene into the air creating a hazardous condition, which could endanger

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the health of both its workers and public. Based on the above facts, a penalty of \$1,500.00 is assessed for gravity of violation.

Culpability –Premier has responded quickly to the DNR's inspection by fixing the dry cleaning machines that were malfunctioning and by purchasing a vapor monitor. Due to these mitigating circumstances, no penalty is assessed for culpability.

**VII. WAIVER OF APPEAL RIGHTS**

This order is entered into knowingly and with the consent of Premier. For that reason, Premier waives the right to appeal this order or any part thereof.

**VIII. NONCOMPLIANCE**

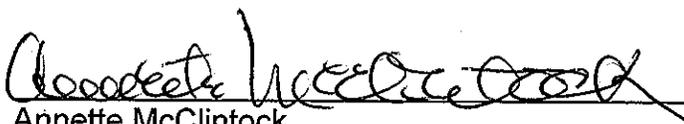
Compliance with Section V of this order constitutes full satisfaction of all requirements pertaining to the specific violations described in this order. Failure to comply with this order may result in the imposition of further administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146.

  
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RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 3 day of  
May, 2010.

  
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Tim McClintock  
for L & D Dry Cleaning and Laundry, Inc., dba Premier Cleaners

Dated this 26<sup>th</sup> day of  
April, 2010.

  
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Annette McClintock  
for L & D Dry Cleaning and Laundry, Inc., dba Premier Cleaners

Dated this 26<sup>th</sup> day of  
April, 2010.

Webster County Air Quality file; Anne Preziosi; DNR Field Office 2; VII.C.2

check mailed <sup>6</sup>  
4-23-10 \$209.87