



Oregon Department of Environmental Quality

# News Release

---

**Release Date:** Dec. 14, 2015

**Contact:**

[Sarah Wheeler](#), Environmental Law Specialist, Portland, 503-229-6927

[Joe Westersund](#), Dry Cleaner Program Coordinator, Portland, 503-229-6240

## **DEQ fines Certi Cleaners \$6,252 for dry cleaner violations**

The Oregon Department of Environmental Quality fined Hue Dinh Dinh \$6,252 for dry cleaner violations at his business Certi Cleaners at 4118 S.E. Division Street in Portland.

DEQ issued the penalty for two violations. Dinh performs dry cleaning using the solvent tetrachloroethylene, also known as PCE or perc, and failed to perform weekly perc leak inspections of his dry cleaning machine. Dinh also transferred perc into his dry cleaning machine without proper equipment to prevent leaks and vapor emissions. DEQ also cited Dinh, without penalty, for four other violations.

DEQ issued this penalty because perc is highly toxic and a hazardous air pollutant. If not properly managed, perc can cause serious health effects and environmental damage such as groundwater contamination.

When determining the penalty amount, DEQ considered Dinh's efforts to address the violations by sending documentation of completed inspections and repairs to his machine and other actions.

Dinh has until Dec. 24 to appeal the fine.



# Oregon

Kate Brown, Governor

## Department of Environmental Quality

Headquarters  
811 SW Sixth Avenue  
Portland, OR 97204-1390  
(503) 229-5696  
FAX (503) 229-6124  
TTY: 711

December 2, 2015

CERTIFIED MAIL: 7011 2000 0000 5122 9084

Hue Dinh Dinh  
dba Certi Cleaners  
4118 SE Division St  
Portland, OR 97202

Re: Notice of Civil Penalty Assessment and Order  
Case No. LQ/DC-HQ-15-130

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$6,252 for two violations: 1) failing to perform weekly inspections of your dry cleaning system for leaks of the dry cleaning solvent tetrachloroethylene (also known as PCE or perc), which is a hazardous air pollutant, and 2) for transferring perc into your dry cleaning machine without proper vapor-controlling equipment. The enclosed Notice of Civil Penalty and Order also cites you, without penalty, for four other violations.

DEQ issued this penalty because these are serious violations. Perc is highly toxic and can cause serious health effects if inhaled or ingested, and environmental damage such as groundwater contamination, if not properly managed.

DEQ appreciates your efforts to address all of the violations by sending documentation of completed inspections and repairs to your machine, among other things. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, DEQ must receive a request for a contested case hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

Via mail - 811 S.W. 6<sup>th</sup> Ave., Portland, OR 97204

Via fax - 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review it and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor in lieu of paying your penalty. Enclosed is more detail on how to pursue a SEP. SEP documents are available on the internet at <http://www.deq.state.or.us/programs/enforcement/SEP.htm>, or by calling the number below to request a paper copy.



Hue Dinh Dinh, dba Certi Cleaners  
Case No. LQ/DC-HQ-15-130  
Page 2

DEQ's rules are available on the internet at <http://www.deq.state.or.us/regulations/rules.htm>, or by calling the number below to request a paper copy.

If you have any questions, please contact DEQ Environmental Law Specialist Sarah Wheeler, at (503) 229-6927. You may call toll-free within Oregon at 1-800-452-4011, extension 6927.

Sincerely,



Leah K. Feldon, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Ed Patnode, DEQ Headquarters  
Joe Westersund, DEQ Headquarters  
Tina Leppaluoto, DEQ Northwest Region

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

IN THE MATTER OF: ) NOTICE OF CIVIL PENALTY  
HUE DINH DINH, ) ASSESSMENT AND  
doing business as ) ORDER  
CERTI CLEANERS, )  
an assumed business name, ) NO. LQ/DC-HQ-15-130  
Respondent. )

I. AUTHORITY

This Notice and Order is issued pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140, ORS 465.500 through 465.545, ORS 465.900, ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 124, 216 and 244.

II. FINDINGS OF FACT

1. Since August 1, 2005, Respondent has owned and operated a dry cleaning business at 4118 SE Division Street in Portland, Oregon (the Facility). Respondent operates the Facility as "Certi Cleaners."

2. At all material times, Respondent used tetrachloroethylene (also known as PCE or perc) solvent to dry clean clothes at the Facility.

3. On December 27, 2010, the Department of Environmental Quality (DEQ) assigned Respondent coverage under General Air Contaminant Discharge Permit (ACDP) AQGP-006 (Permit) as source number: 26-0043-06-01. The Permit was in effect at all material times.

4. On August 21, 2015, DEQ staff inspected the Facility (the inspection).

5. Condition 3.4 of the Permit and 40 Code of Federal Regulations (CFR) 63.322(k), adopted pursuant to OAR 340-244-0220(1), require that Respondent conduct leak detection by inspecting the dry cleaning system weekly for vapor leaks while the dry cleaning system is operating and using a halogenated hydrocarbon detector or PCE gas analyzer that is operated according to the manufacturer's instructions.

////

1           6.       During the inspection, Respondent was unable to properly operate the leak  
2 detector to demonstrate how to inspect the dry cleaning system components.

3           7.       Condition 3.5 of the Permit and 40 CFR 63.322(m), adopted pursuant to OAR  
4 340-244-0220(1), require Respondent to repair all leaks within 24 hours of detection.

5           8.       During the inspection, Respondent's dry cleaning machine was leaking at the seal  
6 around the front loading door, the back side of the drum, and the distillation unit door.  
7 Respondent repaired the leaks in September 2015.

8           9.       Condition 4.1b of the Permit requires Respondent to measure, on a weekly basis,  
9 the gas-vapor stream temperature on the outlet side of the refrigerated condenser using a  
10 temperature sensor.

11          10.      Conditions 5.1 and 5.4 of the Permit require Respondent to maintain five years of  
12 records onsite at the facility of the dates of leak inspection and repair, and of temperature  
13 monitoring results.

14          11.      During the inspection, DEQ requested records of weekly leak detection, repair,  
15 and temperature monitoring for 2015. Respondent did not provide those records to DEQ.

16          12.      At the time of the inspection, Respondent's dry cleaning machine was not fitted  
17 with closed, self-sealing couplings for input of solvent into the dry cleaning machine and closed,  
18 self-sealing couplings on the vapor displacement outlet that captures perchloroethylene gas  
19 vapors and returns the vapor to the delivery container.

20          13.      Respondent has operated the same dry cleaning machine at the Facility since  
21 August 1, 2005.

22          14.      On or about September 24, 2015, Respondent had closed, self-sealing couplings  
23 installed in the dry cleaning machine at the Facility.

24          15.      In October of 2013, Respondent purchased 54 gallons of perchloroethylene (perc)  
25 solvent from 3 Hanger Supply Company in California, which was shipped to Respondent's  
26 facility.

27        ////



1           4.       Respondent violated Condition 4.1b of the Permit and 40 CFR 63.323(a)(1),  
2 adopted pursuant to OAR 340-244-0220(1), by failing to perform weekly refrigerated condenser  
3 temperature readings. These are Class I violations, according to OAR 340-012-0054(1)(j). DEQ  
4 has not assessed a civil penalty for these violations.

5           5.       Respondent violated OAR 340-124-0040(1)(a)(B), (1)(f) and (2)(c)(C) by failing  
6 to place perc-contaminated waste filters from the wastewater treatment unit in closed, labeled,  
7 and dated hazardous waste storage containers. The perc-contaminated filters were hazardous waste  
8 as identified by U.S. Environmental Protection Agency (EPA) Waste Code F002, pursuant to 40  
9 CFR 261.31, as adopted by OAR 340-100-0002. These are Class II violations according to OAR  
10 340-012-0097(2)(a). DEQ has not assessed a civil penalty for these violations.

11          6.       Respondent violated ORS 465.505(3) and 465.527 by failing to submit a solvent  
12 purchase fee return form to DEQ for perc Respondent purchased and imported into Oregon in  
13 2013. This is a Class II violation according to OAR 340-012-0053(2). DEQ has not assessed a  
14 civil penalty for this violation.

#### 15                           IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

16           Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is  
17 hereby ORDERED TO:

18           **Pay a total civil penalty of \$6,252.** The determination of the civil penalty is attached in  
19 Exhibit Nos. 1 and 2 and is incorporated as part of this Notice.

20           If you do not file a request for hearing as set forth in Section V below, your check or money  
21 order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ,**  
22 **Business Office, 811 S.W. Sixth Avenue, Portland, Oregon 97204.** Once you pay the penalty,  
23 the Findings of Fact, Conclusions and Order become final.

#### 24                           V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

25           You have a right to a contested case hearing on this Notice, if you request one in writing.  
26 You must ensure that DEQ receives the request for hearing **within 20 calendar days** from the  
27 date you receive this Notice. If you have any affirmative defenses or wish to dispute any

1 allegations of fact in this Notice or attached exhibits, you must include them in your request for  
2 hearing, as factual matters not denied will be considered admitted, and failure to raise a defense  
3 will be a waiver of the defense. (See OAR 340-011-0530 for further information about requests  
4 for hearing.) You must mail the request for hearing to: **DEQ, Office of Compliance and**  
5 **Enforcement - Appeals, 811 SW Sixth Avenue, Portland, Oregon 97204**, or fax it to **503-229-**  
6 **5100**. An administrative law judge employed by the Office of Administrative Hearings will  
7 conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR  
8 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, or you  
9 may represent yourself unless you are a corporation, agency or association.

10 Active duty servicemembers have a right to stay proceedings under the federal  
11 Servicemembers Civil Relief Act. For more information, please call the Oregon State Bar at  
12 1(800) 452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information  
13 can be found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services  
14 Locator website, <http://legalassistance.law.af.mil/content/locator.php>.

15 If you fail to file a request for hearing in writing within 20 calendar days of receipt of the  
16 Notice, the Notice will become a final order by default without further action by DEQ, as per  
17 OAR 340-011-0535(1). If you do request a hearing but later withdraw your request, fail to attend  
18 the hearing, or notify DEQ that you will not be attending the hearing, DEQ will issue a final  
19 order by default pursuant to OAR 340-011-0535(3). DEQ designates the relevant portions of its  
20 files, including information submitted by you, as the record for purposes of proving a prima facie  
21 case.

22  
23 \_\_\_\_\_  
24 Date

12/2/15

25 \_\_\_\_\_  
26 Leah K. Feldon, Manager  
27 Office of Compliance and Enforcement

EXHIBIT NO. 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY  
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION No. 1: Operating a perc dry cleaning machine not fitted with closed, self-sealing couplings for input of solvent into the dry cleaning machine and closed, self-sealing couplings on the vapor displacement outlet that capture perc gas vapors and return the vapors to the delivery container, in violation of OAR 340-124-0040(6)(a).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0097(1)(i).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is:  $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(5)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(5)(a)(G) because this is a violation of OAR Chapter 340, division 124, and Respondent is a dry cleaning owner or operator.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c), because there is no prior history.

"O" is whether the violation was repeated or ongoing and receives a value of 4 according to OAR 340-012-0145(4)(d), because Respondent operated his machine without the required equipment from approximately August 1, 2005 through September 24, 2015.

"M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b), because Respondent reasonably should have known of the requirement to transfer perc using closed, self-sealing couplings to prevent vapor release. Respondent knows that perc is an air quality concern because Respondent has coverage under an air

quality permit, and Respondent is aware of the requirement to test the dry cleaning system for perc leaks.

"C" is Respondent's efforts to correct the violation and receives a value of -1 according to OAR 340-012-0145(6)(e), because Respondent made reasonable efforts to ensure that the violation would not be repeated by installing the proper closed, self-sealing couplings in September 2015.

"EB" is the approximate economic benefit that an entity gained by not complying with the law. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$292. This is the amount Respondent gained by delaying spending \$683 to install closed, self-sealing couplings on his dry cleaning machine from August 1, 2005 until September 24, 2015. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:

$$\begin{aligned} \text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB} \\ &= \$500 + [(0.1 \times \$500) \times (0 + 0 + 4 + 2 - 1)] + \$292 \\ &= \$500 + (\$50 \times 5) + \$292 \\ &= \$500 + \$250 + \$292 \\ &= \$1,042 \end{aligned}$$

EXHIBIT NO. 2

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY  
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION No. 2: Failing to perform weekly inspections of the dry cleaning system for perc vapor leaks, in violation of Condition 3.4 of the Permit and 40 Code of Federal Regulations (CFR) 63.322(k), adopted pursuant to OAR 340-244-0220(1).

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0054(1)(j).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0130(3) as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation and DEQ finds that the violation had a significant adverse impact on human health or the environment. In making this finding, DEQ considered the following reasonably available information: Respondent uses the chemical solvent perc, which is known to cause serious health effects if inhaled or ingested. Respondent's failure to conduct weekly leak detection resulted in multiple unaddressed perc leaks from Respondent's dry cleaning system into the store, exposing Respondent, his employees, and customers to perc vapors.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is:  $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$3,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(4)(a)(C) because Respondent operates a dry cleaning facility under a General Air Contaminant Discharge Permit (ACDP) that is subject to the federal Area-Source National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c), because there is no prior history.

"O" is whether the violation was repeated or ongoing and receives a value of 4 according to OAR 340-012-0145(4)(d), because Respondent did not conduct weekly leak inspections

from at least January through August 2015, and therefore there were more than 28 occurrences of the violation.

- "M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c), because Respondent was negligent. Respondent's permit specifically requires that Respondent perform leak detection inspections on a weekly basis. DEQ annually sends all dry cleaners, including Respondent, a calendar identifying the weekly inspection requirements and including designated spaces for documenting inspections and other required information. Respondent has reported to DEQ in past years that he has done the inspections. By failing to conduct any inspections for at least eight months in 2015, Respondent failed to take reasonable care to avoid the foreseeable risk of violating the inspection requirement and allowing a vapor leak to occur unaddressed.
- "C" is Respondent's efforts to correct the violation and receives a value of -1 according to OAR 340-012-0145(6)(e), because Respondent made reasonable efforts to ensure that the violation would not be repeated by conducting and documenting weekly inspections in September 2015, as requested by DEQ in the August 27, 2015 Pre-Enforcement Notice.
- "EB" is the approximate economic benefit that an entity gained by not complying with the law. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$110. This is the amount Respondent gained by avoiding, from January through August 2015, spending a half an hour per week at \$12 per hour in labor costs for required inspections and documentation. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:

$$\begin{aligned} \text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB} \\ &= \$3,000 + [(0.1 \times \$3,000) \times (0 + 0 + 4 + 4 - 1)] + \$110 \\ &= \$3,000 + (\$300 \times 7) + \$110 \\ &= \$3,000 + \$2,100 + \$110 \\ &= \$5,210 \end{aligned}$$