



Oregon

Kate Brown, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5696
FAX (503) 229-5100
TTY 711

April 22, 2022

CERTIFIED MAIL: 7018 1830 0001 5906 3503

Aladdin Heating & Air Conditioning Corporation
c/o Anis E. Kahl, Registered Agent
1924 SW 32nd Street
Gresham, OR 97080

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/AB-NWR-2021-062

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$2,200 for performing an asbestos abatement project without being licensed by DEQ at a residential property located at 6847 N. Maryland Avenue, Portland, OR 97217. This Notice also cites you, without penalty, for failing to submit an asbestos abatement project notification to DEQ before commencing the project.

DEQ issued this penalty because the violations described in the attached Notice could have released asbestos fibers into the air and exposed workers or the homeowner to asbestos. Asbestos fibers are a respiratory hazard proven to cause lung cancer, mesothelioma, and asbestosis. Asbestos is a danger to public health and a hazardous air contaminant for which there is no known safe level of exposure. To protect the public from asbestos exposure, DEQ requires training and licensing for those who handle asbestos-containing material and prohibits open accumulation of asbestos-containing waste material.

DEQ appreciates your efforts to minimize the impacts of the violation by hiring a DEQ-licensed asbestos abatement contractor to properly abate and remove the asbestos-containing waste material that remained in the basement of the residence and for conducting air sampling. DEQ considered these efforts when determining the amount of civil penalty.

You may pay the civil penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here: <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional charges.

Pay by check or money order: Make checks payable to "Department of Environmental Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with your check or money order.

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

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – DEQappeals@deq.oregon.gov

Via fax – 503-229-6762

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.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review 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 instead of paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Becka Puskas at 503-229-5058 or toll free in Oregon at 800-452-4011, extension 5058.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Kara Master, DEQ
Audrey O'Brien, DEQ
Accounting, DEQ

1 8. On August 5, 2020, a licensed asbestos abatement contractor abated and removed the 10
2 linear feet of duct seam tape described in Section II, Paragraphs 4-7, above and decontaminated the
3 area. In addition, a third-party consultant conducted final air clearance sampling that demonstrated that
4 the air inside the negative pressure enclosure installed by the abatement contractor was less than 0.01
5 asbestos fibers per cubic centimeter of air.

6 III. CONCLUSIONS

7 1. On June 25, 2020, Respondent violated OAR 340-248-0110(4) by performing an asbestos
8 abatement project without being licensed by DEQ under OAR 340-248-0120, as described in Section
9 II, Paragraphs 1-6, above. Specifically, Respondent cut through approximately 10 linear feet of duct
10 seam tape on the furnace duct in the basement of the Residence. The duct seam tape is “asbestos-
11 containing material” as defined by OAR 340-248-0010(8) because it is a material containing more than
12 1% asbestos by weight. The work the Respondent did at the Residence is an “asbestos abatement
13 project” as defined by OAR 340-248-0010(6) because it was a renovation, repair or maintenance
14 activity that involved the handling of asbestos-containing material with the potential to release asbestos
15 fibers into the air. This is a Class I violation according to OAR 340-012-0054(1)(t). DEQ hereby assesses
16 a \$2,200 civil penalty for this violation.

17 2. Respondent violated OAR 340-248-0260 by failing to submit a written notification to DEQ at
18 least 10 days prior to commencing a friable asbestos abatement project, as described in Section II,
19 Paragraphs 4-6 and 8, above. This is a Class II violation according to OAR 340-012-0054(2)(m). DEQ has
20 not assessed a civil penalty for this violation.

21 IV. ORDER TO PAY CIVIL PENALTY

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

24 1. Pay a total civil penalty of \$2,200. The determination of the civil penalty is attached as Exhibit
25 1 and is incorporated as part of this Notice.

26 If you do not file a request for hearing as set forth in Section V below, please pay the penalty as
27 follows:

1 Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:
2 <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account
3 dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US
4 Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional
5 charges.

6 Pay by check or money order: Make checks payable to “Department of Environmental
7 Quality” and mail to the address on the enclosed payment slip. Please make sure to include the payment
8 slip with your check or money order.

9 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

10 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
11 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
12 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
13 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
14 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
15 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
16 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
17 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
18 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
19 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
20 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
21 you may represent yourself. If you are a corporation, partnership, limited liability company,
22 unincorporated association, trust or government body, you must be represented by an attorney or a duly
23 authorized representative, as set forth in OAR 137-003-0555.

24 Active duty Service members have a right to stay proceedings under the federal Service
25 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-452-8260, the
26 Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal
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1 Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not
2 have a toll free telephone number.

3 If you fail to file a timely request for hearing, the Notice will become a final order by default
4 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
5 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
6 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
7 the relevant portions of its files, including information submitted by you, as the record for purposes of
8 proving a prima facie case.

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12 4/22/2022 
13 Date Kieran O'Donnell, Manager
14 Office of Compliance and Enforcement
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EXHIBIT 1

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

VIOLATION NO. 1 Performing an asbestos abatement project without being a DEQ-licensed asbestos abatement contractor, in violation of OAR 340-248-0110(4).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(t).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(1)(i)(C) because the violation involved less than 40 linear feet of asbestos-containing material. Respondent cut into approximately 10 linear feet of asbestos-containing duct seam tape in the basement of the Residence.

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 \$2,000 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(3)(a)(B) because Respondent is not a residential owner-occupant.

"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 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Each day constitutes a separate occurrence of the violation. Respondent performed an asbestos abatement project at the Residence on June 25, 2020.

"M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. Negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. Respondent is a residential and commercial specialty contractor that was first certified by the Construction Contractors Board ("CCB") in 2010. Duct seam tape used in older heating and air conditioning systems is a common asbestos-containing material. As a contractor specializing in this area, Respondent should have known that the old oil furnace being replaced may have asbestos-containing duct seam tape on the furnace ducting. Additionally, as a contractor that has received CCB training, Respondent should have

known that friable asbestos removal must be performed by a DEQ-licensed asbestos abatement contractor. Thus, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct resulting in a violation of conducting an asbestos abatement project without being licensed by DEQ.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent took reasonable affirmative efforts to minimize the effects of the violation. Respondent hired a licensed asbestos abatement contractor to abate and remove the 10 linear feet of asbestos-containing duct seam tape and decontaminate the area. In addition, Respondent hired a third-party consultant to conduct final air clearance sampling.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. 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 \$0 because any economic benefit that Respondent gained as a result of the violation was offset by the cost Respondent incurred to pay for a DEQ-licensed asbestos abatement contractor to properly abate, remove, and properly dispose of the duct seam tape and to pay for an asbestos consultant to perform asbestos air sampling.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{\$EB}$

$$\begin{aligned} &= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 0 + 4 + -3)] + \$0 \\ &= \$2,000 + (\$200 \times 1) + \$0 \\ &= \$2,000 + \$200 + \$0 \\ &= \$2,200 \end{aligned}$$

Oregon Department of Environmental Quality
 700 NE Multnomah Street, Suite 600
 Portland, OR 97232-4100



State of Oregon
 Department of Environmental Quality

Phone: 503-229-5437
 Fax: 503-229-5850

CIVIL PENALTY - ORS 468.135(2)

ANIS KAHL
 ALADDIN HEATING & AIR CONDITIONING
 CORPORATION
 1924 SW 32ND STREET
 GRESHAM, OR 97080

DATE:	April 14, 2022
RESPONSE DATE :	June 23, 2022
TOTAL PENALTY:	\$2,200.00

Account Name:	ALADDIN HEATING & AIR CONDITIONING CORPORATION		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2200029
SubSystem ID:	40	FIMS Acct. ID:	7360

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 2,200.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 2,200.00

Payment of this penalty is subject to the exercise of your options or right to appeal as described in the enclosed enforcement documents.

To Pay Online with ACH or Credit Card Visit <https://ydo.oregon.gov> and select 'Register Account'



 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



ANIS KAHL
 ALADDIN HEATING & AIR CONDITIONING
 CORPORATION
 1924 SW 32ND STREET
 GRESHAM, OR 97080

REFERENCE NO.	CPGFD2200029		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	June 23, 2022
FIMS ACCT. ID:	7360	TOTAL PENALTY DUE:	\$2200.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

DEQ FINANCIAL SERVICES - LBX4244
 PO BOX 4244
 PORTLAND OR 97208-4244

Check this box if updated address information has been provided on the back of the form.

00401 7400 10040 74001 0500 000000 0095000073609(CPGF)220002900002200001



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)

700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
Phone: 503-229-5437
Fax: 503-229-5850

Penalty Detail

Transaction Date	Description	Amount
4/19/2022	2021-062 AQ/AB-NWR-2021-062	\$2,200.00

SFMS Agencies Use:

Trans Code	Treasury Fund	SFMS	Index	PCA (5)	Agency Object	Project #	Phase
723	00401	7400	10040	74001	0500	00000	00

Address Changes

Please visit <https://ydo.oregon.gov> to update your mailing address online or provide the following information:

Name _____
Address _____
City, State, Zip _____