



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

June 14, 2022

CERTIFIED MAIL: 7018 1830 0001 6172 5857

Chemical Waste Management of the Northwest, Inc.
c/o CT Corporation System, Registered Agent
780 Commercial St Ste 100
Salem OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ-HW-ER-2022-510

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$24,000 for failing to meet land disposal restrictions when disposing of hazardous waste at your permitted facility in Arlington in August of 2021. Specifically, you disposed of 2,038 gallons of corrosive ammonium sulfate waste with a pH of 2.0 in the lined surface impoundment at the facility, without first treating the waste to deactivate the corrosivity.

DEQ issued this penalty because as a permitted hazardous waste treatment, storage, and disposal facility, Chemical Waste Management is responsible for ensuring waste received is properly characterized and disposed of in accordance with hazardous waste law.

DEQ appreciates your efforts to address the violation by promptly reporting the violation to DEQ, conducting additional training for all laboratory staff, and placing laboratory oversight under the Environmental Compliance Manager moving forward. 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.

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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 Sarah Wheeler at 971-301-0622.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Dan Duso, DEQ
David Anderson, DEQ
Accounting, DEQ
Jim Kincaid, jkincaid@cablehuston.com
Ame Lewis, alewis6@wm.com
Jim Denson, jdenson@wm.com

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3	IN THE MATTER OF:)	NOTICE OF CIVIL PENALTY
4	CHEMICAL WASTE MANAGEMENT)	ASSESSMENT AND ORDER
5	OF THE NORTHWEST, INC.,)	
6	Respondent.)	CASE NO. LQ-HW-ER-2022-510

6 I. AUTHORITY

7 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
8 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
9 466.994, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012,
10 100-102.

11 II. FINDINGS OF FACT

12 1. Respondent operates a hazardous waste treatment, storage, and disposal facility in
13 Arlington, Oregon, pursuant to Permit Number ORD-089-452-353 (the Permit), issued by DEQ
14 pursuant to ORS Chapter 466.

15 2. On August 16, 2021, Respondent received a tanker containing 2,038 gallons of
16 ammonium sulfate waste for disposal at the Facility.

17 3. The ammonium sulfate waste was shipped to Respondent on manifest number
18 000406631, which designated the waste as non-hazardous waste with a pH of 2.1.

19 4. Respondent conducted an independent test of the waste in Respondent's laboratory at
20 the Facility. The results of that test showed that the pH of the waste was 2.0.

21 5. On August 16, 2021, Respondent disposed of the 2,038 gallons of ammonium sulfate
22 waste in the surface impoundment at the Facility.

23 6. Respondent did not treat the waste by deactivation to remove the corrosivity
24 characteristic prior to disposal.

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1 III. CONCLUSIONS

2 Based upon the foregoing Findings of Fact, DEQ has determined that Respondent violated the
3 following provisions of Oregon law, including hazardous waste and used oil laws adopted by OAR
4 340-100-0002¹.

5 1. Respondent violated 40 CFR 268.40(a)(3) by disposing of hazardous waste at the
6 Facility without meeting the land disposal restrictions on August 16, 2021. Specifically, Respondent
7 disposed of 2,038 gallons of corrosive ammonium sulfate waste in the surface impoundment at the
8 Facility, without treating it through deactivation to remove the corrosivity characteristic pursuant to 40
9 CFR 268.42, prior to disposal. Pursuant to 40 CFR 261.22(a)(1), the corrosive ammonium sulfate waste
10 was a D002 corrosive hazardous waste because it had a pH of 2.0. This is a Class I violation, according
11 to OAR 340-012-0068(1)(b). DEQ hereby assesses a \$24,000 civil penalty for this violation.

12 IV. ORDER TO PAY CIVIL PENALTY

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

15 Pay a total civil penalty of \$24,000. The determination of the civil penalty is attached as Exhibit 1
16 and is incorporated as part of this Notice.

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

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

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

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27 ¹ On November 17, 2021, the Environmental Quality Commission adopted new hazardous waste
regulations, which became effective in Oregon as of January 1, 2022. This Notice cites the CFRs that
were in effect at the time the violations occurred, enacted through June 30, 2015.

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

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

16 Active duty Service members have a right to stay proceedings under the federal Service
17 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
18 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
19 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
20 Department does not have a toll free telephone number.

21 If you fail to file a timely request for hearing, the Notice will become a final order by default
22 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
23 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
24 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates

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1 the relevant portions of its files, including information submitted by you, as the record for purposes of
2 proving a prima facie case.

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4 6/14/2022

5 Date

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Kieran O'Donnell, Manager
Office of Compliance and Enforcement

EXHIBIT 1

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

VIOLATION NO. 1 Failure to meet land disposal restrictions when disposing hazardous waste, in violation of 40 CFR 268.40(a)(3).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0068(1)(b).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(b)(A)(i) because Respondent disposed of 2,038 gallons of hazardous waste without meeting the land disposal restrictions.

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 \$12,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(ii) because Respondent has a hazardous waste treatment, storage, and disposal permit, and violated a hazardous waste rule.

"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 9 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent has the following prior significant actions:

- Two Class I and two Class II violations (a Class I Equivalent, as defined in OAR 340-012-0030(2)) in case no. LQ/HW-ER-2012-082, issued January 23, 2013;
- One Class I violation in case no. LQ/HW-ER-2012-063, issued January 8, 2014;
- Two Class I violations in case no. LQ/HW-ER-2015-044, issued May 6, 2015; and
- Two Class I and one Class II violations in case no. LQ/HW-ER-2020-094, issued August 28, 2020.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"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, on August 16, 2021.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure the violation would not be repeated. Respondent provided additional training to laboratory staff and implemented a new management structure, providing the Environmental Compliance Manager with oversight of the laboratory.

"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, as DEQ has determined that the economic benefit resulting from this violation is de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$12,000 + [(0.1 \times \$12,000) \times (9 + 0 + 0 + 2 + (-1))] + \0
 $= \$12,000 + (\$1,200 \times 10) + \$0$
 $= \$12,000 + \$12,000 + \$0$
 $= \$24,000$



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

CIVIL PENALTY - ORS 468.135(2)

DATE:	June 14, 2022
RESPONSE DATE :	August 23, 2022
TOTAL PENALTY:	\$24,000.00

Account Name:	CHEMICAL WASTE MANAGEMENT OF THE NW		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2200033
SubSystem ID:	198190	FIMS Acct. ID:	1096

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 24,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 24,000.00

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



REFERENCE NO.	CPGFD2200033		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	August 23, 2022
FIMS ACCT. ID:	1096	TOTAL PENALTY DUE:	\$24000.00

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 0095000010960(CPGF)220003300024000003



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
6/10/2022	2022-510 LQ-HW-ER-2022-510	\$24,000.00

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 _____