



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

July 28, 2022

CERTIFIED MAIL: 7018 1830 0001 5906 3749

Advanced Chemical Transport, Inc.
doing business as ACTenviro
ATTN: Registered Agent
13600 SE Ambler Road
Clackamas, OR 97015

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ/HW-WR-2022-541

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$22,800 for transporting hazardous waste without a manifest. In April 2021, you transported 3,775 gallons of corrosive (D002) hazardous waste from the generator for offsite treatment, storage or disposal under a bill of lading that indicated the wastes were not hazardous waste.

DEQ issued this penalty because as a hazardous waste transporter you are responsible for ensuring that hazardous wastes are managed safely and properly shipped under a hazardous waste manifest. Your failure to comply with this hazardous waste requirement created a risk of harm to ACTenviro and Patriot Environmental Services employees, public health, and the environment.

DEQ appreciates your efforts to minimize the effects of the violation by ensuring the waste was ultimately disposed and manifested properly. DEQ considered these efforts when determining the amount of the 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 and note the case number on your check.

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 – 503-229-5100

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 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 Esther Westbrook at 503-229-5374 or toll free in Oregon at 800-452-4011, extension 5374.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Krista Harsona, Advanced Chemical Transport, Inc., 967 Mabury Road, San Jose, CA 95133
Killian Condon, Eugene Office, DEQ
Brian Fuller, Eugene Office, DEQ
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:)
4 ADVANCED CHEMICAL)
5 TRANSPORT, INC.,)
6 a California corporation,)
7 doing business as ACTENVIRO,)
8 Respondent.)

NOTICE OF CIVIL PENALTY
ASSESSMENT AND ORDER
CASE NO. LQ/HW-WR-2022-541

8 I. AUTHORITY

9 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
10 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
11 ORS Chapters 459, 466, and 183, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011,
12 012, 093, and 100.

13 II. FINDINGS OF FACT

14 1. At all material times, Respondent operated a hazardous waste management company based
15 in Clackamas, Oregon. Respondent is a permitted hazardous waste transporter and operates under U.S.
16 Environmental Protection Agency (EPA) Identification Number CAR000070540.

17 2. On April 27, 2021, Respondent began work draining and pressure washing tanks at a metal
18 manufacturing facility located at 425 34th Avenue SW in Albany, Linn County, Oregon (the Facility).
19 Respondent cleaned out one acid tank containing nitric acid and hydrofluoric acid (Tank 1) and drained
20 the contents of three rinse tanks (Tanks 2-4) at the Facility. The rinsewater from cleaning Tank 1,
21 approximately 275 gallons, was placed in a 275-gallon tote. The rinsewater from draining Tanks 2-4, a
22 total of approximately 3,500 gallons, was placed in a (5,500-gallon) tanker.

23 3. On March 15, 2021, Respondent collected a composite sample from Tanks 2-4 but did not
24 submit the sample to a laboratory for analysis until April 28, 2021. Respondent did not take a sample
25 from Tank 1 or from the rinsewater generated from cleaning Tank 1.

26 4. As of April 27, 2021, neither the generator nor Respondent had performed accurate
27 hazardous waste determinations on the wastes described in Paragraph 2 above.

1 5. On April 27-28, 2021, Respondent transported the wastes described in Paragraph 2 above to
2 a non-hazardous waste disposal facility, Patriot Environmental Services, Inc. (Patriot), as non-
3 hazardous wastes. The wastes were shipped under a non-hazardous waste manifest, also called a bill of
4 lading.

5 6. On April 28, 2021, Patriot conducted pH testing of the waste in the tanker and determined
6 the pH was below 2.

7 7. On April 28, 2021, Respondent submitted the sample described in Paragraph 3 above to a
8 laboratory for analysis, which determined the waste had a pH of 1.96. Respondent tested the material in
9 the tote described in Paragraph 2 above, and determined it had a "low pH."

10 8. In May 2021, the wastes described in Paragraph 2 above were transported to a permitted
11 hazardous waste treatment, storage and disposal facility under two hazardous waste manifests.

12 III. CONCLUSION

13 On April 27, 2021, Respondent violated 40 CFR 263.20(a)(i) by accepting hazardous waste
14 for transport without a manifest. Specifically, Respondent accepted and transported a total of 3,750 gallons
15 of wastes which are corrosive D002 hazardous wastes pursuant to 40 CFR 261.22(a)(1), as adopted by
16 OAR 340-100-0002, on bills of lading, as described in Section II, above. This is a Class I violation
17 according to OAR 340-012-0068(1)(e). DEQ hereby assesses a \$22,800 civil penalty for this violation.

18 IV. ORDER TO PAY CIVIL PENALTY

19 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSION, Respondent is hereby
20 ORDERED TO:

21 Pay a total civil penalty of \$22,800. The determination of the civil penalty is attached as
22 Exhibit No. 1 and incorporated as part of this Notice.

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

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27 ///

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, or

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

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 **503-229-5100** 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-
26 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
27 ///

1 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
2 Department does not 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.

9
10
11 7/28/2022
12 Date


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12 Kieran O'Donnell, Manager
13 Office of Compliance and Enforcement
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EXHIBIT NO. 1

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

VIOLATION: Transporting hazardous waste without a uniform hazardous waste manifest, in violation of 40 CFR 263.20(a)(1), as adopted by OAR 340-100-0002.

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

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c)(A)(i) because Respondent transported more than 1,000 gallons of hazardous waste without a manifest.

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)(i) because Respondent is a hazardous waste transporter 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 2 according to OAR 340-012-0145(2)(a)(C) because Respondent had one Class I violation in Case No. LQ/UST-2021-085.

"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 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent transported two shipments of hazardous waste without a uniform hazardous waste manifest.

"M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. Respondent is a hazardous waste management company and an EPA-permitted hazardous waste transporter, so it has knowledge of the legal requirements that apply to managing, transporting and disposing of hazardous waste. When Respondent was hired to clean out acid tanks at a large-quantity generator, it failed to conduct accurate sampling of the waste, resulting in hazardous waste being mis-characterized as non-hazardous and shipped as such without a hazardous waste manifest. By accepting and shipping hazardous waste for disposal without a hazardous

waste manifest, Respondent consciously disregarded a substantial and unjustifiable risk that it would violate hazardous waste regulations. Considering Respondent's knowledge and the potential environmental and human health impacts from mismanaging corrosive waste, disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation.

"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 made reasonable efforts to minimize the effects of the violation by arranging to ship the hazardous waste from Patriot to a permitted disposal facility as hazardous waste, on a hazardous waste manifest.

"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 there is insufficient information to make an estimate of the economic benefit, if any, received by Respondent from this violation.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
= \$12,000 + [(0.1 x \$12,000) x (2 + 0 + 2 + 8 - 3)] + \$0
= \$12,000 + [\$1,200 x 9] + \$0
= \$12,000 + \$10,800 + \$0
= \$22,800



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

CIVIL PENALTY - ORS 468.135(2)

| | |
|------------------------|-----------------|
| DATE: | July 28, 2022 |
| RESPONSE DATE : | October 6, 2022 |
| TOTAL PENALTY: | \$22,800.00 |

| | | | |
|----------------------|---------------------------------|--------------------------|--------------|
| Account Name: | ADVANCED CHEMICAL TRANSPORT INC | | |
| Account Type: | Vendor/Organization/Company | Reference Number: | CPGFD2300013 |
| SubSystem ID: | 204362 | FIMS Acct. ID: | 6038 |

Penalty Summary

| Penalty Amount | Interest | Adjustment | Amount Paid | Total Penalty |
|----------------|----------|------------|-------------|---------------|
| \$ 22,800.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 22,800.00 |

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. | CPGFD2300013 | | |
| PAYCODE: | 00401 7400 10040 74001 0500 000000 00 | | |
| FEE PROGRAM ID: | 950 | RESPONSE DATE: | October 6, 2022 |
| FIMS ACCT. ID: | 6038 | TOTAL PENALTY DUE: | \$22800.00 |

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 00950000060385(CPGF)230001300022800009



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 |
|------------------|----------------------------|-------------|
| 7/27/2022 | 2022-541 LQ-HW-WR-2022-541 | \$22,800.00 |

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 _____