



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

September 13, 2022

CERTIFIED MAIL: 7020 2450 0000 3349 5185

Interstate Meat Distributors, Inc.
c/o Jerry Meng, Registered Agent
9550 SE Last Road
Clackamas, OR 97015

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2022-535

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$6,778 for failing to collect grab samples during the 2020-2021 monitoring period, as required under your National Pollutant Discharge Elimination System Industrial Stormwater Discharge General Permit Number 1200-Z (Permit). These are violations of your Permit and ORS 468B.025(2).

DEQ issued this penalty because permit registrants are required to sample and monitor their stormwater discharge to ensure their discharges meet the benchmark pollutant concentrations in the Permit. Without monitoring information, DEQ and the public are unable to evaluate the effectiveness of your stormwater controls in protecting water quality.

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.

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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 DEQ Environmental Law Specialist Esther Westbrook, at (503) 229-5374. You may call toll-free within Oregon at 1-800-452-4011, extension 5374.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Brian Charles, Interstate Meat Distributors, Inc.: brian@interstatemeat.com
Blair Edwards, Portland Office, DEQ
Christine Svetkovich, Portland Office, DEQ
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 IN THE MATTER OF:)
4 INTERSTATE MEAT) NOTICE OF CIVIL PENALTY
5 DISTRIBUTORS, INC.,) ASSESSMENT AND ORDER
6 an Oregon corporation,)
7 Respondent.) CASE NO. WQ/SW-NWR-2022-535

7 I. AUTHORITY

8 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
9 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140,
10 ORS Chapters 183 and 468B and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012
11 and 045.

12 II. FINDINGS OF FACT

- 13 1. Respondent operates an industrial facility located at 9550 SE Last Road in Clackamas,
14 Clackamas County, Oregon (the Facility).
- 15 2. On or about November 13, 2007, DEQ assigned coverage to Respondent under National
16 Pollutant Discharge Elimination System Waste Discharge Permit No. 1200-Z (the Permit). Respondent
17 had coverage under the Permit at all material times.
- 18 3. The Permit authorizes Respondent to construct, install, modify or operate stormwater
19 treatment and/or control facilities, and to discharge stormwater to waters of the state or to conveyance
20 systems that discharge to waters of the state in conformance with all the conditions in the Permit.
- 21 4. Schedule B of the Permit requires Respondent to monitor its stormwater through grab
22 sampling for various parameters. Specifically, Schedule B, Condition 1 of the Permit requires
23 Respondent to monitor for the benchmark pollutants identified in Schedule A, Condition 9. Schedule B,
24 Condition 2.f requires Respondent to collect four grab samples per year.
- 25 5. For the 2020-2021 monitoring period, Respondent did not collect any of the required grab
26 samples and did not submit any discharge monitoring reports.

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1 III. CONCLUSION

2 Respondent has violated Schedule B, Condition 1 of the Permit and ORS 468B.025(2) by failing to
3 conduct required stormwater monitoring during the 2020-2021 monitoring period, as described in Section
4 II, Paragraphs 1-5 above. According to OAR 340-012-0055(1)(o), this is a Class I violation. DEQ hereby
5 assesses a \$6,778 civil penalty for this violation.

6 IV. ORDER TO PAY CIVIL PENALTY

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

9 Pay a civil penalty of \$6,778. The determination of the civil penalty is attached as Exhibit No. 1
10 and incorporated as part of this Notice.

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

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

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

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

22 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
23 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
24 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
25 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
26 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
27 further information about requests for hearing.) You must send your request to: **DEQ, Office of**

1 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
2 it to **503-229-5100** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
3 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
4 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
5 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
6 you may represent yourself. If you are a corporation, partnership, limited liability company,
7 unincorporated association, trust or government body, you must be represented by an attorney or a duly
8 authorized representative, as set forth in OAR 137-003-0555.

9 Active-duty Service members have a right to stay proceedings under the federal Service
10 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
11 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
12 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
13 Department does not have a toll-free telephone number.

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

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9/13/2022
Date



Kieran O'Donnell, Manager
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: Failure to conduct monitoring in violation of Schedule B, Condition 1 of NPDES Permit No. 1200-Z and ORS 468B.025(2).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(o).

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 \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii), because Respondent has coverage under an NPDES general permit.

"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 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to collect all four samples during the 2020-2021 monitoring period.

"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. Respondent holds an NPDES 1200-Z Permit, which specifically requires that it collect and analyze stormwater samples according to the conditions in Schedule B of the Permit. Additionally, Respondent received a Warning Letter in 2018 for QA/QC issues with its sampling. When Respondent failed to collect all the required samples during the 2020-2021 monitoring year, it failed to take reasonable care to avoid a foreseeable risk that it would violate the Permit and Oregon environmental law.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(a)(D), because the violation or the effects of the violation could not be corrected or minimized.

"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 \$378. This is the amount Respondent gained by avoiding spending \$548 to collect and analyze four stormwater samples. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$4,000 + [(0.1 \times \$4,000) \times (0 + 0 + 2 + 4 + 0)] + \$378 \\ &= \$4,000 + [\$400 \times 6] + \$378 \\ &= \$4,000 + \$2,400 + \$378 \\ &= \$6,778 \end{aligned}$$

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)

DATE:	September 13, 2022
RESPONSE DATE :	November 22, 2022
TOTAL PENALTY:	\$6,778.00

Account Name:	INTERSTATE MEAT DISTRIBUTORS, INC. <INTERSTATE MEAT DISTRIBUTORS> <117083>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2300023
SubSystem ID:	190720	FIMS Acct. ID:	2295

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 6,778.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 6,778.00

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.	CPGFD2300023		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	November 22, 2022
FIMS ACCT. ID:	2295	TOTAL PENALTY DUE:	\$6778.00

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 0095000022956CPGFD230002300006778005



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
9/9/2022	2022-535 WQ-SW-NWR-2022-535	\$6,778.00

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 _____