



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 5116

YRC Inc., DBA YRC Freight
Attn: CT Corporation System
780 Commercial St. Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2021-539

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$9,612 for violating a condition of the National Pollutant Discharge Elimination System Industrial Stormwater Discharge General Permit No.1200-Z (the Permit) issued for the facility located at 6845 N. Cutter Circle in Portland. Specifically, DEQ has cited you for failing to implement your Stormwater Pollution Control Plan (SWPCP), which requires you to perform periodic cleaning and maintenance of your oil/water separators, catch basins and trench drain.

DEQ issued this penalty because it is essential for permit registrants to implement the SWPCP developed for the facility, including performing all the required cleaning and maintenance, to ensure reduced pollutant concentrations in industrial stormwater discharge.

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 – 503-229-6762

YRC, INC.

Case No: WQ/SW-NWR-2021-539

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 Courtney Brown at 503-229-6839 or toll free in Oregon at 800-452-4011, extension 6839.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Mieke Vrijmoet, City of Portland, BES, mieke.vrijmoet@portlandoregon.gov
Christine Svetkovich, DEQ
Accounting, DEQ
Ruben Byerly, YRC Freight, 10990 Roe Ave., Overland Park, Kansas 66211

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 YRC INC., doing business as YRC FREIGHT) ASSESSMENT AND ORDER
5 an assumed business name,)
Respondent.) CASE NO. WQ/SW-NWR-2021-539

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 ORS 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012,
10 and 045.

11 II. FINDINGS OF FACT

12 1. Respondent was assigned coverage under the National Pollutant Discharge Elimination
13 System Industrial Stormwater Discharge General Permit, No. 1200-Z (the Permit) for its facility
14 located at 6845 N. Cutter Circle, Portland, Oregon (the Facility) on August 19, 1998. The Permit
15 expired on July 1, 2021 and was revised, renewed and reissued by DEQ becoming effective on July 1,
16 2021. The Permit was in effect at all material times.

17 2. Schedule A, condition 8.d of the Permit¹ requires Respondent to implement its
18 Stormwater Pollution Control Plan (SWPCP).

19 3. Section 3.1.2 of Respondent's SWPCP requires catch basins in drainage area 002 to be
20 cleaned quarterly; catch basins in drainage areas 001 and 003 must be cleaned as needed.

21 4. Section 3.1.2 of Respondent's SWPCP requires oil/water separators in basin 002 and
22 basin 003 to be cleaned quarterly.

23 5. Appendix H of Respondent's SWPCP states that the accumulated sediment will be
24 removed from the trench drain two times per year.

25 6. During the 2019/2020 monitoring year the oil/water separators were only cleaned on
26 March 23, 2020, and December 18, 2020.

27

¹ This condition existed as Schedule A.6(d) in the previous version of the Permit.

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 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

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

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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 No.1: Respondent has violated ORS 468B.025(2) and Schedule A, condition 8.d of the 1200-Z Permit by failing to implement the SWPCP developed for the Facility.
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(r).
- 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 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each separate violation of the SWPCP is a separate occurrence. Respondent has 40 catch basins and two oil/water separators that are supposed to be cleaned quarterly. During the 2019/2020 monitoring year the oil/water separators were cleaned two out of the four required times for a total of 4 occurrences. For half a year (between April - October 2021) no catch basins or oil/water separators were cleaned for a total of 84 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's conduct was negligent. The Permit plainly requires registrants implement the SWPCP. Respondent has previously failed to perform periodic maintenance as required in its SWPCP and received a warning notice from the Bureau of Environmental Services (dated 1/11/2021). By failing to substantially implement the

SWPCP, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate its SWPCP and its Permit.

"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 correct the violation by contracting with Safety-Kleen to perform the required maintenance on a regular basis.

"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 \$3,612. This is the amount Respondent gained by avoiding spending an estimated \$4,976 to clean two oil/water separators and 40 catch basins during the 2019/2020 and 2020/2021 monitoring years. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$4,000 + [(0.1 \times \$4,000) \times (0 + 0 + 4 + 4 + -3)] + \$3,612$
 $= \$4,000 + (\$400 \times 5) + \$3,612$
 $= \$4,000 + \$2,000 + \$3,612$
 $= \$9,612$

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:	\$9,612.00

Account Name:	YRC INC. <YRC INC. - N CUTTER CIRCLE> <107443>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2300025
SubSystem ID:	194193	FIMS Acct. ID:	3569

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 9,612.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 9,612.00

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.	CPGFD2300025		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	November 22, 2022
FIMS ACCT. ID:	3569	TOTAL PENALTY DUE:	\$9612.00

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 0095000035694CPGFD230002500009612001



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
9/12/2022	2021-539 WQ-SW-NWR-2021-539	\$9,612.00

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 _____