



# Oregon

Tina Kotek, 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

August 29, 2023

CERTIFIED MAIL: 9589 0710 5270 0110 6007 77

Associated Petroleum Products, Inc.  
c/o CT Corporation System, Registered Agent  
780 Commercial Street SE, Suite 100  
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order  
Case No. AQ-GHG-HQ-2023-002

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$7,200 for late submittal of a third party verification statement for your 2021 greenhouse gas emissions data report. The enclosed Notice also cites you, without penalty, for an inaccurate 2021 greenhouse gas emissions data report.

DEQ issued this penalty because inaccurate reporting undermines the Greenhouse Gas Reporting Program, an essential component of Oregon's efforts to track greenhouse gas emissions and combat climate change. Third party verification helps ensure the accuracy of greenhouse gas data. DEQ uses this data to inform climate regulation and policy decisions. Therefore, timely verification of greenhouse gas data submitted to DEQ is important to the state's efforts to combat climate change.

DEQ appreciates your efforts to correct your 2021 emissions data report on December 30, 2022, such that your verifier could submit a positive verification statement by December 31, 2022. DEQ considered these efforts when determining the amount of civil penalty.

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](mailto: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. 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 portion of the 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 [becka.puskas@deq.oregon.gov](mailto:becka.puskas@deq.oregon.gov).

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Dang Dang, Associated Petroleum Products, Inc., 2320 Milwaukee Way, Tacoma, WA 98421  
and [ddang@world-kinect.com](mailto:ddang@world-kinect.com)  
Kanem Johnson, [kanjohnson@wfscorp.com](mailto:kanjohnson@wfscorp.com)  
Stephanie Summers, DEQ  
Liz Hardee, DEQ  
Elizabeth Elbel, DEQ  
Colin McConnaha, DEQ  
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF: ) NOTICE OF CIVIL PENALTY  
4 ASSOCIATED PETROLEUM ) ASSESSMENT AND ORDER  
5 PRODUCTS, INC., )  
Respondent. ) CASE NO. AQ-GHG-HQ-2023-002

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 Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012,  
10 215 and 272.

11 II. FINDINGS OF FACT

- 12 1. Respondent distributes fuels in Oregon including gasoline, diesel, and propane.
- 13 2. Respondent reports its annual greenhouse gas emissions to DEQ pursuant to the Oregon  
14 Greenhouse Gas Reporting Program OAR Chapter 340, Division 215.
- 15 3. According to OAR 340-272-0120(1)(a)(A), regulated entities subject to the Oregon  
16 Greenhouse Gas Reporting Program with greenhouse gas emissions that equal or exceed 25,000 metric  
17 tons of carbon dioxide equivalent (MTCO<sub>2e</sub>), excluding CO<sub>2</sub> from biomass-derived fuels, are also  
18 subject to the third party verification requirements of OAR Chapter 340, Division 272.
- 19 4. According to OAR 340-272-0100(3)(a)(B), responsible entities subject to the third party  
20 verification requirements of OAR Chapter 340, Division 272 must ensure that a verification statement  
21 is submitted to DEQ from a verification body by August 31 (the verification deadline) for the previous  
22 year's emissions data report.
- 23 5. On May 2, 2022, Respondent submitted an emissions data report to DEQ for its calendar  
24 year 2021 emissions (2021 emissions data report). Respondent reported gallons of gasoline, diesel, and  
25 other fuels (including renewable diesel, biodiesel, biodiesel, and ethanol) as a fuel importer and  
26 position holder. Based on the reported gallons of fuels, Respondent reported total greenhouse gas  
27 emissions for calendar year 2021 of 73,897 MTCO<sub>2e</sub>, excluding CO<sub>2</sub> from biomass-derived fuels.

1           6.       Respondent did not ensure that a verification statement was submitted to DEQ for its  
2 2021 emissions data report by the August 31, 2022 verification deadline.

3           7.       On September 13, 2022, DEQ issued Warning Letter with Opportunity to Correct No.  
4 2022-WLOTC-7601 (the Warning Letter) to Respondent, citing Respondent for failing to submit a  
5 verification statement for its 2021 greenhouse gas emissions data report to DEQ by the August 31,  
6 2022 verification deadline. The Warning Letter requested that Respondent submit the verification  
7 statement to DEQ by October 13, 2022. DEQ subsequently extended the deadline to November 30,  
8 2022.

9           8.       As of November 30, 2022, Respondent had not requested an extension of the  
10 verification deadline, and no verification statement had been submitted for Respondent's 2021  
11 emissions data report.

12           9.       On December 7, 2022, DEQ issued Pre-Enforcement Notice No. 2022-PEN-7885 (the  
13 Pre-Enforcement Notice), citing Respondent for failing to submit a verification statement for its 2021  
14 greenhouse gas emissions data report to DEQ. The Pre-Enforcement Notice requested that Respondent  
15 submit the verification statement by December 31, 2022.

16           10.      On December 30, 2022, Respondent submitted a revised 2021 emissions data report to  
17 DEQ. The revised 2021 emissions data report included updated values for gallons of each type of fuel  
18 for which Respondent was an importer or position holder. The most significant update was an increase  
19 in the amount of gallons Respondent reported as a position holder of diesel, from 3,049,342 gallons in  
20 the initial report to 4,045,068 gallons in the revised report. In the revised 2021 emissions data report,  
21 Respondent reported total greenhouse gas emissions for calendar year 2021 of 81,141 MTCO<sub>2e</sub> (7,244  
22 MTCO<sub>2e</sub> higher than originally reported).

23           11.      After Respondent made corrections to its 2021 emissions data report as described in  
24 Section II, paragraph 10 above, Respondent's verification body submitted a positive verification  
25 statement to DEQ on December 31, 2022.

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1 III. CONCLUSIONS

2 1. Respondent violated OAR 340-215-0110 and OAR 340-215-0044(3)(e) by failing submit an  
3 accurate emissions data report to DEQ, as described in Section II, paragraphs 1-2, 5 and 10, above.  
4 Specifically, Respondent’s 2021 emissions data report failed to accurately disclose all quantities of fuel  
5 disbursed for use in the state of Oregon according to OAR 340-215-0110. As a result, Respondent  
6 failed to accurately report Respondent’s 2021 annual greenhouse gas emissions in violation of OAR  
7 340-215-0044(3)(e). This is a Class I violation according to OAR 340-012-0054(1)(ii). DEQ has not  
8 assessed a civil penalty for this violation.

9 2. Respondent violated OAR 340-272-0100(3)(a)(B) by failing to timely submit a verification  
10 statement as described in Section II, paragraphs 1-8, above. Respondent is subject to the third party  
11 verification requirements in OAR Chapter 340, Division 272 because Respondent has submitted an  
12 emissions data report to DEQ indicating that Respondent’s greenhouse gas emissions exceeded 25,000  
13 MTCO2e. OAR 340-272-0120(1)(a)(A). Respondent violated 340-272-0100(3)(a)(B) by failing to  
14 ensure that a verification statement for its 2021 emissions data report was submitted to DEQ by the  
15 August 31, 2022 verification deadline, as extended by DEQ to November 30, 2022. This is a Class I  
16 violation according to OAR 340-012-0054(1)(kk). DEQ hereby assesses a \$7,200 civil penalty for this  
17 violation.

18 IV. ORDER TO PAY CIVIL PENALTY

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

21 1. Pay a total civil penalty of \$7,200. The determination of the civil penalty is attached as Exhibit  
22 1 and is incorporated as part of this Notice.

23 If you do not file a request for hearing as set forth in Section V below, your check or money  
24 order must be made payable to "**Department of Environmental Quality**" and sent to the **DEQ,**  
25 **Business Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

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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](mailto: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.

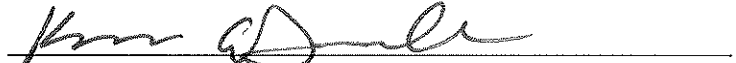
21 \\\n22 \\\n23 \\\n24 \\\n25 \\\n26 \\\n27 \\\n

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.

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8/29/2023

Date



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 Failing to timely submit a verification statement, in violation of OAR 340-272-0100(3)(a)(B).

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

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 \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(A)(U).

"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 1 according to OAR 340-012-0145(2)(a)(B) because Respondent has one Class II violation in case no. AQ/CFP-HQ-2020-137, issued on October 27, 2020.

"H" is Respondent's history of correcting prior significant actions, and receives an initial value of -1 according to OAR 340-012-0145(3)(b) because the prior violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions. The value of H is increased to 0 because the sum of P and H may not be less than one according to OAR 340-012-0145(3)(d).

"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. Respondent failed to ensure that a verification statement was timely submitted for its 2021 emissions data report.

"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. According to OAR 340-012-0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. As a responsible entity, Respondent was aware of the third party verification requirements and was notified by DEQ of the August 31, 2022 deadline. In addition, Respondent did not ensure that a verification



statement was submitted by the extended deadline of November 30, 2022, following DEQ's issuance of a Warning Letter on September 13, 2022. Thus, Respondent failed to take reasonable care to avoid the foreseeable risk of conduct resulting in a late verification statement.

"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 by correcting its 2021 emissions data report such that its verification body could submit a positive verification statement by December 31, 2022.

"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 DEQ has insufficient information to calculate an economic benefit for this violation.

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

$$\begin{aligned} &= \$6,000 + [(0.1 \times \$6,000) \times (1 + 0 + 0 + 4 + -3)] + \$0 \\ &= \$6,000 + (\$600 \times 2) + \$0 \\ &= \$6,000 + \$1,200 + \$0 \\ &= \$7,200 \end{aligned}$$