



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 17, 2023

CERTIFIED MAIL: 7016 2710 0000 4221 4094

Petrogas, Inc.
c/o Corporation Service Company
1127 Broadway Street NE, Suite 310
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ-GHG-HQ-2023-041

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$13,200 for submitting an inaccurate 2021 greenhouse gas emissions data report to DEQ and for failing to correct the reporting errors identified by your third party verifier by the verification deadline.

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. Once issues are identified during third party verification, regulated parties are required to timely fix correctable errors in the information that they have submitted to DEQ.

DEQ appreciates your efforts to correct your 2021 emissions data report after the verification deadline. 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

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

Petrogas, Inc.
AQ-GHG-HQ-2023-041
Page 2

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.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Esther Wells, Petrogas, Inc., 1000 Main Ave SW, Washington, DC 20024-3494
Stephanie Summers, DEQ
Liz Hardee, DEQ
Elizabeth Elbel, DEQ
Colin McConnaha, DEQ
Accounting, DEQ

1 6. On April 12, 2022, Respondent timely submitted a greenhouse gas emissions data report
2 to DEQ for its 2021 emissions (the 2021 emissions data report). The 2021 emissions data report stated
3 that Respondent imported 7,978,565 gallons of propane into Oregon in 2021, which translates to
4 greenhouse gas emissions of 45,955 mtCO₂e, excluding CO₂ from biomass-derived fuels.

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

7 8. On September 13, 2022, DEQ issued Warning Letter with Opportunity to Correct No.
8 2022-WLOTC-7629 to Respondent, citing Respondent for failing to submit a verification statement for
9 its 2021 greenhouse gas emissions data report to DEQ by the August 31, 2022 verification deadline.
10 The Warning Letter requested that Respondent submit the verification statement to DEQ by October
11 13, 2022. DEQ subsequently extended the deadline to December 31, 2022.

12 9. As of September 29, 2022, Respondent was still in the process of hiring a verification
13 body. Respondent hired an approved verification body the week of November 15, 2022 and a site visit
14 was conducted December 7, 2022.

15 10. On December 16, 2023, the verifier notified Respondent and DEQ of the potential for an
16 adverse verification statement and provided Respondent with a Log of Issues that must be addressed
17 and corrected to avoid an adverse verification statement. Due to the upcoming holidays, the verification
18 body asked Respondent to fix all identified correctable errors by December 23, 2022.

19 11. On December 23, 2022, the verification body submitted an adverse verification
20 statement to DEQ for Respondent's 2021 emissions data report. The adverse verification statement
21 stated:

22 The verification body identified discrepancies between the reported volume of propane
23 imported, the shipping schedules of propane imported, and the internal accounting records.
24 These unresolved discrepancies point to an error in the emissions data report of greater than 5%.
25 As such, the current GHG Report is considered to contain a material misstatement.

26 The verification body requested additional financial transaction documents such as terminal
27 records to confirm what the accurate volume of propane imports should be. The reporting entity
did not provide the requested documents to facilitate the resolution of the reporting issues. The
facility records that were provided are internally inconsistent, further preventing the
determination of the correct volume of propane imports that should have been reported.

1 12. Respondent did not correct its 2021 emissions data report or provide documentation to
2 resolve the reporting issues by the verification deadline, which had been extended by DEQ to
3 December 31, 2022.

4 13. On March 14, 2023, DEQ issued Pre-Enforcement Notice No. 2022-PEN-8182, citing
5 Respondent for failing to submit an accurate 2021 emissions data report and failing to correct the report
6 as required during the third party verification process. The Pre-Enforcement Notice requested that
7 Respondent submit a revised 2021 emissions data report and a greenhouse gas monitoring plan to DEQ
8 by March 30, 2023.

9 14. On March 29, 2023, Respondent submitted a revised 2021 emissions data report and a
10 greenhouse gas monitoring plan to DEQ. The revised 2021 emissions data report stated that
11 Respondent imported 11,495,572 gallons of propane into Oregon in 2021, which translates to
12 greenhouse gas emissions of 66,212 mtCO₂e (20,257 mtCO₂e higher than originally reported).

13 III. CONCLUSIONS

14 1. Respondent violated OAR 340-215-0044(3)(e) and 340-215-0110(1) by failing to submit an
15 accurate emissions data report as described in Section II, paragraphs 6 and 11 and 14, above.
16 Specifically, Respondent reported dispensing 7,978,565 gallons of propane into Oregon in 2021, when
17 it actually dispensed 11,495,572 gallons, and thus failed to accurately report all quantities of fuel
18 disbursed for use in the state of Oregon according to OAR 340-215-0110(1). Respondent reported 2021
19 greenhouse gas emissions of 45,955 mtCO₂e when its annual greenhouse gas emissions were actually
20 66,212 mtCO₂e, and thus failed to accurately report annual greenhouse gas emissions according to
21 OAR 340-215-0044(3)(e). This is a Class I violation according to OAR 340-012-0054(1)(ii). DEQ
22 hereby assesses a \$6,600 civil penalty for this violation.

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1 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
2 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
3 you may represent yourself. If you are a corporation, partnership, limited liability company,
4 unincorporated association, trust or government body, you must be represented by an attorney or a duly
5 authorized representative, as set forth in OAR 137-003-0555.

6 Active duty Service members have a right to stay proceedings under the federal Service
7 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
8 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
9 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
10 Department does not have a toll free telephone number.

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

17
18
19
20 8/17/2023
21 Date

20 
21 Kieran O'Donnell, Manager
22 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 submit an accurate emissions data report, in violation of OAR 340-215-0044(3)(e) and 340-215-0110(1).

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

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)(T) because Respondent has greenhouse gas emissions greater than 25,000 metric tons per year.

"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 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent submitted an inaccurate emissions data report for its 2021 emissions.

"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. Respondent did not have a greenhouse gas monitoring plan or a system of maintaining readily available shipping and other transaction records which would allow for accurate greenhouse gas reporting on its fuel imports into Oregon. Thus, Respondent failed to take reasonable care to avoid a risk of conduct constituting or resulting in a greenhouse gas reporting violation.

"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. Respondent submitted a revised 2021 emissions data report to DEQ on March 29, 2023.

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

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

EXHIBIT 2

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

VIOLATION NO. 2 Failing to submit a revised emissions data report to DEQ by the verification deadline, in violation of OAR 340-272-0435(2) and OAR 340-272-0495(5).

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

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 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 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent failed to submit a revised 2021 emissions data report to DEQ by the verification deadline.

"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. Respondent did not have a greenhouse gas monitoring plan or a system of maintaining readily available shipping and other transaction records which would allow for accurate greenhouse gas reporting on its fuel imports into Oregon. Thus, Respondent failed to take reasonable care to avoid a risk of conduct constituting or resulting in a greenhouse gas reporting violation.

"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. Respondent submitted a revised 2021 emissions data report on March 29, 2023.

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

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