



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 3, 2023

CERTIFIED MAIL: 7016 2710 0000 4221 2939

Silver Eagle Manufacturing
c/o Tony Woods
5825 NE Skyport Way
Portland, OR 97218

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-NWR-2022-588

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$6,854 for violating the National Pollutant Discharge Elimination System (NPDES) Industrial Stormwater General Permit No. 1200-Z (the Permit) assigned to Silver Eagle Manufacturing's facility at 5825 NE Skyport Way at in Portland Oregon (the Facility). Specifically, you collected samples outside of the required minimum monitoring frequency for the 2021-2022 monitoring period and failed to monitor for Total Aluminum and Nitrite plus Nitrite Nitrogen in the sample taken from discharge point 005 on June 13, 2022.

DEQ issued this penalty because adherence to proper monitoring procedures is essential to reporting accurate pollutant concentrations. Monitoring may reveal the presence of harmful levels of pollutants that pose a threat to waters of the state. In addition, monitoring allows permit registrants and DEQ to gauge the effectiveness of stormwater controls and best management practices implemented to reduce the levels of pollutants in discharges. By failing to adhere to the proper monitoring procedures, you provided inaccurate data to DEQ that impairs these functions. In addition to the violations alleged in the attached Notice, Silver Eagle was previously issued a warning letter on October 29, 2020 for collecting samples outside of the required minimum monitoring frequency during the during the 2019-2020 monitoring period.

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.

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 your 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.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Jessica Aloisio, City of Portland (Jessica.Aloisio@portlandoregon.gov)
Accounting, DEQ

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

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 SILVER EAGLE MANUFACTURING) ASSESSMENT AND ORDER
5 Respondent) CASE NO. WQ-SW-NWR-2022-588

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

11 II. FINDINGS OF FACT

12 1. Respondent has coverage under the National Pollutant Discharge Elimination System
13 (NPDES) Industrial Stormwater General Permit No. 1200-Z (the Permit)—File No. 126407—for
14 industrial stormwater discharges from the facility located at 5825 NE Skyport Way in Portland, Oregon
15 (the Facility).

16 2. Pursuant to Schedule B, Condition 7(f) of the Permit, permit registrants must monitor
17 stormwater discharges according to the frequency described in Table 6 of the Permit.

18 3. Pursuant to Table 6 of the Permit, monitoring for the statewide benchmarks listed in
19 Schedule B, Condition 2, Table 4 of the Permit must occur at least four times per year. Two samples
20 must be taken between July 1 and December 31, and two samples must be taken between January 1 and
21 June 30.

22 4. The Facility has six approved discharge points.

23 5. During the 2021-2022 monitoring period, Respondent collected only one sample at each
24 of the discharge points between July 1 and December 31, on October 14, 2021. Respondent collected
25 four additional samples at the discharge points during the same monitoring period on April 4, 2022,
26 April 19, 2022, May 12, 2022, and June 13, 2022.

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1 6. Pursuant to Schedule B, Condition 10 of the Permit, DEQ or an agent may notify a
2 permit registrant of additional discharge monitoring requirements.

3 7. In a letter dated May 18, 2022, Respondent was notified of the requirement to begin
4 monitoring for Total Aluminum and Nitrite plus Nitrite Nitrogen at discharge point 005 in association
5 with the co-located industrial activity sector specific requirements in Schedule E of the Permit.

6 8. Respondent's sample collected at discharge point 005 on June 13, 2022 was not
7 analyzed for Total Aluminum and Nitrite plus Nitrite Nitrogen.

8 III. CONCLUSIONS

9 1. Respondent has violated ORS 468B.025(2) and Schedule B, Conditions 7(f) and 10 of the
10 Permit by collecting samples outside of the required minimum monitoring frequency and by failing to
11 monitor for Total Aluminum and Nitrite plus Nitrite Nitrogen at discharge point 005, as described in
12 Section II above. These are Class I violations according to OAR 340-012-0055(1)(o). DEQ hereby
13 assesses a \$6,854 civil penalty for these violations.

14 IV. ORDER TO PAY CIVIL PENALTY

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

17 1. Pay a total civil penalty of \$6,854. The determination of the civil penalty is attached as Exhibit
18 No. 1 and is incorporated as part of this Notice.

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

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

26 Pay by check or money order: Make check payable to "Department of Environmental Quality"
27 and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with

1 your check or money order and note the case number on your check.

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

3 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
4 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
5 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
6 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
7 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
8 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
9 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
10 it to **503-229-6762** or email it to **DEQappeals@deq.oregon.gov**. An administrative law judge
11 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
12 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
13 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
14 you may represent yourself. If you are a corporation, partnership, limited liability company,
15 unincorporated association, trust or government body, you must be represented by an attorney or a duly
16 authorized representative, as set forth in OAR 137-003-0555.

17 Active duty Service members have a right to stay proceedings under the federal Service
18 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
19 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
20 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
21 Department does not have a toll free telephone number.

22 If you fail to file a timely request for hearing, the Notice will become a final order by default
23 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
24 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
25 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates

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1 the relevant portions of its files, including information submitted by you, as the record for purposes of
2 proving a prima facie case.

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8/31/2023

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: Respondent violated ORS 468B.025(2) and Schedule B, Conditions 7(f) and 10 of the Permit by collecting samples outside of the minimum monitoring frequency and by missing two parameters in one sampling event.
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-055(1)(o).
- MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specific 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 the 1200-Z General Permit.
- "P" is whether Respondent has any prior significant actions (PSAs), 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 Respondent has 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 Respondent has no prior history.
- "O" is whether the violation was repeated or ongoing and receives a value of 3 according to OAR 340-012-0145(4)(c) because there were between seven and 28 occurrences of the violation. Specifically, Respondent failed to collect six samples at the discharge points between July 1 and December 31 and failed to analyze the sample collected at discharge point 005 on June 13, 2022 for Total Aluminum and Nitrite plus Nitrite Nitrogen, for a total of seven occurrences.
- "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 has a copy of the permit that sets forth the monitoring requirements, and Respondent received a letter on May 18, 2022, notifying Respondent of the requirement to begin monitoring for Total Aluminum and Nitrite plus Nitrite Nitrogen at discharge point 005.
- "C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f), because 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, as provided in OAR 340-012-0150. 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 \$54. This is the approximate cost Respondent avoided by failing to analyze the required parameters of Total Aluminum and Nitrite plus Nitrite Nitrogen at discharge point 005. 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 + 3 + 4 + 0)] + \54
 $= \$4,000 + [\$400 \times 7] + \$54$
 $= \$4,000 + \$2,800 + \$54$
 $= \$6,854$

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:	August 3, 2023
RESPONSE DATE :	October 12, 2023
TOTAL PENALTY:	\$6,854.00

Account Name:	SILVER EAGLE MANUFACTURING COMPANY <SILVER EAGLE> <126407>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400001
SubSystem ID:	194305	FIMS Acct. ID:	3634

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 6,854.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 6,854.00

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://vdo.oregon.gov> and select 'Register Account'



 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2400001		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	October 12, 2023
FIMS ACCT. ID:	3634	TOTAL PENALTY DUE:	\$6854.00

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 0095000036349CPGD240000100006854005



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
8/2/2023	2022-588 WQ-SW-NWR-2022-588	\$6,854.00

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 _____