



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

October 5, 2023

CERTIFIED MAIL: 9589 0710 5270 0110 6011 63

N.W.F.F., Inc., dba NWFF Environmental
c/o Ryan B. Sharratt, Registered Agent
1036 Main St
Philomath OR 97370

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ-HW-WR-2022-625

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$3,600 for transporting hazardous waste without a manifest. DEQ has also cited you, without penalty, for failing to immediately clean up a spill of oil, and for storing hazardous waste without a permit, at your facility in Philomath.

DEQ issued this penalty because of the significant risks to human health and the environment posed by transporting unmanifested hazardous waste. Without an accompanying hazardous waste manifest, the receiving facility, and any emergency responders to incidents during transport, are unprepared to safely manage the waste. The unmanifested waste contained hazardous levels of lead, which if not properly managed and disposed, could adversely impact public health and the environment. As a professional transporter of hazardous waste, it is your responsibility to ensure you do not accept hazardous waste without the proper manifest.

DEQ appreciates your efforts in response to the violations, including your prompt clean-up of the contaminated soils after DEQ's inspection, and disposing of the illegally-stored hazardous waste off-site to a permitted facility, with accompanying hazardous waste manifest. DEQ considered these efforts when determining the amount of civil penalty.

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 Sarah Wheeler at 971-301-0622.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Killian Condon, DEQ
Ryan Sharratt, N.W.F.F. Inc., ryan@nwffenviro.com

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 N.W.F.F., INC., doing business as) ASSESSMENT AND ORDER
5 NWFF ENVIRONMENTAL,)
Respondent.) CASE NO. LQ-HW-WR-2022-625

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 466.990, ORS Chapters 183 and 466, and Oregon Administrative Rules (OAR) Chapter 340,
10 Divisions 011, 012, 100-102, and 142.

11 II. FINDINGS OF FACT

12 1. At all material times, Respondent operated a hazardous waste transportation business at
13 1036 Main Street in Philomath, Oregon (the Facility).

14 2. On May 5, 2022, Respondent transported 1,064 pounds of fire debris generated by
15 another party from the property where it was generated to the Facility. Respondent transported the fire
16 debris from the generator's property to the Facility without a uniform hazardous waste manifest.

17 3. The fire debris contained 27.2 milligrams per liter (mg/L) of leachable lead, as analyzed
18 with the Toxicity Characteristic Leaching Procedure (TCLP).

19 4. Respondent stored the fire debris at the Facility until July 1, 2022, when Respondent
20 sent the fire debris for disposal to a permitted hazardous waste disposal facility.

21 5. Respondent does not have a permit to store hazardous waste at the Facility.

22 6. On and before June 21, 2022, Respondent had not cleaned up a spill of mineral oil on
23 the gravel waste accumulation area, and Respondent was not in the process of cleaning up the spill.

24 III. CONCLUSIONS

25 Based upon the foregoing Findings of Fact, DEQ has determined that Respondent violated the
26 following provisions of Oregon law, including the hazardous waste laws in the Code of Federal
27 Regulations (CFRs) as adopted by OAR 340-100-0002.

1 dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US
2 Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional
3 charges.

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

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

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

22 Active duty Service members have a right to stay proceedings under the federal Service
23 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
24 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
25 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
26 Department does not have a toll free telephone number.

27 If you fail to file a timely request for hearing, the Notice will become a final order by default

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

6
7
8
9 10/5/2023
10 Date



11 Kieran O'Donnell, Manager
12 Office of Compliance and Enforcement
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

EXHIBIT NO. 1

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

VIOLATION 1: Transporting hazardous waste without a uniform hazardous waste manifest, in violation of 40 CFR 263.20(a)(1).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0068(1)(e).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(4)(c)(C) because Respondent transported less than 1,500 pounds of hazardous waste without a manifest. Respondent transported 1,064 pounds of hazardous waste without a manifest.

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 \$3,000 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent is a hazardous waste transporter and violated a hazardous waste rule.

"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 within the past 10 years per OAR 340-012-0145(2)(d)(B), 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 0 of 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 one occurrence of the violation. Respondent transported one shipment of hazardous waste without a manifest, on May 5, 2022.

"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, as defined in OAR 340-012-0030(15). Respondent is a hazardous waste management professional, registered with DEQ as a hazardous waste transporter. By accepting and shipping fire debris for disposal without a manifest, Respondent failed to take reasonable care to avoid the foreseeable risk of conduct constituting this violation.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of

-2 according to OAR 340-012-0145(6)(d) because Respondent eventually made efforts to minimize the effects of the violation by arranging to ship the hazardous waste from the Facility to a permitted disposal facility on a hazardous waste manifest, on July 1, 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 there is insufficient information to make an estimate of the economic benefit, if any, received by Respondent from this violation.

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

$$\begin{aligned} &= \$3,000 + [(0.1 \times \$3,000) \times (0 + 0 + 0 + 4 + (-2))] + \$0 \\ &= \$3,000 + [\$300 \times 2] + \$0 \\ &= \$3,000 + \$600 + \$0 \\ &= \$3,600 \end{aligned}$$

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:	October 5, 2023
RESPONSE DATE :	December 14, 2023
TOTAL PENALTY:	\$3,600.00

Account Name:	NWFF INC DBA NWFF ENVIRONMENTAL		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400011
SubSystem ID:	200164	FIMS Acct. ID:	496

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 3,600.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 3,600.00

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.	CPGFD2400011		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	December 14, 2023
FIMS ACCT. ID:	496	TOTAL PENALTY DUE:	\$3600.00

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 00950000004962(CPGFD)240001100003600001



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
10/4/2023	2022-625 LQ-HW-ER-2022-625	\$3,600.00

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 _____