



# 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

January 23, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6537 93

Safety-Kleen Systems, Inc.  
c/o C T Corporation System, Registered Agent  
780 Commercial St SE Ste 100  
Salem OR 97301

Re: Notice of Civil Penalty Assessment and Order  
Case No. LQ-HW-WR-2023-579

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Safety-Kleen Systems, Inc. a civil penalty of \$15,000 for transporting two shipments of hazardous waste without uniform hazardous waste manifests.

DEQ issued this penalty because as a hazardous waste transportation professional, it is critical that you accurately assess whether manifests are required, in order to ensure safe transport and management of hazardous wastes such as the ignitable and toxic wastes you transported in December 2022 and March 2023.

DEQ appreciates your efforts to address the violations by preparing, implementing, and training staff on a new Generator Status Evaluation Procedure in late 2023. 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](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.

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: Aubree Minten, DEQ  
Jess Brown, Safety-Kleen Systems, Inc., [jess.brown@safety-kleen.com](mailto:jess.brown@safety-kleen.com)

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

3 IN THE MATTER OF: ) NOTICE OF CIVIL PENALTY  
4 SAFETY-KLEEN SYSTEMS, INC., ) ASSESSMENT AND ORDER  
5 Respondent. ) CASE NO. LQ-HW-NWR-2023-579  
6

7 I. AUTHORITY

8 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment  
9 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,  
10 ORS 466.990 ORS Chapter 183, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011,  
11 012, and 100-102.

12 II. FINDINGS OF FACT

13 1. Respondent operates a permitted hazardous waste treatment, storage, and disposal site,  
14 and hazardous waste transportation business, at 16540 SE 130<sup>th</sup> Avenue in Clackamas, Oregon (the  
15 Facility).

16 2. On December 6, 2022, and March 20, 2023, Respondent transported the following  
17 wastes, from the waste generator's facility to a permitted hazardous waste disposal facility, without  
18 uniform hazardous waste manifests:

- 19 a. Two full 55-gallon containers (917 pounds) of a mixture of chemicals;
- 20 b. One full 55-gallon container of liquid (459 pounds);
- 21 c. One 55-gallon container approximately one-third full of liquid (153 pounds);
- 22 d. One five-gallon bucket half-full of a liquid and solid mixture (21 pounds);
- 23 e. Two full 55-gallon containers of unknown ignitable liquid (917 pounds); and
- 24 f. One full 55-gallon container of unknown liquid mixed with solids (459 pounds).

25 III. CONCLUSIONS

26 On December 6, 2022, and March 20, 2023, Respondent violated 40 CFR 263.20(a)(1), as  
27 adopted by OAR 340-100-0002, by accepting and transporting hazardous waste from regulated generators

1 without uniform hazardous waste manifests. The wastes listed in Section II, Paragraph 2 above were all  
2 solid wastes according to 40 CFR 261.2(a)(1), 261.2(a)(2)(i)(A), and 261.2(b)(1) and (3), because they  
3 were stored before or in lieu of disposal, and disposed of as hazardous wastes. The wastes listed in Section  
4 II, Paragraph 2. a-f above were hazardous wastes identified by EPA Hazardous Waste Numbers D001,  
5 D005, and D035, pursuant to 40 CFR 261.24. These are Class I violations, according to OAR 340-012-  
6 0068(1)(e). DEQ hereby assesses a \$15,000 civil penalty for these violations.

#### 7 IV. ORDER TO PAY CIVIL PENALTY

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

10 Pay a total civil penalty of \$15,000. The determination of the civil penalty is attached as  
11 Exhibit 1 which is incorporated as part of this Notice.

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

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

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

#### 22 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

23 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ  
24 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If  
25 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached  
26 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered  
27 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for

1 further information about requests for hearing.) You must send your request to: **DEQ, Office of**  
2 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax  
3 it to **503-229-6762** or email it to **DEQappeals@deq.oregon.gov**. An administrative law judge  
4 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
5 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
6 represented by an attorney at the hearing, however you are not required to be. If you are an individual,  
7 you may represent yourself. If you are a corporation, partnership, limited liability company,  
8 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
9 authorized representative, as set forth in OAR 137-003-0555.

10 Active duty Service members have a right to stay proceedings under the federal Service  
11 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
12 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
13 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
14 Department does not have a toll free telephone number.

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

21  
22  
23 1/23/2024  
24 Date

23   
24 Kieran O'Donnell, Manager  
25 Office of Compliance and Enforcement  
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 uniform hazardous waste manifests, in violation of 40 CFR 263.20(a)(1).
- CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0068(1)(e).
- MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(4)(c)(B)(i) because Respondent transported 2,926 pounds of hazardous waste for transport 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 \$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)(M)(i) because Respondent is a hazardous waste transporter and violated a hazardous waste rule.
- "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 within the past 10 years per OAR 340-012-0145(2)(d)(B), and receives an initial value of 10 according to OAR 340-012-0145(2)(a)(C), (D) and (b). On March 9, 2016, DEQ issued Respondent case number LQ/HW-NWR-15-192, which was resolved on August 2, 2016, with a Mutual Agreement and Order, to include 29 Class I violations. Pursuant to OAR 340-012-0145(2)(d)(A)(ii), the value of "P" is reduced by 4 because all the formal enforcement actions in which PSAs were cited were issued more than five years before the date the current violation occurred. Therefore, the final "P" value is 6.
- "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 insufficient information on which to base a finding under paragraphs (3)(a) or (3)(b).
- "O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were two occurrences of the violation. Respondent transported two shipments of hazardous waste without manifests, one on December 6, 2022, and again on March 20, 2023.
- "M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless, as defined in OAR 340-012-0030(20). By twice accepting and shipping hazardous waste without a manifest, when the generator previously notified Respondent that it was a small quantity generator and

requested the waste be shipped on hazardous waste manifests, Respondent consciously disregarded a substantial and unjustifiable risk of committing this violation. Given the generator's communications to Respondent, and that Respondent is a hazardous waste management professional, registered with DEQ as a hazardous waste transporter and with a hazardous waste permit, and that Respondent has received prior enforcement actions for this violation, disregarding this risk constituted a gross deviation from the standard of care a reasonable person would observe in this situation.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure that the violation would not be repeated. In response to the Pre-Enforcement Notice, Respondent worked with DEQ to develop, implement, and train staff on a new Generator Status Evaluation Procedure in August-November 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 there is insufficient information to make an estimate of the economic benefit, if any, received by Respondent from this violation.

PENALTY CALCULATION:  $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$   
= \$6,000 + [(0.1 x \$6,000) x (6 + 0 + 2 + 8 + (-1))] + \$0  
= \$6,000 + [\$600 x 15] + \$0  
= \$6,000 + \$9,000 + \$0  
= \$15,000

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)**

<b>DATE:</b>	January 23, 2024
<b>RESPONSE DATE :</b>	April 2, 2024
<b>TOTAL PENALTY:</b>	\$15,000.00

<b>Account Name:</b>	SAFETY-KLEEN SYSTEMS		
<b>Account Type:</b>	Vendor/Organization/Company	<b>Reference Number:</b>	CPGFD2400037
<b>SubSystem ID:</b>	214490	<b>FIMS Acct. ID:</b>	11941

**Penalty Summary**

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 15,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 15,000.00

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



<b>REFERENCE NO.</b>	CPGFD2400037		
<b>PAYCODE:</b>	00401 7400 10040 74001 0500 000000 00		
<b>FEE PROGRAM ID:</b>	950	<b>RESPONSE DATE:</b>	April 2, 2024
<b>FIMS ACCT. ID:</b>	11941	<b>TOTAL PENALTY DUE:</b>	\$15000.00

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 0095000119411CPGFD240003700015000001



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
1/22/2024	2023-579 LQ-HW-WR-2023-579	\$15,000.00

### 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 \_\_\_\_\_