



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

February 27, 2024

CERTIFIED MAIL: 9859 0710 5270 0688 6528 88

Atkore Plastic Pipe Corporation
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. WQ-SW-WR-2023-593

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$5,600 for failing to comply with the monitoring requirements of your National Pollutant Discharge Elimination System Industrial Stormwater Discharge General Permit No. 1200-Z (the Permit) for your facility located at 2220 Nugget Way in Eugene, Oregon (the Facility).

DEQ issued this penalty because monitoring is an important condition of the Permit. 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 at reducing levels of pollutants in discharges.

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 Emily Knobbe at (971) 300-9770 or emily.knobbe@deq.oregon.gov.

Sincerely,



Becca Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Daria Gneckow, Eugene
Heather Tugaw, 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 ATKORE PLASTIC PIPE CORPORATION,) ASSESSMENT AND ORDER
5 Respondent.) CASE NO. WQ-SW-WR-2023-593

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. At all relevant times, Respondent had coverage under the National Pollutant Discharge
13 Elimination System (NPDES) Industrial Stormwater Discharge General Permit No. 1200-Z (the
14 Permit), which authorizes Respondent to discharge stormwater only in conformance with the Permit
15 from the facility located at 2220 Nugget Way in Eugene, Oregon (the Facility).

16 2. Pursuant to Schedule B.7.f, Permit registrants must monitor stormwater discharge
17 according to the frequency described in Table 6, unless DEQ or agent grant a monitoring waiver or
18 approve a monitoring variance. Pursuant to Table 6, the minimum monitoring frequency is four times
19 per year, with two samples between January 1 and June 30, and two samples between July 1 and
20 December 31.

21 3. During the January-June monitoring period in 2023, Respondent submitted a variance
22 request but did not include sufficient supporting data with the request to demonstrate “no discharge”
23 conditions in accordance with Schedule B.8.a of the Permit. The variance request provided weather
24 data for June 2023 and did not include any other supporting data or analysis demonstrating why
25 sampling did not occur during other months.

26 4. During the January-June monitoring period in 2023, Respondent performed monitoring
27 only once on February 21, 2023.

1 III. CONCLUSIONS

2 1. Respondent violated ORS 468B.025(2) and Schedule B.7.f of the Permit by failing to
3 comply with the monitoring requirements of the Permit. Specifically, Respondent failed to meet the
4 minimum frequency for monitoring stormwater discharge. During the January-June monitoring period
5 in 2023, Respondent conducted monitoring only once on February 21, 2023. This is a Class I violation,
6 according to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$5,600 civil penalty for this violation.

7 IV. ORDER TO PAY CIVIL PENALTY

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

10 1. Pay a total civil penalty of \$5,600. The determination of the civil penalty is attached as Exhibit
11 1 and 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 Reference Number and FIMS Account ID included on the attached payment slip.
17 Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no
18 additional 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
24 2/27/2024
Date

Rebecca J Puskas
Becka Puskas, Interim 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 Violating ORS 468B.025(2) and Schedule B.7.f of the Permit by failing to collect monitoring data.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(o).

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 \$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 a NPDES General Permit.

"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 2 according to OAR 340-012-0145(2)(a)(C), because Respondent has one Class I violation in case no. 2022-EEO-6607.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"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 conduct stormwater monitoring on one occurrence during the January-June 2023 monitoring period.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. The monitoring requirements of the Permit are clearly laid out in Schedule B of the Permit. Though Respondent did submit a variance request, the request did not demonstrate "no discharge" conditions, meaning that monitoring would still be required. Respondent reasonably should have known that monitoring is required except in "no discharge" conditions where DEQ has received a variance request that includes supporting data demonstrating a no discharge condition according to Schedule B.8.a of the Permit.

"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 or the effects of 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. 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 any economic benefit that Respondent gained as a result of this violation is de minimis.

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

$$\begin{aligned} &= \$4,000 + [(0.1 \times \$4,000) \times (2 + 0 + 0 + 2 + 0)] + \$0 \\ &= \$4,000 + (\$400 \times 4) + \$0 \\ &= \$4,000 + \$1,600 + \$0 \\ &= \$5,600 \end{aligned}$$

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:	February 27, 2024
RESPONSE DATE :	May 7, 2024
TOTAL PENALTY:	\$5,600.00

Account Name:	ATKORE PLASTIC PIPE CORPORATION <ATKORE PLASTIC PIPE CORPORATION> <81600>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400046
SubSystem ID:	179548	FIMS Acct. ID:	4798

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 5,600.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 5,600.00

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.	CPGFD2400046		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	May 7, 2024
FIMS ACCT. ID:	4798	TOTAL PENALTY DUE:	\$5600.00

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 0095000047984(CPGFD)240004600005600000



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
2/26/2024	2023-593 WQ-SW-WR-2023-593	\$5,600.00

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 _____