



# 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

April 4, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6530 14

Providence Portland Medical Center  
c/o Krista Farnham, Authorized Representative  
4805 NE Glisan St.  
Portland, OR 97213-2933

Re: Notice of Civil Penalty Assessment and Order  
Case No. AQ-GHG-HQ-2023-078

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$6,400 for failing to submit a complete greenhouse gas emissions data report to DEQ for the 2022 reporting year. Specifically, you did not submit a supplemental reporting form that includes information about the natural gas supplier and the annual amount of natural gas delivered to your facility. DEQ issued this penalty because incomplete reporting undermines the Greenhouse Gas Reporting Program, an essential component of Oregon's efforts to track greenhouse gas emissions and combat climate change. 2022 was the second year of incomplete reporting for your facility.

Included in Section IV of the enclosed Notice of Civil Penalty Assessment and Order (Notice) is an order requiring you to submit the supplemental reporting form for your 2022 emissions data report within 30 days of the final order.

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 about this Notice, please contact Tori Heroux at 971-808-7046 or toll free in Oregon at 800-452-4011, extension 2295269. For questions regarding submission of the supplemental reporting form, please contact Bill Brady at (503) 847-7529.

Sincerely,



Becca Puskas, Interim Manager  
Office of Compliance and Enforcement

Enclosures

cc: Tyler Andersen, Providence Portland Medical Center, 4805 NE Glisan St, Portland, OR 97213-2933.  
Bill Brady, DEQ  
Colin McConnaha, DEQ  
Accounting, DEQ

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

3 IN THE MATTER OF: )  
4 PROVIDENCE PORTLAND MEDICAL )  
CENTER, ) NOTICE OF CIVIL PENALTY  
5 Respondent. ) ASSESSMENT AND ORDER  
CASE NO. AQ-GHG-HQ-2023-078

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 183 and 468A, Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and  
10 215.

11 II. FINDINGS OF FACT

12 1. Respondent owns and operates a hospital at 4805 NE Glisan St, Portland, Oregon known  
13 as "Providence Portland Medical Center" (the Facility). The Facility includes boilers and electric power  
14 generators that combust natural gas.

15 2. On March 23, 2018, the Department of Environmental Quality (DEQ) assigned  
16 Respondent to General Air Contaminant Discharge Permit AQGP-011 (Permit) as source number 26-  
17 1804. The Permit was in effect at all material times.

18 3. Condition 9.3 of the Permit requires Respondent to register and report its greenhouse gas  
19 emissions to DEQ in accordance with Oregon Administrative Rule (OAR) Chapter 340, Division 215,  
20 if the calendar year emission rate of greenhouse gases (in carbon dioxide equivalent or CO<sub>2</sub>e) is greater  
21 than or equal to 2,756 tons (2,500 metric tons).

22 4. According to OAR 340-215-0046(1)(a), annual greenhouse gas emissions data reports  
23 are due by the due date for the annual report for the Permit or March 31, whichever is later. Pursuant to  
24 Condition 9.2 of the Permit, the annual report for the Permit is due February 15. Thus, Respondent's  
25 annual greenhouse gas emissions data report is due March 31.

26 5. According to OAR 340-215-0105(9) [previously, OAR 340-215-0105(8)], DEQ requires  
27 all greenhouse gas reporting facilities that use natural gas to report information about the natural gas

1 supplier and the annual amount of natural gas delivered. In 2020, 2021 and 2022, DEQ required that  
2 stationary sources submit supplemental reporting forms to meet this requirement.

3 6. On or before March 31, 2023, Respondent submitted its 2022 greenhouse gas emissions  
4 data report to DEQ but it was missing the supplemental reporting form.

5 7. On May 26, 2023, DEQ issued Pre-Enforcement Notice No. 2023-PEN-8443, citing  
6 Respondent for failing to submit a complete and accurate emissions data report by the March 31, 2023  
7 deadline. The Pre-Enforcement Notice requested that Respondent submit the supplemental reporting  
8 form to DEQ by June 9, 2023.

9 8. As of the date of this Notice, Respondent has not submitted the supplemental reporting  
10 form for the 2022 greenhouse gas emissions data report to DEQ.

### 11 III. CONCLUSIONS

12 1. Respondent violated Permit Condition 9.3, OAR 340-215-0105(9) [previously, OAR 340-  
13 215-0105(8)] and OAR 340-215-0046(1)(a) by failing to submit a complete emissions data report to  
14 DEQ as described in Section II above. Specifically, with its 2022 emissions data report, Respondent did  
15 not include the supplemental form with information about the natural gas supplier and the annual  
16 amount of natural gas delivered to the Facility. This is a Class I violation, according to OAR 340-012-  
17 0054(1)(ii). DEQ hereby assesses a \$6,600 civil penalty for this violation.

### 18 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

21 1. Pay a total civil penalty of \$6,600. The determination of the civil penalty is attached as Exhibit  
22 1 and is incorporated as part of this Notice.

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

25 Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:

26 <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your  
27 account dashboard. Enter the Reference Number and FIMS Account ID included on the attached

1 payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH  
2 payments have no additional charges. OR

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

6 2. Within 30 days of this order becoming final by operation of law or on appeal, submit the  
7 supplemental reporting form for the 2022 greenhouse gas emissions data report to DEQ. Respondent  
8 should use the supplemental reporting form found in the “Upload Required Attachments” tab of the EZ-  
9 Filer reporting tool where the greenhouse gas emissions data report was originally submitted. The  
10 submission must be made electronically using DEQ’s EZ-Filer reporting tool.

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

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

26 Active duty Service members have a right to stay proceedings under the federal Service  
27 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-

1 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
2 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
3 Department does not have a toll free telephone number.

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

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13 4/4/2024  
14 Date

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18 Rebecca Z Puskas  
19 Becca Puskas, Interim Manager  
20 Office of Compliance and Enforcement  
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## EXHIBIT 1

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

- VIOLATION NO. 1 Failure to submit a complete emissions data report, in violation of Permit Condition 9.3, OAR 340-215-0105(9) [previously, OAR 340-215-0105(8)] and OAR 340-215-0046(1)(a).
- 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 \$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)(M) because this is greenhouse gas reporting program violation by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 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 2 according to OAR 340-012-0145(2)(a)(C), because Respondent has 2 Class II violations in case no. AQ/ACDP-NWR-2022-128, issued on May 2, 2023.
- "H" is Respondent's history of correcting prior significant actions and receives a value of -2 according to OAR 340-012-0145(3)(a) because Respondent corrected all violations cited as prior significant actions.
- "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 complete 2022 emissions data report to DEQ.
- "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 received individual emailed notice of GHG reporting requirements in 2021 and 2022, including

information regarding the supplemental reporting form. In addition, DEQ issued Respondent a Warning Letter on June 29, 2022, for failure to submit the supplemental reporting form for the 2021 reporting year. DEQ also issued a Pre-Enforcement Notice on May 26, 2023 for failure to submit the supplemental reporting form for the 2022 reporting. Despite these notifications by DEQ, as of the date of this Notice, Respondent has failed to submit a complete 2022 emissions data report. Thus, Respondent failed to take reasonable care to avoid a foreseeable 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 2 according to OAR 340-012-0145(6)(g) because Respondent did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f).

"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:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$4,000 + [(0.1 x \$4,000) x (2 + -2 + 0 + 4 + 2)] + \$0  
= \$4,000 + (\$400 x 6) + \$EB  
= \$4,000 + \$2,400 + \$0  
= \$6,600