



Oregon

Kate Brown, Governor

Department of Environmental Quality

Office of Compliance and Enforcement

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5382

FAX (503) 229-5787

TTY 711

April 2, 2018

CERTIFIED MAIL No. 7014 2870 0001 3373 5869

Georgia-Pacific Consumer Products LP Limited Partnership
c/o CT Corporation System, Registered Agent
780 Commercial Street SE, Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/V-NWR-2017-144

This letter is to inform you that DEQ has issued you a \$12,000 civil penalty for your recovery furnace exceeding the grain-loading particulate-matter emission limit at your kraft pulp mill at 92326 Taylorville Road, Clatskanie, Oregon.

DEQ issued this penalty because this emission limit is both a new source performance standard (NSPS) and a national emission standard for hazardous air pollutants (NESHAP) limit. NSPS and NESHAP limits are promulgated by the federal government and adopted by Oregon to ensure that air contaminant sources maintain optimum efficiency of pollution controls to protect air quality and to ensure that national air quality health standards are met. Many hazardous air pollutants are known or suspected carcinogens and can cause other serious health effects.

DEQ appreciates your efforts to correct and minimize the effects of the violation by reducing the black liquor firing rate, performing maintenance on the electrostatic precipitator and retesting to demonstrate compliance with the limit. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, DEQ must receive a request for a contested case hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

Via mail – 700 NE Multnomah Street, Suite #600, Portland, Oregon 97232

Via email – DEQappeals@deq.state.or.us

Via fax – 503-229-5100

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. Alternatively, you can pay the penalty by sending a check or money order to the above address.

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 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 DEQ Environmental Law Specialist Jenny Root at (503) 229-5874.

Sincerely,



Sarah G. Wheeler, Acting Manager
Office of Compliance and Enforcement

Enclosures

cc: Janice Tacconi, Western Region - Medford Office, DEQ
Kieran O'Donnell, Acting Air Quality Manager, Northwest Region, DEQ
Shaumae Hall, Accounting, DEQ
Donald Hendrix, AQ, DEQ

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

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 GEORGIA-PACIFIC CONSUMER) ASSESSMENT AND ORDER
5 PRODUCTS LP LIMITED PARTNERSHIP,)
6 a Delaware limited partnership,) NO. AQ/V-NWR-2017-144
7 Respondent.)

8 I. AUTHORITY

9 This Notice of Civil Penalty Assessment and Order is issued pursuant to Oregon Revised
10 Statutes (ORS) 468.100 and 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon
11 Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 200 and 218.

12 II. FINDINGS OF FACT

13 1. Respondent, Georgia-Pacific Consumer Products LP Limited Partnership, owns
14 and operates a kraft pulp mill at 92326 Taylorville Road, Clatskanie, Oregon (the Facility).

15 2. On December 2, 2010, DEQ issued Oregon Title V Operating Permit No. 04-0004
16 (Permit) to Respondent. In accordance with OAR 340-218-0130, Respondent applied for a
17 timely renewal of the Permit. Therefore, the Permit was in effect at all material times.

18 3. The Permit authorizes Respondent to discharge air contaminants from the Facility
19 in conformance with the requirements, limitations and conditions set forth in the Permit.

20 4. Part I, Condition 25 of the Permit and Part II, Condition 50 of the Permit prohibits
21 Respondent from emitting particulate matter (PM) from the recovery furnace in excess of 0.044
22 grains per dry standard cubic foot (gr/dscf), corrected to 8% oxygen.

23 5. On April 5, 2016, Respondent conducted EPA Method 5 emission testing on the
24 east and west recovery furnace stacks. The test showed the PM emissions from both stacks
25 averaged 0.0572 gr/dscf, at 8% oxygen.

26 III. CONCLUSION

27 On April 5, 2016, Respondent violated Part I, Condition 25 and Part II, Condition 50 of
the Permit and ORS 468A.045(2) by exceeding the recovery furnace PM emission limit as

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1 described in Section II, Paragraph 5 above. This is a Class I violation according to OAR 340-
2 012-0054(1)(d). DEQ hereby assesses a \$12,000 civil penalty for this violation.

3 IV. ORDER TO PAY CIVIL PENALTY

4 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
5 hereby ORDERED TO: Pay a total civil penalty of \$12,000. The determination of the civil
6 penalty is attached as Exhibit No. 1 and is incorporated as part of this Notice.

7 If you do not file a request for hearing as set forth in Section V below, your check or
8 money order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ,**
9 **Business Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.** Once you
10 pay the penalty, the Findings of Fact, Conclusions and Order become final.

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.
13 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive
14 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this
15 Notice or attached exhibit, you must do so in your request for hearing, as factual matters not
16 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
17 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
18 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
19 **600, Portland, Oregon 97232,** fax it to **503-229-5100** or email it to
20 **DEQappeals@deq.state.or.us.** An administrative law judge employed by the Office of
21 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
22 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
23 attorney at the hearing, however you are not required to be. If you are an individual, you may
24 represent yourself. If you are a corporation, partnership, limited liability company,
25 unincorporated association, trust or government body, you must be represented by an attorney or
26 a duly authorized representative, as set forth in OAR 137-003-0555.

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1 Active duty service-members have a right to stay proceedings under the federal Service
2 Members Civil Relief Act. For more information, please call the Oregon State Bar at 1-800-
3 452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information can be
4 found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services
5 Locator website <http://legalassistance.law.af.mil/content/locator.php>.

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

12
13 April 21, 2018
14 Date

13 Sarah Wheeler
14 Sarah G. Wheeler, Acting 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: Exceeding the recovery furnace 0.044 gr/dscf PM emission limit in violation of Part I, Condition 25 and Part II, Condition 50 of Respondent's Oregon Title V Operating Permit and ORS 468A.045(2).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(i).
- MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(1)(d) because Condition 50 of the Permit is a Maximum Achievable Control Technology standard emission limit established pursuant to the National Emission Standards for Hazardous Air Pollutants regulations. Specifically, Respondent exceeded the MACT standard emission limit for a hazardous air pollutant directly measured by a source test.

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 \$12,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent operates the facility under an Oregon Title V Operating 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 Respondent, and receives an initial value of 2 according to OAR 340-012-0145(2)(a)(C), because Respondent had one Class I violation in Notice of Civil Penalty Assessment and Order No. AQ/V-NWR-11-112 issued September 12, 2011.

According to 340-012-0145(2)(d)(A)(ii), the Department will reduce the value of "P" by 4 if all of the formal enforcement actions containing prior significant actions were issued more than five years before the current violation occurred. However, in accordance with OAR 340-012-0145(2)(e), in applying subsection (2)(d)(A), the value of "P" may not be reduced below zero. Therefore, the "P" value is 0.

"H" is Respondent's history of correcting prior significant actions and receives a value -2 according to OAR 340-012-0145(3)(a) because Respondent corrected all violations cited as prior significant actions. According to OAR 340-012-0145(3)(d), this value is increased to 1 because the sum of the "P" and "H" factors may not be less than 1 unless Respondent took extraordinary efforts to correct or minimize the effects of all PSAs. Respondent took

reasonable but not extraordinary efforts to correct or minimize the effects of the prior significant action.

- "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.
- "M" is the mental state of 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 to limit its PM emissions from the recovery furnace. Part I, Condition 25 and Part II, Condition 50 of the Permit expressly limit PM emissions from the recovery furnace to 0.044 gr/dscf.
- "C" is Respondent's efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent took reasonable efforts to mitigate the effects of the violation by reducing the black liquor firing rate and testing to demonstrate compliance with the limit at the reduced rate. Respondent also performed maintenance on the electrostatic precipitator and then again retested to demonstrate compliance with the limit.
- "EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of 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. Respondent paid for two additional source tests to demonstrate compliance following the April 6, 2016 source test. Respondent has to source test the recovery furnace quarterly to demonstrate compliance and passed the prior quarter's test. Thus, any economic benefit derived from the slight delay in cost expenditures for maintenance to the electrostatic precipitator was likely outweighed by the cost of additional testing.

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

$$\begin{aligned} &= \$12,000 + [(0.1 \times \$12,000) \times (0 + 1 + 0 + 2 + -3)] + \$0 \\ &= \$12,000 + (12,000 \times 0) + \$0 \\ &= \$12,000 + \$0 + \$0 \\ &= \$12,000 \end{aligned}$$