



# 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 19, 2023

CERTIFIED MAIL: 7020 2450 0000 3349 5703

RSG Forest Products, Inc.  
c/o CH Registered Services, LLC  
1455 SW Broadway, Ste 1500  
Portland, Oregon 97201

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ/I-NWR-2022-112

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued RSG Forest Products, Inc. (RSG) a civil penalty of \$9,600 for discharging process wastewater from its kilns – an activity not covered under its National Pollutant Discharge Elimination System (NPDES) Permit.

DEQ issued this penalty because Oregon law prohibits the discharge of wastes into waters of the state from industrial activities that are not covered under a permit that specifies effluent limitations applicable to those activities. Unpermitted discharges pose a risk of harm to aquatic life and other beneficial uses of waters of the state.

Included in Section IV of the enclosed Notice is an order requiring RSG to submit to DEQ for review and approval a plan and schedule – not to exceed six months – for implementing an alternate disposal method for the process wastewater from the facility's kilns.

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. 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

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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 Erin Saylor at 503-229-5422 or toll free in Oregon at 800-452-4011, extension 5422.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Douglas Kincaid, Cable Huston (via email at [dkincaid@cablehuston.com](mailto:dkincaid@cablehuston.com))  
Randall Bailey, DEQ NWR  
Accounting, DEQ





1 and is incorporated as part of this Notice.

If you do not file a request for hearing as set forth in Section V below, your check or money order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**.

2. Within 60 days of this order becoming final by operation of law or on appeal, submit to DEQ for review and approval a plan and schedule – not exceed six months – for an alternate disposal method for the process wastewater from the facility’s kilns.

3. Within six months of DEQ’s approval of the plan required under Section IV.2 above, fully implement the plan so that the facility is no longer discharging process wastewater from the kilns to waters of the state.

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

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

Active duty Service members have a right to stay proceedings under the federal Service 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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11  
12  
13  
14 Date

1/19/2023


  
Kieran O'Donnell, 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 1: Respondent violated ORS 468B.050(1)(a) by discharging wastewater from an activity not covered by an NPDES permit.

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

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 \$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)(D) because Respondent does not hold an NPDES that covers process wastewater from kiln drying.

"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, and receives a value of 0 according to OAR 340-012-0145(2)(a) because Respondent has had no PSAs in the prior ten years.

"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 no prior history in the preceding ten years.

"O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because the violation has been ongoing for more than 28 days.

"M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent reasonably should have known of the requirement. Respondent's permit applications do not indicate the kilns as a source of wastewater, nor is wastewater from the kilns listed as a permitted source in 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 there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).

"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 according to OAR 340-012-0150(4) because there is insufficient information on which to make an estimate under the rule.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$6,000 + [(0.1 x \$6,000) x (0 + 0 + 4 + 2 + 0)] + \$0  
= \$6,000 + (\$600 x 6) + \$0  
= \$6,000 + \$3,600 + \$0  
= \$9,600