



Oregon

Kate Brown, 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 24, 2021

CERTIFIED MAIL: 7017 0530 0000 7760 2751

Griffith Rubber Mills
c/o Jennifer D. Laney, President and Registered Agent
2625 NW Industrial Street
Portland, OR 97296

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/V-NWR-2020-108

DEQ is committed to balancing its vital obligation to enforce the law and protect the environment with a consideration of the dramatic disruptions to public health and the economy caused by the COVID-19 outbreak. We understand the outbreak may impact your ability to timely appeal, pay the assessed civil penalty, or comply with this order. You may submit to DEQ documentation identifying whether COVID-19-related disruption affects your ability to comply with this order. Visit our webpage <https://www.oregon.gov/deq/Pages/covid-19.aspx> for more information about documenting specific COVID-19 disruptions your facility may be encountering and how that affects your ability to comply. DEQ will exercise reasonable discretion regarding settlement of this order.

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$440,742 for operating your rubber products manufacturing facility, located at 2625 NW Industrial Street in Portland, without an air quality permit since 1984. More specifically, in 1984 you were required to obtain to an Air Contaminant Discharge Permit from DEQ prior to installing rubber curing equipment that has a potential to emit more than 10 tons of Volatile Organic Compounds (VOCs). Once DEQ's Title V Operating Permit program became effective, you were required to obtain a Title V permit one year after the effective date, or by November 27, 1996. Your facility is subject to Title V based on the potential to emit more than 10 tons of carbon disulfide, a hazardous air pollutant (HAP). Finally, your facility has operated out of compliance with requirements of the Cleaner Air Oregon program since that program became effective on November 16, 2018.

DEQ issued this penalty because operating without a required air quality permit is a serious violation. The permitting process is the mechanism by which DEQ ensures that air contamination sources meet all of the applicable standards and are operating in accordance with good air pollution control practices to minimize air emissions. Your rubber products facility has a potential to emit carbon disulfide, which is a VOC and a HAP. Carbon disulfide is also a reportable toxic air contaminant regulated under the Cleaner Air Oregon program.

DEQ is particularly concerned because you operate two similar facilities in Indiana that have been permitted as synthetic minor sources since 2004 and 2009. However, you did not apply for an air quality permit for your Portland facility until 2020. Nevertheless, because you disclosed these violations to DEQ, you may be eligible for a reduction in the civil penalty assessed, depending on the information gathered during the permitting process and your cooperation with the order described below. DEQ appreciates your efforts to correct the violation by disclosing it to DEQ and submitting initial permit application materials.

Included in Section IV of the enclosed Notice of Civil Penalty Assessment and Order (Notice) is an order requiring you to take the following corrective actions:

- Within 90 calendar days of this order becoming final by operation of law or on appeal:
 - Submit to DEQ for approval a Typically Achievable Control Technology (TACT) analysis that evaluates options and current industry standards for reducing VOC emissions at the Facility;
 - Conduct source testing of the Autoclave, Microwave, and Hot Air Oven emission units at the Facility when processing ethylene propylene diene monomer to confirm emission factors for total VOCs, carbon disulfide, benzene, toluene, xylenes, ethyl benzene and reportable VOCs listed in OAR 340-245-8020 Table 2.
- Within 30 days of receiving DEQ's source test review memo, based on the results of the source test described above, submit an updated Emissions Inventory to DEQ that complies with the requirements in OAR 340-245-0040(3).
- Within 30 days of DEQ's approval of the updated Emissions Inventory, submit a Modeling Protocol for DEQ approval that meets the requirements of OAR 340-245-0210.
- If you complete a Level 3 or Level 4 Risk Assessment, within 30 days of DEQ's approval of the updated Emissions Inventory, Respondent must also submit a Risk Assessment Work Plan for DEQ approval that meets the requirements of OAR 340-245-0210.
- Within 15 days of DEQ's approval of the Modeling Protocol, and if required, the Risk Assessment Work Plan, submit a completed Risk Assessment that meets the applicable requirements of OAR 340-245-0050.
- Within 15 days of DEQ's approval of the Risk Assessment, submit to DEQ an administratively complete Cleaner Air Oregon Permit Application including any applicable fees.

The above is a summary of the order; please review Section IV of the Notice for the full details of the order's requirements.

\$199,142 of the civil penalty represents the economic benefit you gained by avoiding the cost of air quality permit fees between 1984 and 2020. These avoided costs are included in the civil penalty to "level the playing field" by taking away any economic advantage that you gained as compared to similarly situated facilities that obtained an air quality permit.

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.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 Becka Puskas at 503-229-5058 or toll free in Oregon at 800-452-4011, extension 5058.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Matt Martel, Griffith Rubber Mills, 2625 NW Industrial Street, Portland, OR 97210
Jason Morrison, SevenGen, 604 West Wayne Street, Fort Wayne, IN 46802
George Yun, DEQ
Steven Dietrich, DEQ
Kenzie Billings, DEQ
Accounting, DEQ
Donald Hendrix, AQ, DEQ
US EPA, Region 10, c/o John Keenan, 1200 Sixth Avenue, Seattle, WA 98101
Elizabeth Walters, US EPA, Region 10, 1200 Sixth Avenue, Seattle, WA 98101

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3	IN THE MATTER OF:)	
4	GRIFFITH RUBBER MILLS,)	NOTICE OF CIVIL PENALTY
4	an Oregon corporation,)	ASSESSMENT AND ORDER
5	Respondent.)	CASE NO. AQ/V-NWR-2020-108

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 Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012,
10 200, 212, 214, 216, 218, 220, 226, 244, and 245.

11 II. FINDINGS OF FACT

12 1. Respondent owns and operates a rubber products manufacturing facility at 2625 NW
13 Industrial Street in Portland, Oregon (Facility).

14 2. Respondent has owned and operated the Facility since the early 1900s.

15 3. The main operations at the Facility consist of rubber extrusion, milling, curing, and
16 pressing. The Facility also uses natural gas, ink printing and toluene splicing in its manufacturing
17 process.

18 4. In 1984, Respondent installed an Autoclave, Microwave, and Hot Air Oven used to cure
19 rubber products at the Facility. The Autoclave is used to vulcanize or cure rubber products in one
20 production line at the Facility (the "steam line") and the Microwave and Hot Air Oven are both used in
21 the second production line (the "microwave line" or "Hot Air Cure").

22 5. Since at least 1984, Respondent has processed at least four types of rubber at the Facility.
23 The majority of the rubber processed by Respondent is called ethylene propylene diene monomer
24 (EPDM). Respondent also processes smaller amounts of neoprene, styrene-butadiene rubber (SBR),
25 and nitrile butadiene rubber (NBR).

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1 6. The processing of these rubber products and specifically the curing processes using the
2 Autoclave, Microwave, and Hot Air Oven, is the primary source of hazardous air pollutant (HAP) and
3 volatile organic compound (VOC) emissions at the Facility.

4 7. More specifically, the curing process produces carbon disulfide (CS₂) emissions, among
5 other HAPs.

6 8. Carbon disulfide (CAS No. 75-15-0) is a HAP listed under OAR 340-244-0040, Table 1
7 [previously OAR 340-32-130, Table 1] and a toxic air contaminant listed under 340-245-8020 Table 2.

8 9. Carbon disulfide is also a VOC according to OAR 340-200-0020(191).

9 10. VOCs are criteria pollutants according to OAR 340-200-0020(36).

10 11. In addition to the rubber curing processes that emit carbon disulfide, Respondent uses and
11 emits toluene when splicing rubber pieces at the pressing machines.

12 12. Toluene (CAS No. 108-88-3) is a toxic air contaminant listed under 340-245-8020 Table 2.

13 13. On March 6, 2020, Respondent submitted a written disclosure to DEQ (March 2020
14 Disclosure), which stated that the Facility was operating without an air quality permit due to a potential
15 to emit (PTE) of more than ten tons per year of a single HAP.

16 14. On April 7, 2020, Respondent submitted to DEQ an application for a Standard Air
17 Contaminant Discharge Permit (Permit Application).

18 15. On October 23, 2020, Respondent supplemented its Permit Application by submitting to
19 DEQ forms and information required for a Title V Operating Permit.

20 16. In Respondent's submittals to DEQ, described in Section II, Paragraphs 13-15, above,
21 Respondent states that the Facility has a PTE of approximately 20.62 tons per year of carbon disulfide,
22 with 17.66 tons per year of that total PTE coming from the Autoclave, 2.82 tons per year coming from
23 the Hot Air Cure process, 0.7 tons per year from extrusion, and 0.7 tons per year from presses.

24 17. Respondent's submittals to DEQ further state that the total PTE for the Facility is 23.17 tons
25 of HAPs and 27.7 tons of VOCs.

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1 18. OAR 340-20-155(1), effective in 1984 [renumbered to OAR 340-28-1720 in 1993 and now
2 OAR 340-216-0020(3), requirement to obtain an Air Contaminant Discharge Permit (ACDP permit)],
3 provided that “No person shall construct, install, establish, develop or operate any air contaminant
4 source which is referred to in Table 1 ...without first obtaining a permit from the Department or
5 Regional Authority.”

6 19. Table 1, attached and incorporated into Chapter 340, Division 20, effective in 1984,
7 included the following air contamination sources:

8 a. “New sources not listed herein which would emit 10 or more tons per year of any
9 air contaminants including but not limited to particulates, SO_x, or NO_x or hydrocarbons, if the source
10 were to operate uncontrolled.” (Item 61); and

11 b. In the Portland Air Quality Management Area (AQMA), defined according to
12 Figure 1 of the regulations, “New sources of VOC not listed herein which have the capacity or are
13 allowed to emit 10 or more tons per year VOC.” (Item 72).¹

14 20. According to OAR Chapter 340, Division 20, Figure 1, Respondent’s Facility was within
15 the Portland AQMA in 1984.

16 21. Respondent did not obtain an ACDP permit from DEQ prior to constructing, installing and
17 operating the Autoclave, Microwave, and Hot Air Oven at the Facility in 1984, or anytime thereafter.

18 22. According to OAR 340-218-0120(2)(a) [previously 340-28-2200(2)(a)], no Oregon Title V
19 Operating Permit program source may operate after the time that it is required to submit a timely and
20 complete application after the effective date of the program, except in compliance with a permit issued
21 under an Oregon Title V Operating Permit program.

22 23. According to OAR 340-218-0020(1)(a) [previously 340-28-2110(1)(a)] and OAR 340-200-
23 0020(91)(b)(A)(i) and OAR 340-200-0020(106) [previously OAR 340-28-110(59)(b)(A)(i) and OAR
24 OAR 340-28-110(45)], sources subject to the Title V Operating Permit program include major sources

25 ¹ Effective November 4, 1993, the list of sources requiring an ACDP permit moved to Table 4, attached and
26 incorporated into Chapter 340, Division 28. Table 4 included the following source category: “Sources installed in
27 or after 1971 not listed herein which would emit 5 or more tons PM₁₀ in a PM₁₀ nonattainment area, or 10 or
more tons/yr of any air contaminants in other parts of the state. This includes but is not limited to particulates,
SO_x, or Volatile Organic Compounds (VOC), if the source were to operate uncontrolled.” (Category 61).

1 of hazardous air pollutants, i.e. those sources that emit or have the potential to emit over 10 tons per
2 year or more of a single hazardous air pollutant listed under OAR 340-244-0040 [previously OAR 340-
3 32-130, Table 1] or 25 tons per year or more of any combination of such hazardous air pollutants.

4 24. Carbon disulfide (CAS No. 75-15-0) has been listed as a hazardous air pollutant according
5 to DEQ air quality regulations since September 24, 1993.²

6 25. The Oregon Title V Operating Permit program became effective when it was approved by
7 the United States Environmental Protection Agency on November 27, 1995.

8 26. According to OAR 340-218-0040(1)(a)(B) [previously OAR 340-28-2120(1)(a)(B)],
9 Oregon Title V Operating Permit program sources required to have obtained a permit prior to
10 construction under the ACDP program, OAR 340 division 216, were required to submit a Title V
11 Operating Permit application to DEQ within one year after the effective date of the program, or by
12 November 27, 1996.

13 27. Respondent did not submit a Title V Operating Permit application to DEQ by November 27,
14 1996.

15 28. Respondent's first air quality permit application was submitted to DEQ in 2020, as
16 described in Section II, Paragraphs 14-15, above.

17 29. As of the date of this Notice, DEQ has not issued an air quality permit to Respondent.

18 30. According to OAR 340-218-0020(3)(a), a source which would otherwise be a major source
19 subject to this the Title V permitting requirement may choose to become a synthetic minor source by
20 limiting its emissions below the emission level that causes it to be a major source through limits
21 contained in an ACDP permit issued by DEQ under chapter 340 division 216.

22 31. During a meeting between Respondent and DEQ on January 11, 2021, Respondent stated
23 that it would like to become a synthetic minor source by limiting its emissions below 10 tons per year
24 of carbon disulfide and below 25 tons per year of combined HAPs.

25 32. According to OAR 340-216-0020(2)(c), sources in any one of the categories in OAR 340-
26 216-8010 Part C must obtain a Standard ACDP under the procedures set forth in OAR 340-216-0066.

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² See OAR 340-32-130, Table 1, effective September 24, 1993; now OAR 340-244-0040, Table 1.

1 33. OAR 340-216-8010, Table 1, Part C includes all sources having the potential to emit 10 tons
2 or more of a single hazardous air pollutant in a year.

3 34. According to OAR 340-245-0050(2)(a)(A), the owner or operator of a proposed new or
4 reconstructed source³ that is required to obtain a Standard Air Contaminant Discharge Permit, and that
5 is not an exempt source, must perform a risk assessment and, if applicable, apply for a Toxic Air
6 Contaminant Permit Addendum concurrently with an application for a permit under OAR chapter 340,
7 division 216, before a permit is issued.

8 35. According to OAR 340-245-0050(2)(b), the owner or operator of a new or reconstructed
9 source must demonstrate based on a Risk Assessment that the source is a de minimis source of toxic air
10 contaminants,⁴ that the risk from the source is less than the Toxics Lowest Achievable Emissions Rate
11 (TLAER) level,⁵ or, if the risk is greater than the TLAER level, that all significant Toxics Emissions
12 Units (TEUs)⁶ meet TLAER.

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14 ³ According to OAR 340-245-0020 a “New source” means a source that is not an existing source. According to
15 OAR 340-245-0020, “Existing source” means a source that: (a) Commenced construction before November 16,
16 2018; or (b) Submitted all necessary applications to DEQ under OAR 340 divisions 210 [Stationary Source
17 Notification Requirements] or 216 [ACDP Permits] before November 16, 2018, and all such applications were
18 deemed complete by DEQ. According to OAR 340-200-0020, “Commence” or “commencement” means that the
19 owner or operator has obtained all necessary preconstruction approvals required by the FCAA [Federal Clean Air
20 Act] and either has: (a) Begun, or caused to begin, a continuous program of actual on-site construction of the
21 source to be completed in a reasonable time; or (b) Entered into binding agreements or contractual obligations,
22 which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program
23 of construction of the source to be completed in a reasonable time.

24 ⁴ According to OAR 340-245-0020, “Toxic air contaminant” means an air pollutant that has been determined by
25 the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR
26 340-245-8020 Table 2.

27 ⁵ According to OAR 340-245-0020 “Toxics Lowest Achievable Emission Rate” or “TLAER” means that rate of
emissions which reflects the most stringent emission limitation which is achieved in practice by a source in the
same class or category of sources as the proposed source, determined using the procedures in OAR 340-245-
0220. “TLAER Level” means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1,
below which a new or reconstructed source will be considered to be in compliance with these rules, and above
which will require the owner or operator of the new or reconstructed source to demonstrate that its significant
TEUs meet TLAER, under OAR 340-245-0050(2)(b).

⁶ According to OAR 340-245-0020, “Toxics emissions unit” or “TEU” means an emissions unit or one or more
individual emissions producing activities that emit or have the potential to emit any toxic air contaminant, as
designated under OAR 340-245-0060.

1 36. According to OAR 340-245-0050(2)(b) and OAR 340-245-0050(7), depending on the risk
2 level established in the Risk Assessment, the owner or operator of a new or reconstructed source must
3 either apply for a Toxic Air Contaminant Permit Addendum or obtain a de minimis source
4 determination from DEQ.

5 37. According to OAR 340-245-0100(1)(a)(B), the Toxic Air Contaminant Permit Addendum
6 or conditions in the operating permit authorize the owner or operator of the source to discharge toxic air
7 contaminants subject to enforceable permit requirements, limitations, and conditions.

8 38. On February 1, 2021, Respondent submitted a Cleaner Air Oregon Emissions Inventory to
9 DEQ. Based on Respondent's emissions inventory, the Facility is not an exempt source according to
10 OAR 340-245-0050(6) because the Facility has one or more significant toxics emissions units that emit
11 toxic air contaminants.

12 39. As of the date of this Notice, Respondent has not completed a Risk Assessment for the
13 Facility.

14 40. As of the date of this Notice, Respondent has not submitted a complete Cleaner Air Oregon
15 permit application to DEQ nor has Respondent obtained a de minimis source determination from DEQ.

16 III. CONCLUSIONS

17 1. From at least 1984 to November 27, 1996, Respondent violated ORS 468.315(1)(b)
18 [renumbered to 468A.045(1)(b) in 1991] and OAR 340-20-155(1) [renumbered to OAR 340-28-1720 in
19 1993] by operating the Facility without first obtaining an ACDP permit from DEQ, as described in
20 Paragraphs 1-21 of Section II above. Specifically, Respondent installed and began operating its
21 Autoclave, Microwave, and Hot Air Oven in 1984. The installation of that new equipment increased the
22 Facility's potential to emit to over 10 tons per year of VOCs, thus making the Facility a source listed in
23 Table 1 of Chapter 340, Division 20 [later Table 4, attached and incorporated into Chapter 340,
24 Division 28], and triggering the requirement to obtain an ACDP permit from DEQ. This is a Class II
25 violation according to OAR 340-012-0054(2)(a). DEQ hereby assesses a \$17,111 civil penalty for this
26 violation.

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1 2. From November 27, 1996 to the date of this Notice, Respondent violated 468A.045(1)(b) and
2 OAR 340-218-0120(2)(a) [previously 340-028-2200(2)(a)] by operating the Facility without a Title V
3 Operating Permit, as described in Paragraphs 1-17 and 22-29 of Section II, above. Respondent's Facility
4 is an Oregon Title V Operating Permit program source according to OAR 340-218-0020(1)(a)
5 [previously 340-28-2110(1)(a)] and OAR 340-200-0020(91)(b)(A)(i) and OAR 340-200-0020(106)
6 [previously OAR 340-28-110(59)(b)(A)(i) and OAR OAR 340-28-110(45)] because it has the potential
7 to emit over 10 tons per year or more of a single hazardous air pollutant listed under OAR 340-244-
8 0040. Respondent has a potential to emit approximately 20 ton per year of carbon disulfide (CAS No.
9 75-15-0), which is listed as a hazardous air pollutant under OAR 340-244-0040, Table 1 [previously
10 OAR 340-32-130, Table 1]. As described in Section III, Paragraph 1, Respondent was required to have
11 obtained an ACDP permit prior to the installation and operation of its Autoclave and Hot Air Oven in
12 1984. Therefore, according to OAR 340-218-0040(1)(a)(B) [previously OAR 340-28-2120(1)(a)(B)],
13 Respondent should have submitted an application for an Oregon Title V Operating Permit by
14 November 27, 1996, but failed to submit any air quality permit application to DEQ until 2020. This is a
15 Class I violation, according to OAR 340-012-0054(1)(e). DEQ hereby assesses a \$408,018 civil penalty
16 for this violation.

17 3. From November 16, 2018 to the date of this Notice, Respondent violated OAR 340-245-
18 0050(2)(a)(A) and OAR 340-245-0050(2)(b) by failing to complete a Risk Assessment for the Facility
19 that demonstrates compliance with the applicable risk action levels for new or reconstructed sources.
20 The Facility is a new source as defined in OAR 340-245-0020 because it is not an existing source. The
21 Facility is not an existing source as defined in OAR 340-245-0020 because Respondent did not
22 "commence" construction before November 16, 2018, the effective date of the Cleaner Air Oregon
23 program. Respondent did not "commence" construction, as that term is defined in OAR 340-200-0020,
24 because, as described above in Paragraphs 1-29 of Section II, Respondent did not obtain any approvals
25 to construct or operate the emissions units at the Facility as required by the Federal Clean Air Act prior
26 to November 16, 2018. As described in Paragraphs 14-15 and 28 of Section II, Respondent first
27 submitted an air quality permit application to DEQ in 2020, and, as of the date of this Notice, DEQ has

1 not issued an air quality permit to Respondent. As described in Paragraph 39 of Section II, as of the
2 date of this Notice, Respondent has not completed a Risk Assessment for the Facility. This is a Class I
3 violation, according to OAR 340-012-0054(1)(c). DEQ hereby assesses a \$15,613 civil penalty for this
4 violation.

5 4. From November 16, 2018 to the date of this Notice, Respondent violated OAR 340-245-
6 0050(2)(b), OAR 340-245-0050(7) and OAR 340-245-0100(1)(a)(B) by operating toxics emissions
7 units and discharging toxic air contaminants without first obtaining a de minimis source determination,
8 permit or Toxic Air Contaminant Permit Addendum authorizing those activities, as described in
9 Paragraphs 1-12 and 36-40 of Section II. This is a Class I violation, according to OAR 340-012-
10 0054(1)(b). DEQ has not assessed a civil penalty for this violation.

11 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

14 1. Pay a total civil penalty of \$440,742. The determination of the civil penalties is attached as
15 Exhibits 1-3 and are incorporated as part of this Notice.

16 If you do not file a request for hearing as set forth in Section V below, your check or money order
17 must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business Office,**
18 **700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

19 2. According to ORS 468A.025(4) and (7), OAR 340-226-0130 and OAR 340-214-0110, within
20 90 calendar days of this order becoming final by operation of law or on appeal, submit to DEQ for
21 approval a Typically Achievable Control Technology (TACT) analysis that evaluates options and
22 current industry standards for reducing VOC emissions at the Facility (TACT Analysis). To be
23 approvable, the TACT Analysis must:

24 a. Be prepared by a third party with significant relevant experience in engineering and air
25 emissions control;

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- 1 b. Evaluate the range of options used to reduce VOC emissions at other facilities with similar
2 rubber curing or vulcanization processes, including but not limited to design and equipment
3 changes, pollution control devices, work practices, and operational standards. Explain the
4 basis for selecting the facilities that are included in the evaluation;
- 5 c. Based on the evaluation in Paragraph 2.b, describe the typical level of VOC emissions per
6 pound of rubber processed that is achieved by well controlled new or modified emissions
7 units similar in type and size that were recently installed at other similar facilities;
- 8 d. Based on the analysis in Paragraphs 2.b and 2.c, describe options for reducing the level of
9 VOC emissions at Respondent's Facility; and
- 10 e. For each option presented under Paragraph 2.d, include an estimate of the costs (capital,
11 operating, labor and any other costs) associated with making any changes at the Facility
12 and the cost per ton of VOCs reduced.

13 3. Pursuant to ORS 468A.070 and OAR 340-212-0120(1)(a) and (b), within 90 calendar days of
14 this order becoming final by operation of law or on appeal, conduct source testing of the Autoclave,
15 Microwave, and Hot Air Oven emission units at the Facility when processing EPDM to confirm
16 emission factors for total VOCs, carbon disulfide, benzene, toluene, xylenes, ethyl benzene and
17 reportable VOCs listed in OAR 340-245-8020 Table 2. The source tests must be conducted according
18 to the requirements in OAR Chapter 340, Division 212 and the DEQ Source Sampling Manual,
19 including the requirement to conduct the source test while operating under typical worst-case
20 conditions that generate the highest emissions. A source test plan must be submitted to DEQ by no later
21 than 30 days prior to the source tests and the source test report must be submitted to DEQ within 30
22 days of completing the tests.

23 4. Within 30 days of receiving DEQ's source test review memo, based on the results of the source
24 test described in Paragraph 3 of Section IV, submit an updated Emissions Inventory to DEQ that complies
25 with the requirements in OAR 340-245-0040(3).

26 5. Within 30 days of DEQ's approval of the updated Emissions Inventory, submit a Modeling
27 Protocol for DEQ approval that meets the requirements of OAR 340-245-0210.

1 6. If Respondent completes a Level 3 or Level 4 Risk Assessment, within 30 days of DEQ's
2 approval of the updated Emissions Inventory, Respondent must also submit a Risk Assessment Work Plan
3 for DEQ approval that meets the requirements of OAR 340-245-0210.

4 7. Within 15 days of DEQ's approval of the Modeling Protocol, and if required, the Risk
5 Assessment Work Plan, submit a completed Risk Assessment that meets the applicable requirements of
6 OAR 340-245-0050.

7 8. Within 15 days of DEQ's approval of the Risk Assessment, submit to DEQ an
8 administratively complete Cleaner Air Oregon Permit Application including any applicable fees.

9 9. Written documentation demonstrating Respondent's compliance with Paragraph 2 Section
10 IV above must be sent to George Yun, Oregon Department of Environmental Quality, 700 NE
11 Multnomah Street, Suite 600, Portland, Oregon 97232 or george.yun@deq.state.or.us.

12 10. Written documentation demonstrating Respondent's compliance with Paragraph 3 of
13 Section IV above must be sent to Joshua Muswieck, Oregon Department of Environmental Quality, 700
14 NE Multnomah Street, Suite 600, Portland, Oregon 97232 or joshua.muswieck@deq.state.or.us.

15 11. Written documentation demonstrating Respondent's compliance with Paragraphs 4-8 of
16 Section IV above must be sent to Kenzie Billings, Oregon Department of Environmental Quality, 700
17 NE Multnomah Street, Suite 600, Portland, Oregon 97232 or kenzie.billings@deq.state.or.us.

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

19 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
20 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
21 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
22 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered
23 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
24 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
25 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
26 it to **503-229-5100** or email it to DEQappeals@deq.state.or.us. An administrative law judge
27 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS

1 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
2 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
3 you may represent yourself. If you are a corporation, partnership, limited liability company,
4 unincorporated association, trust or government body, you must be represented by an attorney or a duly
5 authorized representative, as set forth in OAR 137-003-0555.

6 Active duty Service members have a right to stay proceedings under the federal Service
7 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
8 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
9 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
10 Department does not have a toll free telephone number.

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

17
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19
20 2/24/2021
21 Date



21 Kieran O'Donnell, Manager
22 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 Operating the Facility without an Air Contaminant Discharge Permit, in violation of ORS 468.315(1)(b) [renumbered to 468A.045(1)(b) in 1991] and OAR 340-20-155(1) [renumbered to OAR 340-28-1720 in 1993].

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0054(2)(a).

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 \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(A) because Respondent should have had an ACDP permit between 1984 and November 27, 1996.

"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 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"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.

"O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. According to OAR 340-012-0145(4), each day is a separate occurrence of the violation. Respondent operated the Facility without an ACDP permit for approximately thirteen years (1984 through November 27, 1996).

"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. As an industrial facility that emits air contaminants, Respondent reasonably should have known about the requirement to obtain an ACDP permit when it made changes to the Facility that would significantly increase emissions.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. On April 7, 2020, Respondent submitted to DEQ an application for a Standard ACDP permit; on October 23, 2020, Respondent supplemented its Permit Application by submitting to DEQ additional forms and information required for a Title V Operating Permit.

"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 \$16,037. This is the amount Respondent gained by avoiding spending \$4,118 in ACDP permit fees between 1984 and 1996. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 4 + 2 + -2)] + \$14,311$
 $= \$2,000 + (\$200 \times 4) + \$14,311$
 $= \$2,000 + \$800 + \$14,311$
 $= \$17,111$

EXHIBIT 2

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

VIOLATION NO. 2 Operating the Facility without an Oregon Title V Permit, in violation ORS 468A.045(1)(b) and OAR 340-218-0120(2)(a) [previously 340-028-2200(2)(a)].

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(e).

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)(A) because Respondent should have had a Title V Operating permit from November 16, 2018 to the date of this Notice.

"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 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"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.

"O" is whether the violation was repeated or ongoing, and receives a value of 0. According to OAR 340-012-0145(4)(e), DEQ will set the O factor at 0 when assessing separate penalties for each occurrence of the violation.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent acted or failed to act intentionally with actual knowledge of the requirement. Respondent operates three other facilities, all of which have air quality permits. Respondent's facility on Taylor Road in Garrett, Indiana, was permitted in 2004. Respondent's facility on Lee Street in Garrett, Indiana was permitted in 2009. Both Indiana facilities operate a rubber curing process similar to Respondent's Portland facility, and both permits contain limits on carbon disulfide to stay below the major source threshold of 10 tons per year of a single HAP. Thus, Respondent had actual knowledge that an air quality permit was required for the Portland Facility, and failed to

either obtain an Oregon Title V Operating Permit or reduce its emissions and obtain an ACDP permit from DEQ.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. On April 7, 2020, Respondent submitted to DEQ an application for a Standard ACDP permit; on October 23, 2020, Respondent supplemented its Permit Application by submitting to DEQ additional forms and information required for a Title V Operating Permit.

GRAVITY BASED PENALTY CALCULATION

$$\begin{aligned} \text{Gravity Based Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] \\ &= \$6,000 + [(0.1 \times \$6,000) \times (0 + 0 + 0 + 8 + -2)] \\ &= \$6,000 + (\$600 \times 6) \\ &= \$6,000 + \$3,600 \\ &= \$9,600 \end{aligned}$$

In accordance with ORS 468.140(2), each day of violation constitutes a separate offense. DEQ is using its enforcement discretion to assess a separate civil penalty for each full year, from 1997 through 2020, that Respondent operated the Facility without an Oregon Title V Permit. Therefore, DEQ is assessing a \$9,600 civil penalty for each of the 24 years (24 occurrences) of the violation.

\$9,600 per year x 24 occurrences of the violation equals a total gravity based penalty of \$230,400

ECONOMIC BENEFIT

"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 \$177,618. For the purposes of the EB calculation, DEQ assumes that Respondent would have elected to become a synthetic minor source with an ACDP permit. The EB is the amount Respondent gained by avoiding spending \$151,175 in ACDP permit fees between 1997 and 2020. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

TOTAL PENALTY

According to OAR 340-012-0045, the total civil penalty is the gravity based penalty of \$230,400 plus the economic benefit of \$177,618. Thus, the total civil penalty for Violation No. 2 is \$408,018.

EXHIBIT 3

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

VIOLATION NO. 3 Failing to complete a Risk Assessment that demonstrates compliance with the applicable risk action levels for new or reconstructed sources, in violation of violated OAR 340-245-0050(2)(a)(A) and OAR 340-245-0050(b).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(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)(A) because Respondent should have had a Title V Operating permit from November 27, 1996 to the date of this Notice.

"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 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"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.

"O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. According to OAR 340-012-0145(4), each day is a separate occurrence of the violation. Respondent violated the Risk Assessment requirement from November 16, 2018 through the date of the Notice.

"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. As an industrial facility that emits toxic air contaminants, Respondent reasonably should have known that it may be subject to requirements of the Cleaner Air Oregon program, effective November 16, 2018, including the requirement to conduct a Risk Assessment.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. On February 1, 2021, Respondent submitted a Cleaner Air Oregon Emissions Inventory to DEQ.

"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 \$7,213. This is the amount Respondent gained by avoiding spending \$8,721 in Cleaner Air Oregon fees between 2018 and 2020. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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 + -2)] + \$7,213
= \$6,000 + (\$600 x 4) + \$7,213
= \$6,000 + \$2,400 + \$7,213
= \$15,613