



# 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

May 4, 2022

CERTIFIED MAIL: 7018 1830 0001 6172 5758

Chinese-Polish Joint Stock Shipping Co.  
c/o Norton Lilly International, Shipping Agent  
1220 Main Str. Suite 290  
Vancouver, WA 98660

Re: Notice of Civil Penalty Assessment and Order  
Case No. LQ/BW-HQ-2021-174

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued the Chinese-Polish Joint Stock Shipping Co. a civil penalty of \$10,200 for discharging prohibited ballast water into Coos Bay, waters of the state of Oregon, from the merchant vessel "Chipolbrok Pacific."

DEQ issued this penalty because the discharge of prohibited ballast water can introduce invasive species that pose a significant risk to native ecosystems and Oregon's economy. The state of Oregon requires vessel operators to treat ballast water with shipboard systems and, when the salinity of ballast water has not been verified, to perform an open ocean exchange. The Chipolbrok Pacific discharged ballast water sourced from Baltimore, Houston, and New Orleans (all freshwater ports) into Coos Bay without verifying salinity of the ballast water or performing any exchange prior to discharge.

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 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.

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If you have any questions, please contact Courtney Brown at 503-229-6839 or toll free in Oregon at 800-452-4011, extension 6839.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Joshua Emerson, Portland Headquarters  
Wes Risher, DEQ  
Accounting, DEQ  
Chinese-Polish Joint Stock Shipping Co., [pacific@chipolbrok.amosconnect.com](mailto:pacific@chipolbrok.amosconnect.com)  
Nora Pasca, Norton-Lilly International, [npasca@nortonlilly.com](mailto:npasca@nortonlilly.com)

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

IN THE MATTER OF: ) NOTICE OF CIVIL PENALTY  
CHINESE-POLISH JOINT STOCK ) ASSESSMENT AND ORDER  
SHIPPING CO, )  
Respondent. ) CASE NO. LQ/BW-HQ-2021-174

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140, ORS 783.635(4)(a), ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 143.

II. FINDINGS OF FACT

1. Respondent owns or operates the vessel M/V Chipolbrok Pacific (the Vessel).
2. The Vessel is equipped with ballast water tanks.
3. On or about August 6, 2021, the Vessel entered waters of the state of Oregon.
4. The Vessel had five (5) ballast water tanks that had ballast water sourced from Baltimore.
5. The Vessel had 1 ballast water tank that had water sourced from Houston.
6. The Vessel had 1 ballast water tank that had water sourced from New Orleans.
7. Baltimore, Houston and New Orleans are freshwater ports. Waters sourced from Baltimore, Houston and New Orleans are known to be brackish and may have a salinity less than 18 parts per thousand.
8. The Vessel's ballast water from Baltimore, Houston and New Orleans was discharged to Coos Bay, waters of the state, on or before August 20, 2021.
9. The Vessel Operator did not verify the salinity of the discharged ballast water.
10. The Vessel Operator performed ballast water treatment using a shipboard treatment system. The Vessel Operator did not perform a ballast water exchange.

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1 III. CONCLUSIONS

2 Respondent has violated OAR 340-143-0010(2)(b)(A) and OAR 340-143-0050(2) by  
3 discharging ballast water into Coos Bay without verifying ballast water salinity or performing an open  
4 water exchange. Specifically, Respondent failed to verify ballast water salinity or conduct ballast water  
5 exchange for the seven (7) tanks described in Section II, paragraphs 4-6 above prior to discharge into  
6 Coos Bay. Coos Bay is "waters of the state" of Oregon, as defined by ORS 783.625 and OAR 340-143-  
7 005. This is a Class I violation according to OAR 340-012-0083(1)(a). DEQ hereby assesses a \$10,200  
8 civil penalty for this violation.

9 IV. ORDER TO PAY CIVIL PENALTY

10 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is  
11 hereby ORDERED TO: Pay a total civil penalty of \$10,200. The determination of the civil penalty is  
12 attached as Exhibit No.1 and is incorporated as part of this Notice.

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

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

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



1 you may represent yourself. If you are a corporation, partnership, limited liability company,  
2 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
3 authorized representative, as set forth in OAR 137-003-0555.

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

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

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18 5 / 4 / 2022  
19 Date

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Kieran O'Donnell, 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: Discharging ballast water into Coos Bay, waters of the state, in violation of OAR 340-143-0010(2)(b)(A) and OAR 340-143-0050(2).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0083(1)(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 \$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)(F).

"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 3 according to OAR 340-012-0145(4)(c) because there were from seven to 28 occurrences of the violation. Each discharge from a separate ballast water tank is a separate occurrence of the violation. Respondent discharged unexchanged ballast water from seven tanks. Therefore, there are seven occurrences of the violation.

"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. The exchange of ballast water is commonly understood in the shipping industry to be regulated and subject to local rules. Respondent hired a shipping agent to assist its coordination with port authorities, including compliance with local rules. Respondent's failure to comply with Oregon's ballast water management rules, specifically the "exchange plus treatment" requirement, respondent failed to take reasonable care to avoid a foreseeable risk that it violate Oregon law.

"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 as the economic benefit to Respondent is too speculative to estimate.

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 + 3 + 4 + 0)] + \$0  
= \$6,000 + (\$600 x 7) + \$0  
= \$6,000 + \$4,200 + \$0  
= \$10,200