



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

June 26, 2020

CERTIFIED MAIL: 7017 1450 0000 8310 3381

Columbia 410 LLC
Jacob Crabtree, Registered Agent
4515 NE Elliott Circle
Corvallis OR 97330

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/ACDP-NWR-2020-079

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 \$13,480 for operating your hemp drying facility at 410 Industrial Way in Molalla, Oregon, without an Air Contaminant Discharge Permit (ACDP) from DEQ.

DEQ issued this penalty because operating without an ACDP is a serious violation. Hemp drying emissions contain particulate matter, carbon monoxide, and nitrous oxide (NOx), which are criteria pollutants. High NOx levels are linked to increased asthma attacks or other respiratory illnesses and cardiovascular related effects. High carbon monoxide levels can cause headaches, increased risk of chest pain for persons with heart disease, and impaired reaction timing. DEQ regulates these emissions through the permitting process to ensure emissions remain below levels that may negatively impact public health and the environment.

Included in Section IV of the enclosed Notice is an order requiring you to cease operation of the Facility dryer until obtaining an ACDP. \$8,680 of the civil penalty represents the economic benefit you gained by failing to apply for an ACDP. If you apply for an ACDP, DEQ will consider recalculating the costs as delayed rather than avoided and will reduce the civil penalty accordingly.

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 Anzie St. Clair at 971-808-7368 or toll free in Oregon at 800-452-4011, extension 5422.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Owen Rudloff, DEQ, NW Region
Steven Dietrich, DEQ
Accounting, DEQ
Donald Hendrix, AQ, DEQ
US EPA, Region 10, c/o Katie McClintock,
1200 Sixth Avenue, Seattle, WA 98101

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:)
4 COLUMBIA 410 LLC, an Oregon limited) NOTICE OF CIVIL PENALTY
liability company,) ASSESSMENT AND ORDER
5 Respondent.) CASE NO. AQ/ACDP-NWR-2020-079

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, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012,
10 200, and 216.

11 II. FINDINGS OF FACT

12 1. From on or about May 1, 2019 through to the date of this Notice, Respondent has owned a
13 manufacturing facility located at 410 Industrial Way in Molalla, Clackamas County, Oregon (the
14 Facility).

15 2. From on or about October 4, 2019 through to the date of this Notice, Respondent has
16 operated the Facility to store, process, and dry hemp. As a part of its drying process, Respondent heats
17 hemp to approximately 200 degrees Fahrenheit using a Hauck 28.6 MMBtu/hr natural gas direct-fired
18 rotary drum dryer (the Hauck dryer). Respondent controls emissions from the Hauck dryer using a
19 cyclone and vents them up through a stack.

20 3. Based upon 24-hour operations 365 days per year (8,760 annual hours), the Hauck dryer
21 emits nitrogen oxides at a rate of 13.31 tons per year (tpy), and carbon monoxide at a rate of 11.18 tpy.

22 4. On January 16, 2020, DEQ inspected the Facility and observed its conditions and
23 operations.

24 5. On January 16, 2020, during Respondent's hemp drying process, visible emissions exited
25 the stack into the air.

26 6. On or about February 11, 2020, DEQ informed Respondent that an ACDP was required for
27 the operation of the Hauck dryer.

7. As of the date of this Notice, Respondent has not submitted to DEQ an application for an ACDP.

8. Respondent paused operation of the Hauck dryer on or about March 12, 2020 through to the date of this Notice, but expects to resume use in July 2020.

III. CONCLUSIONS

1. From on or about October 4, 2019 through to on or about March 12, 2020, Respondent has violated OAR 340-216-0020(3) by operating an air contaminant source listed in OAR 340-216-8010, table 1, part B, #85 without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ, as described in Section II above. Specifically, the Hauck dryer described in Section II, paragraph 2 is a stationary source, as defined by OAR 340-200-0020(173), which would have actual emissions if the source were to operate uncontrolled, of 10 or more tons per year of nitrogen oxide and carbon monoxide. Nitrogen oxides and carbon monoxide are “criteria pollutants” as defined by OAR 340-200-0020(36). These are Class II violations, according to OAR 340-012-0054(2)(a). DEQ hereby assesses a \$13,480 civil penalty for these violations.

IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

1. Pay a total civil penalty of \$13,480. The determination of the civil penalty is attached as Exhibit 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. Immediately upon this order becoming final by operation of law or on appeal, cease using the Hauck dryer unless and until Respondent obtains a Simple ACDP from DEQ. A complete Simple ACDP application can be sent to DEQ, Attn: Owen Rudloff, 700 NE Multnomah St, Suite 600, Portland, OR 97232-4100.

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

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

16 Active duty Service members have a right to stay proceedings under the federal Service
17 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
18 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
19 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
20 Department does not have a toll free telephone number.

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1 If you fail to file a timely request for hearing, the Notice will become a final order by default
2 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
3 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
4 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
5 the relevant portions of its files, including information submitted by you, as the record for purposes of
6 proving a prima facie case.
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10 6/26/2020

11 Date

10 Kieran O'Donnell

11 Kieran O'Donnell, Manager
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 an air contaminant source listed in OAR 340-216-8010 without first obtaining an ACDP from DEQ.
- 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 violated an air quality rule and should have had an ACDP 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 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. Each day of violation constitutes a separate occurrence. Respondent operated its Facility without an ACDP from approximately October 4, 2019 through to the date of this Notice, where Respondent temporarily stopped using the Hauck dryer on or about March 12, 2020 but expects to resume use in July 2020. This amounts to more than 28 occurrences.
- "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. Operation of the Hauck dryer to process hemp results in visible emissions into the air. On or about February 11, 2020, DEQ informed Respondent that an ACDP was required. Respondent inquired with DEQ about obtaining an ACDP but has not submitted a complete application. Respondent continued to operate the Hauck dryer until on or about

March 12, 2020. Despite plans to resume operation of the Hauck dryer, Respondent has not as of the date of this Notice applied for an ACDP.

"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). To date, Respondent has not applied to DEQ for an ACDP.

"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 \$8,680. This is the amount Respondent gained by avoiding spending at least \$12,944 to pay the simple ACDP permit application fee (\$7,200), the 2019 annual permit fee (\$4,608), and the Cleaner Air Oregon supplemental fee (\$1,136). 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 x \$2,000) x (0 + 0 + 4 + 8 + 2)] + \$8,680
= \$2,000 + (\$200 x 14) + \$8,680
= \$2,000 + \$2,800 + \$8,680
= \$13,480