



# 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

August 11, 2022

CERTIFIED MAIL: 7018 1830 0001 5906 3824

Swanson Group Mfg. LLC  
c/o Swanson Group, Inc., Registered Agent  
2635 Old Hwy 99S  
Roseburg, OR 97471

Re: Notice of Civil Penalty Assessment and Order  
Case No. AQ-V-WR-2022-058

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$6,000 for constructing a new lumber drying kiln without the required air contaminant discharge permit at your sawmill and planing mill located at 2635 Old Highway 99S, Roseburg, OR 97470.

DEQ issued this penalty because you were required to obtain a Standard Air Contaminant Discharge Permit prior to beginning construction of the new lumber drying kiln. The addition of the kiln is subject to Type B State New Source Review permitting requirements, which includes an air quality analysis to ensure that the project will not cause or contribute to a new violation of National Ambient Air Quality Standards (NAAQS). This project triggered that analysis due to a projected increase in the facility's emissions of volatile organic compounds (VOCs) above a regulatory threshold. DEQ must review the air quality analysis and issue a permit with any necessary requirements before the emissions unit is constructed at the facility.

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 paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

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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: Jeff Remington, Swanson Group Mfg. LLC ([jeff.remington@swansongroup.biz](mailto:jeff.remington@swansongroup.biz))  
Tom Wood, Stoel Rives LLP, Attorney for Swanson Mfg. LLC ([tom.wood@stoel.com](mailto:tom.wood@stoel.com))  
Janice Tacconi, DEQ  
Accounting, DEQ  
Donald Hendrix, AQ, DEQ



1 9. On February 7, 2022, Respondent submitted to DEQ a Type B State New Source Review  
2 permit application for a Standard ACDP to construct a new lumber drying kiln at the Facility.  
3 Respondent's application stated that the change was a Type 4 change.

4 10. The change proposed by Respondent in its application, described in Paragraph 9 above,  
5 would increase volatile organic compounds (VOC) emissions from the Facility above the netting basis  
6 by 54 tons per year.

7 11. On at least one day during the week of March 21, 2022, Respondent began construction of  
8 the new lumber drying kiln. As of March 30, 2022, Respondent had erected a structural steel frame for  
9 the new lumber drying kiln and installed thin pipe to supply steam to the new kiln.

10 12. As of March 30, 2022, DEQ had not issued a Standard Air Contaminant Discharge Permit  
11 (ACDP) for the construction of the new lumber drying kiln.

12 13. On June 23, 2022, DEQ issued Standard ACDP No. 10-0030-ST-01, authorizing the  
13 construction of the new lumber drying kiln.

14 14. Condition 1.2 of the Standard ACDP, described in Section II, paragraph 12, above, prohibits  
15 operation of the new lumber drying kiln until the TV Permit is modified to incorporate the requirements  
16 of the Standard ACDP.

### 17 III. CONCLUSIONS

18 1. On at least one day during the week of March 21, 2022, Respondent violated OAR 340-218-  
19 0190(1) and Condition G20 of the TV Permit by constructing a stationary source without first obtaining  
20 approval from DEQ pursuant to OAR 340-210-0205 through 340-210-0250, as described in Section II,  
21 paragraphs 1-12, above. On or before March 30, 2022, Respondent began "construction" of the lumber  
22 drying kiln, as defined in OAR 340-200-0020(31), because Respondent made physical changes at the  
23 Facility by erecting a structural steel frame for the new kiln and installing thin pipe to supply steam to  
24 the new kiln. The new lumber drying kiln is a "stationary source" as defined in OAR 340-200-  
25 0020(173), because it emits or may emit regulated pollutants. Prior to beginning construction of the  
26 new lumber drying kiln, Respondent had not obtained approval from DEQ pursuant to OAR 340-210-  
27 0205 through 340-210-0250 because Respondent had not obtained a Standard ACDP permit from DEQ.

1 According to OAR 340-210-0240(1)(d), Respondent was required to obtain a Standard ACDP because  
2 the addition of the new lumber drying kiln is a Type 4 change. The addition of the new lumber drying  
3 kiln is a Type 4 change according to OAR 340-210-0225(4) because it would increase VOC emissions  
4 from the Facility above the netting basis by more than the Significant Emission Rate (SER).  
5 Specifically, the addition of the new lumber drying kiln would increase VOC emissions at the Facility  
6 by 54 tons per year above the netting basis, which is greater than the SER of 40 tons per year (see OAR  
7 340-200-0020(161)(i)). This is a Class II violation according to OAR 340-012-0054(2)(a). DEQ hereby  
8 assesses a \$6,000 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:

12 1. Pay a total civil penalty of \$6,000. The determination of the civil penalty is attached as Exhibit  
13 1 and is incorporated as part of this Notice.

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

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

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

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

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

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

16  
17  
18  
19  
20 Date

8/11/2022

  
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 NO. 1 Constructing a stationary source without first obtaining approval from DEQ pursuant to OAR 340-210-0205 through 340-210-0250, in violation of OAR 340-218-0190(1) and Condition G20 of the TV Permit.

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 \$3,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent has a Title V 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), OAR 340-012-0145(2)(d)(B) and OAR 340-012-0145(2)(f), because there are no air quality prior significant actions during the past 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.

"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. Respondent constructed a stationary source without first obtaining approval from DEQ on at least one day during the week of March 21, 2022.

"M" is the mental state of the Respondent, and receives a value of 10 according to OAR 340-012-0145(5)(e) because Respondent acted flagrantly. According to OAR 340-012-0030(11), flagrant means the respondent had actual knowledge that the conduct was unlawful and consciously set out to commit the violation. On March 19, 2021, Respondent asked DEQ in a meeting and via email whether Respondent could begin construction of the lumber drying kiln prior to permit issuance. On March 22, 2021, DEQ informed Respondent via email that construction activities were prohibited prior to permit issuance. On February 7,

2022, Respondent submitted to DEQ a Type B State New Source Review permit application for a Standard ACDP to construct the new lumber drying kiln. Nevertheless, Respondent proceeded with beginning construction of the new lumber drying kiln during the week of March 21, 2022, before DEQ had issued the Standard ACDP which would authorize such construction. The construction included the erection of a structural steel frame for the new lime kiln and the installation of thin pipe to supply steam to the new kiln, which was the type of construction DEQ had told Respondent, on March 22, 2021, was prohibited without first obtaining a permit. Thus, Respondent had actual knowledge that the conduct was unlawful and consciously set out to commit the violation.

"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 because DEQ has insufficient information to calculate an economic benefit for this violation.

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

$$\begin{aligned} &= \$3,000 + [(0.1 \times \$3,000) \times (0 + 0 + 0 + 10 + 0)] + \$0 \\ &= \$3,000 + (\$300 \times 10) + \$0 \\ &= \$3,000 + \$3,000 + \$0 \\ &= \$6,000 \end{aligned}$$