



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

September 27, 2022

CERTIFIED MAIL No. 7020 2450 0000 3349 5246

Roseburg LFG Energy, LLC
c/o CT Corporation System, Registered Agent
780 Commercial Street, SE, Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/ACDP-WR-2021-171

This letter is to inform you that DEQ has issued you a \$3,600 civil penalty for failing to demonstrate continuous compliance with the federal Spark Ignition Internal Combustion Engines New Source Performance Standards (NSPS), Subpart JJJJ requirements. Specifically, you failed to conduct a valid emissions test on your caterpillar spark ignition engine by May 17, 2021, when the engine reached 8,760 hours of operation. In addition, DEQ cited you, without penalty, for failing to submit written notification to DEQ for the replacement of the engine. These violations occurred at your landfill gas to energy facility at the Douglas County Landfill at 384 McLain West Avenue, Roseburg, Oregon.

DEQ issued this penalty because timely emissions testing is a fundamental requirement to determine whether your engine complies with the NSPS standards to ensure that air pollutant emissions from your facility are kept to minimum levels to protect human health and the environment.

DEQ appreciates your efforts to correct the violation by completing testing that demonstrated compliance with the NSPS Subpart JJJJ emission standards on July 14, 2021. DEQ considered this effort when determining the amount of civil penalty.

If you wish to appeal this matter, DEQ must receive a request for a contested case hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

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

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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 DEQ Environmental Law Specialist Jenny Root at (503) 229-5874.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

cc: Wayne Kauzlarich, Western Region, Medford Office, DEQ
Keith Andersen, Western Region, Eugene Office, DEQ
Accounting, DEQ
Donald Hendrix, AQ, DEQ
Leif Schei, Roseburg LFG Energy, LLC, 1363 Down River Drive, Woodland, WA 98674

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 ROSEBURG LFG ENERGY, LLC) ASSESSMENT AND ORDER
5 a Delaware limited liability company,)
6 Respondent.) NO. AQ/ACDP-WR-2021-171

7 I. AUTHORITY

8 This Notice of Civil Penalty Assessment and Order is issued pursuant to Oregon Revised
9 Statutes (ORS) 468.100 and 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon
10 Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 200, 216 and 40 Code of Federal
11 Regulations (CFR), Part 60, Subpart JJJJ, adopted and incorporated by reference in OAR 340-
12 238-0060(1) and (3)(eeee).

13 II. FINDINGS OF FACT

14 1. Respondent owns and operates a landfill gas to energy facility at the Douglas
15 County Landfill at 384 McLain West Avenue, Roseburg, Oregon (the Facility).

16 2. Respondent's Facility includes a 2011 Caterpillar G32520C stationary spark
17 ignition internal combustion engine (stationary SI ICE) that is subject to the federal Standards of
18 Performance for Stationary Spark Ignition Internal Combustion Engine regulations in 40 CFR
19 Part 60, subpart JJJJ requirements (NSPS Subpart JJJJ).

20 3. On September 6, 2016, DEQ issued Standard Air Contaminant Discharge Permit
21 No. 10-0210-ST-01 (the Permit) to Respondent. The Permit authorizes Respondent to discharge
22 air contaminants from the Facility in conformance with the requirements, limitations and
23 conditions set forth in the Permit.

24 4. Respondent installed and began operating the stationary SI ICE on or about April
25 14, 2020. The stationary SI ICE was a like-for-like replacement of a previous stationary SI ICE
26 at the Facility.

27 5. OAR 340-210-0230(1) requires that persons proposing a Type 1 or 2 change must
provide notice and applicable fees in OAR 340-216-8020 to DEQ before constructing or

1 modifying a stationary source or air pollution control device. The notice must be in writing on a
2 form supplied by DEQ and include the specific information required by that rule.

3 6. Prior to April 14, 2020, Respondent did not submit written notification to DEQ
4 for installation of the replacement stationary SI ICE.

5 7. Conditions 2.4 and 6.1 of the Permit and 40 CFR 60.4243(b)(2)(ii) requires that
6 Respondent demonstrate compliance with the emission standards in Table 1 of NSPS Subpart
7 JJJJ by conducting a performance test (emissions test) of the stationary SI ICE every 8,760 hours
8 of operation or every three years, whichever comes first.

9 8. As of May 17, 2021, Respondent's stationary SI ICE operated 8,760 hours.

10 9. On July 14, 2021, Respondent conducted a performance test of the stationary SI
11 ICE to demonstrate compliance with Table 1 of NSPS Subpart JJJJ. At that point, Respondent
12 had operated the stationary SI ICE approximately 10,146 hours. Respondent had not previously
13 tested the stationary SI ICE.

14 III. CONCLUSIONS

15 1. The Facility is a "source" as defined in OAR 340-200-0020(166).

16 2. The SI ICE is a "stationary source" as defined in OAR 340-200-0020(173).

17 3. Replacing a stationary SI ICE with a like-for-like stationary SI ICE is a "Type 1
18 change" at a source, according to OAR 340-210-0225(1).

19 **Violations**

20 4. As further described in Section II, Paragraphs 4 through 6 and Section III,
21 Paragraphs 1 through 3 above, Respondent violated OAR 340-210-230(1) by making a Type 1
22 change at a source without first notifying DEQ in writing. This is a Class III violation according
23 to OAR 340-012-0054(3)(c). DEQ has not assessed a civil penalty for this violation.

24 5. As further described in Section II, Paragraphs 7 through 9 above, Respondent
25 violated Conditions 2.4 and 6.1 of the Permit and 40 CFR 60.4243(b)(2)(ii) by failing to conduct
26 performance testing of a stationary SI ICE to demonstrate compliance with the emission
27 standards in Table 1 of NSPS Subpart JJJJ, by May 17, 2021, when the stationary SI ICE reached

1 8,760 hours of operation. Specifically, Respondent did not conduct a performance test of the
2 stationary SI ICE to demonstrate compliance with Table 1 of NSPS Subpart JJJJ until July 14,
3 2021, after Respondent had operated the stationary SI ICE approximately 10,146 hours. This is a
4 Class I violation according to OAR 340-012-0054(1)(p). DEQ hereby assesses a \$3,600 civil
5 penalty for this violation.

6 IV. ORDER TO PAY CIVIL PENALTY

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

9 Pay a total civil penalty of \$3,600. The determination of the civil penalty is attached
10 as Exhibit 1 and is incorporated as part of this Notice.

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

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

15 You have a right to a contested case hearing on this Notice, if you request one in writing.
16 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive
17 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this
18 Notice or attached exhibit, you must do so in your request for hearing, as factual matters not
19 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
20 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
21 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
22 **600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to
23 DEQappeals@deq.state.or.us. An administrative law judge employed by the Office of
24 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
25 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
26 attorney at the hearing, however you are not required to be. If you are an individual, you may
27 represent yourself. If you are a corporation, partnership, limited liability company,

1 unincorporated association, trust or government body, you must be represented by an attorney or
2 a duly authorized representative, as set forth in OAR 137-003-0555.

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

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

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17 Date

9/27/2022

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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: Failing to demonstrate compliance with the emissions standards in Table 1 of NSPS Subpart JJJJ, by failing to conduct a performance test of the stationary SI ICE within 8,760 hours of operation, in violation of Conditions 2.4 and 6.1 of the Permit and 40 CFR 60.4243(b)(2)(ii), adopted and incorporated by reference in OAR 340-238-0060(1) and (3)(eeee).

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

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 \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(A) because Respondent operates the facility under a Standard Air Contaminant Discharge 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 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)(a) because there was only one occurrence of the violation. Respondent failed to conduct one performance test by May 17, 2021.

"M" is the mental state of Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b), because Respondent reasonably should have known of the requirement to test the stationary SI ICE on or before May 17, 2021, when it reached 8,760 hours of operation. Conditions 2.4 and 6.1 of the Permit expressly require that Respondent conduct performance testing of the SI ICE every 8,760 hours of operation or every three years, whichever comes first.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent took reasonable efforts to correct the violation. Respondent demonstrated compliance with Table 1 of NSPS Subpart JJJJ by conducting a valid performance test on July 14, 2021.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of 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 any economic benefit derived is likely to be de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$4,000 + [(0.1 x \$4,000) x (0 + 0 + 0 + 2 + -3)] + \$0
= \$4,000 + (400 x -1) + \$0
= \$4,000 - \$400 + \$0
= \$3,600