



# 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

October 15, 2021

CERTIFIED MAIL No.: 7017 0530 0000 7760 6407

Endura Products, Inc.  
c/o Corporation Service Company, Registered Agent  
1127 Broadway Street NE, Suite 310  
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order  
Case No. AQ/V-ER-2021-088

*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 DEQ has issued you a \$4,500 civil penalty for failing to conduct visible emission surveys at your millwork production facility at 1155 N. Main Street, Prineville, Oregon, in violation of your Oregon Title V Operating Permit.

DEQ issued this penalty due to the serious nature of the violations. Your permit requires that you conduct visible emission surveys of your plant site to ensure you are monitoring and taking adequate measures to control particulate matter, including dust, from leaving the facility. Particulate matter, when emitted in excess, can contribute to respiratory distress in members of the public. Once inhaled, particulate matter can affect the heart and lungs, causing serious health problems such as decreased lung function, irregular heartbeat, and chronic bronchitis.

In addition, DEQ cited you without penalty for failing to report the missed visible emission surveys to DEQ within 15 days.

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](mailto: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 portion of the 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: Frank Messina, Eastern Region, Bend Office, DEQ  
Mark Bailey, Eastern Region, Bend Office, DEQ  
Accounting, DEQ  
Donald Hendrix, AQ, DEQ  
Endura Products, Inc., c/o Mark Gibson, Environmental Health & Safety Coordinator  
1155 N. Main Street, Prineville, Oregon 97754

1           7.       For the weeks identified in Section II, Paragraph 5 above that Respondent failed  
2 to conduct weekly VE surveys of the plant site, Respondent did not notify or report to DEQ these  
3 deviations of the Permit within 15 days of the deviations occurring. Respondent first reported  
4 these deviations to DEQ in its 2020 annual report, which was received by DEQ on February 16,  
5 2021.

### 6                                 III. CONCLUSIONS

7           1.       Respondent violated Condition 5 of the Permit by failing to conduct two weekly  
8 VE surveys of the plant site, as further described in Section II, Paragraphs 4 and 5 above. These  
9 are Class II violations according to OAR 340-012-0054(2)(b). DEQ hereby assesses a \$4,500 civil  
10 penalty for these violations.

11           2.       Respondent violated Condition 37 of the Permit by failing to report the VE survey  
12 deviations of the Permit to DEQ, within 15 days of occurrence, as further described in Section II,  
13 Paragraphs 6 and 7 above. These are Class II violations according to OAR 340-012-0054(2)(b).  
14 DEQ has not assessed a civil penalty for these violations.

### 15                                 V. ORDER TO PAY CIVIL PENALTY

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

18                         Pay a total civil penalty of \$4,500. The determination of the civil penalty is attached  
19 as Exhibit 1 and is incorporated as part of this Notice.

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

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

24           You have a right to a contested case hearing on this Notice, if you request one in writing.  
25 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive  
26 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this  
27 Notice or attached exhibit, you must do so in your request for hearing, as factual matters not

1 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.  
2 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your  
3 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**  
4 **600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to  
5 [DEQappeals@deq.state.or.us](mailto:DEQappeals@deq.state.or.us). An administrative law judge employed by the Office of  
6 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter  
7 340, and Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an  
8 attorney at the hearing, however you are not required to be. If you are an individual, you may  
9 represent yourself. If you are a corporation, partnership, limited liability company,  
10 unincorporated association, trust or government body, you must be represented by an attorney or  
11 a duly authorized representative, as set forth in OAR 137-003-0555.

12 Active duty service members have a right to stay proceedings under the federal Service  
13 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
14 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
15 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
16 Department does not have a toll-free telephone number.

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

23  
24 10 / 15 / 2021  
25 Date


24   
25 Kieran O'Donnell, Manager  
26 Office of Compliance and Enforcement  
27

EXHIBIT 1

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

- VIOLATION NO. 1: Failing to conduct weekly VE surveys of the plant site, in violation of Condition 5 of Respondent's Oregon Title V Operating Permit.
- CLASSIFICATION: These are Class II violations pursuant to OAR 340-012-0054(2)(b).
- 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 operates the facility under an Oregon Title V Operating 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 2 according to OAR 340-012-0145(4)(b) because there was more than one but less than seven occurrences of the violation. Respondent missed one weekly VE survey of the plant site during the week of July 13, 2020 to July 17, 2020, and one weekly VE survey of the plant site during the week of July 20, 2020 to July 24, 2020, for a total of two occurrences.
- "M" is the mental state of Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. Condition 5 of the Permit expressly requires that Respondent conduct weekly VE surveys of the plant site. On September 25, 2019, DEQ issued Respondent a warning letter for failing to conduct or document VE surveys of the plant site in a manner that complied with EPA Method 22. By failing to take adequate measures to ensure that going forward, Respondent conducted and documented VE surveys in compliance with the Permit, Respondent failed to take reasonable care to avoid the foreseeable risk Respondent would again violate its Permit.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure the violation would not be repeated. Respondent has instituted new and additional calendaring requirements for staff and managerial reporting duties to ensure VE surveys are not missed and that any deviations of the Permit are reported timely 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 \$0 as any economic benefit derived from failing to miss one monitoring event is likely to be de minimis.

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

$$\begin{aligned} &= \$3,000 + [(0.1 \times \$3,000) \times (0 + 0 + 2 + 4 + -1)] + \$0 \\ &= \$3,000 + (300 \times 5) + \$0 \\ &= \$3,000 + \$1,500 + \$0 \\ &= \$4,500 \end{aligned}$$