



Oregon

Kate Brown, Governor

Department of Environmental Quality

Office of Compliance and Enforcement

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5382

FAX (503) 229-5787

TTY 711

December 4, 2018

CERTIFIED MAIL No. 7016 0750 0000 3470 3715

Roseburg Forest Products Co.
c/o Paul Martin Daley, Registered Agent
3660 Gateway Street
Springfield, OR 97477

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/V-WR-2018-088

This letter is to inform you that DEQ has issued you a \$18,704 civil penalty for combusting wash water from your hardboard/plywood priming line in your hogged fuel boiler without properly documenting how the wash water was processed or otherwise met the non-hazardous secondary material legitimacy criteria as a non-waste, in violation of your Title V permit and the National Emission Standards for Hazardous Air Pollutants boiler and process heater rules. The violation occurred at your plywood and veneer manufacturing plant at 3064 Cow Creek Road, Riddle, Oregon. \$10,304 of the civil penalty represents the economic benefit for avoiding transportation and disposal costs for the wash water during the period of violation.

DEQ issued this penalty because this standard is a national emission standard for hazardous air pollutants (NESHAP) requirement. This NESHAP was promulgated by the federal government and adopted by Oregon to ensure that all materials combusted in a boiler meet specific criteria to protect air quality and ensure that wastes are properly identified and disposed of to prevent the formation of hazardous air pollutant emissions when wastes are combusted. Many hazardous air pollutants are known or suspected carcinogens and can cause other serious health effects.

DEQ appreciates your efforts to minimize the effects of the violation by immediately ceasing burning wash water in the boiler once discovered, arranging for collection and disposal of the wash water and training staff regarding which materials may or may not be burned in the boiler. DEQ considered these efforts 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 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

Enclosures

cc: Janice Tacconi, Western Region, Medford Office, DEQ
Claudia Davis, Western Region, Salem Office, DEQ
Julie Cheney, Accounting, DEQ
Donald Hendrix, AQ, DEQ
Tate Muir, Roseburg Forest Products Co., PO Box 1088, Riddle, OR 97470

1 materials meet each of the legitimacy criteria as a non-waste under 40 CFR 241.3(d)(1); keep
2 records documenting how the operations that produced the fuel satisfy the definition of
3 processing in 40 CFR 241.2; document how the fuel satisfies the requirements of the non-waste
4 determination petition under 40 CFR 241.3(c); or, keep records documenting that materials
5 combusted are listed as a non-waste under 40 CFR 241.4(a).

6 6. From approximately January 31, 2017 to May 22, 2017, employees at the Facility
7 intermittently mixed wash water from the Facility's hardboard/plywood prime line with boiler
8 hog fuel which was then combusted in Boiler 1 at the Facility.

9 7. Respondent failed to identify and keep records either documenting how the wash
10 water was processed or otherwise met the non-hazardous secondary material legitimacy criteria
11 as a non-waste in accordance with 40 CFR 241(3)(b) or (c), 40 CFR 241.3(d)(1) or 40 CFR
12 241.4(a).

13 III. CONCLUSION

14 Respondent violated Condition 18 of the Permit and 40 CFR 63.7555(d)(2), adopted and
15 incorporated by reference in OAR 340-244-0220(1), adopted pursuant to ORS 468A.025, by
16 combusting the prime line wash water in Boiler 1 without keeping records or documenting how
17 the wash water was processed or otherwise met the non-hazardous secondary material legitimacy
18 criteria as a non-waste in accordance with 40 CFR 241(3)(b) or (c), 40 CFR 241.3(d)(1) or 40
19 CFR 241.4(a), as further described in Paragraphs 6 and 7 above. This is a Class I violation
20 according to OAR 340-012-0054(1)(i). DEQ hereby assesses a \$18,704 civil penalty for this
21 violation.

22 IV. ORDER TO PAY CIVIL PENALTY

23 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
24 hereby ORDERED TO: Pay a total civil penalty of \$18,704. The determination of the civil
25 penalty is attached as Exhibit No. 1 and is incorporated as part of this Notice.

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1 If you do not file a request for hearing as set forth in Section V below, your check or
2 money order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ,**
3 **Business Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.** Once you
4 pay the penalty, the Findings of Fact, Conclusions and Order become final.

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

6 You have a right to a contested case hearing on this Notice, if you request one in writing.
7 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive
8 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this
9 Notice or attached exhibit, you must do so in your request for hearing, as factual matters not
10 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
11 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
12 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
13 **600, Portland, Oregon 97232,** fax it to **503-229-5100** or email it to
14 **DEQappeals@deq.state.or.us.** An administrative law judge employed by the Office of
15 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
16 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
17 attorney at the hearing, however you are not required to be. If you are an individual, you may
18 represent yourself. If you are a corporation, partnership, limited liability company,
19 unincorporated association, trust or government body, you must be represented by an attorney or
20 a duly authorized representative, as set forth in OAR 137-003-0555.

21 Active duty service-members have a right to stay proceedings under the federal Service
22 Members Civil Relief Act. For more information, please call the Oregon State Bar at 1-800-
23 452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information can be
24 found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services
25 Locator website <http://legalassistance.law.af.mil/content/locator.php>.

26 If you fail to file a timely request for hearing, the Notice will become a final order by
27 default without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing

1 but later withdraw your request, fail to attend the hearing or notify DEQ that you will not be
2 attending the hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3).
3 DEQ designates the relevant portions of its files, including information submitted by you, as the
4 record for purposes of proving a prima facie case.

5
6 12/4/18

7 Date



8 Kieran O'Donnell, Manager
9 Office of Compliance and Enforcement
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EXHIBIT NO. 1

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

VIOLATION: Combusting the prime line wash water in Boiler 1 without keeping records or documenting how the wash water was processed or otherwise met the non-hazardous secondary material legitimacy criteria as a non-waste in accordance with 40 CFR 241(3)(b) or (c), 40 CFR 241.3(d)(1) or 40 CFR 241.4(a), in violation of Condition 18 of the Permit and 40 CFR 63.7555(d)(2).

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

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)(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 2 according to OAR 340-012-0145(2)(a)(C), because Respondent had one Class I violation in Mutual Agreement and Order No. AQ/V-WR-2016-107 issued October 10, 2016.

"H" is Respondent's history of correcting prior significant actions and receives a value -2 according to OAR 340-012-0145(3)(a) because Respondent corrected all violations cited as prior significant actions. According to OAR 340-012-0145(3)(d), this value is increased to -1 because the sum of the "P" and "H" factors may not be less than 1 unless Respondent took extraordinary efforts to correct or minimize the effects of all PSAs. Respondent took reasonable but not extraordinary efforts to correct or minimize the effects of the prior significant action.

"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. Respondent burned hogged fuel that contained mixed in prime line wash water from January 31, 2017 to May 23, 2017.

"M" is the mental state of Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b), because Respondent had constructive knowledge of the requirement. Condition 18 of the Permit expressly requires that Respondent operate Boiler 1 in compliance with the subpart DDDDD requirements.

"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 mitigate the effects of the violation. Once Respondent discovered the violation, it immediately took action to cease burning the wash water in the boiler and arranged for proper storage and disposal. Respondent developed additional training for supervisors, clean-up crews and hog fuel handling personnel about which materials may or may not be mixed in with the hog fuel or otherwise burned in the boiler.

"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 \$10,304. This is the amount of economic benefit Respondent gained by avoiding spending approximately \$15,895 from January 31, 2017, until May 23, 2017, to dispose of its prime line wash water rather than combusting it in the boiler. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$6,000 + [(0.1 \times \$6,000) \times (2 + -1 + 4 + 2 + -3)] + \$10,304$
 $= \$6,000 + (600 \times 4) + \$10,304$
 $= \$6,000 + \$2,400 + \$10,304$
 $= \$18,704$