



# Oregon

Tina Kotek, 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

February 23, 2023

CERTIFIED MAIL No. 7018 1830 0001 6172 7479

CPI Salem One LLC  
c/o Registered Agent Solutions, Inc., Registered Agent  
8130 SW Beaverton-Hillsdale Hwy.  
Portland, OR 97225

Re: Notice of Civil Penalty Assessment and Order  
Case No. AQ/ACDP-WR-2022-081

This letter is to inform you that DEQ has issued you a civil penalty of \$3,200 for failing to submit a 2021 annual report to DEQ for your electrical power production operation at 5475 Gaffin Road SE, Salem, Oregon, as required by your Air Contaminant Discharge Permit.

DEQ issued this penalty because annual reports are an important mechanism for DEQ to determine whether sources of air contaminants are operating within the conditions and limits of permits. Without the report, DEQ is unable to determine the compliance status of your facility to ensure emissions are within levels that do not pose harm to the public's health or the environment.

Included in Section IV of the attached Notice is an order requiring you to submit a complete 2021 annual report to DEQ within 30 days of the order becoming final.

You can pay the penalty by sending a check or money order to the address below. 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 – 503-229-5100

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.

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

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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 Jenny Root at 503-229-5874 or toll-free in Oregon at 800-452-4011, extension 5874.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kieran O'Donnell".

Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Peter Susi, Western Region, Salem Office, DEQ  
Donald Hendrix, AQ, DEQ  
Accounting, DEQ  
Evin Feliciano, CPI Salem One LLC, 195 North St., Suite 100, Teterboro, NJ 07608





1 **600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to  
2 [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov). An administrative law judge employed by the Office of  
3 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter  
4 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an  
5 attorney at the hearing, however you are not required to be. If you are an individual, you may  
6 represent yourself. If you are a corporation, partnership, limited liability company,  
7 unincorporated association, trust or government body, you must be represented by an attorney or  
8 a duly authorized representative, as set forth in OAR 137-003-0555.

9 Active-duty service members have a right to stay proceedings under the federal Service  
10 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
11 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
12 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
13 Department does not have a toll-free telephone number.

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

20  
21 2/23/2023  
22 Date


21   
22 Kieran O'Donnell, Manager  
23 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 submit to DEQ, the 2021 annual report for Respondent's facility, in violation of Condition 8.2 of AQGP-018 and OAR 340-214-0114(1) and (2).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0054(2)(f).

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 operates the Facility under a General Air Contaminant Discharge Permit and is not listed under another penalty matrix.

"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 0 according to OAR 340-012-0145(4)(a), because there was one occurrence of the violation. Respondent failed to submit one (2021) annual report.

"M" is the mental state of the Respondent and receives a value of 4 pursuant to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. Respondent's Permit expressly requires Respondent to submit an annual report to DEQ by February 15th of each year. DEQ notified Respondent in an April 27, 2022, Warning Letter with Opportunity to Correct and in a May 20, 2022, Pre-Enforcement Notice, that Respondent's 2021 annual report was past due. By failing to take adequate measures to ensure the 2021 annual report would be submitted timely to DEQ, Respondent failed to take reasonable care to avoid a foreseeable risk that Respondent would violate the Permit and Oregon law.



"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 submitted a 2021 annual report to DEQ.

"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:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 0 + 4 + 2)] + \$0$   
 $= \$2,000 + (200 \times 6) + \$0$   
 $= \$2,000 + \$1,200 + \$0$   
 $= \$3,200$