



Oregon

Kate Brown, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
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TTY 711

October 18, 2022

CERTIFIED MAIL: 7020 2450 0000 3349 5420

YiFang USA Inc.
136 N Grand Ave #148
West Covina CA 91791

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ-EC-NWR-2021-138

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$1,650 for failing to register brands of covered electronic devices sold or offered for sale in or into Oregon.

DEQ issued this penalty because Oregon's Electronics Recycling Law requires manufactures of computers and other covered electronic devices sold in Oregon to participate in an approved Oregon E-Cycles recycling program in order to improve the design and recycling of electronics, which contain hazardous substances. Responsible recycling of electronic devices protects human health and the environment from these potentially toxic hazardous substances. Yi Fang offered covered devices for sale in Oregon in at least 2018 and 2019. DEQ issued Yi Fang two Warning Letters with Opportunity to Correct in 2019 and 2021, as well as a Pre-Enforcement Notice in 2021, but as of the date of this Notice, Yi Fang has not yet complied.

Included in Section IV of the attached Notice is an order requiring you to submit registration and market share forms to DEQ for 2018-2022 and pay the invoiced fees. If you need assistance obtaining the forms or completing these requirements, please contact Lauren Royer at 503-229-5055 or ecycle.info@deq.oregon.gov.

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

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>.

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 Sarah Wheeler at 971-301-0622.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

cc: Lauren Royer, DEQ
Cheryl Grabham, DEQ
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 YIFANG USA INC.,) ASSESSMENT AND ORDER
5 doing business as E FUN,)
Respondent.) CASE NO. LQ-EC-NWR-2021-138

6 I. AUTHORITY

7 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
8 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
9 459A, ORS Chapter 183, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011 and 012.

10 II. FINDINGS OF FACT

- 11 1. Respondent manufactures and sells electronic devices.
- 12 2. On or about at least 2017-2019, Respondent sold portable computers in Oregon, and
13 offered portable computers for sale in Oregon.
- 14 3. Respondent registered with DEQ to sell electronic devices in Oregon in 2017.
- 15 4. Respondent did not register with DEQ to sell or offer for sale electronic devices in 2018,
16 as provided in ORS 459A.315(1), before December 31, 2017.
- 17 5. Respondent did not register with DEQ to sell or offer for sale electronic devices in 2019,
18 as provided in ORS 459A.315(1), before December 31, 2018.
- 19 6. Respondent has not notified DEQ that Respondent ceased manufacturing electronic devices
20 and offering them for sale in Oregon.

21 III. CONCLUSIONS

22 Respondent violated ORS 459A.315(1) by failing to timely register covered electronic devices, as
23 defined in ORS 459A.305(4)(a), offered for sale in Oregon. Respondent is a manufacturer, as defined in
24 ORS 459A.305(7)(a)(A) or (B), because Respondent manufactures covered electronic devices under a
25 brand that it owns or is licensed to use, or Respondent sells covered electronic devices manufactured by
26 others under a brand that Respondent owns. In at least 2018 and 2019, Respondent sold, and offered for
27 sale, covered electronic devices in Oregon, but did not register with DEQ for those years. These are

1 Class II violations, according to OAR 340-012-0053(2). DEQ hereby assesses a \$1,650 civil penalty for
2 these violations.

3 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

6 1. Pay a total civil penalty of \$1,650. The determination of the civil penalty is attached as Exhibit
7 1 and is incorporated as part of this Notice.

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

11 2. Within 30 days of this order becoming final by operation of law or on appeal, send
12 registration forms for 2018-2022, and corresponding market share forms, to Oregon E-Cycles Program,
13 Oregon Department of Environmental Quality, 700 NE Multnomah St., Suite 600, Portland OR 97232.
14 After receipt of registration and recycling invoices from DEQ, pay those invoices when due as stated
15 on the invoices.

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

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

1 you may represent yourself. If you are a corporation, partnership, limited liability company,
2 unincorporated association, trust or government body, you must be represented by an attorney or a duly
3 authorized representative, as set forth in OAR 137-003-0555.

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

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

15
16
17
18 10 / 18 / 2022
19 Date



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 Failing to timely register covered electronic devices offered for sale in Oregon in violation of ORS 459A.315(1).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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 \$750 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(A) because Respondent 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 the same 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 offered devices for sale in Oregon in 2018 and 2019 without registering before January 1, of each year. Registration for 2018 was due December 31, 2017, and registration for 2019 was due December 31, 2018. Therefore, there were at least two occurrences of the violation.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent acted or failed to act intentionally with actual knowledge of the requirement. DEQ sent Warning Letters in May and June 2019, and then a Pre-Enforcement Notice on April 13, 2021, all citing the violation and requesting corrective action. Despite these notices, Respondent has not taken any action to correct the violations.

"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).

"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 determined that any economic benefit gained as a result of failing to timely register in this case would be de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$750 + [(0.1 \times \$750) \times (0 + 0 + 2 + 8 + 2)] + \0
 $= \$750 + (\$75 \times 12) + \$0$
 $= \$750 + \$900 + \$0$
 $= \$1,650$