



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
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January 23, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6537 62

Owens-Brockway Glass Container, Inc.
CT Corporation System, Registered Agent
780 Commercial Street SE, Suite 100
Salem, OR 97301

Re: Final Order and Stipulated Penalty Demand Notice
Case No. AQ-TV-NWR-2023-149

This letter is to inform you that the Department of Environmental Quality (DEQ) has issued Owens-Brockway Glass Container, Inc. (Owens-Brockway) a Final Order and Stipulated Penalty Demand Notice in the amount of \$54,000 for violations of the Mutual Agreement and Final Order (the MAO) the company signed with DEQ on October 21, 2021 for its glass manufacturing facility at 9710 NE Glass Plant Road in Portland, Oregon. Specifically, Owens-Brockway violated the MAO interim opacity limit (8.5% for a three-hour block) on three occasions in June 2023.

The high opacity levels at the facility, as well as noncompliance with a state particulate matter limit, have been addressed by a compliance schedule in the MAO to install catalytic ceramic filter pollution controls. The controls must reduce filterable particulate matter emissions by 95%, and will also reduce associated toxic air contaminants, sulfur dioxide (SO₂) and nitrogen oxides (NO_x).

Owens-Brockway's glass making furnace has been in a hot hold status since July 21, 2023. DEQ expects particulate matter and opacity to be significantly reduced as a result the furnace's status. The MAO, as amended, requires Owens-Brockway to complete the controls project by June 30, 2024, and to begin operating the controls on that date or when the facility resumes normal glass manufacturing, whichever comes later. Until the controls are operating, DEQ is committed to enforcing the requirements of the MAO, including the interim opacity limit, as a mechanism to encourage Owens-Brockway to operate the facility in a manner that minimizes particulate matter emissions.

As described in the MAO, upon receipt of a written notice from DEQ for certain specified violations of the MAO and Title V Permit, Owens-Brockway is required to pay stipulated penalties for each violation. This letter and the attached Order serve as notice that the violations occurred, the penalty for the violations is \$54,000, and is now due.

Please be advised that further violations of MAO or the Permit are subject to additional civil penalties.

Your right to appeal the Order is outlined in the enclosed document as well as in the MAO.

If you have any questions about the attached Order please contact Becka Puskas in DEQ's Office of Compliance and Enforcement at 503-229-5058.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosure

cc: Geoff Tichenor, Stoel Rives LLP, 760 SW Ninth Avenue, Suite 3000, Portland OR 97205
John Cayton, Senior Environmental Attorney, Owens-Brockway Glass Container, Inc., 9710 NE Glass Plant Road, Portland, OR 97220
Jacob Wendler, Owens-Brockway Glass Container, Inc., 9710 NE Glass Plant Road, Portland, OR 97220
Weston Li, DEQ
Josh Alexander, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

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2
3 IN THE MATTER OF:) FINAL ORDER AND STIPULATED
4 OWENS-BROCKWAY GLASS) PENALTY DEMAND NOTICE
5 CONTAINER, INC.,)
6 Respondent.) CASE NO. AQ-TV-NWR-2023-149

7 I. FINDINGS OF FACT AND CONCLUSIONS

8 1. Respondent operates a glass manufacturing facility at 9710 NE Glass Plant Road in
9 Portland, Oregon (the Facility) pursuant to Oregon Title V Operating Permit No. 26-1876-TV-01
(the Permit).

10 2. On October 22, 2021, Respondent and the Department of Environmental Quality (DEQ)
11 entered into Mutual Agreement and Final Order No. AQ/V-NWR-2020-208 (the MAO).

12 3. Section II, Paragraph 3.c.i of the MAO requires Respondent to “Comply with the following
13 interim limit: the average opacity of Furnace D emissions, as measured by the COMS [Continuous
14 Opacity Monitoring System], must not exceed 8.5%, excluding any uncombined water, for any
15 three hour block period (i.e., the average of the thirty consecutive six-minute periods within the
16 block must not exceed 8.5%).”

17 4. During three three-hour block periods in June 2023, the average opacity of Furnace D
18 emissions, as measured by the COMS, exceeded 8.5%. Specifically, the average opacity of Furnace
19 D emissions, as measured by the COMS, exceeded 8.5% from 00:00:00 to 05:59:59 on June 19,
20 2023 (two three hour block averages) and from 12:00:00 to 14:59:59 on June 24, 2023.

21 5. On three occasions on in June 2023, Respondent violated Section II, Paragraph 3.c.i of the
22 MAO. These are Class I violations according to OAR 340-012-0053(1)(a).

23 6. As stated in Section I, Paragraph 15.b of the MAO, Respondent is required to pay \$18,000 for
24 each violation (each three hour block period over the interim limit) of the interim limit in Section II,
25 paragraph 3.c.i of the MAO.

26 7. The penalty for Respondent’s three violations of the interim opacity limit described in Section
27 I, paragraph 6, above, is \$54,000.

1 II. ORDER TO PAY CIVIL PENALTY

2 Based upon the foregoing FINDINGS OF FACT AND CONCLUSIONS, Respondent is
3 hereby ORDERED TO: Pay a total civil penalty of \$54,000.

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


7 III. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

8 You have a right to a contested case hearing on this Final Order and Stipulated Penalty
9 Demand Notice. **As described in Section I, paragraph 18 of the MAO, the issue shall be**
10 **limited to Respondent's compliance or non-compliance with the MAO or Respondent's**
11 **compliance or non-compliance with the Permit, as applicable.** DEQ must receive the written
12 request for hearing **within 20 calendar days** from the date you receive this Final Order and
13 Stipulated Penalty Demand Notice. If you have any affirmative defenses or wish to dispute any
14 allegations of fact in this Order, you must do so in your request for hearing, as factual matters not
15 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
16 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
17 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
18 **600, Portland, Oregon 97232**, fax it to **503-229-6762** or email it to
19 **DEQappeals@deq.oregon.gov**. An administrative law judge employed by the Office of
20 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
21 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
22 attorney at the hearing, however you are not required to be. If you are an individual, you may
23 represent yourself. If you are a corporation, partnership, limited liability company,
24 unincorporated association, trust or government body, you must be represented by an attorney or
25 a duly authorized representative, as set forth in OAR 137-003-0555.

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

6 If you fail to file a request for hearing in writing within 20 calendar days of receipt of this
7 Order, the Order will become a final order by default without further action by DEQ as per OAR
8 340-011-0535(5). DEQ designates the relevant portions of its files, including information
9 submitted by you, as the record for purposes of proving a prima facie case.
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13 1 / 23 / 2024
14 Date


15 Kieran O'Donnell, Manager
16 Office of Compliance and Enforcement
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