



Oregon

Tina Kotek, 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

June 27, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6533 35

Reworld Marion, Inc.
c/o CT Corporation System, Registered Agent
780 Commercial Street SE, Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/V-WR-2024-022

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a \$22,800 civil penalty for violations of your Oregon Title V Operating Permit (Title V Permit) for your municipal waste incineration facility at 4850 Brooklake Road NE in Brooks, Oregon. Specifically, at various times between 2022 and 2024, you exceeded the carbon monoxide, opacity or sulfur dioxide emission limits for your municipal solid waste combustors in your Title V Permit. The attached Notice of Civil Penalty Assessment and Order (Notice) also cites you, without penalty, for exceeding the maximum inlet temperature to a municipal waste combustor baghouse and for operating the dry activated carbon injection system for Municipal Waste Combustor Unit 2 at a carbon feed rate less than the required minimum standard in the Title V Permit.

DEQ issued this penalty because the emission limits in your Title V Permit are set to ensure the facility's emissions are protective of human health and the environment. Increased sulfur dioxide emissions can contribute to respiratory illness and aggravate existing heart and lung conditions. Sulfur dioxide also damages trees and plants, inhibits plant growth, and can damage sensitive ecosystems and waterways.

Opacity (visible emissions) is an indicator of particulate matter emission levels. Particulate matter, when emitted in excess, can contribute to respiratory distress in individuals. Once inhaled, particulate matter can affect the heart and lungs, causing serious health problems such as decreased lung function, irregular heartbeat and chronic bronchitis. Additionally, increased particulate matter from your operation may increase filterable hazardous air pollutants and other air toxic emissions.

The carbon monoxide standard in your Title V permit is derived from the U.S. EPA's Emissions Guidelines for existing municipal waste combustor units and has also been adopted by Oregon to protect public health and the environment. Higher levels of carbon monoxide associated with poor combustion can lead to the formation of air toxics which can cause adverse health effects.

Included in Section IV of the enclosed Notice is an order requiring that you submit to DEQ a baghouse operations and maintenance plan within 30 days of the order becoming final to inform DEQ how you will prevent future visible emission limit violations from occurring. DEQ appreciates your continued monitoring and prompt responses to the sulfur dioxide and carbon monoxide limit exceedances.

You can pay the penalty by sending a check or money order to the address below. Please include the case number on the check. 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.

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 Jenny Root at 503-229-5874.

Sincerely,



Becca Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Mike Eisele, Western Region, Salem Office, DEQ
Zach Loboy, Western Region, Salem Office, DEQ
Accounting, DEQ
Donald Hendrix, AQ, HQ DEQ
Steven Nipp, Facility Manager, Reworld Marion, Inc.
4850 Brooklake Road NE, Brooks, OR 97305

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 REWORLD MARION, INC.,) ASSESSMENT AND ORDER
5 an Oregon corporation,) CASE NO. AQ/V-WR-2024-022
6 Respondent.)

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 and 468.126 through 468.140,
9 ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011,
10 012, 200, 218, and 230.

11 II. FINDINGS OF FACT

- 12 1. Respondent owns and operates a solid waste incineration facility at 4850 Brooklake
13 Road NE, Brooks, Oregon (the Facility).
- 14 2. On September 16, 2020, the Department of Environmental Quality (DEQ) issued
15 Oregon Title V Operating Permit No. 24-5398-TV-01 (the Permit) to Respondent under Respondent’s
16 previous name, Covanta Marion, Inc. The Permit was in effect at all material times.
- 17 3. The Permit authorizes Respondent to discharge air contaminants from the Facility in
18 conformance with the requirements, limitations and conditions set forth in the Permit.
- 19 4. The Facility includes two waste-to-energy boilers identified in the Permit as Municipal
20 Waste Combustor Units 1 and 2 or “MWC-1” and “MWC-2”. Both MWC-1 and MWC-2 are equipped
21 with a spray dryer absorber (SDA) for acid gas removal, a selective non-catalytic reduction (SNCR)
22 system to control nitrogen oxide emissions, a dry activated carbon injection system to control mercury
23 emissions and a fabric filter baghouse to control particulate matter (PM) emissions.
- 24 5. Condition 24 of the Permit prohibits Respondent from emitting carbon monoxide (CO)
25 from MWC-1 or MWC-2 in excess of 100 parts per million (ppm) corrected to 7 percent (%) oxygen as
26 a 4-hour block arithmetic average.

27 ///

1 6. On June 12, 2022, and on March 18, 2024, Respondent's CO emissions from MWC-2
2 exceeded 100 ppm corrected to 7% oxygen as a 4-hour block arithmetic average as follows:

3 a. On June 12, 2022, CO emissions from MWC-2 were 150 ppm corrected to 7%
4 oxygen, for the 4-hour block average from 8:00 a.m. to 12:00 p.m.

5 b. On March 10, 2024, CO emissions from MWC-2 were 112 ppm corrected to 7%
6 oxygen, for the 4-hour block average from 12:00 p.m. to 4:00 p.m.

7 7. Condition 13 of the Permit prohibits Respondent from allowing visible emissions from
8 MWC-1 or MWC-2 to exceed 10% opacity as a 6-minute average.

9 8. On or about February 17, 2023, March 29, 2023, May 19, 2023, and May 25, 2023,
10 Respondent's visible emissions from MWC-1 or MWC-2 were as follows:

11 a. On February 17, 2023, from 2:48 a.m. to 2:54 a.m., visible emissions from
12 MWC-2 were 11% opacity as a 6-minute average.

13 b. On March 29, 2023, from 6:12 p.m. to 6:18 p.m., visible emissions from MWC-1
14 were 12% opacity as a six-minute average, and from 7:18 p.m. to 7:24 p.m., visible emissions from
15 MWC-1 were 24% opacity as a 6-minute average.

16 c. On May 19, 2023, from 4:30 p.m. to 4:36 p.m., visible emissions from MWC-1
17 were 23% opacity as a 6-minute average and from 4:36 p.m. to 4:42 p.m., visible emissions from
18 MWC-1 were 13% opacity as a 6-minute average.

19 d. On May 25, 2023, for 31 6-minute block averages between 1:42 a.m. and 11:30
20 a.m., visible emissions from MWC-1 exceeded 10% opacity, with a maximum 6-minute average of
21 20% opacity.

22 9. In October 2022, Respondent conducted annual emissions testing on MWC-2 to
23 determine compliance with the dioxin/furan emission limit and the mercury emission limit (2022
24 performance test). In accordance with Condition 62 of the Permit, the dioxin/furan test results
25 established a new 4-hour block average maximum demonstrated PM control device temperature limit
26 of 311 degrees Fahrenheit (°F) for the baghouse controlling PM emissions from MWC-2.

27 ///

1 10. Condition 27 of the Permit prohibits Respondent from operating MWC-1 or MWC-2 at
2 a temperature, measured at the PM control device (baghouse) inlet, that exceeds 30°F above the
3 maximum demonstrated PM control device temperature as determined by Condition 62 of the Permit.

4 11. On April 20, 2023, and August 9, 2023, Respondent's inlet temperature of the baghouse
5 controlling PM emissions from MWC-2 exceeded the allowable maximum 4-hour block average
6 temperature as follows:

7 a. On April 20, 2023, Respondent's inlet temperature of the MWC-2 baghouse had
8 a 4-hour block average temperature of 357°F from 12:00 p.m. to 4:00 p.m.

9 b. On August 9, 2023, Respondent's inlet temperature of the MWC-2 baghouse had
10 a 4-hour block average temperature of 452°F from 4:00 p.m. to 8:00 p.m. and 400°F from 8:00 p.m. to
11 12:00 p.m.

12 12. In accordance with Condition 63 of the Permit, the October 2022 performance test also
13 established a new minimum 8-hour block average carbon feed rate of 9.2 pounds per hour (lbs./hr) for
14 the dry activated carbon injection system controlling mercury emissions from MWC-2.

15 13. Condition 28 of the Permit prohibits Respondent from operating MWC-1 or MWC-2 at
16 a carbon feed rate less than the minimum carbon feed rate determined by Condition 63 of the Permit.
17 The averaging time must be an 8-hour block arithmetic average.

18 14. On August 9, 2023, from 4:00 p.m. to 12:00 a.m., Respondent's 8-hour block average
19 carbon feed rate for the dry activated carbon injection system controlling mercury emissions from
20 MWC-2 was 0.00 lbs./hr.

21 15. Condition 20 of the Permit prohibits Respondent from emitting sulfur dioxide (SO₂)
22 from MWC-1 or MWC-2 in excess of 29 parts per million by volume dry basis (ppmvd) or 25% of the
23 potential SO₂ emission concentration (75% reduction by weight or volume), corrected to 7% oxygen
24 (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily
25 geometric mean.

26 16. On January 14, 2024, Respondent's 24-hour geometric mean for SO₂ emissions from
27 MWC-2 were 33 ppmvd corrected to 7% oxygen and had a 1.1% reduction in sulfur emissions.

1 III. CONCLUSIONS

2 1. On June 12, 2022, and March 10, 2024, Respondent violated Condition 24 of the Permit,
3 OAR 340-218-0240(1) and ORS 468A.045(2) by emitting CO from MWC-2 in excess of 100 ppm
4 corrected to 7% oxygen as a 4-hour block arithmetic average, as further described in Section II,
5 Paragraphs 5 and 6.a and 6.b above. These are Class II violations according to OAR 340-012-
6 0054(2)(b). DEQ hereby assesses a \$5,700 civil penalty for these violations.

7 2. On February 17, 2023, March 29, 2023, May 19, 2023, and May 25, 2023, Respondent
8 violated Condition 13 of the Permit, OAR 340-218-0240(1) and ORS 468A.045(2) by allowing visible
9 emissions from MWC-1 or MWC-2 to exceed 10% percent opacity as a 6-minute average, as further
10 described in Section II, Paragraph 7 and Paragraphs 8.a. through 8.d above. These are Class II violations
11 according to OAR 340-012-0054(2)(d). DEQ hereby assesses a \$12,600 civil penalty for these violations.

12 3. On April 20, 2023 and August 9, 2023, Respondent violated Condition 27 of the Permit
13 and OAR 340-218-0240(1) by operating MWC-2 with an inlet temperature to the baghouse that was 30°F
14 or more above the 311°F-maximum 4-hour average demonstrated PM control device temperature set in
15 accordance with Condition 62 of the Permit, as further described in Section II, Paragraphs 9 through
16 11.a and 11.b above. These are Class II violations according to OAR 340-012-0054(2)(b). DEQ has not
17 assessed a penalty for these violations.

18 4. On August 9, 2023, Respondent violated Condition 28 of the Permit and OAR 340-218-
19 0240(1) by operating the dry activated carbon injection system controlling emissions from MWC-2 at a
20 feed rate less than 9.2 lbs/hr as an 8-hour block average as further described in Section II, Paragraphs
21 12 through 14 above. This is a Class II violation according to OAR 340-012-0054(2)(b). DEQ has not
22 assessed a penalty for this violation.

23 5. On January 14, 2024, Respondent violated Condition 20 of the Permit, OAR 340-218-
24 0240(1) and ORS 468A.045(2) by emitting SO₂ from MWC-2 in excess of 29 ppmvd or 25% of the
25 potential SO₂ emission concentration corrected to 7% oxygen on a 24-hour daily geometric mean as
26 further described in Section II, Paragraphs 15 and 16 above. This is a Class II violation according to
27 OAR 340-012-0054(2)(b). DEQ hereby assesses a \$4,500 civil penalty for this violation.

1 IV. ORDER TO PAY CIVIL PENALTY AND COMPLY

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

4 1. Pay a total civil penalty of \$22,800. The determination of the civil penalty is attached as
5 Exhibits 1 through 3 and is incorporated as part of this Notice.

6 2. Within 30 days of this order becoming final by operation of law or on appeal, submit to
7 DEQ a written baghouse operations and maintenance plan that describes how Respondent operates and
8 maintains its baghouses and the bags therein to function properly as designed, inspect and replace failing
9 or faulty bags, to prevent bags from becoming unseated, and to provide ongoing control of PM emissions
10 and prevent excess PM emissions.

11 3. Submit the baghouse operations and maintenance plan to: **Mike Eisele, DEQ Western**
12 **Region, 4026 Fairview Industrial Drive SE, Salem, OR 97302 or by email to**
13 **mike.eisele@deq.oregon.gov**.

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

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

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

1 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
2 you may represent yourself. If you are a corporation, partnership, limited liability company,
3 unincorporated association, trust or government body, you must be represented by an attorney or a duly
4 authorized representative, as set forth in OAR 137-003-0555.

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

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

16
17 6/27/2024
18 Date

16
17 Rebecca Z Puskas
18 Becka Puskas, Interim 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 Emitting CO from MWC-2 in excess of 100 ppm corrected to 7% oxygen as a 4-hour block arithmetic average, in violation of Condition 24 of the Permit and OAR 3340-218-0240(1) and ORS 468A.045(2).

CLASSIFICATION: This is a Class II violation 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 has a Title V 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 the same Respondent and receives a value of 3 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent had one Class I violation and two Class II violations (Class I equivalent) in Notice of Civil Penalty Assessment and Order No. AQ/V-WR-2021-105 issued on January 28, 2022.

"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 insufficient information on which to base a finding.

"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 were more than one but less than seven occurrences of the violation. Respondent exceeded the CO limit on June 12, 2022, and March 10, 2024, for a total of two occurrences.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. According to OAR 340-012-0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. As a Permittee, Respondent is expected to understand and comply with the requirements of the Permit,

including the Condition 24 requirement to limit CO emissions from the municipal waste combustor units to 100 ppm. These violations occurred because of fuel issues resulting in poor combustion in MWC-2. By failing to take reasonable care to manage the fuel feed and adjust proper airflow to limit CO emissions, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation of the Permit and Oregon law.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because once they occurred, the violation or the effects of the violation (excess emissions) could not be corrected or minimized. Respondent noted high levels of CO emissions in its CEMs and responded promptly. Each violation was limited to one 4-hour block period.

"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 any economic benefit that Respondent gained as a result of the violation is de minimis.

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

$$\begin{aligned} &= \$3,000 + [(0.1 \times \$3,000) \times (3 + 0 + 2 + 4 + 0)] + \$0 \\ &= \$3,000 + (\$300 \times 9) + \$0 \\ &= \$3,000 + \$2,700 + \$0 \\ &= \$5,700 \end{aligned}$$

EXHIBIT 2

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

VIOLATION NO. 2 Allowing visible emissions from MWC-1 or MWC-2 to exceed 10% opacity as a 6-minute average in violation of Condition 13 of the Permit, OAR 340-218-0240(1) and ORS 468A.045(2).

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

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(1)(a)(A) because the violations are opacity violations by a federal major source as defined in OAR 340-200-0020.

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 II, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent has a Title V 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 the same Respondent and receives a value of 3 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent had one Class I violation and two Class II violations (Class I equivalent) in Notice of Civil Penalty Assessment and Order No. AQ/V-WR-2021-105 issued on January 28, 2022.

"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 insufficient information on which to base a finding.

"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 exceeded the opacity limit for one 6-minute average on February 17, 2023; two 6-minute averages on March 29, 2023; two 6-minute averages on May 19, 2023; and 31 6-minute averages on May 25, 2023, for a total of 36 occurrences. According to OAR 340-012-0145(4) each repeated occurrence of the same violation is a separate occurrence when determining the "O" factor.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. According to OAR 340-012-0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. As a Permittee, Respondent is expected to understand and comply with the requirements of the Permit,

including the Condition 13 requirement to limit visible emissions from MWC-1 and MWC-2 to 10% opacity. The majority of the visible emissions violations were caused by bags breaking or failing in baghouse 1. By failing to take appropriate steps to ensure bags are consistently maintained in good working order, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation of the Permit and Oregon law.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because, once they occurred, the violation or the effects of the violation (excess emissions) could not be corrected or minimized.

"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 any economic benefit that Respondent gained as a result of the violation is de minimis.

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

$$\begin{aligned} &= \$6,000 + [(0.1 \times \$6,000) \times (3 + 0 + 4 + 4 + 0)] + \$0 \\ &= \$6,000 + (\$600 \times 11) + \$0 \\ &= \$6,000 + \$6,600 + \$0 \\ &= \$12,600 \end{aligned}$$

EXHIBIT 3

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

VIOLATION NO. 5 Emitting SO₂ from MWC-2 in excess of 29 ppmvd or 25% of the potential SO₂ emission concentration corrected to 7% oxygen on a 24-hour daily geometric mean, in violation of Condition 20 of the Permit, OAR 340-218-0240(1) and ORS 468A.045(2).

CLASSIFICATION: This is a Class II violation 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 has a Title V 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 the same Respondent and receives a value of 3 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent had one Class I violation and two Class II violations (Class I equivalent) in Notice of Civil Penalty Assessment and Order No. AQ/V-WR-2021-105 issued on January 28, 2022.

"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 insufficient information on which to base a finding.

"O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent exceeded the SO₂ emission limit on one occasion on January 14, 2024.

"M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. As a Permittee, Respondent is expected to understand and comply with the requirements of the Permit, including the Condition 20 requirement to limit SO₂ emissions from MWC-2 to 29 ppmvd or 25% of the potential SO₂ emission concentration corrected to 7% oxygen on a 24-hour daily geometric mean. The violation

occurred when freezing outdoor temperatures froze the lime feed that controls SO₂ emissions from MWC-2. Once identified, Respondent acted promptly to resolve the issue.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because, once they occurred, the violation or the effects of the violation (excess emissions) could not be corrected or minimized.

"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 any economic benefit that Respondent gained as a result of the violation is de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$3,000 + [(0.1 x \$3,000) x (3 + 0 + 0 + 2 + 0)] + \$0
= \$3,000 + (\$300 x 5) + \$0
= \$3,000 + \$1,500 + \$0
= \$4,500