



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

July 25, 2024

CERTIFIED MAIL No. 9589 0710 5270 0688 6534 58

Crash Champions, LLC
C/O C T Corporation System
780 Commercial St SE
Ste 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/ACDP-NWR-2024-023

This letter is to inform you that the Department of Environmental Quality (DEQ) has issued you a civil penalty of \$3,463 for operating a source without a required Air Contaminant Discharge Permit (ACDP). DEQ regulations require a Basic ACDP for auto body paint and repair shops that are located within the Portland Air Quality Maintenance Area, that paint more than 25 automobiles per year, and are not subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) Subpart HHHHHH, which applies to paint stripping and miscellaneous surface coating operations. A General ACDP is required for operations that must comply with the NESHAP.

DEQ issued this penalty because you have not demonstrated to DEQ that the application received meets the requirements for a Basic ACDP despite DEQ's repeated communications with you since April 2023 requesting complete permit application materials. Therefore, DEQ has not been able to issue you a permit. Operating without a required ACDP is a violation of Oregon law. The air emissions regulated under the required ACDP include auto body paint and cleaning solvents, which may contain volatile organic compounds (VOCs). VOCs can irritate human eyes, nose and throat, cause difficulty breathing, nausea, and can damage the central nervous system as well as other organs. VOCs also contribute to the formation of smog and degradation of the airshed.

Included in Section IV of the enclosed Notice is an order requiring that you submit documentation to DEQ demonstrating that your operations in the Portland AQMA are exempt from the NESHAP Subpart HHHHHH or submit a complete application for a General Surface Coating Air Contaminant Discharge Permit. This order applies to three of your Oregon facilities, you must consult Section IV of the Notice for the order's detailed requirements.

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.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 Tori Heroux at 971-808-7046 or at Tori.Heroux@deq.oregon.gov.

Sincerely,



Becca Puskas, Manager
Office of Compliance and Enforcement

Enclosures

cc: Patrick Bristol, Crash Champions LLC, 935 SE 202nd Avenue, Portland, OR 97233
Boris Barrera, Northwest Region, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
CRASH CHAMPIONS LLC.) ASSESSMENT AND ORDER
an Illinois limited liability company,) CASE NO. AQ/ACDP-NWR-2024-023
Respondent.)

I. AUTHORITY

1. This Notice and Order is issued pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 200, 214 and 216.

2. In accordance with OAR 340-216-0020(3), no person may construct, install, establish, develop or operate any air contaminant source listed in OAR 340-216-8010 without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ. Table 1 of OAR 340-216-8010, Part A, Item 1 requires a Basic ACDP for all auto body repair or painting shops that are located within the Portland Air Quality Maintenance Area (AQMA) that paint more than 25 automobiles in a year but are not subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) Subpart HHHHHH. Motor vehicle and mobile equipment surface coating operations not exempt from NESHAP Subpart HHHHHH are required to obtain a General ACDP according to OAR 340-216-8010, Table 1 Part B, Item 53.

3. Federal rule 40 CFR Part 63 Subpart HHHHHH applies to certain paint stripping and miscellaneous surface coating operations that are area sources of Hazardous Air Pollutants (HAPs).

4. Pursuant to OAR 340-214-0110, "All stationary sources must provide in a reasonably timely manner any and all information that DEQ reasonably requires for the purpose of regulating stationary sources. Such information may be required on a one-time, periodic, or continuous basis and may include, but is not limited to, information necessary to: (1) Issue a permit and ascertain compliance or noncompliance with the permit terms and conditions; (2) Ascertain applicability of any requirement; (3) Ascertain compliance or noncompliance with any

1 applicable requirement; and (4) Incorporate monitoring, recordkeeping, reporting, and
2 compliance certification requirements into a permit.”

3 II. FINDINGS OF FACT

4 1. Since October 14, 2022, Respondent has operated an auto body repair and
5 painting shop at 935 SE 202nd Avenue in Portland, Oregon, (the Facility) called “Crash
6 Champions Gresham,” which is located within the Portland AQMA.

7 2. The previous operator of the Facility had a Basic ACDP from DEQ, and on
8 March 27, 2023, Respondent submitted an ACDP transfer application to DEQ.

9 3. Permit Condition 3.5 of the Basic ACDP requires that permittees notify DEQ of
10 any change in ownership within 60 days. If DEQ does not receive notification of the change in
11 ownership, the ACDP expires. Because DEQ did not receive the ACDP transfer application
12 within 60 days of the date Respondent began operations at the Facility, DEQ cancelled the
13 ACDP assigned to the previous operator.

14 4. DEQ emailed Respondent on April 21, 2023 notifying Respondent that the permit
15 assigned to the prior owner had expired, and instructing Respondent to fill out a new ACDP
16 application.

17 5. On October 3, 2023, Respondent submitted a new Basic ACDP application to
18 DEQ, but the application was incomplete because it did not include the required Land Use
19 Compatibility Statement (LUCS) approved by the City of Portland, the complete permit
20 application fees, or documentation demonstrating that the Facility is not subject to the NESHAP
21 Subpart HHHHHH and is therefore eligible for a Basic ACDP. Without the NESHAP exemption
22 information, it is not clear whether Respondent is in fact eligible for a Basic ACDP or is in fact
23 required to hold a General Surface Coating ACDP.

24 6. On November 29, 2023, DEQ issued a Warning Letter with Opportunity to
25 Correct to Respondent, notifying Respondent that failing to submit a complete ACDP application
26 is a violation of DEQ rules. The Warning Letter included a corrective action requiring the
27 submission of a complete ACDP application by December 29, 2023.

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 \$3,463. The determination of the civil penalty is attached
5 as Exhibit No. 1 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, for
7 the Facility (935 SE 202nd Avenue in Portland) and the other two facilities operated by
8 Respondent in the Portland AQMA (Crash Champions Wilsonville located at 27975 SW Parkway
9 Avenue in Wilsonville, and Crash Champions Tigard located at 7585 SW Hunziker Street in
10 Tigard), submit documentation to DEQ demonstrating that each facility is exempt from the
11 requirements of 40 CFR Part 63 Subpart HHHHHH or submit a complete General Surface
12 Coating ACDP application.

13 3. Submit all materials listed above to: **Boris Barrera by email at**
14 **Boris.BARRERA@deq.oregon.gov and by mail at DEQ Northwest Region Office, 700 NE**
15 **Multnomah Street, Portland, OR 97232**, by the above deadline.

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

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

21 You have a right to a contested case hearing on this Notice, if you request one in writing.
22 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive
23 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this
24 Notice or attached exhibit, you must do so in your request for hearing, as factual matters not
25 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
26 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
27 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**

1 **600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to
2 **DEQappeals@deq.state.or.us**. 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, please call the Oregon State Bar at 1-800-
11 452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information can be
12 found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services
13 Locator website <http://legalassistance.law.af.mil/content/locator.php>.

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
22 7/25/2024
23 Date

24
25
26 Rebecca I Puskas
27 Becka Puskas, Interim Manager
Office of Compliance and Enforcement

EXHIBIT NO. 1

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

VIOLATION: Operating without an Air Contaminant Discharge Permit, in violation of ORS 468A.045(1)(b) and OAR 340-216-0020(3).

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

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)(C).

"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 of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each day is a separate occurrence of the violation. Respondent operated the Facility without ACDP coverage from October 14, 2022 to the date of this Notice.

"M" is the mental state and receives a value of 4 according to OAR 340-012-0145(5)(b), because Respondent was negligent. DEQ informed Respondent of the required elements of a complete ACDP application on November 29, 2023, warning Respondent of the missing documents and providing an opportunity to correct. Respondent then received a Pre-Enforcement Notice on January 29, 2024 reiterating the requirements and warning Respondent that official enforcement action may follow. Respondent did not submit the required fees until more than five months later, and still has not submitted the required documentation demonstrating that the facility is exempt from the requirements of NESHAP

Subpart HHHHHH. Thus, Respondent failed to take reasonable care to avoid the foreseeable risk it would violate Oregon law by operating without an ACDP.

"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 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 \$1,963 as that is the cost differential between a Basic ACDP and a General Surface Coating ACDP, and Respondent has not demonstrated that it is eligible for a Basic ACDP rather than a General ACDP.

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 x \$750) x (0 + 0 + 4 + 4 + 2)] + \$1,963
= \$750 + (75 x 10) + \$1,963
= \$750 + \$750 + \$1,963
= \$3,463