



Oregon

Kate Brown, 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

July 10, 2020

CERTIFIED MAIL: 7017 1450 0000 8310 3503

World Class Technology Corporation
c/o Alan Kozlowski, Registered Agent
1300 NE Alpha Dr.
McMinnville, OR 97128

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ/HW-NWR-2020-026

DEQ is committed to balancing its vital obligation to enforce the law and protect the environment with a consideration of the dramatic disruptions to public health and the economy caused by the COVID-19 outbreak. We understand the outbreak may impact your ability to timely appeal, pay the assessed civil penalty, or comply with this order. You may submit to DEQ documentation identifying whether COVID-19-related disruption affects your ability to comply with this order. Visit our webpage <https://www.oregon.gov/deq/Pages/covid-19.aspx> for more information about documenting specific COVID-19 disruptions your facility may be encountering and how that affects your ability to comply. DEQ will exercise reasonable discretion regarding settlement of this order.

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$7,800 for failing to label hazardous waste storage totes with the words "Hazardous Waste" and accumulation start dates. Additionally, your facility failed to conduct weekly inspections of the hazardous waste storage area.

DEQ issued this penalty because proper labeling of hazardous waste containers and weekly inspections are essential to legal and safe management of hazardous waste. DEQ appreciates your efforts to correct the storage of hazardous waste at your facility after DEQ's inspection and considered these efforts when determining the amount of civil penalty.

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 Jeff Bachman at 503-229-5950 or toll free in Oregon at 800-452-4011, extension 5950.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kieran O'Donnell', is written over a horizontal line.

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Dan Lobato, Eugene Office, DEQ
Brian Fuller, Eugene Office, DEQ
Accounting, DEQ

8. On January 8, 2020, DEQ inspected the Facility. At the time of the inspection, Respondent stored approximately 300 gallons of its spent acid wash in in two containers that were not labeled with the words “Hazardous Waste.”

9. 40 CFR 262.34(a)(2) states hazardous waste generators must mark each container of hazardous waste with the date when accumulation of waste in the container began.

10. On January 8, 2020, the two containers of spent acid waste described in paragraph 8 above were not labeled with an accumulation start date.

11. 40 CFR 265.174 states that large quantity generators of hazardous waste must conduct weekly inspections of hazardous waste storage areas.

12. For an unknown period prior to January 8, 2020, Respondent did not conduct weekly inspections of the hazardous waste storage area in the Facility.

III. CONCLUSIONS

1. Respondent violated 40 CFR 262.34(a)(3) by failing to label hazardous waste storage containers with the words “Hazardous Waste.” Specifically, Respondent failed to label with the words “Hazardous Waste” two containers of spent acid wash, a D002 corrosivity characteristic hazardous waste. These are Class II violations, according to OAR 340-012-0068(2)(b). DEQ assesses a \$3,900 civil penalty for these violations.

2. Respondent violated 40 CFR 262.34(a)(2) by failing to place an accumulation start date on hazardous waste storage containers. Specifically, Respondent did not date two containers of spent acid wash, a D002 corrosivity characteristic hazardous waste. These are Class II violations, according to OAR 340-012-0068(2)(a). DEQ assesses a \$3,900 civil penalty for this violation.

3. Respondent violated 40 CFR 265.174 as referenced by 40 CFR 262.34(a)(1)(i) by failing to conduct weekly inspections of its hazardous waste storage area, as described in Section II above. This is a Class II violation, according to OAR 340-012-0068(2)(h). DEQ does not assess a civil penalty for this violation.

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1 IV. ORDER TO PAY CIVIL PENALTY

2 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
3 hereby ORDERED TO: Pay a total civil penalty of \$7,800. The determination of the civil penalties are
4 attached as Exhibits 1 and 2 and are incorporated as part of this Notice.

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

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

9 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
10 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
11 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
12 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered
13 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
14 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
15 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
16 it to **503-229-5100** or email it to DEQappeals@deq.state.or.us. An administrative law judge
17 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
18 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
19 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
20 you may represent yourself. If you are a corporation, partnership, limited liability company,
21 unincorporated association, trust or government body, you must be represented by an attorney or a duly
22 authorized representative, as set forth in OAR 137-003-0555.

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

1 If you fail to file a timely request for hearing, the Notice will become a final order by default
2 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
3 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
4 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
5 the relevant portions of its files, including information submitted by you, as the record for purposes of
6 proving a prima facie case.
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10 7/10/2020

11 Date

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13 Kieran O'Donnell, Manager
14 Office of Compliance and Enforcement
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EXHIBIT 1

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

- VIOLATION NO. 1 Failure to label hazardous waste storage containers with the words "Hazardous Waste," in violation of 40 CFR 262.34(a)(3).
- CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0068(2)(b).
- MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(4)(c)(B)(i) because Respondent failed to label hazardous waste containers accumulating more than 250 gallons, but less than 1,000 gallons of hazardous waste.
- 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)(M)(i) because the Respondent is a large quantity generator of hazardous waste.
- "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 Respondent failed to label two containers.
- "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. As a large quantity generator, Respondent is or should be familiar with its duties and obligations in regards to the hazardous waste it generates, including the requirement to label hazardous waste storage containers with the words "Hazardous Waste." Respondent failed to exercise reasonable care when it did not take the actions necessary to ensure proper hazardous waste storage.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation. Respondent labeled container with words "Hazardous Waste" within one week of the inspection.

"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, as DEQ has insufficient information on which to base an estimate of more than a de minimus economic benefit for this violation.

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

$$\begin{aligned} &= \$3,000 + [(0.1 \times \$3,000) \times (0 + 0 + 2 + 4 - 3)] + \$0 \\ &= \$3,000 + (\$300 \times 3) + \$0 \\ &= \$3,000 + \$900 + \$0 \\ &= \$3,900 \end{aligned}$$

EXHIBIT 2

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

- VIOLATION NO. 2 Failure to place an accumulation start date on containers storing hazardous waste, in violation of 40 CFR 262.34(a)(2).
- CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0068(2)(a).
- MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(4)(c)(B)(i) because Respondent failed to place an accumulation start date on hazardous waste containers accumulating more than 250 gallons.
- 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)(M)(i) because the Respondent is a large quantity generator of hazardous waste.
- "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 Respondent failed to date two containers.
- "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. As a large quantity generator Respondent is, or should be, familiar with its duties and obligations in regards to the hazardous waste it generates, including the requirement to place an accumulation start date on hazardous waste storage containers. Respondent failed to exercise reasonable care when it did not take the actions necessary to ensure proper hazardous waste storage.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation. Respondent placed accumulation start dates on all hazardous waste containers within one week of inspection.

"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, as DEQ has insufficient information on which to base an estimate of more than a de minimus economic benefit for this violation.

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

$$\begin{aligned} &= \$3,000 + [(0.1 \times \$3,000) \times (0 + 0 + 2 + 4 - 3)] + \$0 \\ &= \$3,000 + (\$300 \times 3) + \$0 \\ &= \$3,000 + \$900 + \$0 \\ &= \$3,900 \end{aligned}$$