



# Oregon

Kate Brown, Governor

Department of Environmental Quality

Headquarters  
811 SW 6th Ave  
Portland, OR 97204-1390  
(503) 229-5696  
FAX (503) 229-6124  
TTY: 711

July 18, 2016

CERTIFIED MAIL: 7014 2870 0001 3378 2764

Port of Astoria  
c/o Jim Knight, Executive Director  
10 Pier 1, Suite 103  
Astoria, OR 97103-6318

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ/SW-NWR-2016-016

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$36,916 for failing to conduct required stormwater monitoring at the Port's Central Waterfront and Tongue Point facilities during the 2014-15 monitoring year and for failing to timely file required reports in violation of your stormwater discharge permits.

DEQ issued this penalty because monitoring stormwater discharge is essential for the Department to determine whether the technology you use to treat your stormwater is adequate to control pollutants. In addition, without monitoring data the Department cannot analyze potential harmful environmental consequences from your stormwater discharge. The Port was previously penalized in 2013 and again in 2015 for failing to comply with stormwater monitoring requirements.

DEQ appreciates your efforts to correct the reporting violations by submitting the required reports late. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, DEQ must receive a request for a contested case hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

Via mail - 811 S.W. 6<sup>th</sup> Ave., Portland, OR 97204

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 it 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 in lieu of paying your penalty. Enclosed is more detail on how to pursue a SEP. SEP documents are available on the internet at <http://www.deq.state.or.us/programs/enforcement/SEP.htm>, or by calling the number below to request a paper copy.



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DEQ's rules are available on the internet at <http://www.deq.state.or.us/regulations/rules.htm>, or by calling the number below to request a paper copy.

If you have any questions, please contact Jeff Bachman at (503) 229-5950. You may call toll-free within Oregon at 1-800-452-4011, extension 5950.

Sincerely,



Leah K. Feldon, Manager  
Office of Compliance and Enforcement

Enclosures

cc: E. Jay Murphy, Northwest Region, DEQ  
John Koestler, WQ, HQ  
Peter D. Mohr, Jordan Ramis PC, 2 Centerpointe Dr, 6th Fl, Lake Oswego OR 97035



1           6.       Schedule B, Table 4 of the Tongue Point permit requires Respondent to monitor  
2 statewide benchmark and sector-specific pollutants four times per monitoring year (July 1 to  
3 June 30), with two samples taken on or before December 1, and two samples taken on or after  
4 January 1.

5           7.       On July 17, 2012, DEQ sent Respondent a permit assignment letter identifying the  
6 following applicable sector-specific pollutants that Respondent is required to monitor for at the  
7 Tongue Point Facility: total iron, chemical oxygen demand (COD), and total aluminum.

8           8.       The July 17, 2012, permit assignment letter also identified the following  
9 additional pollutants that Respondent is required to monitor for at the Tongue Point Facility: total  
10 cadmium, total nickel and total chromium. Schedule B, Table 4 of the Tongue Point permit  
11 requires Respondent to monitor these additional pollutants eight times over the first three years  
12 of the permit.

13           9.       Schedule B, condition 8 of the Tongue Point permit requires Respondent to  
14 submit to DEQ, by July 31, a discharge monitoring report (DMR) summarizing the monitoring  
15 results for the prior monitoring year.

16           10.      On November 18, 2015, DEQ received Respondent's DMR for the 2014-15  
17 monitoring year for the Tongue Point Facility.

18           11.      The Tongue Point Facility discharges stormwater to three outfalls, Outfalls 1, 2  
19 and 3.

20           12.      Respondent's Tongue Point 2014-15 DMR indicates that Respondent conducted  
21 only three rounds of monitoring for the statewide benchmark pollutants at each of the Tongue  
22 Point facility's three outfalls.

23           13.      Respondent's Tongue Point 2014-15 DMR indicates that Respondent conducted  
24 only three rounds of monitoring for the sector-specific pollutants of total iron, total aluminum  
25 and COD at Outfalls 1 and 3; and three rounds of COD monitoring and two rounds of total iron  
26 and total aluminum at Outfall 2 during the 2014-2015 monitoring year.

27       ///

1           14.     Respondent's Tongue Point DMRs for 2014-15, 2013-14 and 2012-13 indicated  
2 that it monitored its three Tongue Point outfalls for the additional pollutants of total cadmium,  
3 total nickel and total chromium seven times during that three-year period.

4           15.     On July 10, 2012, DEQ assigned Respondent coverage under NPDES Stormwater  
5 Discharge General Permit Number 1200-Z, (the Central Waterfront permit), effective July 1,  
6 2012, to June 30, 2017, pursuant to ORS 468B.050, to Respondent's facility located at 422  
7 Gateway Ave., Ste 100, Astoria, Oregon (Central Waterfront Facility).

8           16.     The Central Waterfront permit authorizes Respondent to discharge stormwater  
9 from Respondent's Central Waterfront Facility to waters of the state only in conformance with  
10 the requirements, limitations and conditions set for in the Central Waterfront permit.

11          17.     The Central Waterfront permit was in effect at all material times.

12          18.     Schedule B.1 of the Central Waterfront permit requires Respondent to monitor for  
13 the statewide benchmark pollutants set forth in Schedule A.9 of the permit, including pH, total  
14 suspended solids (TSS), oil and grease, total copper, total lead, and total zinc.

15          19.     On July 17, 2012, DEQ sent Respondent a permit assignment letter identifying the  
16 following applicable sector-specific pollutants that Respondent is required to monitor for at the  
17 Central Waterfront Facility: total iron and total aluminum.

18          20.     Schedule B, Table 4 of the Central Waterfront permit requires Respondent to  
19 monitor statewide benchmark and sector-specific pollutants four times per monitoring year (July  
20 1 to June 30), with two samples taken on or before December 1, and two samples taken on or  
21 after January 1.

22          21.     The July 17, 2012 permit assignment letter also identified the following additional  
23 pollutants: total cadmium, total nickel, and total chromium. Schedule B, Table 4 of the Central  
24 Waterfront permit requires Respondent to monitor these additional pollutants eight times over  
25 the first three years of the permit.

26          22.     The July 17, 2012 permit assignment letter also identified the following  
27 impairment pollutants: total arsenic, e. coli bacteria, PCB (polychlorinated biphenyl) and DDT

1 metabolite (DDE). Schedule B, Table 4 of the Central Waterfront permit requires Respondent to  
2 monitor impairment pollutants two times per year with one sample being collected on or before  
3 December 31 and the second sample being collected on or after January 1.

4 23. Schedule B, Condition 8 of the Central Waterfront permit requires Respondent to  
5 submit to DEQ, by July 31, a discharge monitoring report (DMR) summarizing the monitoring  
6 results for the prior monitoring year.

7 24. On November 18, 2015, DEQ received Respondent's DMR for the 2014-15  
8 monitoring year for the Central Waterfront Facility.

9 25. The Central Warehouse Facility discharges stormwater to four outfalls, Outfalls 1,  
10 2, 3 and 4.

11 26. Respondent's Central Warehouse 2014-15 DMR indicates that Respondent  
12 conducted only three rounds of monitoring for the statewide benchmark pollutants at Outfalls 1,  
13 3 and 4 and only two rounds at Outfall 2.

14 27. Respondent's Central Warehouse 2014-15 DMR indicates that Respondent  
15 conducted only three rounds of monitoring for the sector-specific pollutants of total iron and total  
16 aluminum at Outfalls 1, 3 and 4 and only two rounds at Outfall 2.

17 28. Respondent's Central Warehouse 2014-15 DMR indicates that Respondent did  
18 not monitor for the impairment pollutant of total arsenic on or before December 31, 2014, at  
19 Outfall 3.

20 29. Respondent's Central Warehouse 2014-15 DMR indicates that for the impairment  
21 pollutant of DDT metabolite (DDE), Respondent conducted only one round of monitoring at  
22 Outfall 1, 2, and 4, and did not monitor at Outfall 3.

23 30. Respondent's Central Warehouse 2014-15 DMR indicates that for the  
24 impairment pollutant of PCB, Respondent conducted only one round of monitoring at all four  
25 outfalls.

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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 \$36,916. The determinations of the civil  
4 penalties are attached as Exhibits 1, 2, 3 and 4 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  
6 money order must be made payable to "State Treasurer, State of Oregon" and sent to the **DEQ,**  
7 **Business Office, 811 S.W. Sixth Avenue, Portland, Oregon 97204.** Once you pay the penalty,  
8 the Findings of Fact, Conclusions and Order become final.

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

10 You have a right to a contested case hearing on this Notice, if you request one in writing.  
11 You must ensure that DEQ receives the request for hearing **within 20 calendar days** from the  
12 date you receive this Notice. If you have any affirmative defenses or wish to dispute any  
13 allegations of fact in this Notice or attached exhibits, you must include them in your request for  
14 hearing, as factual matters not denied will be considered admitted, and failure to raise a defense  
15 will be a waiver of the defense. (See OAR 340-011-0530 for further information about requests  
16 for hearing.) You must mail the request for hearing to: **DEQ, Office of Compliance and**  
17 **Enforcement - Appeals, 811 SW Sixth Avenue, Portland, Oregon 97204,** or fax it to **503-229-**  
18 **5100.** An administrative law judge employed by the Office of Administrative Hearings will  
19 conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR  
20 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, or you  
21 may represent yourself unless you are a corporation, agency or association.

22 If you fail to file a request for hearing in writing within 20 calendar days of receipt of the  
23 Notice, the Notice will become a final order by default without further action by DEQ, as per  
24 OAR 340-011-0535(5). If you do request a hearing but later withdraw your request, fail to  
25 attend the hearing, or notify DEQ that you will not be attending the hearing, DEQ will issue a  
26 final order by default pursuant to OAR 137-003-0670. DEQ designates the relevant portions of

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its files, including information submitted by you, as the record for purposes of proving a prima facie case.

July 18, 2016  
Date

Sarah Wheeler for  
Leah K. Feldon, 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: Violating a condition of a wastewater discharge permit by failing to conduct Schedule B monitoring in violation of ORS 468B.025(2).

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0055(1)(o).

MAGNITUDE: The magnitude of the violations 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 \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii).

"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 10 according to OAR 340-012-0145(2)(a) and -0145(2)(b), because Respondent has more than nine Class I equivalent violations stemming from Case Nos. WQ/SW-NWR-13-121 and WQ/SW-NWR-14-136.

"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 under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 3 according to OAR 340-012-0145(4)(c), because there were 11 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's conduct was reckless. The monitoring requirements are an express condition of the permit and Respondent was advised of the requirement in its permit assignment letter, issued to Respondent on July 17, 2012. In addition, Respondent was penalized in two separate cases for failing to conduct required Schedule B stormwater monitoring in 2013 and 2014. Respondent's failure to take the action necessary to comply with monitoring requirements after being penalized twice in the previous two years for the same violation demonstrated a conscious disregard for a substantial and unjustifiable risk that the violations would occur. Given Respondent's knowledge of the requirements and the prior enforcement actions, disregarding that risk constituted a gross deviation from the standard of care a responsible person would observe in that situation.

"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 there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).

"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 \$999. This is the amount Respondent gained by avoiding the \$912 cost of conducting the required monitoring.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$4,000 + [(0.1 x \$4,000) x (10 + 0 + 3 + 8 + 0)] + \$999  
= \$4,000 + [\$400 x 21] + \$999  
= \$4,000 + \$8,400 + \$999  
= \$13,399

EXHIBIT 2

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

VIOLATION No. 2: Violating a condition of a wastewater discharge permit by failing to conduct Schedule B monitoring in violation of ORS 468B.025(2).

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0055(1)(o).

MAGNITUDE: The magnitude of the violations 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 \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii).

"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 10 according to OAR 340-012-0145(2)(a) and -0145(2)(b), because Respondent has more than nine Class I equivalent violations stemming from Case Nos. WQ/SW-NWR-13-121 and WQ/SW-NWR-14-136.

"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 under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 3 according to OAR 340-012-0145(4)(c), because there were 25 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's conduct was reckless. The monitoring requirements are an express condition of the permit and Respondent was advised of the requirement in its permit assignment letter, issued to Respondent on July 17, 2012. In addition, Respondent was penalized in two separate cases for failing to conduct required Schedule B stormwater monitoring in 2013 and 2014. Respondent's failure to take the action necessary to comply with monitoring requirements after being penalized twice in the previous two years for the same violation demonstrated a conscious disregard for a substantial and unjustifiable risk that the violations would occur. Given Respondent's knowledge of the requirements and the prior enforcement actions, disregarding that risk constituted a gross deviation from the standard of care a responsible person would observe in that situation.

"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 there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).

"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 \$2,717. This is the amount Respondent gained by avoiding the \$2,482 cost of conducting the required monitoring.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$4,000 + [(0.1 x \$4,000) x (10 + 0 + 3 + 8 + 0)] + \$2,717  
= \$4,000 + [\$400 x 21] + \$2,717  
= \$4,000 + \$8,400 + \$2,717  
= \$15,117

EXHIBIT 3

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

VIOLATION No. 3: Violating a condition of a wastewater discharge permit by failing to timely submit a discharge monitoring report in violation of ORS 468B.025(2).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0055(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 \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii).

"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 10 according to OAR 340-012-0145(2)(a) and -0145(2)(b), because Respondent has more than nine Class I equivalent violations stemming from Case Nos. WQ/SW-NWR-13-121 and WQ/SW-NWR-14-136.

"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 under paragraphs (3)(a) or (b).

"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 one occurrence of the violation.

"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. The reporting requirement is an express condition of the permit. Respondent was cited for failing to timely file its DMR in Notice of Civil Penalty Assessment and Order No. WQ/SW-NWR-14-136 when it failed to timely file its report for the 2013-2014 monitoring year. By failing to take the action needed to file its report by the date required by the permit, Respondent failed to exercise reasonable care to avoid the foreseeable risk of committing the violation.

"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 and filed its report on November 18, 2015.

"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 any economic benefit Respondent received was de minimis.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$2,000 + [(0.1 \times \$2,000) \times (10 + 0 + 0 + 4 + (-3))] + \$0$   
 $= \$2,000 + [\$200 \times 11] + \$0$   
 $= \$2,000 + \$2,200 + \$0$   
 $= \$4,200$

## EXHIBIT 4

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

VIOLATION No. 4: Violating a condition of a wastewater discharge permit by failing to timely submit a discharge monitoring report in violation of ORS 468B.025(2).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0055(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 \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii).

"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 10 according to OAR 340-012-0145(2)(a) and -0145(2)(b), because Respondent has more than nine Class I equivalent violations stemming from Case Nos. WQ/SW-NWR-13-121 and WQ/SW-NWR-14-136.

"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 under paragraphs (3)(a) or (b).

"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 one occurrence of the violation.

"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. The reporting requirement is an express condition of the permit. Respondent was cited for failing to timely file its DMR in Notice of Civil Penalty Assessment and Order No. WQ/SW-NWR-14-136 when it failed to timely file its report for the 2013-2014 monitoring year. By failing to take the action needed to file its report by the date required by the permit, Respondent failed to exercise reasonable care to avoid the foreseeable risk of committing the violation.

"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 and filed its report on November 18, 2015.

"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 any economic benefit Respondent received was de minimis.

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

$$\begin{aligned} &= \$2,000 + [(0.1 \times \$2,000) \times (10 + 0 + 0 + 4 + (-)3)] + \$0 \\ &= \$2,000 + [\$200 \times 11] + \$0 \\ &= \$2,000 + \$2,200 + \$0 \\ &= \$4,200 \end{aligned}$$