



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

October 19, 2018

CERTIFIED MAIL: 7016 0750 0000 3470 2930

Patheon Development Services Inc.
c/o Capitol Corporate Services, Inc., Registered Agent
325 13th Street NE, Suite 404
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ/HW-ER-2017-219

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a Notice of Civil Penalty Assessment and Order (Notice) including a \$59,890 civil penalty for hazardous waste violations at your pharmaceutical development and manufacturing facility at 62925 NE 18th Street in Bend, Oregon. Specifically, you failed to make an accurate hazardous waste determination for chlorinated solvent waste generated at your facility. In addition, between July 2015 and July 2017, you offered for transport without a uniform hazardous waste manifest fourteen shipments of the chlorinated solvent waste totaling 7,270 pounds. The chlorinated solvent waste was transported by a third party and improperly disposed of at a treatment, storage and disposal facility in Idaho. The Notice also cites you for failing to prepare a Land Disposal Restriction notice that would notify the TSDf whether the waste met applicable treatment standards. In addition, the Notice includes a penalty for failing to accurately report your hazardous waste activity to DEQ in 2015 and 2016. The inaccurate information submitted for those years caused DEQ to misinterpret how you were managing this waste stream until DEQ's June 29, 2017 inspection. Lastly, the Notice cites you, without penalty, for failing to properly mark one five-gallon container of high-performance liquid chromatography (HPLC) solvent waste in a satellite accumulation area at your facility.

DEQ's rules establish strict requirements for the accumulation, storage, handling and disposal of hazardous waste to ensure the protection of public health and the environment. Your failure to comply with hazardous waste rules posed a risk to human health and the environment. More specifically, the improper management and disposal of the chlorinated solvent waste—which contained dichloromethane (also known as methylene chloride) and methanol—posed a risk to human health and the environment especially to personnel that may have come into contact with methylene chloride and methanol vapors.

Included in Section IV of the Notice is an order requiring you to within 30 days after the order becomes final by operation of law or on appeal, submit to DEQ revised RCRA Waste Site Identification Forms and Generation and Management Answer Sheets to address: a) all of the inaccuracies identified in Section II, Paragraphs 26, 28 and 32; b) any changes in ownership for generator ID Number ORQ000031134; and c) any other discrepancies identified upon review. The order also requires you to pay all invoices related to the revised reporting within 30 days of receiving the invoice.

Please contact Mary Fritzmann at (503) 229-6968 if you have any questions about how to complete these requirements.

DEQ appreciates your efforts to correct the hazardous waste determination violation by making a new determination for the chlorinated solvent waste stream on November 3, 2017. In addition, you worked to prevent the recurrence of the manifesting and LDR violations by preparing a sample uniform hazardous waste manifest and LDR notice for the chlorinated solvent waste. You also corrected the most significant inaccuracies in your annual reporting to DEQ in your 2017 Annual Report. 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 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/administrative-rules.aspx> or by calling the number below.

If you have any questions, please contact Becka Puskas at 503-229-5058 or toll free in Oregon at 800-452-4011, extension 5058.

Sincerely,



Kieran O'Donnell Manager
Office of Compliance and Enforcement

Enclosures

cc: Shamus Tucek, Patheon Development Services, Inc., 62925 NE 18th Street, Bend, OR 97701
Curt Ohlsen, Hazardous Waste Compliance Manager, Idaho Department of Environmental
Quality, 1410 N. Hilton, Boise, ID 83706
Rebecca Hogaboam, Environmental Compliance Manager, U.S. Ecology, 2400 Lemley Road,
Grand View, ID 83624
Brian Allen, DEQ
Jay Collins, DEQ
Mary Fritzmann, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3	IN THE MATTER OF:)	
4	PATHEON DEVELOPMENT)	NOTICE OF CIVIL PENALTY
5	SERVICES INC., f/k/a AGERE)	ASSESSMENT AND ORDER
6	PHARMACEUTICALS, INC.,)	CASE NO. LQ/HW-ER-2017-219
7	Respondent.))	

8 I. AUTHORITY

9 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
10 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
11 ORS 466.990, ORS Chapters 183 and 466 and Oregon Administrative Rules (OAR) Chapter 340,
12 Divisions 011, 012, and 100, 101 and 102.

13 II. FINDINGS OF FACT

14 1. Respondent operates a pharmaceutical development and manufacturing business at 62925
15 NE 18th Street in Bend, Oregon (the Facility).

16 2. Respondent is a registered hazardous waste generator assigned United States Environmental
17 Protection Agency (EPA) generator identification number ORQ000031134.

18 3. Generators that generate more than 220 but less than 2,200 pounds of hazardous waste per
19 month are categorized by EPA and DEQ as "Small Quantity Generators".

20 4. Respondent reported to DEQ as a Small Quantity Generator of hazardous waste for calendar
21 years 2014, 2015, 2016 and 2017.

22 5. OAR 340-100-0002(1) states that "the [Environmental Quality] Commission adopts by
23 reference, and requires every person subject to ORSS 466.005 to 466.080 and 466.090 to 466.215, to
24 comply with the rules and regulations governing the management of hazardous waste, including its
25 generation, transportation, treatment, storage, recycling and disposal, as the United States
26 Environmental Protection Agency prescribes in 40 [Code of Federal Regulations (CFR)] Parts 260 to
27 268, 270, 273 and Subpart A and Subpart B of Part 124, as enacted through June 30, 2015," except as
specifically modified in the rule.

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1 6. OAR 340-102-0011(2) states that a “person who generates a residue as defined in OAR 340-
2 100-0010 must determine if that residue is a hazardous waste” using the method set forth in the rule.

3 7. OAR 340-100-0010(2)(ee) states that “residue” “means solid waste as defined in 40 C.F.R.
4 § 261.2.”

5 8. According to 40 C.F.R. § 261.2, “solid waste” is any discarded material that is not otherwise
6 excluded from the definition of solid waste, including materials that are disposed of.

7 9. Among other steps in the hazardous waste determination method set forth in OAR 340-102-
8 0011(2), OAR 340-102-0011(2)(b) requires persons who generate wastes to “determine if the waste is
9 listed as hazardous waste in subpart D of 40 C.F.R. Part 261.”

10 10. According to 40 C.F.R. §261.31(a) (part of Subpart D of 40 C.F.R. Part 261), certain spent
11 halogenated solvents, including methylene chloride, and all spent solvent mixtures/blends containing,
12 before use, a total of ten percent or more (by volume) methylene chloride are F002 listed hazardous
13 wastes unless they are excluded under §§260.20 and 260.22 and listed in appendix IX.

14 11. According to 40 C.F.R. §261.31(a) (part of Subpart D of 40 C.F.R. Part 261), certain spent
15 non-halogenated solvents, including methanol, and all spent solvent mixtures/blends containing, before
16 use, methanol, and a total of ten percent or more (by volume) of one or more of those solvents listed in
17 F002, including methylene chloride, are F003 listed hazardous wastes unless they are excluded under
18 §§260.20 and 260.22 and listed in appendix IX.

19 12. 40 C.F.R. §262.20(a)(1) states that generators of hazardous waste who offer for transport
20 hazardous waste for offsite treatment, storage or disposal must prepare a uniform hazardous waste
21 manifest.

22 13. According to 40 C.F.R. §268.7(a)(2), generators of hazardous waste that does not meet the
23 relevant treatment standards, or generators that choose not to make a determination regarding whether
24 their hazardous waste meets the relevant treatment standards, must send a one-time written notice to
25 each treatment or storage facility receiving the waste, to notify the recipient facility that the waste is
26 subject to the Land Disposal Restrictions (LDR) under 40 C.F.R. Part 268, and place a copy in the file
27 (hereinafter “LDR notice”).

1 14. According to 40 C.F.R. §268.40, the relevant treatment standard for methylene chloride is
2 30 mg/kg (30 parts per million).

3 15. According to Respondent's Waste Profile No. 37285-0 dated June 25, 2015 (the "2015
4 Waste Profile"), as part of its pharmaceutical development and manufacturing process, Respondent
5 uses a solvent (the "Chlorinated Solvent") that contains, before use, 65-75% methylene chloride (also
6 known as dichloromethane), 10-20% methanol, 10-20% water and 0-10% acetonitrile.

7 16. Respondent uses the Chlorinated Solvent for its solvent properties, to dissolve or mobilize
8 other constituents in the pharmaceutical development and manufacturing process. The Chlorinated
9 Solvent is not a precursor chemical and does not chemically react and as such contribute to the
10 formation of the pharmaceutical produced.

11 17. Respondent's use of the solvent described in Paragraphs 15 and 16, above, generates a spent
12 solvent waste stream that is not reused by Respondent (hereinafter the "Chlorinated Solvent Waste").
13 Respondent collects the Chlorinated Solvent Waste from the end of its process and, as described below
14 in Paragraphs 20-21, sends the Chlorinated Solvent Waste via a third party waste hauler for offsite
15 disposal.

16 18. The Chlorinated Solvent Waste is not excluded under §§260.20 and 260.22 and listed in
17 appendix IX.

18 19. The 2015 Waste Profile for Respondent's Chlorinated Solvent Waste:

- 19 a. Does not list any "RCRA Waste Codes" (Block C.21);
- 20 b. Does not list any "State Waste Codes" (Block C.20); and
- 21 c. Includes a "Generator Certification" stating "this material may be disposed of
22 without further treatment" (Block F).

23 20. Between July 17, 2015 and July 21, 2017, Respondent offered for transport to Univar USA
24 Inc., a third party waste hauler (hereinafter "Univar"), 14 shipments of Chlorinated Solvent Waste
25 under the 2015 Waste Profile and without the use of a uniform hazardous waste manifest. These
26 shipments are described in Table 1, below.

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1 **Table 1. Respondent's Shipments of Chlorinated Solvent Waste: 2015-2017**

2 Shipment Number	Shipment Date	Nonhazardous Waste Manifest Number	Amount of Chlorinated Solvent Waste (Pounds)
3 1	7/17/2015	000058806	170
2 2	12/4/2015	000058330	790
3 3	3/18/2016	000059474	250
4 4	4/15/2016	NHWM000059767	385
5 5	9/16/2016	000085088	470
6 6	10/7/2016	000085187	485
7 7	10/28/2016	000085290	965
8 8	1/27/2017	000093138	420
9 9	2/24/2017	000093209	1,270
10 10	3/17/2017	000093330	450
11 11	4/21/2017	000093499	100
12 12	5/5/2017	000085543	935
13 13	6/16/2017	000085667	530
14 14	7/21/2017	000085758	50
			Total Pounds 7,270

15 21. Univar transported each of the 14 shipments described in Table 1, above, to the U.S. Ecology Inc. treatment, storage and disposal facility at 20400 Lemley Road in Grand View, Idaho, RCRA Site ID Number IDD073114654 (the "Idaho TSDF"), where the Chlorinated Solvent Waste was solidified with clay and disposed of in a landfill.

18 22. Respondent did not send a written LDR notice with the initial shipment of Chlorinated Solvent Waste to the Idaho TSDF on July 17, 2015, or with any subsequent shipment described above in Table 1 above.

20 23. On June 29, 2017, Respondent did not have a LDR notice on file at the Facility for any of the shipments of Chlorinated Solvent Waste described in Table 1 above.

23 24. OAR 340-102-0041(2) states that small and large quantity hazardous waste generators must submit an annual report to DEQ by March 1 of each year covering activities for the preceding calendar year. According to OAR 340-102-0041(2)(b), the annual report must include "Information required for purposes of describing hazardous waste generator and waste management activity, including information pertaining to hazardous waste storage, treatment, disposal, and recycling efforts and practices".

25. On February 28, 2016, Respondent submitted its 2015 annual hazardous waste report to DEQ (2015 Annual Report). In the 2015 Annual Report, Respondent reported that in 2015 it generated approximately 1,086 pounds of Chlorinated Solvent Waste with EPA hazardous waste codes F002 and F003. Respondent further reported that the Chlorinated Solvent Waste generated in 2015 was sent in two shipments to a Systec Environmental Corp. treatment, storage and disposal facility at 1420 S Cement Road in Fredonia, Kansas, RCRA Site ID Number KSD980633259 (the “Kansas TSDF”), and that the waste was disposed of by fuel blending prior to energy recovery at another site (Management Method code No. H061). The 2015 Chlorinated Solvent Waste shipments, as described in Respondent’s 2015 Annual Report, are listed in Table 2, below.

Table 2. Shipments of Chlorinated Solvent Waste Reported in Respondent’s 2015 Annual Report

Shipment Number	Shipment Date	Manifest NR	Reported Quantity (Pounds)	Management Method Code	Disposal Site ID Number
1	7/17/2015	000058806	167	H061	KSD980633259
2	12/4/2015	000058330	919	H061	KSD980633259
Total			1,086		

26. Respondent’s 2015 Annual Report contains the following inaccuracies:

a. Respondent reported to DEQ that in 2015, Respondent managed its Chlorinated Solvent Waste stream as hazardous waste with waste codes F002 and F003. As described in Paragraphs 19-23 and Table 1 above, Respondent actually managed the Chlorinated Solvent Waste stream as nonhazardous in 2015.

b. Respondent reported to DEQ that each of the two shipments of Chlorinated Solvent Waste in 2015 were sent to the Kansas TSDF (RCRA Site ID Number KSD980633259). Respondent’s two shipments of Chlorinated Solvent Waste in 2015 were actually sent to the Idaho TSDF (RCRA Site ID Number IDD073114654).

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c. Respondent reported to DEQ that each of the two shipments of Chlorinated Solvent Waste in 2015 were managed by fuel blending prior to energy recovery at another site (Management Method code No. H061). Respondent's two shipments of Chlorinated Solvent Waste in 2016 were actually managed by solidification and disposal in a landfill (Management Method code No. H132).

d. Respondent reported under the company name and site operator name "Agere Pharmaceuticals, Inc." for 2015. In fact, beginning on or about March 2015, the company name and site operator name were "Patheon Development Services, Inc." or "Patheon, Inc."

e. Respondent reported under the legal owner name "Marshall Crew & Dan Smithey". In fact, the legal owner of the Facility starting on or about March 2015 was Patheon Development Services, Inc. or Patheon, Inc.

27. On February 28, 2017, Respondent submitted its 2016 annual hazardous waste report to DEQ (2016 Annual Report). In the 2016 Annual Report, Respondent reported that in 2016 it generated approximately 2,547 pounds of Chlorinated Solvent Waste with EPA hazardous waste codes F002 and F003. Respondent further reported that the Chlorinated Solvent Waste generated in 2016 was sent in five shipments to the Kanas TSDF (RCRA Site ID Number KSD980633259), and that the waste was managed by fuel blending prior to energy recovery at another site (Management Method code No. H061). The 2016 Chlorinated Solvent Waste shipments, as described in Respondent's 2016 Annual Report, are listed in Table 3, below.

Table 3. Shipments of Chlorinated Solvent Waste Reported in Respondent's 2016 Annual Report

Shipment Number	Shipment Date	Manifest NR	Reported Quantity (Pounds)	Management Method Code	Disposal Site ID Number
3	3/18/2016	000059474	209	H061	KSD980633259
4	4/18/2016	000059767	501	H061	KSD980633259
5	9/16/2016	000085088	459	H061	KSD980633259
6	10/7/2016	000085187	459	H061	KSD980633259
7	12/30/2016	000085290	919	H061	KSD980633259
Total			2,547		

1 28. Respondent's 2016 Annual Report contains the following inaccuracies:

2 a. Respondent reported to DEQ that in 2016, Respondent managed its Chlorinated
3 Solvent Waste stream as hazardous waste with waste codes F002 and F003. As
4 described in Paragraphs 19-23 and Table 1 above, Respondent actually managed the
5 Chlorinated Solvent Waste stream as nonhazardous in 2016.

6 b. Respondent reported to DEQ that each of the five shipments of Chlorinated
7 Solvent Waste in 2016 were sent to the Kansas TSDF (RCRA Site ID Number
8 KSD980633259). Respondent's five shipments of Chlorinated Solvent Waste in 2016
9 were actually sent to the Idaho TSDF (RCRA Site ID Number IDD073114654);

10 c. Respondent reported to DEQ that each of the five shipments of Chlorinated
11 Solvent Waste in 2016 were managed by fuel blending prior to energy recovery at
12 another site (Management Method code No. H061). Respondent's five shipments of
13 Chlorinated Solvent Waste in 2016 were actually managed by solidification and disposal
14 in a landfill (Management Method code No. H132);

15 d. Respondent reported to DEQ that shipment No. 4 (nonhazardous waste manifest
16 number 000059767) was sent on April 18, 2016; it was actually sent on April 15, 2016;

17 e. Respondent reported to DEQ that shipment No. 7 (nonhazardous waste manifest
18 number 000085290) was sent on December 30, 2016; it was actually sent on October 28,
19 2016; and

20 f. Respondent reported under the legal owner name "Marshall Crew & Dan
21 Smithey". In fact, the legal owner of the Facility in 2016 was Patheon Development
22 Services, Inc. or Patheon, Inc.

23 29. On November 3, 2017, Respondent signed Waste Profile No. 17100252, which identifies the
24 Chlorinated Solvent Waste as F002 and F003 listed hazardous waste.

25 30. On February 20, 2018, Respondent signed Waste Profile No. 207494, which identifies the
26 Chlorinated Solvent Waste as F002 and F003 listed hazardous waste.

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31. On February 28, 2018, Respondent submitted its 2017 annual hazardous waste report to DEQ (2017 Annual Report). In the 2017 Annual Report, Respondent reported that in 2017 it generated approximately 3,824 pounds of Chlorinated Solvent Waste with EPA hazardous waste codes F002 and F003. Respondent further reported that the Chlorinated Solvent Waste generated in 2017 was sent in seven shipments to the Idaho TSDF (RCRA Site ID Number IDD073114654), and that the waste was managed by landfilling with prior treatment and/or stabilization (Management Method code No. H132). The 2017 Chlorinated Solvent Waste shipments, as described in Respondent’s 2017 Annual Report, are listed in Table 4, below.

Table 4. Shipments of Chlorinated Solvent Waste Reported in Respondent’s 2017 Annual Report

Shipment Number	Shipment Date	Manifest NR	Reported Quantity (Pounds)	Management Method Code	Disposal Site ID Number
8	1/27/2017	000085543	459	H132	IDD073114654
9	2/24/2017	000093209	1,378	H132	IDD073114654
10	3/17/2017	000093138	459	H132	IDD073114654
11	4/21/2017	000093330	125	H132	IDD073114654
12	5/5/2017	000093499	919	H132	IDD073114654
13	6/22/2017	000085667	459	H132	IDD073114654
14	7/21/2017	000085758	25	H132	IDD073114654
Total			3,824		

32. In its 2017 Annual Report to DEQ, Respondent accurately reported that the seven shipments of Chlorinated Solvent Waste in 2017 were sent to the Idaho TSDF (RCRA Site ID Number IDD073114654) and were managed by solidification prior to disposal (Management Method code No. H132). Nevertheless, the 2017 Annual Report contains the following inaccuracies:

- a. The information, as reported to DEQ, mixes up manifest number and the corresponding shipment date, and in some cases the reported quantity of hazardous waste for shipments No. 8, 10, 11, 12 and 13.
- b. Respondent reported under the legal owner name “Marshall Crew & Dan Smithey”. In fact, the legal owner of the Facility in 2017 was Patheon Development Services, Inc. or Patheon, Inc. or Thermo Fisher Scientific, Inc.

1 33. 40 C.F.R. §262.34(c)(1) states that a hazardous waste generator may accumulate as much as
2 55 gallons of waste listed in 40 C.F.R. §261.31 or 40 C.F.R. §261.33(e) in containers at or near the
3 point of generation, where wastes initially accumulate under the control of the operator of the process
4 generating the waste, without a permit or interim status and without complying with the 90-day
5 accumulation rule in 40 C.F.R. §262.34(a) or the 180-day accumulation rule in 40 C.F.R. §262.34(d),
6 provided that the generator complies with 40 C.F.R. §§265.171, 265.172, and 265.173(a), and the
7 generator marks its containers either with the words “Hazardous Waste” or with other words that
8 identify the contents of the containers.

9 34. As part of its pharmaceutical development and manufacturing operations, Respondent uses a
10 process called high-performance liquid chromatography (HPLC), which generates a spent solvent waste
11 stream (the “HPLC Solvent Waste”).

12 35. The HPLC Solvent Waste is determined by Respondent to be hazardous waste (D003
13 according to 40 C.F.R. §261.21 and F003 according to 40 C.F.R. §261.30) and reported to DEQ as
14 hazardous waste (D003 and F003).

15 36. On June 29, 2017, there was one five-gallon container of HPLC Solvent Waste stored in
16 Room 131 at the Facility not labeled with the words “Hazardous Waste” or with other words to identify
17 the contents of the container.

18 III. CONCLUSIONS

19 1. On or before June 25, 2015, Respondent violated OAR 340-102-0011(2)(b) by failing to
20 make a hazardous waste determination for a waste listed as hazardous in subpart D of 40 CFR part 261,
21 as described in Paragraphs 1-11 and 15-19 of Section II above. Respondent generates Chlorinated
22 Solvent Waste at its Facility. The Chlorinated Solvent Waste is a solid waste, as defined in 40 CFR
23 261.2 because it is a discarded material that is not otherwise excluded from the definition of solid
24 waste. The Chlorinated Solvent Waste is a (F002) hazardous waste according to 40 CFR 261.31(a)
25 because: (1) the Chlorinated Solvent Waste is used for its solvent properties in Respondent’s
26 manufacturing process; (2) the Chlorinated Solvent Waste is “spent” because Respondent removed it
27 from service and disposed of it; and (3) the Chlorinated Solvent Waste is a spent solvent mixture or

1 blend containing, before use, >65% methylene chloride by volume. The Chlorinated Solvent Waste is
2 also a (F003) hazardous waste according to 40 CFR 261.31(a) because it contains methanol (>10%) and
3 >65% methylene chloride.¹ Despite the fact that the Chlorinated Solvent Waste is F002 and F003
4 listed waste, from on or before June 25, 2015 to November 3, 2017, Respondent failed to make a
5 determination that the Chlorinated Solvent Waste is a waste listed as hazardous in subpart D of 40 CFR
6 part 261. This is a Class I violation, according to OAR 340-012-0068(1)(a). DEQ hereby assesses a
7 \$8,690 civil penalty this violation.

8 2. On July 17, 2015, December 4, 2015, March 18, 2016, April 15, 2016, September 16, 2016,
9 October 7, 2016, October 28, 2016, January 27, 2017, February 24, 2017, March 17, 2017, April 21, 2017,
10 May 5, 2017, June 16, 2017, and July 21, 2017, Respondent violated 40 CFR 262.20(a)(1), adopted by
11 OAR 340-100-0002(1), by offering for transport hazardous waste for offsite disposal without preparing
12 a uniform hazardous waste manifest, as described in Paragraphs 1-5, 12, and 15-21 of Section II above.
13 These are Class I violations, according to OAR 340-012-0068(1)(e). DEQ hereby assesses a \$21,600
14 civil penalty for these violations.

15 3. On or before July 17, 2015, Respondent violated 40 CFR 268.7(a)(2), adopted by OAR 340-
16 100-0002(1) by failing to send a written LDR notice with the initial shipment of hazardous waste to a
17 treatment, storage and disposal facility. Specifically, Respondent failed to send a written LDR notice with
18 the initial shipment of Chlorinated Solvent Waste to the Idaho TSDF, or with any subsequent shipment
19 through July 21, 2017, as described in Paragraphs 1-5 and 13-23 of Section II above. This is a Class I
20 violation according to OAR 340-012-0068(1)(i). DEQ hereby assesses a \$19,200 civil penalty for this
21 violation.

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25 ¹ Even if the Chlorinated Solvent Waste was not F002 and F003 hazardous waste, the Chlorinated
26 Solvent Waste would be (ORU080) Oregon "State-Only" hazardous waste according to OAR 340-101-
27 0033(2)(a)(b) because it contains a 10 percent or greater concentration of a substance or mixture of
substances listed in 40 CFR 261.33(f). Specifically, the Chlorinated Solvent Waste contains >65%
dichloromethane (methylene chloride).

1 4. On February 28, 2016 and February 28, 2017, Respondent violated 340-102-0041(2)(b) by
2 submitting inaccurate annual hazardous waste reports to DEQ. Specifically, Respondent's 2015 and 2016
3 Annual Reports do not include the information required for purposes of describing Respondent's waste
4 management activity, including hazardous waste disposal practices, as described in Paragraphs 1-5 and 24-
5 28 of Section II above. These are Class I violations according to OAR 340-012-0053(1)(b). DEQ hereby
6 assesses a \$10,400 civil penalty these violations.

7 5. On February 28, 2018, Respondent violated 340-102-0041(2)(b) by submitting an inaccurate
8 annual hazardous waste report to DEQ as described in Paragraphs 1-5 and 31-32 of Section II above. This
9 is a Class II violation according to OAR 340-012-0053(2). DEQ has not assessed a civil penalty for this
10 violation.

11 6. On June 29, 2017, Respondent violated 40 CFR 262.34(c)(1)(ii), adopted by OAR 340-100-
12 0002(1), by failing to properly mark one five-gallon container of HPLC Solvent Waste in a satellite
13 accumulation area at the Facility, as described in Paragraphs 33-36 of Section II above. This is a Class III
14 violation according to OAR 340-012-0068(3)(b). DEQ has not assessed a civil penalty for this violation.

15 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

18 1. Pay a total civil penalty of \$59,890. The determination of the civil penalties are attached as
19 Exhibits 1-4 and are incorporated as part of this Notice.

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

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1 2. Within 30 days after the order becomes final by operation of law or on appeal, submit to
2 DEQ revised RCRA Waste Site Identification Forms and Generation and Management Answer Sheets
3 to address: a) all of the inaccuracies identified in Section II, Paragraphs 26, 28 and 32; b) all changes in
4 ownership for generator ID Number ORQ000031134; and c) any other discrepancies identified upon
5 review. Forms submitted to DEQ to update changes of business ownership must be submitted in hard
6 copy with original signatures to: DEQ, Attn: Mary Fritzmann, 700 NE Multnomah Street, Suite 600,
7 Portland, OR 97232-4100; all other revised forms may be submitted electronically via HazWaste.net.
8 Within 30 days of receiving DEQ invoices, pay all invoiced amounts.

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

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1 Active duty service-members have a right to stay proceedings under the federal Service
2 Members Civil Relief Act. For more information, please call the Oregon State Bar at 1-800-
3 452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information can be found
4 online at the United States Armed Forces Legal Assistance (AFLA) Legal Services Locator website
5 <http://legalassistance.law.af.mil/content/locator.php>.

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

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Kieran O'Donnell, 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: Failing to make a hazardous waste determination for a waste listed as hazardous in subpart D of 40 CFR part 261, in violation of OAR 340-102-0011(2)(b).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0068(1)(a).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(4)(a)(C) because Respondent failed to make a hazardous waste determination on one waste stream.

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 I, minor magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because failing to make a hazardous waste determination is a violation of a hazardous waste management rule and Respondent is a small quantity generator.

"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 8 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent has 4 Class I violations and 6 Class II violations in Case No. LQ/HW-ER-2014-075, issued on July 23, 2014.

"H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(b) because some of the violations cited as prior significant actions in Case No. LQ/HW-ER-2014-075 were uncorrectable and the Respondent took reasonable affirmative efforts to minimize the effects of the violations.

"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 failed to make an accurate hazardous waste determination for the Chlorinated Solvent Waste stream on or before June 25, 2015, when Respondent signed Waste Profile Form #37285-0.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent failed to act intentionally with actual knowledge of the requirement. Respondent has been registered as a hazardous waste generator with EPA generator identification number ORQ000031134 since April 15, 2012, and has reported to DEQ as a small quantity generator of hazardous waste since 2012. On May 21, 2014, Respondent offered a shipment of Chlorinated Solvent Waste for transport to Emerald

Services, Inc. on uniform hazardous waste manifest No. 003456895FLE (removed from original manifest No. 007595780FLE), which identified the Chlorinated Solvent Waste as F002 and F003 hazardous waste. On June 23, 2014, Respondent signed Waste Profile No. 460195-01, which states in the "Special Handling Information" that the Chlorinated Solvent Waste "designates as F002, F003". Therefore, Respondent had actual knowledge that the Chlorinated Solvent Waste is F002 and F003 listed hazardous waste. On June 25, 2015, signed Waste Profile Form No. 37285-0, which did not include the F002 and F003 waste codes and subsequently managed its Chlorinated Solvent Waste as non-hazardous. Therefore, Respondent failed to make a hazardous waste determination for a waste listed as hazardous in subpart D of 40 CFR part 261 with actual knowledge of the requirement.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. Specifically, on November 3, 2017, Respondent signed Waste Profile No. 17100252, which identifies the Chlorinated Solvent Waste is F002 and F003 listed hazardous waste. On February 20, 2018, Respondent signed Waste Profile No. 207494, which identifies the Chlorinated Solvent Waste is F002 and F003 listed hazardous waste. Respondent also adopted a "Hazardous Waste Determination Policy and Guidance", which requires the Facility to "perform hazardous waste determinations on all existing waste streams as well as waste streams upon generation from new processes."

"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 \$4,090. This is the amount Respondent gained by avoiding spending \$6,175 to properly transport and dispose by incineration 19 containers of Chlorinated Solvent Waste, and the amount Respondent gained by delaying spending \$300 in labor costs to prepare an accurate hazardous waste determination from June 25, 2015 to November 3, 2017. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$2,000 + [(0.1 \times \$2,000) \times (8 + -1 + 0 + 8 + -2)] + \$4,090$
 $= \$2,000 + (\$200 \times 13) + \$4,090$
 $= \$2,000 + \$2,600 + \$4,090$
 $= \$8,690$

EXHIBIT 2

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

VIOLATION No. 2: Offering for transport hazardous waste for offsite disposal without preparing a uniform hazardous waste manifest, in violation of 40 CFR 262.20(a)(1), adopted by OAR 340-100-0002(1).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0068(1)(e).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c)(A)(i) because Respondent offered 7,270 pounds of hazardous waste for transport without preparing a uniform hazardous waste manifest.

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 \$8,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because Respondent is a small quantity generator.

"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 8 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent has 4 Class I violations and 6 Class II violations in Case No. LQ/HW-ER-2014-075, issued on July 23, 2014.

"H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(b) because some of the violations cited as prior significant actions in Case No. LQ/HW-ER-2014-075 were uncorrectable and the Respondent took reasonable affirmative efforts to minimize the effects of the violations.

"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 from seven to 28 occurrences of the violation. There were at least fourteen occurrences of the violation, on July 17, 2015, December 4, 2015, March 18, 2016, April 15, 2016, September 16, 2016, October 7, 2016, October 28, 2016, January 27, 2017, February 24, 2017, March 17, 2017, April 21, 2017, May 5, 2017, June 16, 2017, and July 21, 2017.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent failed to act intentionally with actual knowledge of the requirement. Respondent has been registered as a hazardous waste generator with EPA generator identification number ORQ000031134 since April 15, 2012, and has reported to DEQ as a small quantity generator of hazardous waste since 2012. On May 21, 2014,

Respondent offered a shipment of Chlorinated Solvent Waste for transport to Emerald Services, Inc. on uniform hazardous waste manifest No. 003456895FLE (removed from original manifest No. 007595780FLE), which identified the Chlorinated Solvent Waste as F002 and F003 hazardous waste. On June 23, 2014, Respondent signed Waste Profile No. 460195-01, which states in the "Special Handling Information" that the Chlorinated Solvent Waste "designates as F002, F003". Therefore, Respondent had actual knowledge that the Chlorinated Solvent Waste is F002 and F003 listed hazardous waste and had previously shipped Chlorinated Solvent Waste on a uniform hazardous waste manifest. Nevertheless, between July 17, 2015 and July 21, 2017, Respondent shipped 14 shipments of Chlorinated Solvent Waste on non-hazardous waste manifests without the applicable hazardous waste codes. Therefore, over the course of about two years, Respondent offered for transport 14 shipments of hazardous waste for offsite disposal without preparing a uniform hazardous waste manifest with actual knowledge of the requirement.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure the violation would not be repeated. On or before November 3, 2017, Respondent prepared a "Sample Uniform Hazardous Waste Manifest for Chlorinated Waste", describing the Chlorinated Solvent Waste as F002 and F003 listed waste and instructed personnel involved with shipping hazardous waste to use this template for future Chlorinated Solvent Waste shipments.

"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 these violations is captured in Exhibit 1.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$8,000 + [(0.1 \times \$8,000) \times (8 + -1 + 3 + 8 + -1)] + \0
 $= \$8,000 + (\$800 \times 17) + \$0$
 $= \$8,000 + \$13,600 + \$0$
 $= \$21,600$

EXHIBIT 3

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

- VIOLATION No. 3: Failing to send a written LDR notice with the initial shipment of hazardous waste to a treatment, storage and disposal facility, in violation of 40 CFR 268.7(a), adopted by OAR 340-100-0002(1).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0068(1)(i).
- MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c)(A)(i) because Respondent shipped 7,270 pounds of hazardous waste to the Idaho TSDF without sending a written LDR notice.
- 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 \$8,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because Respondent is a small quantity generator.
- "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 8 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent has 4 Class I violations and 6 Class II violations in Case No. LQ/HW-ER-2014-075, issued on July 23, 2014.
- "H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(b) because some of the violations cited as prior significant actions in Case No. LQ/HW-ER-2014-075 were uncorrectable and the Respondent took reasonable affirmative efforts to minimize the effects of the violations.
- "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 failed to send a written LDR notice regarding the Chlorinated Solvent Waste to the Idaho TSDF.
- "M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent failed to act intentionally with actual knowledge of the requirement. Respondent has been registered as a hazardous waste generator with EPA generator identification number ORQ000031134 since April 15, 2012, and has reported to DEQ as a small quantity generator of hazardous waste since 2012. On May 21, 2014, Respondent offered a shipment of Chlorinated Solvent Waste for transport to Emerald Services, Inc. on uniform hazardous waste manifest No. 003456895FLE (removed from

original manifest No. 007595780FLE), which identified the Chlorinated Solvent Waste as F002 and F003 hazardous waste. On June 23, 2014, Respondent signed Waste Profile No. 460195-01, which states in the "Special Handling Information" that the Chlorinated Solvent Waste "designates as F002, F003". Therefore, Respondent had actual knowledge that the Chlorinated Solvent Waste is F002 and F003 listed hazardous waste. Respondent manages other hazardous waste streams for which written LDR notices are required, therefore respondent has actual knowledge of the LDR requirement. According to 40 C.F.R. §268.40, the relevant treatment standard for methylene chloride is 30 mg/kg (30 parts per million). Respondent signed Waste Profile No. 37285-0 on June 25, 2015, which states that the Chlorinated Solvent Waste contains 65-75% methylene chloride. Nevertheless, Respondent certified on Waste Profile No. 37285-0 that the Chlorinated Solvent waste "may be disposed of without further treatment." Therefore, Respondent failed to send a written LDR notice with the initial shipment of hazardous waste to the Idaho TSDF with actual knowledge of the requirement.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure the violation would not be repeated. On or before November 3, 2017, Respondent prepared a "Sample Land Disposal Restriction (LDR) Notice for Chlorinated Waste", describing the Chlorinated Solvent Waste as F002 and F003 listed waste and instructed personnel involved with shipping hazardous waste to use this template for future Chlorinated Solvent Waste shipments.

"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 these violations is captured in Exhibit 1.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
= \$8,000 + [(0.1 x \$8,000) x (8 + -1 + 0 + 8 + -1)] + \$0
= \$8,000 + (\$800 x 14) + \$0
= \$8,000 + \$11,200 + \$0
= \$19,200

EXHIBIT 4

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

VIOLATION No. 4: Submitting inaccurate annual hazardous waste reports to DEQ that do not include the information required for purposes of describing Respondent's waste management activity in violation of 340-102-0041(2)(b).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0053(1)(b) because the inaccurate information submitted to DEQ in Respondent's 2015 and 2016 Annual Reports masked violations and caused DEQ to misinterpret substantive facts. Specifically, the inaccurate information in Respondent's 2015 and 2016 Annual Reports, described in Section II, Paragraphs 26 and 28 of the Notice, masked Violations No. 1-3, described in Section III of the Notice. Until DEQ's inspection of the Facility on June 29, 2017, it was DEQ's understanding—based on Respondent's 2015 and 2016 Annual Report submissions to DEQ—that Respondent was managing the Chlorinated Solvent Waste as hazardous waste with waste codes F002 and F003. In fact, Respondent was unlawfully managing its Chlorinated Solvent Waste as nonhazardous waste.

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 \$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)(J) because Respondent is a small quantity generator.

"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 8 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent has 4 Class I violations and 6 Class II violations in Case No. LQ/HW-ER-2014-075, issued on July 23, 2014.

- "H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(b) because some of the violations cited as prior significant actions in Case No. LQ/HW-ER-2014-075 were uncorrectable and the Respondent took reasonable affirmative efforts to minimize the effects of the violations.
- "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 was more than one but less than seven occurrences of the violation. There were two occurrences of the violation. Respondent submitted inaccurate annual reports for reporting years 2015 and 2016.
- "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. Reckless means the Respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. Respondent's 2015 and 2016 Annual Reports include a certification, electronically signed by Respondent, which states: "I certify that under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining that information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." Despite electronically signing this certification statement, Respondent submitted inaccurate annual reports to DEQ for 2015 and 2016, even though accurate information about the management and disposal of the Chlorinated Solvent Waste was readily available on Respondent's shipping documentation. Therefore, Respondent consciously disregarded a substantial and unjustifiable risk of submitting inaccurate information to DEQ regarding the management of its Chlorinated Solvent Waste.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure that the violation would not be repeated by submitting a 2017 Annual Report which accurately reported that the seven shipments of Chlorinated Solvent Waste in 2017 were sent to the Idaho TSDF (RCRA Site ID Number IDD073114654) and were managed by solidification prior to disposal (Management Method code No. H132).
- "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 derived by Respondent from the inaccurate reporting is de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$4,000 + [(0.1 x \$4,000) x (8 + -1 + 2 + 8 + -1)] + \$0
= \$4,000 + (\$400 x 16) + \$0
= \$4,000 + \$6,400 + \$0
= \$10,400