



# Oregon

Tina Kotek, Governor

Department of Environmental Quality  
Office of Compliance and Enforcement  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100  
(503) 229-5696  
FAX (503) 229-5100  
TTY 711

June 20, 2023

CERTIFIED MAIL: 7016 2710 0000 4221 2809

Anodex Finishing, Inc.  
c/o Charles Strouth, Registered Agent  
916 Chevy Way  
Medford OR 97504

Re: Notice of Civil Penalty Assessment and Order  
Case No. LQ-HW-WR-2022-626

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$122,961 for multiple and ongoing violations of hazardous waste law at your facility in Medford.

DEQ issued this penalty because since at least 2019, Anodex has illegally treated and stored large quantities of toxic and corrosive hazardous waste at the facility without a permit, risking harm to public health and the environment. Despite annual written direction from the City of Medford to properly characterize and dispose of hazardous waste since 2017, and DEQ's direction after inspecting the facility in 2022, Anodex has not yet properly disposed of the hazardous waste at a permitted disposal site. DEQ is especially concerned that when DEQ staff inspected the facility again on May 23, 2023, the 2022 violations were ongoing, new violations had occurred, and facility staff had not yet been trained in hazardous waste and emergency response requirements.

Included in Section IV of the enclosed Notice is an order requiring you to complete hazardous waste determinations, label tanks and containers of hazardous waste, properly dispose of the hazardous waste at the Facility, provide hazardous waste training to staff, and submit annual hazardous waste generator reports to DEQ.

\$27,561 of the civil penalty represents the economic benefit you gained by avoiding the costs of hazardous waste disposal and personnel training. If you complete the requirements in the order, DEQ will consider recalculating some of the costs as delayed rather than avoided and will reduce the civil penalty accordingly. DEQ appreciates your efforts to address the other violations and DEQ considered these efforts when determining the amount of civil penalty.

You may pay the civil penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:

<https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account dashboard. Enter the Invoice number and Account ID included on the attached payment

slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional charges.

Pay by check or money order: Make checks payable to "Department of Environmental Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with your check or money order.

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

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov)

Via fax – 503-229-6762

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor instead of paying a portion of your 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 Sarah Wheeler at 971-301-0622.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

Electronic cc: Killian Condon, DEQ  
Charles (Tom) Strouth, Anodex Finishing, Inc., [tom@gigatest.com](mailto:tom@gigatest.com)

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:  
4 ANODEX FINISHING, INC.,

Respondent. )

NOTICE OF CIVIL PENALTY  
ASSESSMENT AND ORDER

CASE NO. LQ-HW-WR-2022-626

6 I. AUTHORITY

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

11 II. FINDINGS OF FACT

12 1. Respondent operates a metal finishing business at 4643 Grumman Drive in Medford,  
13 Oregon (the Facility).

14 2. In one calendar month in early 2019, Respondent generated more than 2,200 pounds of  
15 hazardous waste at the Facility. As of the date of this Notice, Respondent continues to store that  
16 hazardous waste generated in early 2019 at the Facility, along with additional hazardous waste  
17 generated from 2019 to date.

18 3. On February 24 and July 18, 2022, and May 23, 2023, DEQ staff inspected the Facility.  
19 When Respondent stopped operating the chromating line in Tanks 1-3 in early 2019, Tanks 1-3 were  
20 full of waste, and Respondent did not determine whether the waste in Tanks 1-3 were hazardous  
21 wastes. At that time, and ongoing as of the date of this Notice, Respondent evaporated the waste in  
22 Tanks 1-3 by storing the waste in the open tanks. On February 24, 2022, some liquid and sludge waste  
23 remained in the tanks, and Respondent's staff measured the liquid portion of Tank 1 with a pH probe,  
24 which read less than 1.0. From at least February 24, 2022 to May 23, 2023, Tanks 1-3 were not labeled  
25 as "hazardous waste," or with the hazards of the contents of the tanks, or with the date the waste was  
26 first accumulated in the tanks.

27 ///

1           4.     In August of 2022, Respondent sampled and analyzed waste from Tanks 1-3 using the  
2 Toxicity Characteristic Leachate Procedure (TCLP). The analytical results are as follows:

- 3           a.     Tank 1: 4,730 milligrams per liter (mg/L) chromium and 285 mg/L barium
- 4           b.     Tank 2: 780 mg/L chromium
- 5           c.     Tank 3: 6.88 mg/L chromium

6           5.     On and before February 24, 2022, Respondent stored the following wastes at the  
7 Facility, and had not determined whether they were hazardous wastes, labeled them with the  
8 words "hazardous waste," labeled them with the hazards of the contents of the containers, or labeled  
9 them with the date the waste was first placed in the containers:

- 10          a.     One 55-gallon drum labeled "Chromium 6" approximately one-quarter full of solid  
11 waste containing greater than 5.0 mg/L of hexavalent chromium, weighing  
12 approximately 50 pounds;
- 13          b.     One 55-gallon drum approximately one-quarter full of solid waste nickel chromate,  
14 containing greater than 5.0 mg/L of chromium, weighing approximately 50 pounds.
- 15          c.     One 55-gallon drum approximately three-quarters full of black dye solids containing  
16 greater than 5.0 mg/L of chromium, weighing approximately 300 pounds;
- 17          d.     Four 55-gallon drums of black dye liquids containing greater than 5.0 mg/L of  
18 chromium, weighing approximately 1,200 pounds in total;
- 19          e.     One 600-gallon tank of black dye liquids, containing greater than 5.0 mg/L of  
20 chromium, weighing approximately 4,400 pounds;
- 21          f.     One five-gallon container labeled "chromate" and approximately half-full of waste  
22 liquid containing greater than 5.0 mg/L of chromium, weighing approximately 20  
23 pounds;
- 24          g.     One 55-gallon drum containing approximately two gallons of liquid sodium hydroxide  
25 waste, weighing approximately 20 pounds; and
- 26          h.     Approximately three gallons of expired muriatic acid, weighing approximately 25  
27 pounds.



1 because they were abandoned by being accumulated, stored, or treated before or in lieu of disposal. The  
2 wastes described in Paragraphs 3-4 were hazardous wastes identified by EPA Hazardous Waste Numbers  
3 (Waste Numbers) D002, D005, and D007, pursuant to 40 CFR 261.22(a)(1) and 40 CFR 261.24. The  
4 wastes described in Paragraph 5 are hazardous wastes identified by Waste Numbers D002 and D007,  
5 pursuant to 40 CFR 261.22(a)(1) and 40 CFR 261.24. The waste described in Paragraph 6.a is hazardous  
6 waste identified by Waste Number D002, pursuant to 40 CFR 261.22(a)(1). These are Class I violations,  
7 according to OAR 340-012-0068(1)(a). DEQ hereby assesses a \$27,600 civil penalty for these violations.

8 2. Respondent violated ORS 466.095(1)(c) by treating hazardous waste at the Facility  
9 without a permit, as described in Section II, Paragraphs 3-4 and 9 above. Specifically, Respondent  
10 evaporated approximately 300 gallons (2,490 pounds) of hazardous waste identified by Waste Numbers  
11 D002, D005, and D007, pursuant to 40 CFR 261.22(a)(1) and 40 CFR 261.24, from Tank 1, and  
12 evaporated approximately 600 gallons (4,980 pounds) of hazardous waste identified by Waste Numbers  
13 D002 and D007, pursuant to 40 CFR 261.22(a)(1) and 40 CFR 261.24, from Tanks 2-3. The evaporated  
14 wastes were solid wastes according to 40 CFR 261.2(a)(1) and (2)(i)(A), and (b)(3), because they were  
15 abandoned by being treated before or in lieu of disposal. This is a Class I violation, according to OAR  
16 340-012-0068(1)(h). DEQ hereby assesses a \$35,149 civil penalty for this violation.

17 3. Respondent violated ORS 466.095(1)(a) by storing hazardous waste at the Facility  
18 without a permit, as described in Section II, Paragraphs 1-5 and 9. The wastes described in Section II,  
19 Paragraphs 3-5 above were solid wastes according to 40 CFR 261.2(a)(1) and (2)(i)(A), and (b)(3),  
20 because they were abandoned by being accumulated, stored, or treated before or in lieu of disposal. The  
21 wastes described in Section II, Paragraph 5 above were hazardous wastes identified by EPA Hazardous  
22 Waste Numbers (Waste Numbers) D002, D005, and D007, pursuant to 40 CFR 261.22(a)(1) and 40 CFR  
23 261.24. This is a Class II violation, according to OAR 340-012-0068(2)(d). DEQ hereby assesses a  
24 \$37,397 civil penalty for this violation.

25 4. Respondent violated 40 CFR 262.17(a)(7)<sup>2</sup> by failing to provide annual hazardous waste  
26 training for Facility personnel each year since 2019, as described in Section II, Paragraphs 1, 2 and 7  
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<sup>2</sup> From 2019-2021: 40 CFR 265.16 as referenced by 262.34(a)(4).  
NOTICE OF CIVIL PENALTY ASSESSMENT AND ORDER

1 above. These are Class II violations, according to OAR 340-012-0068(2)(I). DEQ hereby assesses a  
2 \$8,415 civil penalty for these violations.

3 5. Respondent violated 40 CFR 262.17(a)(5)(i)(C) by failing to label containers and tanks  
4 with the date the waste was first placed in the containers, as described in Section II, Paragraphs 3-6 and  
5 9 above. The wastes described in Section II, Paragraphs 3-6 above were solid wastes according to 40 CFR  
6 261.2(a)(1) and (2)(i)(A), and (b)(3), because they were abandoned by being accumulated, stored, or  
7 treated before or in lieu of disposal. The wastes described in Section II, Paragraphs 3-4 were hazardous  
8 wastes identified by EPA Hazardous Waste Numbers (Waste Numbers) D002, D005, and D007, pursuant  
9 to 40 CFR 261.22(a)(1) and 40 CFR 261.24. The wastes described in Section II, Paragraph 5 are hazardous  
10 wastes identified by Waste Numbers D002 and D007, pursuant to 40 CFR 261.22(a)(1) and 40 CFR  
11 261.24. The waste described in Section II, Paragraph 6.a is hazardous waste identified by Waste Number  
12 D002, pursuant to 40 CFR 261.22(a)(1). This is a Class II violation, according to OAR 340-012-  
13 0068(2)(a). DEQ hereby assesses a \$14,400 civil penalty for this violation.

14 6. Respondent violated 40 CFR 262.17(a)(5)(i)(A) by failing to label containers and tanks  
15 storing hazardous waste with the words "hazardous waste," as described in Section II, Paragraphs 3-6  
16 and 9 above. The wastes described in Section II, Paragraphs 3-6 above were solid wastes according to 40  
17 CFR 261.2(a)(1) and (2)(i)(A), and (b)(3), because they were abandoned by being accumulated, stored, or  
18 treated before or in lieu of disposal. The wastes described in Section II, Paragraphs 3-4 were hazardous  
19 wastes identified by EPA Hazardous Waste Numbers (Waste Numbers) D002, D005, and D007, pursuant  
20 to 40 CFR 261.22(a)(1) and 40 CFR 261.24. The wastes described in Section II, Paragraph 5 are hazardous  
21 wastes identified by Waste Numbers D002 and D007, pursuant to 40 CFR 261.22(a)(1) and 40 CFR  
22 261.24. The waste described in Section II, Paragraph 6.a is hazardous waste identified by Waste Number  
23 D002, pursuant to 40 CFR 261.22(a)(1). This is a Class II violation, according to OAR 340-012-  
24 0068(2)(b). DEQ has not assessed a civil penalty for this violation.

25 7. Respondent violated 40 CFR 262.17(a)(5)(i)(B) by failing to label containers and tanks  
26 storing hazardous waste with an indication of the hazards of the contents, as described in Section II,  
27 Paragraphs 3-6 and 9 above. The wastes described in Section II, Paragraphs 3-6 above were solid wastes

1 according to 40 CFR 261.2(a)(1) and (2)(i)(A), and (b)(3), because they were abandoned by being  
2 accumulated, stored, or treated before or in lieu of disposal. The wastes described in Section II, Paragraphs  
3 3-4 were hazardous wastes identified by EPA Hazardous Waste Numbers (Waste Numbers) D002, D005,  
4 and D007, pursuant to 40 CFR 261.22(a)(1) and 40 CFR 261.24. The wastes described in Section II,  
5 Paragraph 5 are hazardous wastes identified by Waste Numbers D002 and D007, pursuant to 40 CFR  
6 261.22(a)(1) and 40 CFR 261.24. The waste described in Section II, Paragraph 6.a is hazardous waste  
7 identified by Waste Number D002, pursuant to 40 CFR 261.22(a)(1). This is a Class II violation,  
8 according to OAR 340-012-0068(2)(b). DEQ has not assessed a civil penalty for this violation.

9 8. Respondent violated OAR 340-102-0041(2) and OAR 340-102-0065(1)(a)(C) and (4) by  
10 failing to submit to DEQ accurate annual hazardous waste generator reports for 2019, 2020, 2021, and  
11 2022 by March 1 of each following year, and pay associated fees to DEQ, as described in Section II,  
12 Paragraphs 1, 2 and 8 above. Specifically, Respondent should have reported as a large quantity generator  
13 of hazardous waste for 2019-2022, including the generation of the hazardous waste that Respondent  
14 evaporated in those years at the Facility. These are Class II violations, according to OAR 340-012-  
15 0068(2)(t). DEQ has not assessed a civil penalty for these violations.

#### 16 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

19 1. Pay a total civil penalty of \$122,961. The determination of the civil penalty is attached as  
20 Exhibits 1-5, which are incorporated as part of this Notice.

21 If you do not file a request for hearing as set forth in Section V below, please pay the penalty as  
22 follows:

23 Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:  
24 <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account  
25 dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US  
26 Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional  
27 charges.



1 Pay by check or money order: Make checks payable to "Department of Environmental  
2 Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment  
3 slip with your check or money order.

4 **2. Within 30 days of this order becoming final by operation of law or on appeal:**

5 a. Provide documentation to DEQ of complete and accurate hazardous waste  
6 determinations on the wastes described in Section II, Paragraph 6.b and 6.c;

7 b. Provide documentation to DEQ that all hazardous wastes at the Facility are labeled as  
8 "hazardous waste," with an indication of the hazards of their contents, and with the date the waste was  
9 first placed in the containers;

10 c. Properly dispose of all hazardous waste at the Facility at a permitted hazardous waste  
11 disposal facility, and provide records of disposal;

12 d. Provide documentation that Facility personnel with hazardous waste management duties  
13 have been trained in hazardous waste and emergency response requirements; and

14 e. Submit complete and accurate hazardous waste generator reports for hazardous waste  
15 activities at the Facility in 2019, 2020, 2021, and 2022, including hazardous wastes evaporated from  
16 Tanks 1-3, to DEQ. Submit these reports through Your DEQ Online, at  
17 <https://www.oregon.gov/deq/Hazards-and-Cleanup/hw/Pages/HW-Reporting.aspx>, by responding to the  
18 yearly reporting obligations in the Submittals Module of your account for the Facility.

19 **V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING**

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

1 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
2 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
3 represented by an attorney at the hearing, however you are not required to be. If you are an individual,  
4 you may represent yourself. If you are a corporation, partnership, limited liability company,  
5 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
6 authorized representative, as set forth in OAR 137-003-0555.

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

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

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6/20/2023  
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Date


  
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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 1: Failing to accurately determine if Respondent's residues (as defined in OAR 340-100-0010(2)(hh) and 40 CFR 261.2) were hazardous waste, in violation of 40 CFR 262.11 and OAR 340-102-0011(2).
- CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0068(1)(a).
- MAGNITUDE: The magnitude of the violations is major pursuant to OAR 340-012-0135(4)(a)(A) because Respondent failed to make a hazardous waste determination on 13 waste streams.
- 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 \$12,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent violated a hazardous waste rule and Respondent is a large quantity generator of hazardous waste, as defined in 40 CFR 260.10.
- "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 within the past 10 years per OAR 340-012-0145(2)(d)(B), 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 0 of 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 3 according to OAR 340-012-0145(4)(c), because there were between seven to 28 occurrences of the violation. Respondent failed to accurately make 13 hazardous waste determinations. According to OAR 340-012-0145(4), each repeated occurrence of the same violation and each day of a violation with a duration of more than one day is a separate occurrence.
- "M" is the mental state of the Respondent and receives a value of 10 according to OAR 340-012-0145(5)(e), because Respondent acted flagrantly, as defined by OAR 340-012-0030(11), to mean that Respondent had actual knowledge that the conduct was unlawful and consciously set out to commit the violation. In at least 2014-2015, Respondent characterized, labeled, manifested, and disposed of hazardous waste properly. In 2017, the City of Medford provided Respondent written instruction to determine Respondent's generator status and properly dispose of hazardous waste, and provided Respondent the Oregon DEQ Small

Quantity Generator's Handbook. In 2018, the City documented storage of chrome waste and notified Respondent in writing to properly track and dispose of hazardous waste, specifically regarding Respondent's plan to end use of the chromating line. In 2019, the City documented Respondent's continued storage of chrome waste, additional unknown waste that "needs to have its contents evaluated/identified for proper disposal," and the City's recommendation to contact Oregon DEQ's Hazardous Waste Technical Assistant (with phone number provided) for review of waste on site. In 2020 and 2021, the City documented additional hazardous waste accumulation, the need to properly track and dispose of waste, and again recommended Respondent contact DEQ for assistance. Respondent did not contact DEQ for technical assistance and did not characterize the hazardous waste on site as such until after DEQ's inspections in 2022. When DEQ inspected in May 2023, Respondent had additional uncharacterized waste streams at the Facility.

"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). Respondent completed hazardous waste determinations on all of the waste streams on site in July 2022 by August 31, 2022. Respondent had additional uncharacterized wastes at the Facility in May 2023, which have not been completely characterized as of the date of this Notice.

"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 determined that the economic benefit resulting from these violations was de minimis. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$12,000 + [(0.1 \times \$12,000) \times (0 + 0 + 3 + 10 + 0)] + \$0 \\ &= \$12,000 [\$1,200 \times (13)] + \$0 \\ &= \$12,000 + \$15,600 + \$0 \\ &= \$27,600 \end{aligned}$$

EXHIBIT 2

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

- VIOLATION 2: Treating hazardous waste without a permit, in violation of ORS 466.095(1)(c).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0068(1)(h).
- MAGNITUDE: The magnitude of the violations is major pursuant to OAR 340-012-0135(4)(b)(A)(i) because Respondent illegally treated approximately 900 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 \$12,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent violated a hazardous waste statute and Respondent is a large quantity generator of hazardous waste as defined in 40 CFR 260.10.

"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 within the past 10 years per OAR 340-012-0145(2)(d)(B), 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 0 of according to OAR 340-012-0145(3)(c) because there is no prior history.

"O" is whether the violation was repeated or ongoing and receives a value of 4 according to OAR 340-012-0145(4)(d), because Respondent evaporated the hazardous waste beginning in 2019, and the evaporation continued for at least 28 days. As of DEQ's inspections in 2022, some liquid waste was still present in the open tanks. According to OAR 340-012-0145(4), each repeated occurrence of the same violation and each day of a violation with a duration of more than one day is a separate occurrence.

"M" is the mental state of the Respondent and receives a value of 10 according to OAR 340-012-0145(5)(e), because Respondent acted flagrantly, as defined by OAR 340-012-0030(11), to mean that Respondent had actual knowledge that the conduct was unlawful and consciously set out to commit the violation. In 2018, the City documented storage of chrome waste and notified Respondent in writing to properly track and dispose of hazardous waste, specifically regarding Respondent's plan to end use of the chromating line. Each year since 2019, the City provided Respondent with a written recommendation to contact Oregon DEQ's Hazardous Waste Technical Assistant (with phone number provided) for review of waste on

site and repeated the instruction to properly dispose of hazardous waste. Respondent did not contact DEQ for technical assistance. DEQ inspected the Facility in February and July 2022, and sent written direction to characterize and properly dispose of the hazardous waste in the tanks, and informed Respondent that passive evaporation of the waste in the tanks was illegal treatment of hazardous waste, in the September 20, 2022 Pre-Enforcement Notice. Respondent obtained an estimate for the cost of disposal in November 2022, but as of the date of this Notice, Respondent continues to store the hazardous waste in the open chromating tanks at the Facility.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 2 according to OAR 340-012-0145(6)(g), because Respondent has not addressed the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f). As of the date of this Notice, Respondent has not disposed of the hazardous waste remaining in the open tanks.

"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 \$3,949. This is the amount Respondent gained by avoiding spending an estimated \$6,050 to dispose of the hazardous waste that Respondent illegally evaporated. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$   
 $= \$12,000 + [(0.1 \times \$12,000) \times (0 + 0 + 4 + 10 + 2)] + \$3,949$   
 $= \$12,000 [\$1,200 \times (16)] + \$3,949$   
 $= \$12,000 + \$19,200 + \$3,949$   
 $= \$35,149$

### EXHIBIT 3

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

- VIOLATION 3: Storing hazardous waste without a permit, in violation of ORS 466.095(1)(a).
- CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0068(2)(d).
- MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c)(A)(i) because Respondent illegally stored more 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 \$6,000 for a Class II, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent violated a hazardous waste statute and Respondent is a large quantity generator as defined in 40 CFR 260.10.
- "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 within the past 10 years per OAR 340-012-0145(2)(d)(B), 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 0 of according to OAR 340-012-0145(3)(c) because there is no prior history.
- "O" is whether the violation was repeated or ongoing and receives a value of 4 according to OAR 340-012-0145(4)(d), because Respondent generated and began storing over 2,200 pounds of hazardous waste beginning in 2019, and continues to store this hazardous waste without a permit as of the date of this Notice. According to OAR 340-012-0145(4), each repeated occurrence of the same violation and each day of a violation with a duration of more than one day is a separate occurrence.
- "M" is the mental state of the Respondent and receives a value of 10 according to OAR 340-012-0145(5)(e), because Respondent acted flagrantly, as defined by OAR 340-012-0030(11), to mean that Respondent had actual knowledge that the conduct was unlawful and consciously set out to commit the violation. In at least 2014-2015, Respondent labeled, manifested, and disposed of hazardous waste properly. In 2017, the City of Medford provided Respondent written instruction to determine Respondent's generator status and properly dispose of hazardous waste, and provided Respondent the Oregon DEQ Small Quantity Generator's Handbook. In 2018, the City documented storage of chrome waste and notified Respondent

in writing to properly track and dispose of hazardous waste, specifically regarding Respondent's plan to end use of the chromating line. In 2019, the City documented Respondent's continued storage of chrome waste, additional unknown waste that needed evaluation, and the City's recommendation to contact Oregon DEQ's Hazardous Waste Technical Assistant (with phone number provided) for review of waste on site. In 2020 and 2021, the City documented additional hazardous waste accumulation, the need to properly track and dispose of waste, and again recommended Respondent contact DEQ for assistance. Respondent did not contact DEQ for technical assistance. DEQ inspected the Facility in February and July 2022 and directed Respondent to characterize and properly dispose of the hazardous waste. Respondent obtained an estimate for the cost of disposal in November 2022, but as of the date of this Notice, Respondent continues to illegally store the hazardous waste at the Facility.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 2 according to OAR 340-012-0145(6)(g), because Respondent has not addressed the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f). As of the date of this Notice, Respondent has not properly disposed of the hazardous waste at the Facility.

"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 \$21,797. This is the amount Respondent gained by avoiding spending \$33,400 to dispose of the hazardous waste that Respondent illegally stored. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$6,000 + [(0.1 x \$6,000) x (0 + 0 + 4 + 10 + 2)] + \$21,797  
= \$6,000 [\$600 x (16)] + \$21,797  
= \$6,000 + \$9,600 + \$21,797  
= \$37,397



EXHIBIT 4

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

VIOLATION 4: Failing to provide annual hazardous waste training for Facility personnel, in violation of 40 CFR 262.17(a)(7).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0068(2)(1).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is:  $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$3,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent violated a hazardous waste rule and Respondent is a large quantity generator of hazardous waste, as defined in 40 CFR 260.10.

"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 340-012-0030(2)(a)(A), because Respondent does not have any 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 there were more than one but less than seven occurrences of the violation. Respondent did not provide annual training for four years, from 2019-2022.

"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 train staff, with actual knowledge of the requirement since at least September 2022. In 2017 and each year thereafter, the City of Medford provided Respondent written recommendations to contact DEQ for hazardous waste technical assistance. Respondent never contacted DEQ for technical assistance. In the September 2022 Pre-Enforcement Notice, DEQ provided Respondent with written notice of the training requirement, and a link to free training resources that would have partially addressed the violation. As of the date of this Notice, Respondent has not provided any training to staff in hazardous waste and emergency response requirements.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 2 according to OAR 340-012-0145(6)(g), because Respondent has not addressed the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f). As of the date of this Notice, Respondent has not provided the required training.

"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 \$1,815. This is the amount Respondent gained by avoiding spending \$2,100 for initial training for two staff in 2019, and \$240 annually thereafter for refresher training. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$3,000 + [(0.1 x \$3,000) x (0 + 0 + 2 + 8 + 2)] + \$1,815  
= \$3,000 + [\$300 x (12)] + \$1,815  
= \$3,000 + \$3,600 + \$1,815  
= \$8,415

EXHIBIT 5

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

VIOLATION 5: Failing to label containers of hazardous waste with the date upon which each period of accumulation began, in violation of 40 CFR 262.17(a)(5)(i)(C).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0068(2)(a).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c), because Respondent failed to date containers and tanks storing more than 1,000 gallons or 6,000 pounds 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 \$6,000 for a Class II, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent violated a hazardous waste rule and Respondent is a large quantity generator as defined in 40 CFR 260.10.

"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 within the past 10 years per OAR 340-012-0145(2)(d)(B), and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondent's history of correcting prior significant actions, and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is no prior history.

"O" is whether the violation was repeated or ongoing and receives a value of 4 according to OAR 340-012-0145(4)(d), because Respondent should have dated each container and tank of hazardous waste when it was first accumulated in the containers and tanks, which for some of the waste was as early as 2019. On February 24, 2022, and May 23, 2023, the hazardous waste was not dated, thus, the violation has been ongoing for at least that period of time and over one year. According to OAR 340-012-0145(4), each repeated occurrence of the same violation and each day of a violation with a duration of more than one day is a separate occurrence.

"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 date the hazardous waste, with actual knowledge of the requirement. In at least 2014-2015, Respondent labeled, manifested, and disposed of hazardous waste properly. In 2017 and each year thereafter, the City of Medford provided Respondent written instruction regarding hazardous waste management requirements. DEQ

inspected the Facility in February and July 2022 and in writing on July 8, 2022, DEQ directed Respondent to label the hazardous waste with the dates Respondent began accumulating the waste. As of May 23, 2023, Respondent has not dated the hazardous waste at the Facility as required.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 2 according to OAR 340-012-0145(6)(g), because Respondent has not addressed the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f). As of the date of this Notice, Respondent has not dated the hazardous waste at the Facility.

"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 estimates any economic benefit from this violation is de minimis.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$6,000 + [(0.1 x \$6,000) x (0 + 0 + 4 + 8 + 2)] + \$0  
= \$6,000 + (\$600 x 14) + \$0  
= \$6,000 + \$8,400 + \$0  
= \$14,400

Oregon Department of Environmental Quality  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100



State of Oregon  
Department of Environmental Quality

Phone: 503-229-5437  
Fax: 503-229-5850

**CIVIL PENALTY - ORS 468.135(2)**

DATE:	June 20, 2023
RESPONSE DATE :	August 29, 2023
TOTAL PENALTY:	\$122,961.00

Account Name:	ANODEX FINISHING INC		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2300082
SubSystem ID:	202245	FIMS Acct. ID:	8698

**Penalty Summary**

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 122,961.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 122,961.00

Payment of this penalty is subject to the exercise of your options or right to appeal as described in the enclosed enforcement documents.

To Pay Online with ACH or Credit Card Visit <https://ydo.oregon.gov> and select 'Register Account'



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PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2300082		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	August 29, 2023
FIMS ACCT. ID:	8698	TOTAL PENALTY DUE:	\$122961.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

DEQ FINANCIAL SERVICES - LBX4244  
PO BOX 4244  
PORTLAND OR 97208-4244

Check this box if updated address information has been provided on the back of the form.

00401 7400 10040 74001 0500 000000 0095000086982(CPGFD)230008200122961002



State of Oregon  
Department of  
Environmental  
Quality

# State of Oregon Department of Environmental Quality

**CIVIL PENALTY - ORS 468.135(2)**

700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100  
Phone: 503-229-5437  
Fax: 503-229-5850

## Penalty Detail

Transaction Date	Description	Amount
6/16/2023	2022-626 LQ-HW-WR-2022-626	\$122,961.00

## SFMS Agencies Use:

Trans Code	Treasury Fund	SFMS	Index	PCA (5)	Agency Object	Project #	Phase
723	00401	7400	10040	74001	0500	00000	00

## Address Changes

Please visit <https://ydo.oregon.gov> to update your mailing address online or provide the following information:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_