



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

August 3, 2023

CERTIFIED MAIL: 7016 2710 0000 4221 2946

Pacific Seafood – Brookings, LLC
c/o Unisearch, Registered Agent
698 12th St., SE, Suite 200
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/I-WR-2022-123

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$28,800 for violating pollutant effluent limits and monitoring requirements in your wastewater disposal permit.

Pollutant limits in wastewater permits are set at levels protective of water quality and aquatic life. By exceeding effluent limits, you created a risk of harm to beneficial uses of state waters. By failing to comply with monitoring requirements, you deprived DEQ and the public of information necessary to determine potential environmental impacts of your wastewater.

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

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. 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 portion of the 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.

Pacific Seafood – Brookings, LLC
Case No. WQ/I-WR-2022-123
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If you have any questions, please contact Jeff Bachman at 503-229-5950 or toll free in Oregon at 800-452-4011, extension 5950.

Sincerely,

A handwritten signature in black ink, appearing to read "Kieran O'Donnell". The signature is fluid and cursive, written in a professional style.

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Jennifer Maglinte-Timbrook, DEQ
Ranei Nomura, DEQ
Accounting, DEQ
Aaron Courtney, Stoel Rives LLP, 760 SW Ninth Ave Ste 3000, Portland OR 97205

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 PACIFIC SEAFOOD – BROOKINGS, LLC,) ASSESSMENT AND ORDER
5 an Oregon limited liability company,)
6 Respondent.) CASE NO. WQ/M-WR-2022-123

7 I. AUTHORITY

8 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
9 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
10 ORS Chapters 183 and 468B and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011 and
11 012.

12 II. FINDINGS OF FACT

13 1. At all relevant times, Respondent operated an industrial wastewater collection, treatment
14 and disposal system at its seafood processing facility located at 16263 Harbor Drive, Harbor, Oregon,
15 pursuant to a National Pollutant Discharge Elimination System General Permit 900-J (the Permit)
16 issued and administered by DEQ.

17 2. The Permit authorizes Respondent to operate its system and to discharge treated
18 wastewater to waters of the state only in conformance with the conditions, requirements and limitations
19 of the Permit.

20 3. Schedule A, Condition 1.a.i of the Permit limits the daily loading of total suspended
21 solids (TSS) in Respondent’s discharged effluent when processing shrimp to 38 pounds per 1,000
22 pounds of product processed.

23 4. Respondent discharged shrimp processing effluent with daily TSS loadings as follows:

Date	TSS in pounds per 1,000 pounds of Shrimp Processed	Percentage Over Limit
June 28, 2022	130	242%
July 19, 2022	43	13%
July 27, 2022	69	82%

August 2, 2022	74	95%
August 3, 2022	48	26%

5. Schedule A, Condition 1.a.i of the Permit limits the monthly average loading of TSS in Respondent's discharged effluent when processing shrimp to 15 pounds per 1,000 pounds of product processed per day.

6. Respondent discharged shrimp processing effluent with monthly average TSS loadings as follows:

Month	TSS in pounds per 1,000 pounds of Shrimp Processed per Day	Percentage Over Limit
June 2022	30	100%
July 2022	32	113%
August 2022	33	120%

7. Schedule A, Condition 1.a.i of the Permit limits the daily loading of biochemical oxygen demand (BOD₅) in Respondent's discharged effluent when processing shrimp to 160 pounds per 1,000 pounds of product processed.

8. Respondent discharged shrimp processing effluent with the following BOD₅ daily loadings:

Date	BOD ₅ in pounds per 1,000 pounds of Shrimp Processed	Percentage Over Limit
August 23, 2022	180	13%

9. Schedule A, Condition 1.a.i of the Permit limits the monthly average loading of BOD₅ in Respondent's discharged effluent when processing shrimp to 62 pounds per 1,000 pounds of product processed per day.

10. Respondent discharged shrimp processing effluent with monthly average BOD₅ loadings as follows:

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Month	BOD ₅ in pounds per 1,000 pounds of Shrimp Processed per Day	Percentage Over Limit
July 2022	96	54%
August 2022	100	61%

11. Schedule A, Condition 1.a.i of the Permit limits the daily loading of oil and grease (O&G) in Respondent's discharged effluent when processing shrimp to 14 pounds per 1,000 pounds of product processed.

12. Respondent discharged shrimp processing effluent with the following O&G daily loading:

Date	O&G in pounds per 1,000 pounds of Shrimp Processed	Percentage Over Limit
August 2, 2022	15	7%
August 3, 2022	15	7%

13. Schedule A, Condition 1.a.i of the Permit limits the monthly average loading of O&G in Respondent's discharged effluent when processing shrimp to 5.7 pounds per 1,000 pounds of product processed per day.

14. Respondent discharged shrimp processing effluent with monthly average O&G loadings as follows:

Month	O&G in pounds per 1,000 pounds of Shrimp Processed per Day	Percentage Over Limit
August 2022	9.6	68%

15. Schedule B, Table B.2 requires Respondent to monitor its discharged effluent for total residual chlorine twice weekly.

16. Respondent did not monitor its discharged effluent for total residual chlorine during the week of May 1, 2022, and monitored discharged effluent once only for total residual chlorine during the week of May 26, 2022.

1 17. Schedule B, Table B.1 requires Respondent to monitor its discharge effluent for pH
2 twice weekly.

3 18. Respondent monitored its discharged effluent only once for pH during the week of May
4 26, 2022.

5 19. Schedule B, Table B.2 requires Respondent to monitor its discharged effluent for
6 temperature daily.

7 20. From July 8 through July 13, 2022, Respondent did not monitor its discharged effluent
8 for temperature.

9 III. CONCLUSIONS

10 1. Respondent violated ORS 468B.025(2) by discharging effluent that exceeded TSS effluent
11 limits established in Schedule A of the Permit as described in Section II, Paragraphs 3-6. Those
12 instances where Respondent discharged effluent that exceeded the limit by 50% or more are Class I
13 violations pursuant to OAR 340-012-0055(1)(k)(A). The instance where Respondent discharged effluent
14 that exceeded the limit by 20% or more but less than 50% is a Class II violation pursuant to OAR 340-012-
15 0055(2)(a)(A). The instance where Respondent discharged effluent that exceeded the limit by less than
16 20% is a Class III violation pursuant to OAR 340-012-0055(3)(b)(A). DEQ assesses a \$6,400 civil penalty
17 for these violations.

18 2. Respondent violated ORS 468B.025(2) by discharging effluent that exceeded BOD₅ effluent
19 limits established in Schedule A of the Permit as described in Section II, Paragraphs 7-10. Those
20 instances where the Respondent exceeded the limit by 50% or more are Class I violations pursuant to
21 OAR 340-012-0055(1)(k)(A). The instance where Respondent discharged effluent that exceeded the limit
22 by less than 20% is a Class III violation pursuant to OAR 340-012-0055(3)(b)(A). DEQ assesses a \$6,400
23 civil penalty for these violations.

24 3. Respondent violated ORS 468B.025(2) by discharging effluent that exceeded O&G effluent
25 limits established in Schedule A of the Permit as described in Section II, Paragraphs 11-14. The
26 instance where the Respondent exceeded the limit by 50% or more is a Class I violations pursuant to
27 OAR 340-012-0055(1)(k)(A). Those instances where Respondent discharged effluent that exceeded the

1 limit by less than 20% are Class III violation pursuant to OAR 340-012-0055(3)(b)(A). DEQ assesses a
2 \$3,200 civil penalty for these violations.

3 4. Respondent violated ORS 468B.025(2) by failing to conduct wastewater monitoring required
4 by Schedule B of the Permit as described in Section II, Paragraphs 15-20. These are Class I violations
5 pursuant to OAR 340-012-0055(1)(o). DEQ assesses a \$12,800 civil penalty for these violations.

6 IV. ORDER TO PAY CIVIL PENALTY

7 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
8 hereby ORDERED TO: Pay a total civil penalty of \$28,800. The determinations of the civil penalties are
9 attached as Exhibits 1-4 and are incorporated as part of this Notice.

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

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

14 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
15 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
16 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
17 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered
18 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
19 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
20 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232,** fax
21 it to **503-229-6762** or email it to **DEQappeals@deq.oregon.gov**. An administrative law judge
22 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
23 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
24 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
25 you may represent yourself. If you are a corporation, partnership, limited liability company,
26 unincorporated association, trust or government body, you must be represented by an attorney or a duly
27 authorized representative, as set forth in OAR 137-003-0555.

1 Active duty Service members have a right to stay proceedings under the federal Service
2 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
3 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
4 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
5 Department does not have a toll free telephone number.

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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8/3/2023
Date


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 Violating ORS 468B.025(2) by exceeding TSS effluent limits in the Permit.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(k)(A) and OAR 340-012-0145(4)(e).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(2)(a)(C)(i) because Respondent's discharge was diluted by a factor of 10 or more by the receiving 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)(E)(iii) because Respondent has a NPDES general permit.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

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

"O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) and -0145(4)(e) because there was more than one but less than seven occurrences of the violation. O is determined by dividing the total number of violations by the number of violations for which separate penalties are assessed. There were eight total violations as detailed in the notice, which when divided by two, the number of violations for which separate penalties are assessed, results in a value of four occurrence per violation penalized.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. The TSS limits are express requirements of the Permit. By failing to take the action necessary to comply with the limits, Respondent failed to take reasonable care to avoid a foreseeable risk of committing the violation.

"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 the violation or the effects of the violation could not be corrected or minimized.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 as DEQ has insufficient information to arrive at another finding.

PENALTY CALCULATION: Single Penalty Calculation x Number of Violations Penalized + EB

$$\begin{aligned} \text{Single Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] \\ &= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 2 + 4 + 0)] \\ &= \$2,000 + (\$200 \times 6) \\ &= \$2,000 + \$1,200 \\ &= \$3,200 \end{aligned}$$

DEQ assesses separate civil penalties for two Class I occurrences of the violation for a final civil penalty of \$6,400 for Violation 1.

EXHIBIT 2

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

VIOLATION NO. 3 Violating ORS 468B.025(2) by exceeding BOD₅ effluent limits in the Permit.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(k)(A) and OAR 340-012-0145(4)(e).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(2)(a)(C)(i) because Respondent's discharge was diluted by a factor of 10 or more by the receiving 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)(E)(iii) because Respondent has a NPDES general permit.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

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

"O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) and -0145(4)(e) because there was more than one but less than seven occurrences of the violation. O is determined by dividing the total number of violations by the number of violations for which separate penalties are assessed. There were three violations as detailed in the notice, which when divided by two, the number of violations for which separate penalties are assessed, results in a value of 1.5 occurrences per violation penalized.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. The BOD₅ limits are express requirement of the Permit. By failing to take the action necessary to comply with the limits, Respondent failed to take reasonable care to avoid a foreseeable risk of committing the violation.

"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 the violation or the effects of the violation could not be corrected or minimized.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 as DEQ has insufficient information to arrive at another finding.

PENALTY CALCULATION: Single Penalty Calculation x Number of Violations Penalized + EB

$$\begin{aligned}\text{Single Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] \\ &= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 2 + 4 + 0)] \\ &= \$2,000 + (\$200 \times 6) \\ &= \$2,000 + \$1,200 \\ &= \$3,200\end{aligned}$$

DEQ assesses separate civil penalties for two Class I occurrences of the violation for a final civil penalty of \$6,400 for Violation 2.

EXHIBIT 3

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

VIOLATION NO. 3 Violating ORS 468B.025(2) by exceeding O&G effluent limits in the Permit

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(k)(A) and OAR 340-012-0145(4)(e).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(2)(a)(C)(i) because Respondent's discharge was diluted by a factor of 10 or more by the receiving 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)(E)(iii) because Respondent has a NPDES general permit.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

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

"O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) and -0145(4)(e) because there was more than one but less than seven occurrences of the violation. There were three occurrences of the violation as detailed in the Notice.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. The O&G limits are express requirement of the Permit. By failing to take the action necessary to comply with the limits, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct committing the violation.

"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 the violation or the effects of the violation could not be corrected or minimized.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 as DEQ has insufficient information to arrive at another finding.

$$\begin{aligned} \text{PENALTY CALCULATION: } & \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] \\ & = \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 2 + 4 + 0)] \\ & = \$2,000 + (\$200 \times 6) \\ & = \$2,000 + \$1,200 \\ & = \$3,200 \end{aligned}$$

EXHIBIT 4

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

- VIOLATION NO. 4 Violating ORS 468B.025(2) by failing to conduct wastewater monitoring required by Schedule B of the Permit.
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(o).
- 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)(E)(iii) because Respondent has a NPDES general permit.
- "P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.
- "H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is no prior history.
- "O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) and -0145(4)(e) because there was more than one but less than seven occurrences of the violation. O is determined by dividing the total number of violations by the number of violations for which separate penalties are assessed. There were 10 violations as detailed in the notice, which when divided by two, the number of violations for which separate penalties are assessed results in a value of five occurrence per violation penalized.
- "M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. The monitoring requires limits are express requirements of the Permit. By failing to take the action necessary to complete the monitoring, Respondent failed to take reasonable care to avoid a foreseeable risk of committing the violation.

"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 the violation or the effects of the violation could not be corrected or minimized.

"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 as any economic benefit received was de minimis.

PENALTY CALCULATION: Single Penalty Calculation x Number of Violations Penalized + EB

$$\begin{aligned}\text{Single Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] \\ &= \$4,000 + [(0.1 \times \$4,000) \times (0 + 0 + 2 + 4 + 0)] \\ &= \$4,000 + (\$400 \times 6) \\ &= \$4,000 + \$2,400 \\ &= \$6,400\end{aligned}$$

DEQ assesses separate civil penalties for two Class I occurrences of the violation for a final civil penalty of \$12,800 for Violation 4.