

1 I. AGREEMENT

2 Respondent and DEQ hereby agree that:

3 1. Respondent's acceptance of this MAO does not constitute an admission of any of the
4 alleged violations in the MAO.

5 2. This MAO shall be effective upon the date fully executed.

6 3. DEQ withdraws Violation 3 in Attachment 1.

7 4. The total civil penalty in settlement of the violations alleged in Attachments 1 and 2
8 and as amended by this MAO is \$87,600, as detailed in Exhibits 1 through 6, which are
9 incorporated into this MAO.

10 5. Pursuant to OAR 340-012-0030(19) and OAR 340-012-0145(2), the violations
11 alleged in Attachments 1 and 2 and as amended by this MAO will be treated as 12 Class I, 109
12 Class II, and two Class III prior significant actions in the event a future violation occurs.

13 6. Respondent waives any and all rights and objections Respondent may have to a
14 contested case hearing and judicial review of the violations alleged in Attachments 1 and 2, and to
15 service of a copy of this MAO.

16 7. This MAO resolves all civil claims of DEQ, based upon the facts alleged, for the
17 violations expressly alleged in Attachments 1 and 2. This MAO is not intended to limit, in any way,
18 DEQ's right to proceed against Respondent in any forum for any past or future violations not
19 expressly settled herein.

20 8. Respondent releases and waives any and all claims of any kind, known or unknown,
21 past or future, against the State of Oregon or its agencies, instrumentalities, employees, officers, or
22 agents, arising out of the matters and events set out in Attachments 1 and 2 and this MAO. Any
23 and all claims includes but is not limited to any claim under 42 USC § 1983 et seq., any claim
24 under federal or state law for damages, declaratory, or equitable relief, and any claim for attorney's
25 fees or costs.

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1 9. This MAO shall be binding on Respondent and its respective successors, agents, and
2 assigns. The undersigned representative of Respondent certifies that they are fully authorized to
3 execute and bind Respondent to this MAO.

4 10. Verifiable electronic, facsimile, or scanned signatures on this MAO shall be treated
5 the same as original signatures.

6 11. Civil penalty payments pursuant to this MAO may be made as follows:

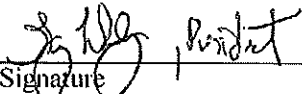
7 a. Pay online with e-check (ACH) or credit card. Go to Your DEQ Online here:
8 <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on
9 your account dashboard. Enter the Reference Number and FIMS Account ID included on
10 the attached payment slip. Note: US Bank charges a 2.3% convenience charge for credit
11 card transactions. ACH payments have no additional charges, or

12 ✓ b. Pay by check or money order: Make check payable to "Department of
13 Environmental Quality" and mail to the address on the enclosed payment slip. Please make
14 sure to include the payment slip with your check or money order and note the case number
15 on your check.

16 II. FINAL ORDER

17 The Environmental Quality Commission hereby enters a final order imposing upon
18 Respondent a total civil penalty of \$87,600 for the violations alleged in Attachments 1 and 2 and as
19 amended by this MAO, the full amount of which is due upon Respondent's signing of this MAO.

20 EAST SIDE PLATING, INC.

21 
22 Signature

23 Guy Reinberg
24 Name (print)

25 President
26 Title (print)

27 3/26/2024
Date

DEPARTMENT OF ENVIRONMENTAL
QUALITY and ENVIRONMENTAL QUALITY
COMMISSION

Rebecca L Puskas
Digitally signed by
Rebecca L Puskas
Date: 2024.03.26
15:55:06 -07'00'

Becka Puskas, Interim Manager
Office of Compliance and Enforcement
on behalf of DEQ pursuant to OAR 340-012-0170
on behalf of the EQC pursuant to OAR 340-011-0505

3/26/2024
Date

EXHIBIT I

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

VIOLATION NO. 1 Failing to accurately determine if Respondent's residues (as defined in OAR 340-100-0010(2)(h) and 40 CFR 261.2 as adopted by OAR 340-100-0002) were hazardous waste, in violation of OAR 340-102-0011(2).

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0068(1)(a).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(a)(A) because Respondent failed to make a hazardous waste determination on a total of 12 hazardous 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 is a large quantity generator of hazardous waste and violated a hazardous waste rule.

"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 an initial value of 12 according to OAR 340-012-0145(2)(a)(C) and (D), based on the following prior significant actions:

- On August 27, 2013, DEQ issued Respondent Expedited Enforcement Offer (EEO) Number LQ-HW-0119, which Respondent accepted and includes one Class I violation and six Class II violations, and three Class III violations.
- On July 28, 2016, DEQ issued Respondent EEO Number 2016-EEO-1776, which Respondent accepted and includes one Class II violation.
- On October 12, 2021, DEQ issued Respondent Notice of Civil Penalty Assessment and Order Number LQ/HW-NWR-2020-027, citing one Class I violation, nine Class II violations, and one Class III violation.

The Class II and III violations referenced above equate to nine total Class I equivalents, as defined in OAR 340-012-0030(2). According to OAR 340-012-0145(2)(b), the initial amount of 12 for the P factor is reduced to 10 because the maximum value of P will not exceed 10.

"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 the violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions.

- "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 12 occurrences of the violation. In March 2023, Respondent failed to conduct hazardous waste determinations upon generation of seven waste streams. Then, Respondent again failed to determine whether an additional five waste streams were hazardous as identified in DEQ's December 2023 inspection.
- "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 as defined in OAR 340-012-0030(20). Respondent is, and has been since 1992, a highly-regulated large quantity generator of hazardous waste, cited and penalized by DEQ for this and other hazardous waste violations in the past as detailed above. By again failing to identify whether multiple waste streams were hazardous waste, Respondent disregarded the substantial and unjustifiable risk of committing this violation. Given Respondent's recent enforcement history, and that the violation was repeated again in December 2023 after DEQ's inspection and Pre-Enforcement Notice earlier in 2023, disregarding this risk was a gross deviation from the standard of care a reasonable person would observe in this situation.
- "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, or to minimize the effects of the violation. By January 26, 2024, Respondent provided hazardous waste determinations to DEQ as requested.
- "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 does not have sufficient information on which to make an estimate.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$12,000 + [(0.1 \times \$12,000) \times (10 + (-1) + 3 + 8 + (-2))] + \0
 $= \$12,000 + (\$1,200 \times 18) + \$0$
 $= \$12,000 + \$21,600 + \$0$
 $= \$33,600$

EXHIBIT 2

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

- VIOLATION NO. 2 Failing to close containers storing hazardous waste, in violation of 40 CFR 262.17(a)(1)(iv)(A).
- CLASSIFICATION: These are Class II violations pursuant to OAR 340-012-0068(2)(m).
- MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c)(A)(i) because the violation involved more than 1,000 gallons or 6,000 pounds of hazardous waste. In August 2023, Respondent failed to close nine hazardous waste containers with a total capacity of 1,335 gallons and in December 2023, Respondent failed to close an additional five containers of hazardous waste with a total capacity of 1,375 gallons.
- CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
- "BP" is the base penalty, which is \$6,000 for a Class II, 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 is a large quantity generator of hazardous waste and violated a hazardous waste rule.
- "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 an initial value of 12 according to OAR 340-012-0145(2)(a)(C) and (D), based on the following prior significant actions:
- On August 27, 2013, DEQ issued Respondent Expedited Enforcement Offer (EEO) Number LQ-HW-0119, which Respondent accepted and includes one Class I violation and six Class II violations, and three Class III violations.
 - On July 28, 2016, DEQ issued Respondent EEO Number 2016-EEO-1776, which Respondent accepted and includes one Class II violation.
 - On October 12, 2021, DEQ issued Respondent Notice of Civil Penalty Assessment and Order Number LQ/HW-NWR-2020-027, citing one Class I violation, nine Class II violations, and one Class III violation.
- The Class II and III violations referenced above equate to nine total Class I equivalents, as defined in OAR 340-012-0030(2). According to OAR 340-012-0145(2)(b), the initial amount of 12 for the P factor is reduced to 10 because the maximum value of P will not exceed 10.
- "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 the violations were uncorrectable and

Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions.

- "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 14 occurrences of the violation. Respondent failed to close nine containers storing hazardous waste in March 2023. Then, Respondent again failed to close an additional five containers storing hazardous waste in December 2023.
- "M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent as defined in OAR 340-012-0030(15). Respondent is, and has been since 1992, a highly-regulated large quantity generator of hazardous waste, cited and penalized by DEQ for this and other hazardous waste violations in the past as detailed above. By repeatedly failing to ensure multiple containers of hazardous waste were closed as required, Respondent failed to take reasonable care to avoid the foreseeable risk of committing this violation.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable affirmative efforts to minimize the effects of the violation. On March 22, 2023, Respondent submitted photographs to DEQ of properly-closed containers identified in the March 8, 2023 inspection. On January 3, 2024, Respondent submitted photographs to DEQ of properly-closed containers identified in the December 18, 2024 inspection.
- "EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0, as DEQ does not have sufficient information on which to make an estimate.

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 \times \$6,000) \times (10 + (-1) + 3 + 4 + (-3))] + \0
 $= \$6,000 + (\$600 \times 13) + \$0$
 $= \$6,000 + \$7,800 + \$0$
 $= \$13,800$

EXHIBIT 3

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

VIOLATION NO. 3 Storing hazardous waste without a permit in March and December 2023, in violation of ORS 466.095(1)(a).

CLASSIFICATION: These are Class II violations 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 the violation involved more than 1,000 gallons or 6,000 pounds of hazardous waste. In March of 2023, Respondent stored an estimated 1,950 gallons (17,550 pounds) of hazardous waste beyond the 90-day limit. In December of 2023, Respondent stored an additional five gallons of hazardous waste beyond the 90-day limit.

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 is a large quantity generator of hazardous waste and violated a hazardous waste statute.

"P" is whether Respondent has any prior significant actions (PSAs), 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 an initial value of 12 according to OAR 340-012-0145(2)(a)(C) and (D), based on the following prior significant actions:

- On August 27, 2013, DEQ issued Respondent Expedited Enforcement Offer (EEO) Number LQ-HW-0119, which Respondent accepted and includes one Class I violation and six Class II violations, and three Class III violations.
- On July 28, 2016, DEQ issued Respondent EEO Number 2016-EEO-1776, which Respondent accepted and includes one Class II violation.
- On October 12, 2021, DEQ issued Respondent Notice of Civil Penalty Assessment and Order Number LQ/HW-NWR-2020-027, citing one Class I violation, nine Class II violations, and one Class III violation.

The Class II and III violations referenced above equate to nine total Class I equivalents, as defined in OAR 340-012-0030(2). According to OAR 340-012-0145(2)(b), the initial amount of 12 for the P factor is reduced to 10 because the maximum value of P will not exceed 10.

"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 the violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as PSAs.

- "O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Pursuant to OAR 340-012-0145(4), each day of a violation with a duration of more than one day is a separate occurrence when determining the "O" factor. Respondent stored at least 40 containers of hazardous waste beyond the 90-day limit, as documented in DEQ's March 2023 inspection. Seven of the containers onsite in March 2023 had been onsite for three and a half years. Then, Respondent again stored another container of hazardous waste beyond the 90-day limit, as documented in DEQ's December 2023 inspection.
- "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 as defined in OAR 340-012-0030(20). Respondent is, and has been since 1992, a highly-regulated large quantity generator of hazardous waste, cited and penalized by DEQ for this and other hazardous waste violations in the past as detailed above. By repeatedly storing numerous containers of hazardous waste for much longer than the time allowed by rule, in some cases over three years, Respondent disregarded the substantial and unjustifiable risk of committing this violation. Given Respondent's recent enforcement history, and that the violation was repeated again in December after DEQ's inspection and Pre-Enforcement Notice earlier in 2023, disregarding this risk was a gross deviation from the standard of care a reasonable person would observe in this situation.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to minimize the effects of the violation. On July 6, 2023, Respondent submitted documentation to DEQ that all hazardous waste that was stored beyond 90 days from generation at the time of the March 8, 2023, inspection had been treated onsite or disposed of offsite. On January 3, 2023, Respondent submitted documentation to DEQ that the hazardous waste stored beyond 90 days from generation at the time of the December 18, 2023, inspection had been treated onsite.
- "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 Respondent treated most of the hazardous waste on site and the economic benefit from delaying disposal costs of the hazardous waste that was shipped offsite in May and June 2023 was de minimis, as calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$= \$6,000 + [(0.1 \times \$6,000) \times (10 + (-1) + 4 + 8 + (-3))] + \$0$$

$$= \$6,000 + (\$600 \times 18) + \$0$$

$$= \$6,000 + \$10,800 + \$0$$

$$= \$16,800$$

EXHIBIT 4

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

- VIOLATION NO. 4 Storing mercury-containing universal waste lamps in open containers, in violation of 40 CFR 273.13(d)(1).
- CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0068(2)(p).
- MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(4)(c)(C)(i) because the violation involved 250 gallons or 1,500 pounds or less of hazardous waste and no acutely 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 \$1,500 for a Class II, minor magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(iii) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent is a large quantity generator of hazardous waste and violated a hazardous waste rule.
- "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 an initial value of 12 according to OAR 340-012-0145(2)(a)(C) and (D), based on the following prior significant actions:
- On August 27, 2013, DEQ issued Respondent Expedited Enforcement Offer (EEO) Number LQ-HW-0119, which Respondent accepted and includes one Class I violation and six Class II violations, and three Class III violations.
 - On July 28, 2016, DEQ issued Respondent EEO Number 2016-EEO-1776, which Respondent accepted and includes one Class II violation.
 - On October 12, 2021, DEQ issued Respondent Notice of Civil Penalty Assessment and Order Number LQ/HW-NWR-2020-027, citing one Class I violation, nine Class II violations, and one Class III violation.
- The Class II and III violations referenced above equate to nine total Class I equivalents, as defined in OAR 340-012-0030(2). According to OAR 340-012-0145(2)(b), the initial amount of 12 for the P factor is reduced to 10 because the maximum value of P will not exceed 10.
- "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 the violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions.

- "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 five occurrences of the violation. Respondent stored four open boxes and one open drum of universal waste lamps at the Facility in March 2023.
- "M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent as defined in OAR 340-012-0030(15). Respondent is, and has been since 1992, a highly-regulated large quantity generator of hazardous waste, cited and penalized by DEQ for this and other hazardous waste violations in the past as detailed above. By repeatedly storing open containers of mercury-containing lamps, Respondent failed to take reasonable care to avoid the foreseeable risk of committing this violation.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation, or to minimize the effects of the violation, by submitting documentation to DEQ on March 22, 2023, that the lamps were stored in closed boxes.
- "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 does not have sufficient information on which to make an estimate.

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

$$= \$1,500 + [(0.1 \times \$1,500) \times (10 + (-1) + 2 + 4 + (-3))] + \$0$$

$$= \$1,500 + (\$150 \times 12) + \$0$$

$$= \$1,500 + \$1,800 + \$0$$

$$= \$3,300$$

EXHIBIT 5

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

VIOLATION NO. 5 Storing universal waste batteries and universal waste lamps without labeling them as required, in violation of 40 CFR 273.14(a) and (e).

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

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(4)(c)(C)(i) because the violation involved 250 gallons or 1,500 pounds or less of hazardous waste and no acutely 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 \$1,500 for a Class II, minor magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(iii) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent is a large quantity generator of hazardous waste and violated a hazardous waste rule.

"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 an initial value of 12 according to OAR 340-012-0145(2)(a)(C) and (D), based on the following prior significant actions:

- On August 27, 2013, DEQ issued Respondent Expedited Enforcement Offer (EEO) Number LQ-HW-0119, which Respondent accepted and includes one Class I violation and six Class II violations, and three Class III violations.
- On July 28, 2016, DEQ issued Respondent EEO Number 2016-EEO-1776, which Respondent accepted and includes one Class II violation.
- On October 12, 2021, DEQ issued Respondent Notice of Civil Penalty Assessment and Order Number LQ/HW-NWR-2020-027, citing one Class I violation, nine Class II violations, and one Class III violation.

The Class II and III violations referenced above equate to nine total Class I equivalents, as defined in OAR 340-012-0030(2). According to OAR 340-012-0145(2)(b), the initial amount of 12 for the P factor is reduced to 10 because the maximum value of P will not exceed 10.

"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 the violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions.

- "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 four occurrences of the violation. Respondent stored three unlabeled batteries and one drum of unlabeled lamps at the Facility in March 2023.
- "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 negligence as defined in OAR 340-012-0030(15). Respondent is, and has been since 1992, a highly-regulated large quantity generator of hazardous waste, cited and penalized by DEQ for this and other hazardous waste violations in the past as detailed above. By repeatedly failing to label universal waste lamps and batteries, Respondent failed to take reasonable care to avoid the foreseeable risk of committing this violation.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation, or to minimize the effects of the violation, by submitting documentation to DEQ on March 22, 2023, that the violations were corrected.
- "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 does not have sufficient information on which to make an estimate.

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

$$= \$1,500 + [(0.1 \times \$1,500) \times (10 + (-1) + 2 + 4 + (-3))] + \$0$$

$$= \$1,500 + (\$150 \times 12) + \$0$$

$$= \$1,500 + \$1,800 + \$0$$

$$= \$3,300$$

EXHIBIT 6

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

VIOLATION NO. 6 Failing to immediately amend the Contingency Plan to include Facility changes and a quick reference guide, in violation of 40 CFR 262.263(c) and 262.262(b).

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

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c)(A)(i) because at the time of the violation, Respondent stored more than 1,000 gallons or 6,000 pounds of hazardous waste in the 90-day hazardous waste storage area at the Facility.

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 is a large quantity generator of hazardous waste and violated a hazardous waste rule.

"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 an initial value of 12 according to OAR 340-012-0145(2)(a)(C) and (D), based on the following prior significant actions:

- On August 27, 2013, DEQ issued Respondent Expedited Enforcement Offer (EEO) Number LQ-HW-0119, which Respondent accepted and includes one Class I violation and six Class II violations, and three Class III violations.
- On July 28, 2016, DEQ issued Respondent EEO Number 2016-EEO-1776, which Respondent accepted and includes one Class II violation.
- On October 12, 2021, DEQ issued Respondent Notice of Civil Penalty Assessment and Order Number LQ/HW-NWR-2020-027, citing one Class I violation, nine Class II violations, and one Class III violation.

The Class II and III violations referenced above equate to nine total Class I equivalents, as defined in OAR 340-012-0030(2). According to OAR 340-012-0145(2)(b), the initial amount of 12 for the P factor is reduced to 10 because the maximum value of P will not exceed 10.

"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 the violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions.

- "O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because the violation was ongoing for at least 28 days. According to OAR 340-012-0145, each day of a violation with a duration of more than one day is a separate occurrence of the violation. Respondent last revised the contingency plan December 20, 2021. As of March 8, 2023, the contingency plan maps were not reflective of renovations made to the Facility and locations of each hazardous waste storage area. On July 6, 2023, Respondent submitted revisions and a quick reference guide to DEQ.
- "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 as defined in OAR 340-012-0030(20). Respondent is, and has been since 1992, a highly-regulated large quantity generator of hazardous waste, cited and penalized by DEQ for this and other hazardous waste violations in the past as detailed above. By failing to keep the Facility's contingency plan updated and accurate as required, Respondent disregarded the substantial and unjustifiable risk of committing this violation. Given Respondent's recent enforcement history, disregarding this risk was a gross deviation from the standard of care a reasonable person would observe in this situation.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation, or to minimize the effects of the violation, by submitting an updated facility map and quick reference guide to DEQ by July 6, 2023.
- "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 does not have sufficient information on which to make an estimate.

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 \times \$6,000) \times (10 + (-1) + 4 + 8 + (-3))] + \0
 $= \$6,000 + (\$600 \times 18) + \$0$
 $= \$6,000 + \$10,800 + \$0$
 $= \$16,800$



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Northwest Region
700 NE Multnomah Street, Suite 600
Portland, OR 97232
(503) 229-5263
FAX (503) 229-6945
TTY 711

CERTIFIED MAIL
Return Receipt Requested
7022 3330 0001 8230 7409

August 15, 2023

SCOTT HENRIKSEN
EAST SIDE PLATING 1,2,&3
8400 SE 26TH PLACE
PORTLAND, OREGON 97202

RE: Pre-Enforcement Notice-Revision

PEN# 2023-PEN-7594
EAST SIDE PLATING 1,2,&3
ORD018216887
MULTNOMAH COUNTY

Dear Mr. Henriksen,

On March 8, 2023, the Oregon Department of Environmental Quality conducted an unannounced hazardous waste inspection at East Side Plating 1, 2, & 3 located at 8400 SE 26TH Place in Portland, Oregon to determine compliance with the applicable state and federal regulations. East Side Plating operates as a Large Quantity Generator of hazardous waste, based on generation of more than 2,200 pounds of hazardous waste in any one calendar month.

This is a revised letter to inform you that this Pre-Enforcement Notice (PEN 7594) has been revised to reflect the most up to date citations from 40 CFR. The previously issued PEN 7594 listed 14 violations. After further review, citations for violations 5, 8, 10, and 13 have been updated to reflect recently adopted federal rules, and violations 10 and 14 have been consolidated into one violation (10). Based on the results of this compliance inspection, ESP is responsible for the following violations of Oregon environmental law.

Class I violations are the most serious violations; Class III violations are the least serious. The hazardous waste and universal waste Code of Federal Regulations (CFR) referenced in this letter, as adopted in 340-100-0002, are through November 2022, as modified by Oregon Administrative Rules (OAR) 340 Divisions 100 through 106, 109, 111, 113, 120, 134 and 142. References to the 40 CFR Part 279 federal used oil regulations are through July 30, 2003, as modified by OAR 340 Division 111.

VIOLATIONS

Violation 1

ESP failed to close hazardous waste containers in violation of 40 CFR §262.17(a)(1)(iv)(A). This is a class II violation as identified in OAR 340-012-068(2)(m).

In the 90-day area in Plant 2, One metal 15-gallon drum (Reference Photos 3 and 4 in the attached Photolog) and two 55-gallon drums labeled as hazardous waste were not properly closed.

In the northeast section of the wastewater treatment area, ESP stored two 55-gallon polyethylene containers of cyanide anode waste that had the tops cut off and were not properly closed (Reference Photos 28).

On the floor northwest of the hand dipping lines, DEQ observed four (4) 275-gallon totes (Reference Photos 50 and 51). The totes were staged open with stingers inserted that were attached to pumps operating in sections of containments corresponding to the hazardous waste labels on each tote.

Corrective Action:

During the inspection on March 8, 2023, DEQ requested that ESP submit photographic evidence that unlabeled hazardous waste containers have been properly closed or repackaged in new containers if the containers observed at the time of inspection were unable to be sealed.

In an email sent on March 22, 2023, ESP submitted a statement as to the condition of the drums and photographs of the now closed containers and new containers to replace damaged ones. This documentation was sufficient to demonstrate return to compliance.

Violation 2

ESP failed to close satellite accumulation waste containers in violation of 40 CFR §262.15(a)(4). This is a class II violation as identified in OAR 340-012-068(2)(n).

In the northwest corner of the wastewater treatment area, ESP stored a polyethylene satellite accumulation container and a steel 55-gallon drum stored behind a tank labeled "Neut 1" (Reference Photo 32). The polyethylene container had racks fitted across the top for the "polish filters" to hang dry. The container is labeled "Hazardous Waste, SSA polish filters" and had a lid that did not completely cover the opening. Once the hazardous waste spent filters are dry, ESP removes and containerizes them. Any liquid drained from the filters is added to the wastewater treatment.

In the Hand Dipping Line in the northern portion of Plant 2, DEQ observed a satellite drum labeled "hazardous waste" staged next to the safety shower (Reference Photo 45). The 15-gallon hazardous waste satellite accumulation container was ¼ filled with PPE with a small amount of liquid and had a lid that was not secured to the drum.

Corrective Action:

On March 22, 2023, ESP submitted photos of closed SAA containers of "Chrome Debris" and "Cyanide Filters." These photographs demonstrated return to compliance with this rule.

Violation 3

ESP accumulated hazardous waste in other than tanks or containers in violation of OAR 340-102-0034(2). This is a class I violation as identified in OAR 340-012-0068(1)(d).

ESP houses its wastewater pH neutralization tanks under gratings on the main wastewater treatment floor in a vaulted basement. Inspectors observed standing liquid in the secondary containment (Reference Photo 31). ESP informed DEQ that a pipe had been damaged and maintenance was still working to locate the source. The liquid in the containment is wastewater that has yet to be treated for its hazards, making it hazardous waste. A pump is positioned in the vault to move liquid from the secondary containment into the wastewater treatment unit.

Some secondary containment areas under ESP's main plating baths (Reference Photos 40-42) held drag-out hazardous wastewater. Pumps positioned at low spots and in sealed blind sumps transferred the wastewater through dedicated pipes into the wastewater treatment plant.

In the northern end of the main plating room in Plant 2, ESP had constructed another set of hand plating lines (Reference Photo 43). The containment under these hand lines is sectioned off into six areas. Inspectors observed ~1 inch of standing hazardous waste liquid in each area (Reference Photos 48 and 49). ESP informed DEQ that this liquid is overflowed and dragged out from the baths along the handline and that these containments are pumped out as necessary into totes to be disposed of as hazardous waste.

Corrective Actions:

In emails on April 19 and April 22, ESP submitted photos of numerous secondary containments to document the removal of these hazardous waste liquids, along with explanations of why certain secondary containments were more difficult to empty. Most secondary containment in the submitted photos was empty but slightly damp. Photos for the "WT Vault CN Sump" showed significant Sodium Hydroxide crystallization.

Violation 4

ESP failed to make a hazardous waste determination on several hazardous wastes, in violation of OAR 340-102-0011. This is a class I violation as identified in OAR 340-012-0068(1)(a).

In the 90-day Central Accumulation Area (CAA) in Plant 2, inspectors observed a mop bucket containing clear-green liquid (Reference Photo 19) and an uncovered, unlabeled 5-gallon pail with a white powdered substance (Reference Photo 18). Inspectors asked ESP if a hazardous waste determination had been conducted on the contents of the mop bucket or the pail. ESP stated that there has not and confirmed that the mop was used to cleanse the floor surrounding the 90-day area while the bucket was a collection of the hazardous waste phosphate sludge found on the exterior of two salvage drums.

Adjacent to the 90-day hazardous waste CAA along the south wall of Plant 2, inspectors observed a 4x4x4' open plywood box (Reference Photo 97) used to store debris. The contents of the debris box consisted of oily rags, chemical pads with orange residue, used buckets, floor grates, used PPE and a loose white powder-like substance. This debris bin held a "non-regulated waste" label. ESP explained that this box is a general debris bin. DEQ observed an ESP employee sweeping the floor of the 90-day hazardous waste storage area with a push broom and disposing of the powder-like substance in this

“general debris” bin during the 2019 inspection. ESP had not conducted a hazardous waste determination on the contents of the general debris bin.

On a pallet in the northern portion of Plant 2, next to the hand dipping lines, inspectors observed an open 55-gallon polyethylene drum ¼ filled with PPE labeled “1-25-23 PPE 2-25-23” as well as an opened 15-gallon polyethylene drum 1/3 filled with filters with no legible label (Reference Photo 52). ESP had not performed a hazardous waste determination on the contents.

Inside the “Magni Storage” room in Plant 3, DEQ observed small bottles and cans loose and unlabeled on pallets and in unlabeled cardboard boxes. DEQ asked Scott why these items were not contained inside drums, and ESP stated that ESP’s contractor would be coming to lab-pack these items, to make a hazardous waste determination and that no hazardous waste determinations have been done on them (Reference Photos 83 to 89). Until a hazardous waste determination is made, this waste should be managed to hazardous waste standards until proven otherwise.

Corrective Action:

In an email from ESP on March 23, 2023, ESP submitted a description of each waste stream. Multiple waste descriptions are missing RCRA codes and do not explicitly state that a material is “hazardous waste.” A list of chemicals used in the QAQC Lab was provided, including applicable RCRA codes.

DEQ requests that ESP submit properly documented hazardous waste determinations for the PPE and rags from the plating lines, PPE from QAQC Laboratory, each waste stream of expired chemicals and reagents from QAQC Laboratory, “HW CN Filter Drum,” and “HW Cr Debris Drum.” The hazardous waste determination must be in accordance with 40 CFR 262.10(a)(1)(iii)(A), including whether the waste stream is a solid waste, Hazardous or Non-Hazardous, and any applicable RCRA codes.

Violation 5:

ESP failed to submit copies of their current contingency plan to local authorities, in violation of 40 CFR §262.256. This is a class 3 violation as identified 340-012-0068(3)(c).

At the time of inspection, the contingency plan did not include evidence of receipt from the local hospital.

Corrective Action:

In an email sent on March 23, 2023, ESP submitted evidence that their revised contingency plan was submitted to local authorities in the form of receipts from Police, Fire, and the local hospital correcting the violation.

Violation 6:

ESP failed to keep universal waste lamps in a closed container, in violation of 40 CFR §273.13(d)(1). This is a class II violation as identified in 340-012-0068(2)(p).

At the front of the 90-day storage area in Plant 3, DEQ observed 4 boxes of 4-foot fluorescent lamps leaning against a stack of five retired light fixtures (Reference Photos 53 and 54). Each box of lamps was open and unlabeled.

In Plant 1, DEQ entered the compressor room through the maintenance shop and observed fluorescent lamps loose in an opened, unlabeled 55-gallon drum.

Corrective Action:

In an email on March 22, 2023, ESP submitted photographic evidence that the lamps observed during the March 8th inspection have been properly contained in a universal waste lamps box.

Violation 7:

ESP failed to label universal waste containers in violation of 40 CFR §273.14. This is a class II violation as identified in 340-012-0068(2)(p).

ESP held three Universal Waste batteries loosely on the shelving unit without labels. On the top shelf, DEQ observed one cardboard box of batteries labeled “universal waste batteries” with an accumulation start date of 8/25/22.

In Plant 1, DEQ entered the compressor room through the maintenance shop and observed fluorescent lamps loose in an opened, unlabeled 55-gallon drum.

Corrective Action:

In an email on March 22, 2023, ESP submitted photographic evidence that the batteries and lamps observed during the March 8th inspection have been properly contained in two labeled, universal waste boxes.

Violation 8:

ESP Failed to mark hazardous waste containers with the words “hazardous waste” in violation of 40 CFR §262.17(a)(5)(i). This is a class II violation as identified in 340-012-0068(2)(b).

In the 90-day storage area in Plant 2, inspectors observed a mop bucket containing clear, green hazardous waste liquid (Reference Photo 19), and an uncovered, unlabeled 5-gallon pail holding the white powdered F006 hazardous waste (Reference Photo 18).

In the “Magni Storage” Room in Plant 3, inspectors observed twelve drums, two of the drums missing the words “hazardous waste,” and small bottles and cans of hazardous waste loose on pallets and in unlabeled cardboard boxes. (Reference Photos 83 to 89).

Corrective Action:

In an email on March 22, 2023, ESP submitted photographic evidence that the containers observed in the March 8th inspection have been properly labeled with the words “hazardous waste.”

Violation 9:

ESP Failed to label a container of used oil with “Used Oil,” in violation of 40 CFR §279.22(c)(1). This is a class III violation as identified in OAR 340-012-0072(3).

Inspectors observed an unlabeled 5-gallon plastic container of used turbine oil in Plant 1.

Corrective Action:

In an email on March 22, 2023, ESP submitted photographic evidence that this container of used oil had been properly labeled with the words “used oil” and relocated into the compressor room with used oil generated by the maintenance shop.

Violation 10:

Inspectors observed at least 40 hazardous waste containers stored over the 90-day storage limit. Storing hazardous waste onsite for longer than 90 days is in violation of 40 CFR §262.17(a). This is a class II violation as identified in OAR 340-012-0068(2)(d). The large number of containers stored constitutes a violation of ORS 466.095(1)(a) as ESP is operating at a storage facility without a permit to do so.

In Plant 2, DEQ inspectors observed thirteen 55-gallon drums of hazardous waste with accumulation start dates documenting exceedance of the 90-day storage limit for LQGs. Some of these containers were dated as far back as January 1, 2022, over 13 months (431 days) in storage. ESP treats its wastewater in a wastewater treatment unit but does not treat the oldest waste first. Instead, ESP treats the waste based on what their wastewater treatment unit can treat the most efficiently at the time.

In Plant 3 ESP stores overflow hazardous waste, using it as a second 90-day CAA area when the 90-day CAA area in Plant 2 becomes overcrowded. DEQ inspectors observed 26 hazardous waste containers marked with accumulation start dates older than 90 days (reference photos 58 to 76). At least seven of these containers were dated back to August 17, 2019, meaning they have been onsite for 1,289 days at the time of inspection.

Corrective Action:

On April 5, 2023, ESP submitted a statement and “hazardous waste treatment log” spreadsheet tracking which of the wastes observed during the March 8th inspection have been treated or disposed of. Of the 43 hazardous waste containers with an accumulation start date older than 90 days, ESP documented that all had been treated onsite or shipped offsite under hazardous waste manifest for disposal – apart from 4 containers.

DEQ requests that ESP submit documentation that the remaining three 275-gallon totes of “Paint Strip Batch” have been treated or properly shipped offsite and disposed of and that the remaining drum of “Cyanide Waste” has been shipped offsite for appropriate disposal.

Violation 11:

ESP failed to mark hazardous waste containers with an indication of the hazards of the contents in violation of 40 CFR §262.17(a)(5)(i)(B). This is a class II violation as identified in 340-012-0068(2)(b).

In the 90-day storage area in Plant 2, inspectors observed thirty-seven 55-gallon drums with no indication of hazard of the contents on any but two hazardous waste containers (Reference Photos 5-15).

In the back of this 90-day storage area, inspectors observed four (4) cubic yard boxes of F006 sludge accumulated from the sludge press and drying process stored on shelves with no information specifying the hazard of the contents (Reference Photo 17).

On the floor northwest of the hand dipping lines, we observed four (4) 275-gallon totes (Reference Photos 50 and 51). The totes are staged open with stingers inserted that are attached to pumps in sections of containments corresponding to labels on each tote. Each tote was labeled with the line where the waste generated, and an accumulation start date, but held no information specifying the hazard of the contents.

In the southernmost bay of Plant 3, ESP stored fifty-four 55-gallon drums, one 85-gallon overpack drum, eleven 275-gallon totes, and eight cubic-yard supersacks labeled "hazardous waste" (Reference Photo 57 and 77). None of these were labeled with an indication of the hazards of the contents of the containers.

Corrective Action:

ESP submitted newly documented labeling procedures via email, including applying a DOT hazard class label to each hazardous waste container to indicate the hazard of each container's contents. ESP also submitted photos of ten containers with appropriate labeling to represent the facility's labeling process and expectations. DEQ finds these actions sufficient to document return to compliance of these observed violations.

Violation 12:

ESP failed to submit a complete and accurate hazardous waste generation report in violation of OAR 340-102-0041(2).

During file review, inspectors noted that line 5 of manifest 024446002JJK shows an F009 waste stream, profile number OR351192, shipped for disposal on October 18, 2022. However, ESP's hazardous waste generation report filed for 2022 does not include any F009 hazardous waste. Nor was any F009 hazardous waste documented for the previous year.

Corrective Action:

DEQ requires ESP to submit a correction to the 2021 and 2022 waste generation report to reflect all the waste that ESP has disposed of in 2021 and 2022.

Violation 13:

ESP failed to amend the facility's contingency plan to reflect updates to the facility map and ESP failed to include the required quick reference guide, in violation of 40 CFR §262.263.

Corrective Action:

ESP did submit an up-to-date contingency plan including a quick reference guide and reorganized facility maps that highlight the 90-day storage areas and locations of emergency equipment.

Submit updated facility maps further to reflect that Plant 2 is utilized as a 90-day area in its entirety as it was expressed to DEQ during the March 8th inspection, or a statement attesting that all hazardous waste will be relocated to the centralized 90-day areas currently noted on the facility maps. Facility maps should also highlight the location of satellite accumulation containers.

Required Response

Unless otherwise specified, please respond to DEQ in writing by Friday, July 7, 2023. In the response, describe the measures taken to correct the violations identified and actions taken or proposed to prevent the violations from recurring. DEQ will consider ESP's timely and responsive action on these items in any civil penalty assessment.

Additional Recommendations

DEQ has the following additional recommendations:

- Take further action in facility upkeep and general housekeeping to reduce the risk of contact with or release of hazardous chemicals.
- Hire additional personnel to manage and operate ESP's hazardous waste compliance program to meet ongoing needs identified with the management of the large quantity of hazardous waste ESP generates each month.
- Utilize a third-party provider for employee hazardous waste training.
- Provide hazardous waste training on a more routine schedule.
- Hire an engineer to assess the tank system to ensure there will be no further foreseeable leaks or releases.

Based on our findings, DEQ has determined that East Side Plating (Plants 1, 2, & 3) meets the criteria to be identified as a Significant Non-Complier.

Because of the risks posed by the violations documented, and the fact that some of these violations remain uncorrected, these violations are being referred to DEQ's Office of Compliance and Enforcement for formal enforcement action, which may include assessment of civil penalties and issuance of a compliance order. DEQ may assess a civil penalty for each day of violation.

If you believe any of the facts in this pre-enforcement notice are in error, DEQ will consider new information you submit and take appropriate action.


Pollution Prevention Recommendations

For further information on pollution prevention or best management practices, please contact DEQ's Hazardous Waste Technical Advisor, Pete Anderson at Peter.Anderson@deq.oregon.gov or by phone at 503-229-5070.

EAST SIDE PLATING 1,2, &3
PEN# 2023-PEN-7594
ORD018216887
Page 9 of 9

If you have any questions about the content of this letter, please feel free to contact me at Michelle.olson@deq.oregon.gov or by phone at 503-929-9198.

Sincerely,



Michelle Olson
Hazardous Waste Inspector-Oregon DEQ

Enclosures: Inspection Report and Inspection Photo Log

Cc: Audrey O'Brien, Northwest Region Environmental Partnerships Manager
Zeb Bates, Hazardous Waste Inspector, Oregon DEQ NWR
Nicholas Cisney, Industrial Pretreatment Permit Manager, City of Portland BES,
Nicholas.Cisney@portlandoregon.gov
Matthew Poole, Industrial Stormwater Permit Manager, City of Portland BES,
Matthew.Poole@portlandoregon.gov

DEQ NORTHWEST REGION COMPLIANCE EVALUATION INSPECTION

East Side Plating Inc. Plants 1, 2, & 3
8400 SE 26th Place
Portland, Oregon 97202
EPA ID # ORD018216887



State of Oregon
Department of
Environmental
Quality

Inspection Date: December 18, 2024
DEQ Inspectors: Michelle Olson and Eric Kelley, Hazardous Waste Inspector
Facility Representative: Scott Henriksen, EHS Manager

Prepared by (dated signature)

A handwritten signature in cursive script that reads "Michelle Olson".

On February 2, 2024

GENERAL INFORMATION

Purpose of Inspection

The Department of Environmental Quality (DEQ) conducted an unannounced inspection of East Side Plating 1, 2, & 3 to determine compliance with the Oregon Revised Statutes (ORS) and the Oregon Administrative Rules (OAR) standards for managing hazardous waste. The US Environmental Protection Agency (EPA) authorized DEQ to regulate hazardous waste management in Oregon. The purpose of these laws and rules is to prevent releases of hazardous waste onto the land, into the air, or to surface or groundwater, and to ensure proper handling and cleanup if releases occur.

The hazardous waste and universal waste Code of Federal Regulations (CFR) referenced in this report, as adopted in OAR 340-100-0002, are through November 2022, as modified by OAR 340 Divisions 100 through 106, 109, 111, 113, 120, 134 and 142. References to the 40 CFR Part 279 federal used oil regulations are as enacted through July 30, 2003, as modified by OAR 340 Division 111.

Facility Background Information

East Side Plating is a large-scale metal plating, surface coating, and treatment shop. East Side Plating had operated three plant sites in Portland, Oregon. This facility, composed of Plants 1, 2 and 3, is the largest facility in this system and the last facility in operation. This facility has operated and reported to DEQ as a large quantity generator of hazardous waste since 1992. ESP operates a wastewater treatment plant that generates large quantities of F006 hazardous waste plating sludge, sending this waste to World Resources in Arizona for metals reclamation. The facility generates concentrated plating and surface preparation waste streams, chrome contaminated solids, and other hazardous waste streams.

The facility is committed to recycling. In addition to metals reclamation, East Side Plating sends out its universal waste lamps and batteries and its used oil for reclamation and recycles other materials. East Side Plating has retrofitted operations at its plants to improve environmental performance.

Compliance History

DEQ inspectors Jay Collins and Killian Condon conducted a hazardous waste compliance inspection on June 16, 2016. One (1) violation was identified during the inspection: failure to provide adequate aisle space in the 90-day hazardous waste storage area. DEQ issued an Expedited Enforcement Offer with penalties due to four (4) 55-gallon drums of hazardous waste blocked in by other wastes and materials and not immediately accessible. Three supersacks of F006 hazardous waste plating sludge did not have adequate aisle space, as they were blocked in by stacked drums of non-hazardous spent electroless nickel that the facility was aggregating towards a tanker shipment destined for metals reclamation.

DEQ inspectors Zeb Bates and Jay Collins conducted a hazardous waste compliance inspection on April 30, 2019. Eleven (11) violations were identified during the inspection: Failure to close hazardous waste containers; accumulation of hazardous waste in other than tanks; storage of waste on-site >90 days w/o permit; failing to provide adequate aisle space; failure to make a hazardous waste determination; contingency plan did not include an update on emergency coordinators; failure submit their contingency plan to local authorities; failure to close universal waste containers; and failure to label universal waste labels. DEQ issued a notice of civil penalty for the eleven (11) violations. ESP did not contest the case and submitted documentation demonstrating a return to compliance.

DEQ inspectors Michelle Olson and Zeb Bates conducted the last hazardous waste compliance inspection on March 8, 2023. Thirteen (13) violations were identified during the inspection: Failure to close HW containers; Failure to close SAA containers; Failure to make a HWD; Accumulation of HW in other than tanks or containers; Failure to submit the contingency plan to local authorities; Failure to close UHW container; Failure to label UHW container; Failure to mark HW containers with the words "hazardous waste"; Failure to label containers with the words "used oil"; Storage of waste on-site >90 days w/o permit; Failure to label containers with the indication of the hazards of the contents; Failure to submit an annual report; and Failure to amend the contingency plan when necessary. Seven of the violations observed in the 2023 inspection were observed by DEQ inspectors in the 2019 inspection. Due to the recalcitrant nature of the violations observed, ESP was deemed a Significant Non-Complier (SNC) after the 2023 inspection.

PERMITS

East Side Plating operates under a DEQ Air Contaminant Discharge Permit regulating emissions from plating, surface preparation, heating, and coating operations. This permit includes hard chrome NESHAPs requirements.

The facility also operates under a sanitary sewer pretreatment permit and an industrial stormwater permit issued and overseen by the City of Portland's Bureau of Environmental Services.

PRE-INSPECTION MEETING

DEQ Inspectors arrived on-site at 8:30a.m., presented credentials, and signed in. Scott Henriksen, EHS

Manager met Eric Kelley and me in the lobby. Scott informed us that he is in the process of retiring and David Humphrey will be taking over the role of EHS manager. Gary Rehnberg, ESP President, wanted to join us on our inspection due to the recently published PPA so we began the inspection in his office. As we sat in Gary's office, we discussed the violations from the last inspection, the status of the respective corrective actions, and what needed to be done to complete the remaining corrective actions. I requested that we begin our inspection in the CAA and that we generally follow the same route as the initial 2023 inspection.

FACILITY INSPECTION

Plant 2: 90-Day Hazardous Waste Central Accumulation Area

Scott, Gary, Eric and I arrived at the CAA at the South end of Plant 2. Upon entering the CAA, I observed an open 4x4x4' open plywood box with a 6-mil plastic liner approximately $\frac{3}{4}$ full to the right of the spill kit cabinet labeled "NON REGULATED WASTE ESP Portland 12-13-23 Shop Debris." The contents of the crate consisted of PPE, metal piping, used universal rags, cardboard, hazardous waste labels, and filters which exhibited a blueish-green crust (photos 4 and 5). Scott informed me that this waste stream is for general non-hazardous shop debris and that the blue-green crust is nickel waste from the nickel-plating line. He emphasized that employees were retrained and no longer put any hazardous waste into this container and all PPE in the container was from non-hazardous processes. I reminded Scott that ESP must have a documented hazardous waste determination for this waste stream and a complete and adequate HWD had yet to be submitted, in violation of OAR 340-102-0011.

In the CAA I observed six 275-gallon HW IBC totes, eleven 55-gallon HW polyethylene drums, and two 55-gallon drums of used oil nestled behind the fire cabinet in the southwest corner of the area. All the containers were clean, closed, and properly labeled (photos 2 and 3). At the back of the rows of hazardous waste, ESP was storing a 275-gallon tote of plating bath chemical product. I suggested to Scott that product and hazardous waste should be stored separately to avoid incidents and confusion.

In the NW corner of this 90-day area, Eric and I observed one cubic yard supersack of hazardous waste labeled F006 sludge. ESP operates a sludge press and sludge dryer as part of its wastewater treatment process. The floor around these units showed good housekeeping. One-cubic-yard super sack labeled "hazardous waste F006 sludge" was lined with plastic liners that captured waste from the sludge press process. The cubic yard sack is hung in a metal frame and a tarp is placed to cover the top when waste is not being actively added or removed. Once dry, the F006 sludge is positioned on metal racks for eventual shipment to World Resources in Arizona for metals reclamation, allowing ESP to store the sludge for 180 days.

Plant 2: Wastewater Treatment

The inspection proceeded to the wastewater treatment area of Plant 2. We observed three 55-gallon drums of Nitric acid labeled as hazardous waste set on the grates over the wastewater treatment containment. All three of these containers bore hazardous waste labels and labels to indicate the hazards of the contents. These three drums were actively being metered into the neutralization treatment unit. One 5-gallon container of chrome waste was also staged here to be treated. This container was closed and properly labeled (photos 7 and 8).

ESP performs continuous pH monitoring of discharge in accordance with their City of Portland sanitary sewer pretreatment permit. At the time of the inspection, the pH meter for the first neutralization tank was operational. The flow from tank one went through Neutralization Tank #2 which is also pH monitored and adjusted as needed. Twenty 5-gallon carboys of nitric acid product were stored near the treatment unit to be used in pH adjustment if needed (photo 9). Waste was actively being added to the treatment system at the time of inspection.

ESP houses its wastewater pH neutralization tanks in a vaulted basement provided with secondary containment under grating on the main wastewater treatment floor. At the time of inspection, the containment had minor puddling but no standing liquid. I did not observe any crystallization around the treatment tanks. Wastewater treatment operator Jim explained that he is sure to check and pump out any liquid in the secondary containment into treatment before he leaves each shift. He explained that the small puddles currently in the containment are from him pressure washing empty containers after waste had been added to treatment. A pump is positioned in the secondary containment to move liquid from the secondary containment into the wastewater treatment unit.

In the northwest corner of the wastewater treatment area, ESP stored satellite accumulation containers, a polyethylene container, and a steel 55-gallon drum behind the "Neut 1" tank and the sand filtration unit. Scott said the 55-gallon drum is also a satellite drum. The drum was labeled with an accumulation start date of "12/14/23." I told Scott that satellite containers must be moved to the CAA within three consecutive calendar days once the container is full and dated. The polyethylene container had racks fitted across the top for the "polish filters" to hang dry. The container is labeled "Hazardous Waste, SSA polish filters" and was covered. Once the filters are dry, they are removed and containerized as hazardous waste. Any liquid drained from the filters is added to the wastewater treatment unit (photos 19 and 20).

The universal waste that was present in this area during the last inspection had been disposed of. I did not observe new universal waste in its place.

Plant 2: QAQC Laboratory

We walked up the stairs to the QAQC laboratory. At the time of inspection, the QAQC Laboratory ceiling was under repair after being damaged by rainwater leaking through the roof. Upon entering the laboratory, we met Tim Lamb, ESP's Vice President. I opened a cabinet and observed two 5-gallon poly carboys (photo 10). One container was labeled "hazardous waste 9/25-12/25 chromate waste" with a toxic hazard indication label. The other container was labeled "hazardous waste 7/21/23 cyanide waste" with a toxic hazard indication label. Scott stated that these containers are satellite accumulation containers that must have been labeled when the lab was cleaned out for the construction but were left in the cabinet. He pointed out that neither container was full, and both should have been labeled SAA. The cyanide container exceeded the 90-day accumulation period by 60 days, as it was dated 150 days ago, in violation of 40 CFR 262.17(a). Scott instructed Thomas Swan to take the containers down to the treatment area to be metered into treatment.

Plant 2: Main Plating Lines

We exited the QAQC lab through a door on the north side and descended the stairs to the plating area. Upon entering the plating area there was a pungent, irritating odor emitted from the acid baths.

At the northern end of the main plating room in Plant 2, is another set of plating lines. In this area, parts dipping is done by hand instead of by crane. The containment under the hand lines was sectioned off into six areas. Eric and I observed clear standing liquid and brown liquid in the containments. Scott informed us that this liquid is overflow and drag out from the baths along the handline and that these containments are still pumped out as necessary into totes to be disposed of as hazardous waste. Scott showed us a satellite drum labeled "hazardous waste" staged next to the safety shower on the northernmost end of the hand plating area in Plant 2. The 15-gallon satellite hazardous waste container was empty.

On the floor northwest of the hand dipping lines, we observed five (5) 275-gallon totes (photo 18). These totes were staged open with stingers inserted through the center hole in each cap. The stingers were attached to the pumps used for transferring this waste to totes from the secondary containments under the manual plating lines. Each tote was labeled with the name of the plating line where the liquid originated, and an accumulation start date. Eric pointed out that the valve on each stinger was closed so no waste was being added or removed so these containers must be closed, this was in violation of 40 CFR 262.17(a)(1)(iv)(A). Thomas said this was an easy fix. He will add new caps, and the stingers will be removed until waste is pumped into the totes.

Northwest from the totes is another section of hand plating baths. I observed one vent above two baths while I did not observe any ventilation over the other baths with visible vapors (photos 13 and 14). Eric and I walked along the floor grating and observed reddish brown standing liquid in the containment. While photographing the standing liquid in the containment, we observed 5-gallon containers inside the containment were being used to hold up the floor (photos 15 and 16). We exited the area swiftly and asked why these containers were under the floor grating. Gary informed us that the containers are filled with water and were placed there to stabilize the fiberglass floor grating when this section of hand plating was constructed 12 years ago.

On a pallet across from the totes, Eric and I observed an open 85-gallon polyethylene overpack drum ¼ filled with “chrome PPE” (photo 17). This drum was labeled with a hazardous waste label that read “SAA Chrome PPE” with a toxic hazard indication label. I reminded Scott and Thomas that Satellite accumulation containers cannot accumulate more than 55-gallons of non-acute hazardous waste and recommended using a smaller drum to avoid exceeding that limit.

Plant 3: Additional Storage

In the southernmost bay of Plant 3, ESP stores the overflow hazardous waste when the CAA in plant 2 becomes overcrowded. This area is utilized as a second CAA. Hazardous waste is also staged here for larger shipments to TSDFs for disposal. At the time of inspection, we observed four 1 cubic yard supersacks of F006 sludge (photo 21), eight 1 cubic yard non-hazardous waste containers, and four 55-gallon drums of hazardous waste. I did not observe any hazardous waste on the outside of the containers or on the floor. I observed proper labeling on each container and each container was closed. The hazardous waste and non-hazardous waste containers were stored in neat rows with sufficient aisle space between them. The containers in the center row contained product. I suggested to Gary, David and Scott again that product to be used should be stored separate from waste pending disposal. The open boxes of universal waste lamps that were stored in this area during the March inspection have been disposed of and no new universal waste containers have been stored here in their place.

The 90-day area in Plant 3 is also equipped with a fully stocked spill kit cabinet.

Plant 1: Powder coating, maintenance shop

I asked to see the used oil containers in plant 1 that were observed in the March inspection. We walked to the compressor room area on the east side of plant 1 and observed one 55-gallon oil drum labeled “used oil.” A 5-gallon bucket labeled “used oil” was placed on the top of the 55-gallon drum but was empty (photo 22).

We continued to the rinse line where parts come through on a hanger system and are washed. The washing unit is surrounded by raised pavement to contain any rinse water that vacates the rinse line. Any water accumulated in the containment is pumped to the rinse tank to be treated. As we carried on through Plant 1,

we observed red bins for solvent wipes. I asked what solvents were used in conjunction with the wipes that were collected in the red bins. Scott initially stated that no solvent is used and that these rags can go in the general garbage dumpster. Gary suggested that we confirm with the plant 1 operator, Todd. I reiterated the question to Todd and asked what solvents were with the wipes in plant 1. Todd said that typically denatured alcohol is used and sometimes methyl ethyl ketone will be used to wipe decals and fingerprints off parts. I asked Todd what happens to the rags after use. Todd said that the employees bring the wipes to plant 2 and they ultimately end up in the shop debris box. I reminded Scott and Gary of my concern with the “shop debris” box hazardous waste determination and with the training of personnel.

RECORD KEEPING AND REPORTING

Spill Contingency Plan

The contingency plan was updated to include a quick reference guide, the hand lines, and the location of all satellite accumulation areas.

ESP did provide evidence that the contingency plan was submitted to Portland Police, fire and the local emergency medical provider facility at the time of inspection.

Training Records

ESP provides its own in-person training with a required exam for all new employees. The training includes a review of recent and recurrent hazardous waste violations found during past DEQ inspections and internal inspections.

Waste Manifests/LDRs/Waste Analysis/SDS

Each manifest submitted and reviewed was completed appropriately.

EXIT INTERVIEW

We returned to Gary’s office for our exit interview. We discussed all the violations we observed and the next steps moving forward. I reminded Gary that with Scott retiring and David filling the EHS role, the contingency plan will need to be updated to reflect new emergency coordinators and personnel changes once Scott is no longer at the facility.

Additional Information Requests Made:

On December 18, 2023, I sent an email to Scott and Gary reiterating the observed violations and request for evidence of return to compliance in the form of photographs and document submittals, as follows:

“Site hazardous waste management for return to compliance requirements:

- *Dispose or treat all hazardous waste that exceeds 90-day storage currently onsite – **submit records***
 - *5-gallon carboy of “cyanide waste” dated 7/21/23 observed in QA/QC lab*
- *Close hazardous waste containers - **submit photos***
 - *Hazardous waste totes in northern plating area of plant 2.*

Records request:

- Provide Hazardous Waste Determination (HWD) Hazardous Waste Determinations (HWD) for the requested waste streams – **submit records**
 - *“Shop Debris” Box – Only “Shop Box Instructions” has been submitted thus far.*
 - *PPE and rags from plating lines*
 - *Solvent rags in Plant 1*
 - *Chrome Debris - Only “HW Cr Debris Drum Instructions” has been submitted thus far.*
 - *Cyanide filters- Only “HW CN Filter Drum Instructions” has been submitted thus far.*
- Denote all locations where hazardous waste is generated and stored on contingency plan maps – **submit records**
 - *40 CFR 262.262(b)(4)- A map of the facility showing where hazardous wastes are generated, accumulated and treated and routes for accessing these wastes;*
 - *At some point the contingency plan will also need to be updated to reflect Scott’s departure, David Humphrey’s hire, and any additional new personnel that will have Emergency Coordinator responsibilities.*
- *Photo of the Paint Storage room in plant 3.”*

ADDITIONAL CONCERNS AND RECOMMENDATIONS

Oregon DEQ recommends that ESP:

- Take further action in facility upkeep and general housekeeping.
- Utilize a third-party provider for employee hazardous waste training.
- Provide hazardous waste training on a more routine schedule.
- Use smaller satellite containers to avoid exceeding 55 gallons.
- Store product separately from hazardous waste.
- Have new EHS and Hazardous Waste personnel take Oregon DEQ’s RCRA Basics course.
- Invest in detailed RCRA training from a third-party provider for EHS management/Hazardous waste personnel.

POST INSPECTION INVESTIGATIONS

I maintained consistent correspondence with Gary and David while ESP worked to meet the requirements for the document submittals requested by DEQ on December 18th. Over multiple emails, ESP submitted photo evidence of closed containers, training forms, and disposal records. I worked with ESP through email and calls to ensure the facility personnel submitted an accurate HWD for each requested waste stream.

SIGNIFICANT NON-COMPLIER EVALUATION AND DETERMINATION

Consider whether the Respondent is a Significant Non-Complier (SNC) (see Appendix B of Enforcement Guidance):

- Did the violation(s) cause actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous waste constituents to humans or the environment? X Yes or No
- Did the Respondent violate the law through flagrant or willful action? X Yes or No
- Is this a chronic or recalcitrant violator? X Yes or NO
- Do the violation(s) deviate substantially from the terms of a permit, order, agreement, or hazardous waste statutory or regulatory requirement? X Yes or No

DEQ staff may use any **one** of these criteria to warrant designation as a SNC at any time during the enforcement process. DEQ may evaluate persons on a multi-media basis for SNC designation; however, a person may be found to be a SNC based solely on previous RCRA violations or behavior.

Is this violator a SNC? Yes or No

East Side Plating was designated a Significant Non-Complier during the DEQ inspection on March 8, 2023. The SNC status remained through the inspection date of December 18, 2023, until all corrective actions were completed to a satisfactory degree on January 26, 2024. Following these corrective actions, East Side Plating is no longer considered to be in Significant Non-Complier status,

CONCLUSIONS & RECOMMENDATIONS

- 40 CFR 262.17(a)(1)(iv)(A) – Failure to close hazardous waste containers
- OAR 340-102-0011 – Failure to make a hazardous waste determination
- 40 CFR 262.17(a) – Storage of hazardous waste onsite >90 days without a permit

Other program/agency referrals

This facility has been referred to Oregon OSHA

Appendix: ATTACHMENTS

DEQ Inspection Photograph Log