



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

February 27, 2024

CERTIFIED MAIL: 9859 0710 5270 0688 6528 95

9Wood, Inc.
c/o Leo Batenhorst, Registered Agent
999 South A Street
Springfield, OR 97477

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ/HW-WR-2023-565

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a total civil penalty of \$18,142 for twelve hazardous waste violations at your facility in Springfield. You failed to determine whether waste generated at the facility was hazardous and stored waste in containers that were open and/or not properly labeled. DEQ also cited you, without penalty, for violations of universal waste management requirements, and for failing to meet emergency preparedness requirements including providing emergency equipment and information in hazardous waste satellite accumulation areas and providing employee training.

DEQ issued this penalty because determining whether wastes you generate are hazardous is the cornerstone of safe management and disposal. Improper storage and management of hazardous waste threatens human health and the environment. To protect against such threats, the legislature has enacted statutes and DEQ has adopted rules establishing strict requirements for the identification, storage, and disposal of hazardous waste, as well as emergency preparedness requirements to prevent and respond to releases. Your failure to comply with these requirements increases the risk that human health or the environment could be harmed by mismanagement of hazardous waste. DEQ is especially concerned that several of these are repeat violations.

DEQ appreciates your efforts to correct the violations and DEQ considered these efforts when determining the amount of civil penalty.

You may pay the civil penalty as follows:

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

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

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 – 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

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

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor instead of paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Esther Westbrook at 503-229-5374 or toll free in Oregon at 800-452-4011, extension 5374.

Sincerely,



Becca Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Colin Hicks, 9Wood, Inc., 999 South A Street, Springfield, OR 97477
Chris Bayham, Eugene Office, Western Region, DEQ
Becky Williams, Eugene Office, Western Region, DEQ
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:
4 9Wood, Inc.,
an Oregon corporation,

5 Respondent.)

) NOTICE OF CIVIL PENALTY
) ASSESSMENT AND ORDER

) CASE NO. LQ/HW-WR-2023-565

6
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 465.900, ORS 466.990, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340,
11 Divisions 011, 012, and 100-102.

12 II. FINDINGS OF FACT

- 13 1. At all material times, Respondent operated an industrial wood ceiling manufacturing
14 facility at 999 South A Street in Springfield, Lane County, Oregon (the Facility).
- 15 2. At all material times, Respondent generated between 200 pounds and 2,200 pounds of
16 hazardous waste per month at the Facility. Respondent is a small quantity generator registered under
17 RCRA ID #ORQ000034852.
- 18 3. Respondent generates various paint wastes at the Facility, including spent solvents and
19 waste lacquers.
- 20 4. On February 13, 2023, DEQ inspected the Facility and reviewed Respondent's records.
- 21 5. On February 13, 2023, there were two hazardous waste satellite accumulation areas
22 (SAA) at the Facility: in the main shop and in the "mito/mixing kitchen."
- 23 6. On February 13, 2023, there was a 55-gallon drum containing spent solvents in the main
24 shop SAA that had an open metal funnel attached to the bung.
- 25 7. On February 13, 2023, there was a 55-gallon drum containing spent solvents and
26 solvent-based waste paints in the "mito/mixing kitchen" SAA that had an open plastic funnel in an open
27 bung.

1 8. At the time of the inspection, Respondent was not adding or removing hazardous waste
2 from the containers described in Paragraphs 6 and 7 above.

3 9. In each SAA described above, there was a five-gallon drum containing solvent-
4 contaminated rags.

5 10. On February 13, 2023, the containers described in Paragraphs 6, 7, and 9 above had no
6 labels or markings to indicate that they contained hazardous waste or to indicate the hazard of the
7 contents.

8 11. On February 13, 2023, there was no fire control or spill control equipment available, or
9 emergency procedures information posted in either SAA.

10 12. On February 13, 2023, the following wastes were stored in the two 180/270-day
11 hazardous waste accumulation areas at the Facility:

12 a. Inside the warehouse and material storage area, a 55-gallon drum containing solvent-
13 contaminated rags. The container was labeled “rags,” but it was not labeled “hazardous
14 waste,” did not have any information identifying the hazard of its contents, and was not
15 labeled with the date Respondent first placed waste in the container.

16 b. Outside, west of the manufacturing building, three 55-gallon drums containing waste
17 paints and spent solvents, which was ignitable hazardous waste. The containers were
18 labeled as hazardous waste, but they were not labeled with the date Respondent first
19 placed waste in them.

20 13. On February 13, 2023, there were three full 55-gallon drums of lacquer waste stored on
21 a pallet outside against the exterior wall of a storage shed. The drums were rusted and had been stored
22 in this manner for several years.

23 14. On February 13, 2023, the containers described in Paragraph 13 above had no labels or
24 markings to indicate that they contained hazardous waste or to indicate the hazard of the contents. The
25 containers did not have accumulation start dates.

26 15. As of February 13, 2023, Respondent had not performed hazardous waste
27 determinations on the residues described in Paragraph 13 above.

1 1. On or before February 13, 2023, Respondent failed to keep two containers holding hazardous
2 waste closed at all times during accumulation except when adding, removing, or consolidating waste, in
3 violation of 40 CFR 262.15(a)(4), as described in Section II, Paragraphs 5 – 8 above. These are Class II
4 violations according to OAR 340-012-0068(2)(m). DEQ hereby assesses a \$2,100 civil penalty for these
5 violations.

6 2. On or before February 13, 2023, Respondent failed to mark four hazardous waste containers
7 in SAAs with the words “Hazardous Waste,” in violation of 40 CFR 262.15(a)(5)(i), as described in
8 Section II, Paragraphs 9 and 10 above. These are Class II violations according to OAR 340-012-
9 0068(2)(b). DEQ has not assessed a civil penalty for these violations.

10 3. On or before February 13, 2023, Respondent failed to mark four hazardous waste containers
11 in SAAs with an indication of hazard indicating that the waste was ignitable, in violation of 40 CFR
12 262.17(a)(5)(ii), as described in Section II, Paragraphs 9 and 10 above. These are Class II violations
13 according to OAR 340-012-0068(2)(b). DEQ has not assessed civil penalty for these violations.

14 4. On or before February 13, 2023, Respondent violated 40 CFR 262.15(a)(7), which references
15 40 CFR 262.16(b)(8) and (9), by failing to ensure that all SAAs met preparedness and prevention
16 requirements and emergency procedures requirements, as described in Section II, Paragraph 11 above.
17 This is a Class II violation according to OAR 340-012-0068(2)(o). DEQ has not assessed a civil penalty
18 for this violation.

19 5. On or before February 13, 2023, Respondent failed to label four hazardous waste containers in
20 a 180/270-day area with the words “Hazardous Waste,” in violation of 40 CFR 262.16(b)(6)(i)(A), as
21 described in Section II, Paragraphs 12 – 14 above. These are Class II violations according to OAR 340-
22 012-0068(2)(p). DEQ hereby assesses a \$2,100 civil penalty for these violations.

23 6. On or before February 13, 2023, Respondent failed to label four hazardous waste containers in
24 a 180/270-day area with the hazards of the contents, in violation of 40 CFR 262.16(b)(6)(i)(B), as
25 described in Section II, Paragraphs 12 – 14 above. These are Class II violations according to OAR 340-
26 012-0068(2)(b). DEQ has not assessed a civil penalty for these violations.

27 ////

1 7. On or before February 13, 2023, Respondent failed to place accumulation start dates on seven
2 hazardous waste containers in a 180/270-day area, in violation of 40 CFR 262.16(b)(6)(i)(C), as described
3 in Section II, Paragraphs 12 – 14 above. These are Class II violations according to OAR 340-012-
4 0068(2)(a). DEQ hereby assesses a \$4,400 civil penalty for these violations.

5 8. On or before January 11, 2023, Respondent violated OAR 340-102-0011(2) by failing to
6 completely and accurately determine if residues, as defined in OAR 340-100-0010(2)(hh) and 40 CFR
7 261.2, generated at the Facility were hazardous waste upon generation, as described in Section II,
8 Paragraphs 13 – 16 above. Specifically, Respondent failed to conduct a hazardous waste determination on
9 three drums of lacquer waste, which was hazardous waste pursuant to 40 CFR 261.21(a), 40 CFR
10 261.31(a), and 40 CFR 261.33(f). This is a Class I violation according to OAR 340-012-0068(1)(a). DEQ
11 hereby assesses a \$3,800 civil penalty for this violation.

12 9. On or before February 13, 2023, Respondent failed to label or mark two containers in which
13 aerosol cans, a universal waste, were contained with any of the following phrases: “Universal Waste—
14 Aerosol Can(s),” “Waste Aerosol Can(s),” or “Used Aerosol Can(s),” in violation of 40 CFR 273.14(f), as
15 described in Section II, Paragraph 17 above. This is a Class II violation according to OAR 340-012-
16 0068(2)(p). DEQ has not assessed a civil penalty for this violation.

17 10. On or before February 13, 2023, Respondent failed to demonstrate the length of time that spent
18 aerosol cans, a universal waste, had been accumulated from the date it became a waste, in violation of 40
19 CFR 273.15(c), as described in Section II, Paragraph 17 above. This is a Class II violation according to
20 OAR 340-012-0068(2)(p). DEQ has not assessed a civil penalty for this violation.

21 11. From 2019 through February 13, 2023, Respondent failed to conduct weekly inspections of the
22 central hazardous waste accumulation area at the Facility, in violation of 40 CFR 262.16(b)(2)(iv), as
23 described in Section II, Paragraph 18 above. This is a Class II violation according to OAR 340-012-
24 0068(2)(h). DEQ hereby assesses a \$5,742 civil penalty for this violation.

25 12. On or before February 13, 2023, Respondent failed to ensure that all employees are thoroughly
26 familiar with proper waste handling and emergency procedures, relevant to their responsibilities during
27 normal facility operations and emergencies, in violation of 40 CFR 262.16(b)(9)(iii), as described in

1 Section II, Paragraph 19 above. This is a Class II violation according to OAR 340-012-0068(2)(I). DEQ
2 has not assessed a civil penalty for this violation.

3 IV. ORDER TO PAY CIVIL PENALTY

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

6 Pay a total civil penalty of \$18,142. The determination of the civil penalty is attached as
7 Exhibit Nos. 1 – 5, which is incorporated as part of this Notice.

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

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

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

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

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

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

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

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

17
18
19
20 Date

2/27/2024

Becka Puskas, Interim Manager
Office of Compliance and Enforcement

EXHIBIT 1

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

- VIOLATION 1: Failing to keep containers storing hazardous waste closed when not adding or removing waste, in violation of 40 CFR 262.15(a)(4).
- CLASSIFICATION: These are Class II violations pursuant to OAR 340-012-0068(2)(m).
- MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(4)(c)(C) for a hazardous waste management violation classified in OAR 340-012-0068(2)(m) that involved 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste. Respondent failed to close containers storing approximately 916 pounds of hazardous waste.
- CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
- "BP" is the base penalty, which is \$1,000 for a Class II, minor magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(iii) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because at the time of the hazardous waste rule violation, Respondent was a small quantity generator of hazardous waste.
- "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 4, according to OAR 340-012-0030(2)(a)(C) and (D). In Case No. LQ/HW-WR-2019-048, Respondent was cited for one Class I violation and four Class II violations.
- "H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).
- "O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to close two containers of hazardous waste, which is two occurrences of the violation.
- "M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. Respondent improperly stored two barrels containing hazardous spent solvents. Keeping these containers open presented a risk of exposure to employees at the facility from fumes as well an increased risk of spills. Additionally, Respondent had previously been penalized for the same violation in 2019, so it was aware of the requirement to keep hazardous waste containers closed when not adding or

removing waste. By failing to keep hazardous waste containers closed, Respondent consciously disregarded a substantial and unjustifiable risk that it would violate hazardous waste requirements. Because of the potential harm to employees, disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that 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 by properly closing the containers.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 because the economic benefit received from keeping the hazardous waste containers closed, if any, was de minimis.

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

$$\begin{aligned} &= \$1,000 + [(0.1 \times \$1,000) \times (4 + 0 + 2 + 8 - 3)] + \$0 \\ &= \$1,000 + (\$100 \times 11) + \$0 \\ &= \$1,000 + \$1,100 + \$0 \\ &= \$2,100 \end{aligned}$$

EXHIBIT 2

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

VIOLATION 5: Failing to mark hazardous waste containers in a 180/270-day hazardous waste storage area with the words "Hazardous Waste," in violation of 40 CFR 262.16(b)(6)(i)(A).

CLASSIFICATION: These are Class II violations pursuant to OAR 340-012-0068(2)(b).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(4)(c)(C) for a hazardous waste management violation classified in OAR 340-012-0068(2)(b) that involved 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste. Respondent failed to mark three 55-gallon drums containing liquid hazardous waste, which was a total of 165 gallons, plus one 55-gallon drum containing solvent-contaminated rags, which was approximately 40 pounds.

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 \$1,000 for a Class II, minor magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(iii) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because at the time of the hazardous waste rule violation, Respondent was a small quantity generator of hazardous waste.

"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 4, according to OAR 340-012-0030(2)(a)(C) and (D). In Case No. LQ/HW-WR-2019-048, Respondent was cited for one Class I violation and four Class II violations.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to label four containers of hazardous waste as such, which is four occurrences of the violation.

"M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. Respondent failed to properly label four containers of hazardous waste, which increased the risk that the waste would be

improperly handled or disposed. Additionally, Respondent had previously been cited for the same violation in 2019, so it was aware of the requirement to properly label hazardous waste containers. By failing to label four hazardous waste containers, Respondent consciously disregarded a substantial and unjustifiable risk that it would violate hazardous waste requirements. Because of the potential harm to employees, disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that 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 by properly labeling the containers.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 because the economic benefit received from labeling the containers, if any, was de minimis.

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

$$\begin{aligned} &= \$1,000 + [(0.1 \times \$1,000) \times (4 + 0 + 2 + 8 - 3)] + \$0 \\ &= \$1,000 + (\$100 \times 11) + \$0 \\ &= \$1,000 + \$1,100 + \$0 \\ &= \$2,100 \end{aligned}$$

EXHIBIT 3

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

VIOLATION 7: Failing to place accumulation start dates on hazardous waste containers, in violation of 40 CFR 262.16(b)(6)(i)(C).

CLASSIFICATION: These are Class II violations pursuant to OAR 340-012-0068(2)(a).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(4)(c)(B)(i) for a hazardous waste management violation classified in OAR 340-012-0068(2)(a) that involved more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste. Respondent failed to place accumulation start dates on six 55-gallon drums of liquid hazardous waste, for a total of 330 gallons (approximately 2,748 lbs), plus one drum containing solvent-contaminated rags, which weighed approximately 40 pounds.

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

- "BP" is the base penalty, which is \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because at the time of the hazardous waste rule violation, Respondent was a small quantity generator of hazardous waste.
- "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 4, according to OAR 340-012-0030(2)(a)(C) and (D). In Case No. LQ/HW-WR-2019-048, Respondent was cited for one Class I violation and four Class II violations.
- "H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).
- "O" is whether the violation was repeated or ongoing and receives a value of 3 according to OAR 340-012-0145(4)(c) because there were more than seven but less than 28 occurrences of the violation. Respondent failed to place accumulation start dates on seven hazardous waste containers, which is seven occurrences of the violation.
- "M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. Respondent failed to place accumulation start dates on seven hazardous waste containers. This increased the risk that

the waste would be improperly handled or disposed. Additionally, Respondent had previously been penalized for the same violation in 2019, so it was aware of the requirement to mark containers with accumulation start dates. By failing to mark accumulation start dates on hazardous waste containers, Respondent consciously disregarded a substantial and unjustifiable risk that it would violate hazardous waste requirements. Because of the potential harm to employees, disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that 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 by properly labeling the containers with the accumulation start dates.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 because the economic benefit received from properly labeling the containers, if any, was de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$2,000 + [(0.1 x \$2,000) x (4 + 0 + 3 + 8 - 3)] + \$0
= \$2,000 + (\$200 x 12) + \$0
= \$2,000 + \$2,400 + \$0
= \$4,400

EXHIBIT 4

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

VIOLATION 8: Failing to accurately determine if Respondent's residue (as defined in OAR 340-100-0010(2)(hh) and 40 CFR 261.2 as adopted by OAR 340-100-0002) was hazardous waste, in violation of OAR 340-102-0011(2).

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

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

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

"BP" is the base penalty, which is \$2,000 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because at the time of the hazardous waste rule violation, Respondent was a small quantity generator of hazardous waste.

"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 4, according to OAR 340-012-0030(2)(a)(C) and (D). In Case No. LQ/HW-WR-2019-048, Respondent was cited for one Class I violation and four Class II violations.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent failed to characterize one waste stream.

"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. Respondent accumulated and stored three barrels of lacquer waste, which contained numerous hazardous constituents, for several years without having completed an accurate hazardous waste determination. Likely because of this, the waste was not properly labeled. Failing to characterize the waste increased the risk that the waste would be improperly handled or disposed. Additionally, Respondent had previously been penalized for the same violation in 2019, so it was aware of the requirement to perform hazardous waste determinations. By failing to timely perform a hazardous waste

determination, Respondent consciously disregarded a substantial and unjustifiable risk that it would violate hazardous waste requirements. Because of the potential harm to employees, disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that 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 by conducting a hazardous waste determination and properly disposing of the waste on or about March 2, 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 because the economic benefit received from delaying characterizing the waste, if any, was de minimis.

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

$$\begin{aligned} &= \$2,000 + [(0.1 \times \$2,000) \times (4 + 0 + 0 + 8 - 3)] + \$0 \\ &= \$2,000 + (\$200 \times 9) + \$0 \\ &= \$2,000 + \$1,800 + \$0 \\ &= \$3,800 \end{aligned}$$

EXHIBIT 5

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

VIOLATION 11: Failing to conduct weekly inspections of the central hazardous waste accumulation areas at the Facility, in violation of 40 CFR 262.16(b)(2)(iv).

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

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(4)(c)(B)(i) for a hazardous waste management violation classified in OAR 340-012-0068(2)(h) that involved more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste. The central hazardous waste accumulation areas stored six 55-gallon drums of liquid hazardous waste, for a total of 330 gallons, plus one drum containing solvent-contaminated rags, which weighed approximately 40 pounds.

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

"BP" is the base penalty, which is \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because at the time of the hazardous waste rule violation, Respondent was a small quantity generator of hazardous waste.

"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 4, according to OAR 340-012-0030(2)(a)(C) and (D). In Case No. LQ/HW-WR-2019-048, Respondent was cited for one Class I violation and four Class II violations.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Respondent failed to conduct approximately 209 weekly inspections between 2019 and February 13, 2023.

"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. Respondent failed to conduct inspections of the central hazardous waste accumulation areas at its facility for more than

four years. Had Respondent conducted inspections, it would have discovered hazardous waste violations and could have addressed them in a timely manner. Additionally, Respondent had previously been cited for the same violation in 2019, so it was aware of the requirement to perform weekly inspections. By failing to address the violation and implement an inspection program, Respondent consciously disregarded a substantial and unjustifiable risk that it would violate hazardous waste requirements. Because of the potential harm to employees from improperly stored hazardous waste, disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure that the violation would not be repeated by beginning conducting regular weekly inspections in March 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 \$742. This is the amount Respondent gained by avoiding spending a total of \$947 for 209 missed weekly inspections of its hazardous waste accumulation areas. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$2,000 + [(0.1 \times \$2,000) \times (4 + 0 + 4 + 8 - 1)] + \$742 \\ &= \$2,000 + (\$200 \times 15) + \$742 \\ &= \$2,000 + \$3,000 + \$742 \\ &= \$5,742 \end{aligned}$$

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



State of Oregon
 Department of Environmental Quality

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

CIVIL PENALTY - ORS 468.135(2)

DATE:	February 27, 2024
RESPONSE DATE :	May 7, 2024
TOTAL PENALTY:	\$18,142.00

Account Name:	9WOOD INC		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400041
SubSystem ID:	199351	FIMS Acct. ID:	1649

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 18,142.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 18,142.00

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

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



 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2400041		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	May 7, 2024
FIMS ACCT. ID:	1649	TOTAL PENALTY DUE:	\$18142.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

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

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

00401 7400 10040 74001 0500 000000 0095000016491(CPGF)240004100018142003



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)

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

Penalty Detail

Transaction Date	Description	Amount
2/26/2024	2023-565 LQ-HW-WR-2023-565	\$18,142.00

SFMS Agencies Use:

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

Address Changes

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

Name _____
 Address _____
 City, State, Zip _____