



Oregon

Kate Brown, Governor

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

February 11, 2022

CERTIFIED MAIL: 7018 1830 0001 5906 2667

PCC Structural, Inc., dba PCC Schlosser
c/o National Registered Agents, Inc.
780 Commercial St SE Ste 100
Salem OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ/HW-ER-2020-054

DEQ is committed to balancing its vital obligation to enforce the law and protect the environment with a consideration of the dramatic disruptions to public health and the economy caused by the COVID-19 outbreak. We understand the outbreak may impact your ability to timely appeal, pay the assessed civil penalty, or comply with this order. You may submit to DEQ documentation identifying whether COVID-19-related disruption affects your ability to comply with this order. Visit our webpage <https://www.oregon.gov/deq/Pages/covid-19.aspx> for more information about documenting specific COVID-19 disruptions your facility may be encountering and how that affects your ability to comply. DEQ will exercise reasonable discretion regarding settlement of this order.

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$15,000 for hazardous waste management violations identified at your facility in Redmond during an inspection by DEQ and EPA in 2019.

DEQ issued this penalty because storing hazardous waste in open, unlabeled containers poses a risk to human health and the environment. DEQ also cited you in the enclosed Notice of Civil Penalty Assessment and Order (Notice) for several other violations of hazardous waste and universal waste requirements.

DEQ appreciates your efforts to promptly correct the violations and 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.state.or.us

Via fax – 503-229-6762

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

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

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

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

If you have any questions, please contact Sarah Wheeler at 971-301-0622.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Brian Allen, DEQ
Ron Doughten, DEQ
Accounting, DEQ
Peter Magolske, U.S. EPA, Region 10, Magolske.peter@epa.gov
Geoffrey Tichenor, geoffrey.tichenor@stoel.com

1 several unpunctured aerosol cans. Neither the bucket nor trash can were labeled as “hazardous waste”
2 and Respondent was not adding or removing waste from the containers at the time of the inspection.

3 6. On April 16, 2019, Respondent stored an open cardboard box of spent mercury-
4 containing fluorescent lamps at the Facility. The box was not labeled as “Universal Waste – Lamps,”
5 “Waste Lamps” or “Used Lamps.”

6 7. On April 17, 2019, DEQ and EPA requested, and Respondent did not have,
7 documentation of the following:

- 8 a. That Respondent had provided the Facility’s Contingency Plan to local emergency
9 response authorities;
- 10 b. A list of employees who manage hazardous waste at the Facility and job descriptions for
11 those employees relating to hazardous waste management; and
- 12 c. Training records since 2017 for all staff who work in areas generating hazardous waste
13 or are otherwise responsible for management and disposal of hazardous waste.

14 III. CONCLUSIONS

15 Based upon the foregoing Findings of Fact, DEQ has determined that Respondent violated the
16 following provisions of Oregon law, including hazardous waste laws adopted by OAR 340-100-0002.

17 1. Respondent violated 40 CFR 262.34(a)(2) by storing hazardous waste at the Facility without
18 labeling it with the date the waste was first placed in the containers. Specifically, Respondent stored five
19 containers of hazardous wastewater treatment sludge from electroplating operations, without labeling the
20 containers with accumulation start dates, as described in Paragraphs 1-4 of Section II above. This waste
21 was hazardous waste pursuant to 40 CFR 261.31(a) and as identified by U.S. Environmental Protection
22 Agency (EPA) Hazardous Waste Number (EPA Waste No.) F006. These are Class II violations,
23 according to OAR 340-012-0068(2)(a). DEQ hereby assesses a \$7,200 civil penalty for these violations.

24 2. Respondent violated 40 CFR 265.173(a) as referenced by 40 CFR 262.34(a)(1)(i) by storing
25 hazardous waste in open containers. Specifically, Respondent stored five containers of hazardous
26 wastewater treatment sludge from electroplating operations and two containers storing spent unpunctured
27 reactive aerosol can waste, as described in Paragraphs 1-5 of Section II above. The sludge was hazardous

1 waste pursuant to 40 CFR 261.31(a) and as identified by EPA Waste No. F006 and the unpunctured
2 waste aerosol cans were reactive hazardous waste according to 40 CFR 261.23 and as identified by EPA
3 Waste No. D003. These are Class II violations, according to OAR 340-012-0068(2)(m). DEQ hereby
4 assesses a \$7,800 civil penalty for these violations.

5 3. Respondent violated 40 CFR 262.34(a)(4) by failing to label containers storing hazardous
6 waste with the words "hazardous waste." Specifically, Respondent stored five containers of hazardous
7 wastewater treatment sludge, and two containers storing spent unpunctured aerosol can waste, without
8 labeling these containers as "hazardous waste," as described in Paragraphs 1-5 of Section II above. The
9 wastewater treatment sludge was hazardous waste pursuant to 40 CFR 261.31(a) and as identified by
10 EPA Waste No. F006 and the unpunctured waste aerosol cans were reactive hazardous waste according to
11 40 CFR 261.23 and as identified by EPA Waste No. D003. These are Class II violations, according to
12 OAR 340-012-0068(2)(b). DEQ has not assessed a civil penalty for these violations.

13 4. Respondent violated 40 CFR 265.16(1)(a) and (b) and (d), as referenced by 40 CFR
14 262.34(a)(4), by failing to adequately train Facility personnel in hazardous waste management procedures,
15 and keep related records, as described in Paragraphs 1-3 and 7.b and 7.c of Section II above. These are
16 Class II violations, according to OAR 340-012-0068(1)(l). DEQ has not assessed a civil penalty for these
17 violations.

18 5. Respondent violated 40 CFR 273.13(d)(1), by failing to store universal waste mercury-
19 containing lamps in containers or packages that are closed, structurally-sound, and adequate to prevent
20 breakage, as described in Paragraphs 1-3 and 6 of Section II above. This is a Class II violation, according
21 to OAR 340-012-0068(2)(p). DEQ has not assessed a civil penalty for this violation.

22 6. Respondent violated 40 CFR 273.14(e), by failing to label universal waste mercury-containing
23 lamps as either "Universal Waste – Lamp(s)," "Waste Lamps," or "Used Lamps," as described in
24 Paragraphs 1-3 and 6 of Section II above. This is a Class II violation, according to OAR 340-012-
25 0068(2)(p). DEQ has not assessed a civil penalty for this violation.

26 7. Respondent violated 40 CFR 265.53(b), as referenced by 40 CFR 262.34(a)(4), by failing to
27 provide copies of the Facility's current contingency plan to local emergency response authorities as

1 described in Paragraphs 1-3 and 7.a of Section II above. This is a Class III violation, according to OAR
2 340-012-0068(3)(e). DEQ 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 \$15,000. The determination of the civil penalty is attached as Exhibits 1
7 and 2, which are 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, or

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

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.state.or.us. 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 duly
5 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 2 / 11 / 2022
19 Date


20
21 
22 _____
23 Kieran O'Donnell, Manager
24 Office of Compliance and Enforcement
25
26
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EXHIBIT 1

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

VIOLATION NO. 1 Failing to label containers of hazardous waste with the date upon which each period of accumulation began, in violation of 40 CFR 262.34(a)(2), as adopted by OAR 340-100-0002.

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

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c), because the violation involved more than 1,000 gallons or 6,000 pounds of hazardous waste. Respondent failed to date containers storing approximately 18,000 pounds of hazardous waste.

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

"BP" is the base penalty, which is \$6,000 for a Class II, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent violated a hazardous waste rule and Respondent was a large-quantity generator of hazardous waste at the time of the violation.

"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. "P" receives an initial value of 6 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent has two Class II violations in case number LQ/HW-NWR-11-168, issued November 7, 2011 and as amended in settlement, and three Class II and three Class I violations in case number LQ/HW-NWR-12-061, issued October 2, 2012. According to OAR 340-012-0145(2)(d)(A)(ii), this amount is reduced by 4 because all the formal enforcement actions in which prior significant actions were cited were issued more than five years before the date the current violations occurred. Respondent's final "P" value, therefore, is 2.

"H" is Respondent's history of correcting prior significant actions and receives an initial value of -2 according to OAR 340-012-0145(3)(a) because Respondent corrected all violations cited as prior significant actions. According to OAR 340-012-0145(3)(d), the sum of the "P" and "H" factors may not be less than one because Respondent did not take extraordinary efforts to correct or minimize the effects of all prior significant actions. Accordingly, the "H" value is increased to -1.

"O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) because there was more than one but less than seven occurrences of the violation. On April 16, 2019, Respondent stored five containers of hazardous waste at the Facility without labeling each container with an accumulation start date. Each repeated

occurrence of the same violation is a separate occurrence when determining the “O” factor; therefore, there were five occurrences of this violation.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent, as a regulated generator of hazardous waste operating multiple facilities in Oregon, reasonably should have known of the requirement.

"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. On April 23, 2019, Respondent transferred the hazardous waste into closed and labeled drums and permanently decommissioned the five open containers. Respondent shipped the waste offsite as hazardous waste on July 15, 2019.

"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 base an estimate of the costs delayed as a result of this violation.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
 $= \$6,000 + [(0.1 \times \$6,000) \times (2 + (-1) + 2 + 2 + (-3))] + \0
 $= \$6,000 + (\$600 \times 2) + \$0$
 $= \$6,000 + \$1,200 + \$0$
 $= \$7,200$

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 of hazardous waste, in violation of 40 CFR 265.173(a) as referenced by 40 CFR 262.34(a)(1)(i), and as adopted by OAR 340-100-0002.

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

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c), because the violation involved more than 1,000 gallons or 6,000 pounds of hazardous waste. Respondent failed to close five large containers of approximately 18,000 pounds of hazardous wastewater and sludge from chemical milling, as well as two small containers of reactive hazardous waste (aerosol cans).

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

"BP" is the base penalty, which is \$6,000 for a Class II, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(M)(i) because Respondent violated a hazardous waste rule and Respondent is a large-quantity generator 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. "P" receives an initial value of 6 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent has two Class II violations in case number LQ/HW-NWR-11-168, issued November 7, 2011 and as amended in settlement, and three Class II and three Class I violations in case number LQ/HW-NWR-12-061, issued October 2, 2012. According to OAR 340-012-0145(2)(d)(A)(ii), this amount is reduced by 4 because all the formal enforcement actions in which prior significant actions were cited were issued more than five years before the date the current violations occurred. Respondent's final "P" value, therefore, is 2.

"H" is Respondent's history of correcting prior significant actions and receives an initial value of -2 according to OAR 340-012-0145(3)(a) because Respondent corrected all violations cited as prior significant actions. According to OAR 340-012-0145(3)(d), the sum of the "P" and "H" factors may not be less than one because Respondent did not take extraordinary efforts to correct or minimize the effects of all prior significant actions. Accordingly, the "H" value is increased to -1.

"O" is whether the violation was repeated or ongoing, and receives a value of 3 according to OAR 340-012-0145(4)(c) because there were from seven to 28 occurrences of the violation.

On April 16, 2019, Respondent stored seven containers of hazardous waste at the Facility without closing each of them. Each repeated occurrence of the same violation is a separate occurrence when determining the “O” factor; therefore, there were seven occurrences of this violation.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent, as a regulated generator of hazardous waste operating multiple facilities in Oregon, reasonably should have known of the requirement.

"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. On April 23, 2019, Respondent transferred the hazardous waste into closed and labeled drums and permanently decommissioned the five open containers. Respondent shipped the waste offsite as hazardous waste on July 15, 2019.

"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 base an estimate of the costs delayed as a result of this violation.

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 (2 + (-1) + 3 + 2 + (-3))] + \0
 $= \$6,000 + (\$600 \times 3) + \$0$
 $= \$6,000 + \$1,800 + \$0$
 $= \$7,800$

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)
INVOICE

INVOICE DATE:	February 11, 2022
DUE DATE:	April 22, 2022
TOTAL AMOUNT DUE:	\$15,000.00

Account Name:	PCC SCHLOSSER		
Account Type:	Vendor/Organization/Company	Invoice Number:	CPGFD2200017
SubSystem ID:	N/A	FIMS Acct. ID:	506

Billing Summary

Invoice Period	Current Invoice Amount	Penalty/Interest	Adjustment	Amount Paid	Total Due
07/01/2021 - 06/30/2022	\$ 15,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 15,000.00

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

Fee in accordance with:

Sign up to **Go Paperless** or pay online at <https://yourdeqonline.oregon.gov>

----- ✂
 PLEASE RETURN THIS PORTION OF YOUR INVOICE WITH YOUR PAYMENT.



PCC SCHLOSSER

INVOICE NUMBER:	CPGFD2200017		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	DUE DATE:	April 22, 2022
FIMS ACCT. ID:	506	TOTAL AMOUNT DUE:	\$15000.00

AMOUNT ENCLOSED:

MAKE CHECK(S) 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 0095000005063CPGFD220001700015000006



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)
INVOICE

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

Billing Detail

Transaction Date	Description	Amount
2/9/2022	2020-054 LQ/HW-ER-2020-054	\$15,000.00

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://yourdeqonline.oregon.gov> to update your mailing address online or provide the following information:

Name _____
Address _____
City, State, Zip _____