



# 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

July 28, 2022

CERTIFIED MAIL: 7018 1830 0001 5906 3756

Oregon Metallurgical, LLC  
doing business as ATI Albany Operations  
c/o C T Corporation System, Registered Agent  
780 Commercial St. SE, Suite 100  
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order  
Case No. LQ/HW-WR-2021-547

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a total civil penalty of \$21,600 for hazardous waste violations at your facility in Albany. You failed to conduct a hazardous waste determination on two waste streams and offered the corrosive (D002) hazardous waste for treatment, storage or disposal without a hazardous waste manifest.

DEQ issued this penalty because as a hazardous waste generator you are responsible for making accurate hazardous waste determinations on residues at your facility, and for ensuring that hazardous wastes are managed, transported and disposed in compliance with hazardous waste regulations. Your failure to comply with applicable hazardous waste requirements created a risk of harm to employees who transported and stored the waste and to public health and the environment.

DEQ appreciates your efforts to minimize the effects of the violation by ensuring the waste was ultimately disposed and manifested properly. DEQ considered these efforts when determining the amount of the 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](mailto: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,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Kali Dresser, ATI Albany Operations: [Kali.Dresser@ATImetals.com](mailto:Kali.Dresser@ATImetals.com)  
Michael Riley, ATI Albany Operations: [Michael.Riley@ATImetals.com](mailto:Michael.Riley@ATImetals.com)  
Killian Condon, Eugene Office, DEQ  
Brian Fuller, Eugene Office, DEQ  
Accounting, DEQ







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

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

#### 9 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

10 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ  
11 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If  
12 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached  
13 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered  
14 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for  
15 further information about requests for hearing.) You must send your request to: **DEQ, Office of**  
16 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax  
17 it to **503-229-5100** or email it to [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov). An administrative law judge  
18 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
19 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
20 represented by an attorney at the hearing, however you are not required to be. If you are an individual,  
21 you may represent yourself. If you are a corporation, partnership, limited liability company,  
22 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
23 authorized representative, as set forth in OAR 137-003-0555.

24 Active-duty Service members have a right to stay proceedings under the federal Service  
25 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
26 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
27 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military

1 Department does not have a toll-free telephone number.

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

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10 7 / 28 / 2022

11 Date



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

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EXHIBIT NO. 1

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

- VIOLATION 1: Failing to accurately determine if Respondent's residues (as defined in OAR 340-100-0010(2)(ee) and 40 CFR 261.2 as adopted by OAR 340-100-0002) were 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 two 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 \$3,000 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(2)(a)(M) 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 a value of 0 according to OAR 340-012-0145(2)(a)(A) because there are no prior significant actions.
- "H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is no prior history.
- "O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to accurately determine that two waste streams were hazardous waste. Each waste stream is a separate occurrence 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. When Respondent failed to conduct accurate hazardous waste determinations on wastes generated by its business, it consciously disregarded a substantial and unjustifiable risk that it would violate hazardous waste regulations. Although Respondent hired an environmental contractor to clean out the tanks and dispose of the waste, as the generator Respondent had the responsibility to perform accurate hazardous waste determinations and ensure that the waste was properly managed and disposed. Additionally, Respondent had knowledge of process that the wastes were corrosive and had previously hired contractors to dispose of them as hazardous waste. Due

to the presence of hydrofluoric acid, Respondent should have ensured that the proper corrosivity testing was conducted. Because of the risk that highly corrosive materials present to human health and the environment, disregarding the risk constituted a gross deviation from the standard of care a reasonable generator would observe in that situation.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because the violation or the effects of the violation could not be corrected or minimized. After the hazardous waste was offered for disposal, Patriot Environmental conducted an accurate hazardous waste determination.

"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 there is insufficient information to make an estimate of the economic benefit, if any, received by Respondent from this violation.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$3,000 + [(0.1 \times \$3,000) \times (0 + 0 + 2 + 8 + 0)] + \$0$   
 $= \$3,000 + [\$300 \times 10] + \$0$   
 $= \$3,000 + \$3,000 + \$0$   
 $= \$6,000$



EXHIBIT NO. 2

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

VIOLATION 2: Offering hazardous waste for transport without a uniform hazardous waste manifest, in violation of 40 CFR 262.20(a)(1), as adopted by OAR 340-100-0002.

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

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(4)(c)(A)(i) because Respondent offered more than 1,000 gallons of hazardous waste for transport without a hazardous waste manifest.

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) 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 a value of 0 according to OAR 340-012-0145(2)(a)(A) because there are no prior significant actions.

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

"O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent offered two shipments of hazardous waste without a hazardous waste manifest: the waste in the tanker and the waste in the tote.

"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. When Respondent offered hazardous waste for shipment without a manifest, it failed to take reasonable care to avoid a foreseeable risk that it would violate hazardous waste regulations. Although Respondent hired an environmental contractor to clean out and drain the tanks and dispose of the waste, as the generator Respondent had the responsibility to ensure that the hazardous waste was properly manifested and disposed.

"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 by arranging to ship the hazardous waste to a permitted disposal facility as hazardous waste, on a hazardous waste manifest.

"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 there is insufficient information to make an estimate of the economic benefit, if any, received by Respondent from this violation.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$12,000 + [(0.1 \times \$12,000) \times (0 + 0 + 2 + 4 - 3)] + \$0$   
 $= \$12,000 + [\$1,200 \times 3] + \$0$   
 $= \$12,000 + \$3,600 + \$0$   
 $= \$15,600$

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)**

<b>DATE:</b>	July 28, 2022
<b>RESPONSE DATE :</b>	October 6, 2022
<b>TOTAL PENALTY:</b>	\$21,600.00

<b>Account Name:</b>	OR METALLURGICAL LLC DBA ATI ALBANY OPS		
<b>Account Type:</b>	Vendor/Organization/Company	<b>Reference Number:</b>	CPGFD2300012
<b>SubSystem ID:</b>	198650	<b>FIMS Acct. ID:</b>	1264

**Penalty Summary**

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 21,600.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 21,600.00

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

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



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 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



<b>REFERENCE NO.</b>	CPGFD2300012		
<b>PAYCODE:</b>	00401 7400 10040 74001 0500 000000 00		
<b>FEE PROGRAM ID:</b>	950	<b>RESPONSE DATE:</b>	October 6, 2022
<b>FIMS ACCT. ID:</b>	1264	<b>TOTAL PENALTY DUE:</b>	\$21600.00

**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 0095000012647(CPGF)230001200021600002



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
7/27/2022	2021-547 LQ-HW-WR-2021-547	\$21,600.00

### 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 \_\_\_\_\_