



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

August 20, 2021

CERTIFIED MAIL No.: 7018 1830 0001 5903 8860

Cascade Steel Rolling Mills, Inc.
c/o CT Corporation System, Registered Agent
780 Commercial Street, SE, Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/V-WR-2020-129

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 DEQ has issued you a \$33,818 civil penalty for violations of your Oregon Title V Operating Permit and federal air quality requirements. The violations occurred at your steel manufacturing facility at 3200 North Highway 99 West, McMinnville, Oregon. The violations include continuing to operate your electric arc furnace (EAF) during periods when your pollution control capture system was not properly operating and failing to properly monitor shop opacity.

DEQ issued this penalty due to the serious nature of the violations. The National Emission Standards for Hazardous Air Pollutants (NESHAP), Subpart YYYYYY require that steel manufacturing facilities that operate EAFs must operate a "capture system," to collect and direct emissions from the furnace to a pollution control device to remove particulate matter (PM). The definition of capture system includes all components of the system including fans. When fans in your direct-shell evacuation control system (DEC system) or your baghouses aren't operating, the "capture system" does not function as efficiently as designed, increasing the risk that PM emissions could discharge to the atmosphere. PM emissions from steel production include metal hazardous air pollutants, which are known or suspected carcinogens and can cause other serious health effects.

In addition, the federal New Source Performance Standards (NSPS), Subpart AAa require that steel manufacturing facilities that operate electric arc furnaces with a DEC system, monitor either furnace static pressure or opacity from the shop daily when the furnace is in the meltdown and refining periods. Because you do not monitor furnace static pressure, you are required to monitor shop opacity. NSPS Subpart AAa requires that shop opacity must be monitored from any shop location where fugitive emissions occur, or from the point of highest opacity that directly relates to the cause or location of a single incident. Instead, you have been monitoring shop opacity from the roof monitor on top of the melt

shop that is located over the ladling and casting operations and have not monitored from other shop exit points to ensure you are reading opacity from all locations or that you are monitoring opacity from the site of highest opacity if all of the other sites relate to a single incident. NSPS Subpart AAa requires that shop opacity from EAF operation is monitored to ensure PM emissions from the EAF are being adequately controlled and minimized to the greatest extent.

DEQ appreciates your efforts to correct or minimize the effects of the violations by repairing your DEC booster and Baghouse 2 fans, updating your startup, shutdown and malfunction plan to require that operation of the EAF cease when these fans are not operating, and training personnel at the facility on these requirements. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, DEQ must receive a request for a contested case hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

Via mail – 700 NE Multnomah Street, Suite #600, Portland, Oregon 97232

Via email – DEQappeals@deq.state.or.us

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 portion of the penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below. If you have any questions, please contact DEQ Environmental Law Specialist Jenny Root at (503) 229-5874.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

cc: Mike Eisele, Western Region, Salem Office, DEQ
Claudia Davis, Western Region, Salem Office, DEQ
Accounting, DEQ
Donald Hendrix, AQ, DEQ
Daniel Lee, Environmental Administrator
Cascade Steel Rolling Mills, Inc., P.O. Box 687, McMinnville, OR 97128

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
CASCADE STEEL ROLLING MILLS, INC.) ASSESSMENT AND ORDER
an Oregon corporation,)
Respondent.) NO. AQ/V-WR-2020-129

I. AUTHORITY

This Notice of Civil Penalty Assessment and Order is issued pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 200, OAR 430-218-0240(3), 40 CFR, Part 63, Subpart YYYYYY, adopted and incorporated by reference in OAR 340-244-0220(1) and 40 Code of Federal Regulations (CFR), Part 60, Subpart AAa, adopted and incorporated by reference in OAR 340-238-0060(1) and (3)(jj).

II. FINDINGS OF FACT

1. Respondent owns and operates a steel mill at 3200 North Highway 99 West, McMinnville, Oregon (the Facility).

2. The Facility includes an Electric Arc Furnace (EAF)¹ (identified in the Permit as Emission Unit EU-1) that is subject to the federal EAF Steelmaking Facilities National Emission Standards for Hazardous Air Pollutants for Area Sources in 40 CFR Part 63, Subpart YYYYYY and Standards of Performance for Steel Plants, 40 CFR, Part 60, Subpart AAa requirements.

3. The EAF is equipped with a direct-shell evacuation control system (DEC system)² that penetrates the cover of the EAF. Except during charging and tapping operations, most emissions from the EAF including particulate matter (PM), are extracted from the EAF through the DEC system duct by a booster fan (DEC booster fan). The emissions are then routed to a heat

¹ According to 40 CFR 60.271a and 40 CFR 63.10692, an electric arc furnace “means a furnace that produces molten steel and heat the charge materials with electric arcs from carbon electrodes. An EAF consists of the furnace shell, roof and transformer.

² According to OAR 40 CFR 60.271a, a DEC system is a system that maintains a negative pressure within the electric arc furnace above the slag or metal and ducts emissions to the control device.

1 exchanger and then through ductwork to the control devices (Baghouses 1 and 1a) that filter PM
2 from the EAF effluent gas stream before discharging to the atmosphere.

3 4. When the EAF is charged (loaded with new metal scrap) for melting, the EAF
4 cover is removed and fugitive PM emissions are collected above the EAF by a canopy hood. PM
5 collected on the canopy hood is then pulled to Baghouses 1 and 1a by the Baghouse 1 fans. PM
6 spillage from the canopy hood is collected by a second canopy hood. Those PM emissions are
7 then pulled to Baghouse 2 by the Baghouse 2 fan.

8 5. On June 3, 2013, DEQ issued Oregon Title V Operating Permit No. 36-5034-TV-
9 01 (Permit) to Respondent. The Permit authorizes Respondent to discharge air contaminants
10 from the Facility in conformance with the requirements, limitations and conditions set forth in
11 the Permit. The Permit was renewed and reissued on April 1, 2020.

12 6. Part 2, Condition 4.a of the Permit and 40 CFR 63.10686 require that Respondent
13 install, operate and maintain a capture system³ that collects the emissions from the EAF
14 (including charging, melting and tapping operations) and conveys the collected emissions to a
15 control device⁴ for the removal of particulate matter (PM).

16 7. From on or about January 6, 2020 to January 8, 2020, Respondent melted scrap
17 metal to produce steel in the EAF when the DEC booster fan was not operating.

18 8. From or about March 6, 2020 to March 9, 2020, Respondent melted scrap metal
19 to produce steel in the EAF when the DEC booster fan was not operating.

20 9. From on or about 4:00 p.m. on April 27, 2020 until 10:00 a.m. April 28, 2020,
21 Respondent charged and melted scrap metal to produce steel in the EAF when the Baghouse 2
22 fan was not operating.

23
24 _____
25 ³ 40 CFR 63.10692 defines “capture system” as “the equipment (including ducts, hoods, fans, dampers,
etc.) used to capture or transport emissions generated by an electric arc furnace... to the air pollution
control device.”

26 ⁴ 40 CFR 63.10692 defines “control device” as “the air pollution control equipment used to remove
27 particulate matter from the effluent gas stream generated by an electric arc furnace...”

1 10. 40 CFR 63.273a(d) requires that steel plants operating EAF's equipped with a
2 DEC system must either monitor furnace static pressure in accordance with 40 CFR 63.274a(f),
3 or perform shop⁵ opacity observations as follows: "Shop opacity observations shall be conducted
4 at least once per day when the furnace is operating in the meltdown and refining period. Shop
5 opacity shall be determined as the arithmetic average of 24 consecutive 15-second opacity
6 observations of emissions of the shop, taken in accordance with [US EPA] Method 9. Shop
7 opacity shall be recorded for any points where visible emissions are observed. Where it is
8 possible to determine that a number of visible emission sites relate to only one incident of visible
9 emissions, only one observation of shop opacity is required. In this case, the shop opacity
10 observations must be made for the site of highest opacity that directly relates to the cause or
11 location of visible emissions observed during a single incident."

12 11. Respondent does not monitor furnace static pressure at the facility in accordance
13 with 40 CFR 63.274a(f).

14 12. The melt shop at the Facility includes multiple openings where visible emissions
15 are likely to exit to the outdoor air including doors on the sides of the building closest to the
16 EAF.

17 13. Since at least 2013, Respondent has monitored and recorded shop opacity from
18 only one location: the roof monitor of the melt shop. The roof monitor is located over the ladle
19 and casting operations in the melt shop and not over the EAF part of the building. Respondent
20 has not monitored other locations where visible emissions from "the shop" may exit the building,
21 including from the doors near the EAF, and has not established that all visible emissions that
22 may exit the building have resulted from one incident or that the roof monitor location is the site
23 of highest opacity during that incident. In fact, due to the building design, air flow tends to move
24 from the casting area to the other side of the partial wall where the EAF is located, because air is

25 ⁵ According to OAR 40 CFR 60.271a "shop" means the building which houses the EAF. At
26 Respondent's facility, the shop is part of the "melt shop" building which includes the EAF on one side
27 and a ladle furnace and continuous caster on the other side. The two sides are separated within the
building by a partial wall.

1 being drawn out of the building through the DEC duct and canopy hoods located beside and
2 above the EAF. The highest opacity from the EAF is not likely to be from the roof monitor
3 located above the casting area on the other side of the partial wall.

4 III. CONCLUSIONS

5 1. Respondent violated Part 2, Condition 4.a of the Permit and 40 CFR 63.10686 by
6 failing to operate and/or maintain its capture system that conveys the collected EAF emissions to
7 a control device for the removal of particulate matter (PM). Specifically, as further described in
8 Section II, Paragraphs 3, 7, and 8 above, Respondent melted scrap metal in the EAF, even
9 though the DEC booster fan, part of the "capture system" as defined in 40 CFR 63.10692, which
10 extracts emissions from the EAF into the DEC duct, was not operating. This is a Class I violation
11 according to OAR 340-012-0054(1)(i). DEQ hereby assesses a \$12,505 civil penalty for these
12 violations.

13 2. Respondent violated Part 2, Condition 4.a of the Permit and 40 CFR 63.10686 by
14 failing to operate and/or maintain its capture system that conveys the collected EAF emissions to
15 a control device for the removal of particulate matter (PM). Specifically, as further described
16 Section II, Paragraphs 4 and 9 above, Respondent charged scrap metal in the EAF while the
17 Baghouse 2 fan, part of the "capture system" as defined in 40 CFR 63.10692, that pulls EAF PM
18 emissions from the second canopy hood to Baghouse 2, was not operating. This is a Class I
19 violation according to OAR 340-012-0054(1)(i). DEQ hereby assesses a \$9,423 civil penalty for
20 this violation.

21 3. As further described in Section II, Paragraphs 10 through 13 above, Respondent
22 violated 40 CFR 63.273a(d) by failing to monitor on a daily basis, shop opacity from either all of
23 the exit points of the shop or, where Respondent is able to determine that a number of visible
24 emission sites relate to only one incident of visible emissions, Respondent failed to verify that
25 the location where the opacity was read was the site of highest shop opacity that directly relates
26 to that incident. Respondent only read opacity from the roof monitor. This is a Class I violation
27

1 according to OAR 340-012-0054(1)(i). DEQ hereby assesses a \$11,890 civil penalty for this
2 violation.

3 V. 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 \$33,818. The determination of the civil penalty is
7 attached as Exhibits 1 through 3 and is incorporated as part of this Notice.

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

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

12 You have a right to a contested case hearing on this Notice, if you request one in writing.
13 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive
14 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this
15 Notice or attached exhibits, you must do so in your request for hearing, as factual matters not
16 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
17 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
18 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
19 **600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to
20 DEQappeals@deq.state.or.us. An administrative law judge employed by the Office of
21 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
22 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
23 attorney at the hearing, however you are not required to be. If you are an individual, you may
24 represent yourself. If you are a corporation, partnership, limited liability company,
25 unincorporated association, trust or government body, you must be represented by an attorney or
26 a duly authorized representative, as set forth in OAR 137-003-0555.
27

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

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

8/20/2021
Date


Kieran O'Donnell, Manager
Office of Compliance and Enforcement

EXHIBIT 1

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

- VIOLATION No. 1: Failing to operate and/or maintain a capture system for EAF PM emissions by continuing to melt scrap metal in the EAF while the DEC booster fan was not operating, in violation of Part 2, Condition 4.a of the Permit and 40 CFR 63.10686.
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(i) because the requirement is an emission limitation or standard (as defined in OAR 340-244-0030(7) which includes operational and maintenance procedural requirements under the federal NESHAPs 40 CFR, Part 63, Subpart YYYYY, adopted and incorporated by reference under OAR 340, division 244.
- MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.
- CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
- "BP" is the base penalty, which is \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent operates the Facility under an Oregon Title V Operating Permit.
- "P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by 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 3 according to OAR 340-012-0145(4)(c) because there were from seven to 28 occurrences of the violation. In accordance with OAR 340-012-0145(4), each day of violation with a duration of more than one day is a separate occurrence. Respondent operated the EAF without the DEC booster fan on at least two days between January 6, 2020 and January 8, 2020; and on at least six days between March 3, 2020 and March 9, 2020, for a total of eight occurrences.

- "M" 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. Respondent's Permit specifically requires that Respondent install, operate and maintain a capture system that conveys particulate matter from the EAF to a control device. During melting operations, the emissions are directed through the DEC system duct, in part, by a booster fan that extracts emissions from the EAF and moves the emissions through the DEC duct to the baghouses. According to 40 CFR 63.10692, the "capture system" is the equipment (including ducts, hoods, fans, dampers, etc.) used to capture or transport emissions generated by an electric arc furnace to the air pollution control device. By continuing to melt scrap metal in the EAF when the booster fan was not operating, Respondent failed to take reasonable care to avoid a foreseeable risk that failure to operate the booster fan, as part of the "capture system," constitutes a failure to operate and/or maintain the capture system, in violation of the Permit and federal air quality regulations.
- "C" is Respondent's efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(d) because Respondent made reasonable efforts to correct or minimize the effects of the violation. Respondent replaced the booster fan's programmable logic controller on January 8, 2020, and fan blades and bearings on March 9, 2020. In addition, Respondent also changed its startup, shutdown, and malfunction plan to require shut down of the EAF when the DEC booster fan is not operating and has trained operating personnel on the new procedures.
- "EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of 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 \$4,105. This is the amount of economic benefit Respondent gained by avoiding paying approximately \$5,212 in electricity costs to operate the DEC booster fan while Respondent continued to operate the EAF to produce steel. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$= \$6,000 + [(0.1 \times \$6,000) \times (0 + 0 + 3 + 4 + -3)] + \$4,105$$

$$= \$6,000 + (600 \times 4) = \$1,200$$

$$= \$6,000 + \$2,400 + \$4,105$$

$$= \$12,505$$

EXHIBIT 2

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

VIOLATION No. 2: Failing to operate and/or maintain the capture system for the EAF PM emissions by continuing to charge metal in the EAF while the Baghouse 2 fan was not operating, in violation of Part 2, Condition 4.a of the Permit and 40 CFR 63.10686.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(i) because the requirement is an emission limitation or standard (as defined in OAR 340-244-0030(7) which includes operational and maintenance procedural requirements, under the federal NESHAPs 40 CFR, Part 63, Subpart YYYYY, adopted and incorporated by reference under OAR 340, division 244.

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

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

"BP" is the base penalty, which is \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent operates the Facility under an Oregon Title V Operating Permit.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by 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 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. In accordance with OAR 340-012-0145(4), each day of violation with a duration of more than one day is a separate occurrence. Respondent operated the EAF without the Baghouse 2 fan from approximately 4:00 pm on April 27, 2020 to 10:00 am April 28, 2020.

"M" is the mental state of Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent was reckless. Respondent's Permit specifically requires

that Respondent install, operate and maintain a capture system that conveys particulate matter from the EAF to a control device. During charging operations and during other operations, the Baghouse 2 fan moves the EAF fugitive PM emissions from the second canopy hood to Baghouse 2 for removal. According to 40 CFR 63.10692, the "capture system" is the equipment (including ducts, hoods, fans, dampers, etc.) used to capture or transport emissions generated by an EAF to the air pollution control device. When the baghouse 2 fan is not operating, PM emissions from the second canopy cannot be pulled to baghouse 2 and are not directed to any other control device. Therefore, by continuing to charge and melt scrap metal in the EAF when the baghouse 2 fan was not operating, Respondent consciously disregarded a substantial and unjustifiable risk that it would operate the EAF without operating or maintaining its capture system, in violation of its Permit and federal law. The risk was of such a nature and degree that disregarding the 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)(d) because Respondent made reasonable efforts to correct or minimize the effects of the violation. Respondent repaired the Baghouse 2 fan driver on April 28, 2020. Respondent also changed its startup, shutdown, and malfunction plan to require shut down of the EAF when the Baghouse 2 fan is not operating and has trained operating personnel on the new procedures.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of 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 \$423. This is the amount of economic benefit Respondent gained by avoiding paying approximately \$544 in electricity costs to operate the Baghouse 2 fan while Respondent continued to operate the EAF to produce steel. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$6,000 + [(0.1 \times \$6,000) \times (0 + 0 + 0 + 8 - 3)] + \$423 \\ &= \$6,000 + (600 \times 5) = \$423 \\ &= \$6,000 + \$3,000 + \$423 \\ &= \$9,423 \end{aligned}$$

EXHIBIT 3

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

- VIOLATION No. 3: Failing to daily monitor shop opacity from either all of the exit points of the shop or from the site of highest shop opacity that directly relates to a single incident, in violation of 40 CFR 63.273a(d).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(p) because the monitoring is required to show compliance with a New Source Performance Standard under the federal NSPS, 40 CFR, Part 60, Subpart AAa, adopted and incorporated by reference under OAR 340, division 238.
- MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.
- CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
- "BP" is the base penalty, which is \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent operates the Facility under an Oregon Title V Operating Permit.
- "P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by 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 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Respondent has not monitored shop opacity from multiple shop building exits or from the point of highest opacity caused from a single incident, since at least 2013. Respondent is required to monitor shop opacity each day. In accordance with OAR 340-012-0145(4), each day of violation with a duration of more than one day is a separate occurrence.

- "M" is the mental state of Respondent and receives a value 0 according to OAR 340-012-0145(5)(a) because there is insufficient information on which to base a finding under paragraphs (5)(b) through (5)(d).
- "C" 0 according to OAR 340-012-0145(6)(f) because there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).
- "EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of 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 \$3,490. This is the amount of economic benefit Respondent gained by avoiding paying approximately \$527 per year (estimated as an extra five minutes per day x a minimum of four days per week operating the EAF x 52 weeks per year @ \$30.40 per hour*) to properly monitor all exit points of the melt shop for shop opacity. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$= \$6,000 + [(0.1 \times \$6,000) \times (0 + 0 + 4 + 0 + 0)] + \$3,490$$

$$= \$6,000 + (600 \times 4) = \$3,490$$

$$= \$6,000 + \$2,400 + \$3,490$$

$$= \$11,890$$

*US Bureau of Labor Statistics, June 2021 "Industry Good Producing/Manufacturing" hourly average wage