



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

December 22, 2022

CERTIFIED MAIL: 7020 2450 0000 3349 5628

Cascade Pacific Pulp, LLC
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-2022-026

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$52,800 for violations of the Title V air quality permit for your kraft pulp mill at 30480 American Drive in Halsey, Oregon. Specifically, you failed to operate the recovery furnace at the facility to minimize carbon monoxide emissions as much as practical between May and September 2021, in violation of a Prevention of Significant Deterioration (PSD) standard that is incorporated into your Title V permit. The increased recovery furnace carbon monoxide emissions during the summer of 2021 resulted in a violation of the carbon monoxide plant site emission limit (PSEL) during seven rolling annual periods from October 2020-September 2021 through April 2021 - March 2022. The enclosed Notice of Civil Penalty Assessment and Order (Notice) also cites you, without penalty, for two other violations: failing to timely report the carbon monoxide PSEL violations to DEQ and failing to conduct visible emissions surveys at the compliance demonstration point of the lime slaker scrubber in the facility's recausticizing and recovery system.

DEQ issued this penalty because standards established in a PSD permit are intended to ensure that the facility is employing Best Available Control Technology (BACT) to reduce emissions of criteria pollutants such as carbon monoxide. In addition, plant site emission limits are important limits that help DEQ manage airshed capacity for pollutants and ensure a facility's emissions are limited to levels that protect public health and the environment. In this case, the emission limit is for carbon monoxide, which, when emitted in excess of permitted limits, can be associated with air toxics which can cause adverse health effects.

DEQ appreciates your efforts to minimize the impacts of the violation by investigating issues associated with the recovery furnace carbon monoxide emissions beginning in September 2021, including proactively hiring a consultant to evaluate the Continuous Emissions Monitoring System that measures those emissions. 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 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 – 503-229-6762

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. 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>.

If you have any questions, please contact Becka Puskas at 503-229-5058.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Toby Smith, Environmental Manager, Cascade Pacific Pulp, LLC, P.O. Box 400, Halsey, OR 97348
Mike Eisele, DEQ
Mike West, DEQ
Accounting, DEQ
Donald Hendrix, AQ, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:)	NOTICE OF CIVIL PENALTY
CASCADE PACIFIC PULP, LLC,)	ASSESSMENT AND ORDER
a Delaware corporation,)	
Respondent.)	CASE NO. AQ-V-WR-2022-026

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140, ORS Chapter 468A, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 200, 214, 218, 222 and 224.

II. FINDINGS OF FACT

1. Respondent owns and operates a kraft pulp mill located at 30480 American Drive in Halsey, Oregon (the Facility).

2. On June 30, 2020, DEQ issued Oregon Title V Operating Permit No. 22-3501-TV-01 (the Permit) to Respondent.

3. The Permit authorizes Respondent to discharge air contaminants from the Facility in conformance with the requirements, limitations and conditions set forth in the Permit.

4. The Permit was in effect at all material times.

5. Respondent operates a recovery furnace at the Facility which is identified in the Permit as emission unit RFEU (the Recovery Furnace).

6. The Facility conducted a Best Available Control Technology (BACT) analysis in 1987, and obtained a Prevention of Significant Deterioration (PSD) Air Contaminant Discharge Permit No. 22-3501 (the 1987 PSD Permit).

7. Condition 35 of the Permit incorporates the requirements of the 1987 PSD Permit and requires Respondent to minimize emissions of carbon monoxide (CO), nitrogen oxides (NOx) and volatile organic compounds (VOCs) from the Recovery Furnace as much as practical using good combustion control and proper operation of the Recovery Furnace.

1 8. The Recovery Furnace is the primary source of CO emissions from the Facility, accounting for
2 over 70 percent of the Facility's CO emissions.

3 9. CO emissions from the Recovery Furnace are increased when there is incomplete combustion in
4 the Recovery Furnace.

5 10. Condition 36 of the Permit requires Respondent to monitor the amount of CO being emitted
6 from the Recovery Furnace by operating and maintaining a CO continuous emissions monitoring
7 system (CEMS) in accordance with DEQ's Continuous Monitoring Manual. The Recovery Furnace
8 CEMS also measures Total Reduced Sulfur (TRS) and the percent volume of oxygen.

9 11. Condition 157 of the Permit limits the plant site emissions from the Facility to no more than
10 1163 tons per year of CO for any 12 consecutive calendar month period (the CO PSEL).

11 12. Compliance with the CO PSEL is determined according to the monitoring and calculations in
12 Condition 158 of the Permit.

13 13. According to Condition 158.b and 158.h of the Permit, the annual CO emissions from the
14 Recovery Furnace must be determined by using the measured data from the Recovery Furnace CEMS.

15 14. Condition 158.c of the Permit requires Respondent to perform emissions calculations to
16 determine compliance with the CO PSEL by the end of the following month for each 12 consecutive
17 calendar month period.

18 15. On September 17, 2021, Respondent identified an issue with the Recovery Furnace CEMS data.
19 On that same day, Respondent reported to DEQ via email that the Recovery Furnace CEMS data were
20 not tracking each other normally (Respondent later explained that an increase in CO typically
21 corresponds with an increase in TRS and vice versa), although the CEMS continued to meet daily
22 calibration requirements.

23 16. On September 24, 2021, Respondent performed a Relative Accuracy Test Audit (RATA) on the
24 Recovery Furnace CEMS.

25 17. On October 4, 2021, Respondent received the RATA results from the source testing contractor.
26 The results indicated that the Recovery Furnace CEMS failed the relative accuracy measures for
27 oxygen and CO. Specifically:

- 1 a. According to 40 CFR Part 60 Appendix B, Performance Specification 3, to pass the
2 RATA, the relative accuracy of the CEMS must be no greater than 20.0 percent of the
3 mean value of the reference method data or the difference between the reference method
4 and CEMS must be no greater than 1.0 percent oxygen. The RATA results indicate a
5 relative accuracy of 32.9 percent and a difference of 1.3 percent oxygen.
- 6 b. According to 40 CFR Part 60 Appendix B, Performance Specification 4, to pass the
7 RATA, the relative accuracy of the CEMS must be no greater than 10 percent when the
8 average reference method value is used to calculate relative accuracy. Respondent used
9 an average reference method (EPA Method 10) to calculate relative accuracy, and the
10 relative accuracy for CO was 17.3 percent.¹

11 18. The average CO values measured during the September 24, 2021 RATA were as follows:

- 12 a. 821.0 parts per million (ppm) CO, using the reference method (EPA Method 10); and
13 b. 736.1 ppm CO, using the CEMS.

14 19. On October 5, 2021, Respondent conducted inspection and repairs on the Recovery Furnace
15 CEMS.

16 20. On October 15, 2021, Respondent conducted another RATA on the Recovery Furnace CEMS.
17 The results of the second RATA, as approved by DEQ on December 17, 2021, indicate that the relative
18 accuracy measures for TRS, oxygen and CO were met.

19 21. According to 40 CFR Part 60, Appendix F, Section 5.2, which is incorporated into DEQ's
20 Continuous Monitoring Manual, a CEMS is out-of-control when it fails a RATA, and the CEMS data is
21 invalid. The beginning of the out-of-control period is the time corresponding to the sampling for the
22 RATA and the end of the out-of-control period is the time corresponding to the completion of the
23 sampling of the subsequent successful RATA.

24 22. Respondent's Recovery Furnace CEMS was out-of-control with respect to the oxygen and CO
25 measurements from September 24, 2021 through October 15, 2021.

26
27 ¹ These results were reviewed and confirmed by DEQ in a RATA review report dated December 17, 2021.

23. During 2021, the Recovery Furnace CEMS measured CO emissions as follows:

Month	CO emissions (ppm)
January 2021	57
February 2021	60
March 2021	82
April 2021	75
May 2021	90
June 2021	92
July 2021	101
August 2021	147
September 2021	131
October 2021	62
November 2021	49
December 2021	56

24. Using the monitoring and calculations described in Condition 158 of the Permit, Respondent's plant site emissions of CO from the Facility were as follows:

12 consecutive calendar month period	Plant site emissions of CO (tons/year)	Amount over CO PSEL of 1163 tons/year (tons)	Contribution from the Recovery Furnace (tons/year)
October 2020-September 2021	1183	20	959
November 2020-October 2021	1232	69	1004
December 2020-November 2021	1226	63	998
January 2021-December 2021	1232	69	1004
February 2021-January 2022	1249	86	1021
March 2021-February 2022	1249	86	1021
April 2021 - March 2022	1192	29	970

25. Condition 238 of the Permit requires Respondent to report excess emissions to DEQ immediately (within 1 hour of the event), and to submit a written report of the excess emissions event to DEQ within 15 days.

26. Respondent first reported exceedances of the CO PSEL to DEQ in its annual report submitted to DEQ on March 15, 2022.

27. Respondent submitted an excess emissions report to DEQ regarding the exceedances of the CO PSEL described in Section II, paragraph 21, above, on November 21, 2022.

28. Respondent operates a Recalcitrating and Recovery System at the Facility identified in the Permit as emission unit RECEU. A lime slaker (ID 471-368) is a part of the system, RECEU, and is equipped with a lime slaker scrubber pollution control device (ID 471-370).

29. Condition 104 of the Permit requires Respondent to conduct a six-minute visible emissions survey at the compliance demonstration point(s) of the lime slaker scrubber in the RECEU. This condition was added to the Permit renewal issued on June 30, 2020.

30. Condition 104.e of the Permit requires Respondent to maintain records of all visible emissions surveys.

31. In September 2021, DEQ conducted an inspection of the Facility. At the time of the inspection, Respondent had not conducted any visible emissions surveys and did not have any visible emissions survey records.

32. Respondent conducted a visible emissions survey immediately following the DEQ inspection.

III. CONCLUSIONS

1. Respondent violated Condition 35 of the Permit by failing to minimize Recovery Furnace CO emissions as much as practical using good combustion control and proper operation of the Recovery Furnace, as described in Section II, paragraphs 1-9 and 23-24, above. As described in Section I, paragraph 23, Respondent operated the Recovery Furnace in a manner which emitted atypically high CO emissions between May and September 2021. These high CO emissions indicate there was incomplete combustion in the Recovery Furnace. Thus, Respondent failed to operate the Recovery Furnace to minimize CO emissions as much as practical between May and September 2021. These are Class I violations, according to OAR 340-012-0054(1)(I). DEQ hereby assesses a \$9,600 civil penalty for these violations.

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1 2. Respondent violated Condition 157 of the Permit and ORS 468A.045(2) by exceeding the
2 1163 tons per year CO PSEL, as described in Section II, paragraphs 10-24, above. Specifically,
3 Respondent violated the CO PSEL on at least seven occasions because, using the Recovery Furnace
4 CEMS data and the calculations according to Condition 158 of the Permit, the Facility's plant site
5 emissions exceeded 1163 tons per year of CO during the 12 consecutive calendar month periods from
6 October 2020-September 2021 through April 2021 - March 2022. This is the case despite the fact that
7 the Recovery Furnace CEMS was considered out-of-control and the CO CEMS data was invalid for
8 September 24, 2021 through October 15, 2021 because, if anything, the CEMS data underestimates the
9 actual CO emissions from the Recovery Furnace during that time period. The CEMS data is an
10 underestimate of CO emissions during the out-of-control period because, as described above in Section
11 II, paragraph 16, the reference method measured higher emissions (821 ppm CO average) as compared
12 to the CEMS (726 ppm CO average) during the first RATA conducted on September 24, 2021.
13 Therefore, based on credible evidence, there were at least seven rolling 12-month CO PSEL violations.²
14 These are Class I violations, according to OAR 340-012-0054(1)(g). DEQ hereby assesses a \$43,200 civil
15 penalty for these violations.

16 3. Respondent violated Condition 238 of the Permit by failing to timely report excess emissions
17 to DEQ as described in Section II, paragraphs 10-27, above. An exceedance of the CO PSEL is an
18 "excess emission" as defined in OAR 340-200-0020 because the Facility's CO emissions were in
19 excess of a permit limit. According to Condition 158.c of the Permit, Respondent is required to perform
20 emissions calculations to determine compliance with the CO PSEL by the end of the following month
21 for each 12 consecutive calendar month period. Therefore, Respondent should have performed
22 calculations to determine compliance with the CO PSEL for October 2020-September 2021 by October
23 31, 2021. Respondent should have immediately reported the PSEL exceedance and followed up with a
24 written report in 15 days. Respondent did not submit any report containing PSEL calculations to DEQ
25 until it submitted its annual report on March 15, 2022. Respondent submitted an excess emissions

26 ² Condition G6 of the Permit states that "Notwithstanding any other provisions contained in any
27 applicable requirement, any credible evidence may be used for the purpose of establishing whether a
person has violated or is in violation of any such applicable requirements."

1 report regarding the PSEL violations to DEQ on November 21, 2022. This is a Class II violation,
2 according to OAR 340-012-0054(2)(g). DEQ has not assessed a civil penalty for this violation.

3 4. Respondent violated Condition 104 of the Permit by failing to conduct visible emissions
4 surveys at the compliance demonstration point(s) of the lime slaker scrubber in the RECEU on four
5 occasions as described in Section II, paragraphs 28-32, above. Specifically, Respondent failed to
6 conduct the surveys during the third and fourth calendar quarters of 2020 and the first and second
7 calendar quarters of 2021. This is a Class II violation according to OAR 340-012-0054(2)(b). DEQ has
8 not assessed a civil penalty for this violation.

9 IV. ORDER TO PAY CIVIL PENALTY

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

12 1. Pay a total civil penalty of \$52,800. The determination of the civil penalties are attached as
13 Exhibits 1 and 2 and are incorporated as part of this Notice.

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

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

18 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
19 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
20 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
21 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered
22 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
23 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
24 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
25 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
26 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
27 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be

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

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

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

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19 12/22/2022
20 Date


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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 Respondent violated Condition 35 of the Permit by failing to minimize Recovery Furnace CO emissions as much as practical using good combustion control and proper operation of the Recovery Furnace.

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0054(1)(I).

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 has a Title V 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 the same Respondent, and initially receives a value of 2 according to OAR 340-012-0145(2)(a)(C), because Respondent has one Class I violation in case no. AQ-V-WR-2017-145, issued on October 4, 2017. According to OAR 340-012-0145(2)(d)(A)(i), this amount is reduced by 2 because all the formal enforcement actions in which prior significant actions were cited were issued more than three years before the date the current violation occurred. Therefore, the resulting P value is 0.

"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 counted in this penalty calculation.

"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. Each day is a separate occurrence of the violation. Respondent failed to failing to minimize Recovery Furnace CO emissions as much as practical using good combustion control and proper operation of the Recovery Furnace from May through September 2021.

"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. According to OAR 340-012-

0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. The Recovery Furnace is the primary source of CO emissions from the Facility. The Recovery Furnace CO emissions account for over 70 percent of the Facility's CO emissions. Given the significant CO emissions from the Recovery Furnace and the Facility, the Recovery Furnace is subject to a requirement from a PSD Permit, issued in 1987, which requires Respondent to minimize CO emissions from the Recovery Furnace as much as practical using good combustion control and proper operation of the Recovery Furnace. In 2020, Respondent's Recovery Furnace CO emissions, per the CEMS data, ranged from 17 to 84 tons per month (59 tons per month average). In May 2021, Recovery Furnace CO emissions began to exceed 90 tons per month, and in July, August and September 2021, Recovery Furnace CO emissions measured 101, 147 and 131 tons per month respectively. Despite the atypically high CO emissions from the Recovery Furnace that began in the early summer of 2021, Respondent did not identify or investigate any problems with the Recovery Furnace or its operation until September 17, 2021. Thus, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation of the CO PSEL.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to minimize the effects of the violation. In September 2021, Respondent began investigating issues associated with the recovery furnace carbon monoxide emissions, including proactively hiring a consultant to evaluate the Continuous Emissions Monitoring System that measures those emissions.

"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 DEQ has insufficient information to make an EB estimate.

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

$$= \$6,000 + [(0.1 \times \$6,000) \times (0 + 0 + 4 + 4 + -2)] + \$0$$

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

$$= \$6,000 + \$3,600 + \$0$$

$$= \$9,600$$

EXHIBIT 2

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

<u>VIOLATION NO. 2</u>	Exceeding the 1163 tons per year CO plant site emission limit, in violation of Condition 157 of the Permit and ORS 468A.045(2).
<u>CLASSIFICATION:</u>	These are Class I violations pursuant to OAR 340-012-0054(1)(g).
<u>MAGNITUDE:</u>	<p>The magnitude of five of the violations is moderate pursuant to OAR 340-012-0135(1)(f)(B)(i) because Respondent exceeded the annual emission limit as established in the Permit by an amount from 50 up to and including 100 percent of the Significant Emission Rate for CO, which is 100 tons according to the definitions in OAR 340-200-0020. The amount of the exceedances over the CO PSEL is described in Table in the Notice, Section II, paragraph 24.</p> <p>The magnitude of the remaining two violations is minor pursuant to OAR 340-012-0135(1)(f)(C)(ii) because Respondent exceeded the annual emission limit as established in the Permit by an amount by an amount less than 50 percent of the Significant Emission Rate for CO, which is 100 tons according to the definitions in OAR 340-200-0020. The amount of the exceedances over the CO PSEL is described in Table in the Notice, Section II, paragraph 24.</p>
<u>CIVIL PENALTY FORMULA:</u>	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 the five Class I, moderate magnitude violations in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and \$3,000 for the two Class I, minor magnitude violations in the matrix listed in OAR 340-012-0140(2)(b)(A)(iii). These base penalty matrices are applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent has a Title V 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 the same Respondent, and initially receives a value of 2 according to OAR 340-012-0145(2)(a)(C), because Respondent has one Class I violation in case no. AQ-V-WR-2017-145, issued on October 4, 2017. According to OAR 340-012-0145(2)(d)(A)(i), this amount is reduced by 2 because all the formal enforcement actions in which prior significant actions were cited were issued more than three years before the date the current violation occurred. Therefore, the resulting P value is 0.

- "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 counted in this penalty calculation.
- "O" is whether the violation was repeated or ongoing, and receives a value of 0 according to OAR 340-012-0145(4)(e) because DEQ is assessing a separate civil penalty for each occurrence of the violation.
- "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. According to OAR 340-012-0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. The Recovery Furnace is the primary source of CO emissions from the Facility, accounting for over 70 percent of the Facility's CO emissions. Given the significant CO emissions from the Recovery Furnace and the Facility, the Recovery Furnace is subject to a requirement from a PSD Permit, issued in 1987, which requires Respondent to minimize CO emissions from the Recovery Furnace as much as practical using good combustion control and proper operation of the Recovery Furnace. In 2020, Respondent's Recovery Furnace CO emissions, per the CEMS data, ranged from 17 to 84 tons per month (59 tons per month average). In May 2021, Recovery Furnace CO emissions began to exceed 90 tons per month, and in July, August and September 2021, Recovery Furnace CO emissions measured 101, 147 and 131 tons per month respectively. In order to comply with the CO PSEL, Facility-wide CO emissions (which include emissions from units other than the Recovery Furnace) must average 97 tons or less per month over the course of each calendar year. Despite the atypically high CO emissions from the Recovery Furnace that began in the early summer of 2021, Respondent did not identify or investigate any problems with the Recovery Furnace or its operation until September 17, 2021. Thus, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation of the CO PSEL.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to minimize the effects of the violation. In September 2021, Respondent began investigating issues associated with the recovery furnace carbon monoxide emissions, including proactively hiring a consultant to evaluate the Continuous Emissions Monitoring System that measures those emissions
- "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 DEQ has insufficient information to make an EB estimate.

In accordance with ORS 468.140(2), each day of violation constitutes a separate offense and is subject to a civil penalty up to \$25,000 per day. Respondent exceeded the CO PSEL during seven 12 consecutive calendar month periods. DEQ is assessing a civil penalty for each of the seven 12 consecutive calendar month periods.

PENALTY CALCULATION – for the five exceedances of the CO PSEL \geq 50% of the CO SER:

$$\begin{aligned}\text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB} \\ &= \$6,000 + [(0.1 \times \$6,000) \times (0 + 0 + 0 + 4 + -2)] + \$0 \\ &= \$6,000 + (\$600 \times 2) + \$0 \\ &= \$6,000 + \$1,200 + \$0 \\ &= \$7,200\end{aligned}$$

$$\$7,200 \text{ per violation} \times 5 \text{ violations} = \$36,000$$

PENALTY CALCULATION – for the two exceedances of the CO PSEL $<$ 50% of the CO SER:

$$\begin{aligned}\text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \\ &= \$3,000 + [(0.1 \times \$3,000) \times (0 + 0 + 0 + 4 + -2)] + \$0 \\ &= \$3,000 + (\$300 \times 2) + \$0 \\ &= \$3,000 + \$600 + \$0 \\ &= \$3,600\end{aligned}$$

$$\$3,600 \text{ per violation} \times 2 \text{ violations} = \$7,200$$

TOTAL CIVIL PENALTY

$$\$36,000 + \$7,200 = \text{total civil penalty of } \$43,200.$$