



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
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June 22, 2023

CERTIFIED MAIL: 7016 2710 0000 4221 2793

Cascade Steel Rolling Mills, Inc.
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-2022-039

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Cascade Steel Rolling Mills, Inc. (CSRМ) a civil penalty of \$181,604 for air quality violations at its steel mill at 3200 North Highway 99 West, McMinnville, Oregon. Specifically, CSRМ failed to implement its pollution prevention plan (PPP) designed to prevent chlorinated plastics, lead, and free organic liquids from being charged to the mill's electric arc furnace. In addition, CSRМ repeatedly omitted from its Title V permit applications fluoride and hydrogen fluoride emissions associated with the use of fluoride-containing flux in the mill's steel-making process. As a result of these omissions, the mill has operated without the required Plant Site Emission Limit (PSEL) for fluoride since at least 1998, when the first Title V permit was issued. Finally, DEQ cited CSRМ, without penalty, for failing to submit motor vehicle scrap provider information that DEQ requested to determine compliance with the Title V permit.

DEQ issued this penalty because the violations contained in the enclosed Notice of Civil Penalty Assessment and Order (Notice) pose a risk of harm to human health and the environment. The PPP is required pursuant to the National Emission Standards for Hazardous Air Pollutants (NESHAP) which were promulgated by the federal government and adopted by Oregon to ensure that emissions of hazardous air pollutants are kept to minimum levels to protect public health and the environment. Many hazardous air pollutants are known or suspected carcinogens and cause other serious health effects. By failing to consistently conduct adequate scrap inspections and failing to perform essential audits of its scrap suppliers according to the PPP, Respondent risked emitting harmful levels of hazardous air pollutants including mercury, lead, and chlorinated compounds from its steel mill. In addition, by omitting fluoride and hydrogen fluoride emissions on its Title V permit applications, Respondent deprived DEQ and the public of information necessary to establish appropriate emission limits. PSELs are facility-wide emission limits set by DEQ to manage airshed capacity and regulate increases or decreases in air emissions of permit holders. Fluoride emissions are regulated under the PSEL program because fluoride is a regulated New Source Review pollutant with a significant emission rate of three tons per year. Fluorides are irritants and are toxic, and thus can be harmful to human health. They are also known to cause damage to plants and animals in low ambient concentrations.

Included in Section IV of the enclosed Notice is an order requiring you to:

- Submit to DEQ a list of all scrap providers that have delivered motor vehicle scrap to the mill during calendar years 2020 through 2022;
- Immediately begin inspecting all loads of incoming restricted scrap at the Facility and submit documentation of completed inspections to DEQ for the first two full months following the issuance of the Notice;
- Hire a third-party expert to conduct an audit of the mill's pollution prevention practices under the NESHAP standard. Within 90 days of DEQ's approval of the contract with the third-party auditor, conduct the audit and submit the auditor's report, including recommended updates to the pollution prevention plan. Within 60 days of submitting the auditor's report, submit an updated pollution prevention plan for DEQ approval, and implement the updated plan once approved by DEQ;
- By no later than August 11, 2023, conduct source testing to measure fluoride and hydrogen fluoride emissions at the outlet of Baghouse 1, Baghouse 1A, and Baghouse 2. Within 30 days of DEQ's approval of the source test results, submit an application to DEQ to include a fluoride PSEL in the Permit; and
- By no later than March 26, 2024, conduct source testing at a criteria location to measure fluoride and hydrogen fluoride emissions at the Roof Monitor (EU-3). Between the final order date and the submittal of the source testing plan, submit monthly reports to DEQ regarding progress to construct the necessary infrastructure to conduct the Roof Monitor testing.

The above is a summary of the order; you must consult Section IV of the Notice for the order's detailed requirements.

DEQ appreciates the information that you submitted during the first half of 2023, in response to DEQ's information requests regarding flux use at the mill and estimated fluoride and hydrogen fluoride emissions. In addition, you submitted a source test plan for measuring fluoride and hydrogen fluoride emissions at the outlet of Baghouse 1, Baghouse 1A, and Baghouse 2 which is scheduled to occur in August 2023. 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.

Cascade Steel Rolling Mills, Inc.

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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 Becka Puskas at 503-229-5058.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Matthew Ruckwardt, Cascade Steel Rolling Mills, Inc. (mruckwardt@schn.com)
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Mike Eisele, DEQ
Accounting, DEQ
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1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 CASCADE STEEL ROLLING MILLS, INC.,) ASSESSMENT AND ORDER
5 an Oregon corporation,)
6 Respondent.) CASE NO. AQ-V-WR-2022-039

7 I. AUTHORITY

8 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
9 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140,
10 ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011,
11 012, 200, 218, and 40 Code of Federal Regulations (CFR), Part 63, Subpart YYYYYY, adopted and
12 incorporated by reference in OAR 340-244-0220(1) and (5)(bbbb).

13 II. FINDINGS OF FACT

14 1. Respondent Cascade Steel Rolling Mills, Inc. (Respondent or CSRM) owns and operates a
15 steel mill at 3200 North Highway 99 West, McMinnville, Oregon (the Facility).

16 2. Respondent operates the Facility pursuant to Oregon Title V Operating Permit No. 36-5034-
17 TV-01, which was last renewed April 1, 2020 (the Permit). The Permit authorizes Respondent to
18 discharge air contaminants associated with its operation of the Facility in conformance with the
19 requirements, limitations and conditions set forth in the Permit.

20 3. The Permit was in effect at all material times.

21 4. Respondent operates an Electric Arc Furnace (EAF)¹ at the Facility (identified in the Permit
22 as Emission Unit EU-1), which makes the Facility an EAF steelmaking facility subject to the federal
23 EAF Steelmaking Facilities National Emission Standards for Hazardous Air Pollutants for Area
24 Sources in 40 CFR Part 63, subpart YYYYYY (Area Source Rule).

25 Area Source Rule Requirements for control of chlorinated plastics, lead, and free organic liquids

26 5. Part 2 of the Permit incorporates requirements from the Area Source Rule.

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

1 6. Part 2, Condition 2.a of the Permit requires that for the production of other than leaded steel
2 at the Facility, Respondent must prepare and implement a pollution prevention plan (PPP) for metallic
3 scrap selection and inspection to minimize the amount of chlorinated plastics, lead, and free organic
4 liquids in the scrap that is charged to the EAF.

5 7. Respondent does not produce leaded steel at the Facility.

6 8. According to Part 2, Condition 2.a.i(3) of the Permit, the PPP must contain:

- 7 a. “Specifications that scrap materials must be depleted (to the extent practicable) of
8 undrained used oil filters, chlorinated plastics, and free organic liquids at the time of
9 charging the furnace.” Permit Part 2, Condition 2.a.i.(3)(a);
- 10 b. “A requirement in the scrap specifications for removal (to the extent practicable) of lead
11 containing components (such as batteries, battery cables, and wheel weights) from the
12 scrap, except for scrap used to produce leaded steel.” Permit Part 2, Condition
13 2.a.i.(3)(b); and
- 14 c. “Procedures for determining if the requirements and specification in Condition 2.a are
15 met (such as visual inspection or periodic audits of scrap providers) and procedures for
16 taking corrective actions with vendors whose shipments are not within specifications.”
17 Permit Part 2, Condition 2.a.i.(3)(c).

18 9. Alternatively, Respondent may comply with the requirements of the Area Source Rule
19 pursuant to Part 2, Condition 2.b of the Permit, by not charging “restricted metallic scrap” to the EAF.
20 Restricted metal scrap is “metallic scrap that contains scrap from motor vehicle bodies, engine blocks,
21 oil filters, oily turnings, machine shop borings, transformers or capacitors containing polychlorinated
22 biphenyls, lead-containing components, chlorinated plastics, or free organic liquids.” Permit Part 2,
23 Condition 2.b and 40 CFR §63.10685(a)(2).

24 10. According to Part 2, Condition 2 of the Permit, Respondent may have certain scrap at the
25 Facility that is subject to inspection and verification under the PPP (restricted scrap) and other scrap
26 that is subject to the limitations in Part 2, Condition 2.b (unrestricted scrap), provided the scrap remains
27 segregated until charge makeup.

1 11. On June 20, 2008, Respondent submitted a PPP to DEQ, and DEQ subsequently approved
2 the PPP (the “2008 PPP”).

3 12. Part 2, Condition 2.a.i of the Permit requires Respondent to operate according to the 2008
4 PPP.

5 13. Part 2, Condition 2.a.i(2) of the Permit requires Respondent to keep a copy of the PPP onsite
6 and to provide training on the PPP’s requirements to all plant personnel with materials acquisition or
7 inspection duties.

8 14. Part I of Respondent’s 2008 PPP includes the following “General Scrap Specifications” that
9 “apply to all scrap steel purchased or used by CSRSM [Cascade Steel Rolling Mills] in its EAF
10 steelmaking process”:

11 A. Scrap materials must be depleted to the extent practicable of undrained used oil filters,
12 chlorinated plastics, and free organic liquids at the time of charging to the furnace.

13 B. Lead-containing components of scrap, such as batteries, battery cables, and wheel weights,
14 must be removed, to the extent practicable, prior to charging in the furnace unless the scrap
is used to produce leaded steel.

15 15. Respondent uses visual inspections to verify compliance with the General Scrap
16 Specifications described in Section II, paragraph 14, above. Part II.A.1-2 of the 2008 PPP includes
17 visual inspection requirements as follows:

18 1. Visual Inspection: CSRSM conducts a visual inspection of incoming scrap loads to ensure
19 that the scrap meets existing quality and/or purchase order specifications for grade, type,
20 density and content. Scrap inspection will be required also to determine whether there is an
21 obvious presence of free organic liquids, chlorinated plastics, or lead-containing
22 components. Records of scrap inspections will be maintained on site for one year. Scrap
inspection records shall include the identity of the scrap provider for any load that fails
23 visual inspection. Foreign materials will be removed to the extent practicable prior to the
24 charging to the furnace, and the scrap supplier will be subject to corrective action.

24 2. Inspection for Free Organic Liquids: Turnings, borings and other forms of scrap that were
25 generated as a result of the processing of metal with use of cutting, lubricating or cooling
26 fluids will be visually inspected prior to charging the furnace to ensure that such scrap does
27 not contain free organic liquids.

16. The 2008 PPP, Part II.A. 3-5, exempts three categories of scrap from the inspection and
verification process as follows:

- 1 3. Depletion of Lead and Chlorinated Plastics from Shredded Scrap: Scrap that has been
2 processed through a shredder that utilizes magnetic or density separation techniques to
3 separate ferrous and non ferrous materials will be presumed to be depleted scrap of
4 chlorinated plastics and lead to the extent practicable.
- 5 4. Inspections: CSRSM shall identify any scrap provider whose scrap (except as described in
6 Paragraph 5 below) is not subject to inspection pursuant to this plan. CSRSM shall audit or
7 inspect the facilities from which such uninspected scrap is provided on a periodic basis at a
8 rate of not less than 10-20% of such facilities each year.
- 9 5. Unrestricted scrap: Certain types of scrap, including “factory bundles,” “demolition debris,”
10 “home scrap,” “return scrap,” “rail,” and “flashings,” as defined by common industry
11 practice, as well as similar uncontaminated scrap, are not expected to contain free organic
12 liquids, chlorinated plastics, or lead and will be presumed to be free of these contaminants.
13 This scrap is not subject to the inspection and verification requirements of this plan.

14 17. For scrap that is subject to the inspection and verification process, Part III.A of the 2008
15 PPP describes corrective actions that Respondent will take if, during a scrap inspection, Respondent
16 determines that the scrap provider has not met the General Scrap Specifications described in Section II,
17 paragraph 14, above:

- 18 a. A nonconforming scrap load will be rejected unless contaminants causing the failure can
19 be removed to the extent practicable. The vendor may ship Unrestricted scrap so long as
20 it adheres to the provision outlined in Part II(a)(5) [Unrestricted Scrap].
- 21 b. After failure to meet scrap specifications in Part I [General Scrap Specifications], the
22 scrap provider must sign a statement acknowledging the requirements of the scrap
23 specifications and provide either certification or another comparable form of reasonable
24 assurance that the scrap specifications will be met in the future.
- 25 c. If the vendor continues to fail to meet the scrap specifications, CSRSM will consult with
26 the scrap provider on the cause or reasons why the scrap loads are nonconforming and
27 will inform the scrap provider that it may be suspended if the problem is not resolved.

28 Scrap inspection process

29 18. The Facility receives loads of scrap metal by truck and rail. Some of the scrap received by
30 Respondent is visually inspected by the Weighmaster at either the “East Scale” (for scrap received by
31 truck) or the “Rail Scale” (for scrap received by rail). The Weighmasters perform a top visual
32 inspection, which means they visually inspect the load of material while it is still in the shipping
33 container.

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1 19. After the initial visual inspection described in Section II, paragraph 18, above, the incoming
2 scrap material is stored in various scrap piles located at the Facility. The scrap is moved internally at
3 the Facility using cranes or dump trucks, and ultimately loaded into the EAF using charge buckets.

4 20. Respondent has employees other than the Weighmasters who are trained to identify and
5 remove nonconforming materials. However, there is no consistent scrap inspection process or
6 recordkeeping in place at the Facility after the top visual inspection described in Section II, paragraph
7 18, above, and prior to charging the EAF.

8 21. During the 13-month period from February 2022 through February 2023, Respondent
9 received over 16,000 loads of metal scrap by truck and by rail and conducted inspections of restricted
10 scrap (which must be visually inspected under the Permit and 2008 PPP as described in Section II,
11 paragraphs 5-15, above) and unrestricted scrap (which is not required to be inspected) as described in
12 Table 1, below.

13 **Table 1. Scrap inspections (Feb. 2022 through Feb. 2023)**

	Restricted scrap	Unrestricted scrap
Loads inspected	13,194	1,310
Loads not inspected	1,562	250
Total loads	14,756	1,560
% inspected	89.4%	84%

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17 Heavy Melting Scrap and lead wheel weights

18 22. One category of “restricted” scrap that Respondent receives at the Facility is called “Heavy
19 Melting Scrap” (HMS). HMS scrap may contain automobile rims that include wheel weights.

20 23. Each year, Respondent receives HMS scrap containing hundreds of thousands of automobile
21 rims.

22 24. HMS loads must be visually inspected under the Permit and the 2008 PPP.

23 25. During the months of July 2020, January 2021, and November 2022, Respondent inspected
24 loads of HMS delivered to the Facility as described in Table 2, below.

25 **Table 2. Inspections of HMS loads during selected months**

	July 2020	January 2021	November 2022
HMS loads inspected	302	375	229
HMS loads not inspected	59	49	62
% inspected	83.7%	88.4%	78.7%

1 26. Like other types of scrap received at the Facility, after HMS scrap is received at the Rail
2 Scale or the East Scale, HMS is stored in scrap piles at the Facility until it is processed in the EAF.

3 27. On February 23 and 24, 2021, DEQ and the U.S. Environmental Protection Agency (EPA)
4 inspected the Facility.

5 28. On February 24, 2021, the DEQ and EPA inspectors observed 4 vehicle wheels containing
6 wheel weights in a scrap pile in the scrap storage area at the Facility. Following this observation,
7 Respondent inspected the scrap storage area. Respondent sorted 165 wheels from the scrap storage area
8 and removed 12 wheel weights.

9 29. The wheel weights described in Section II, paragraph 28 above were likely made of lead.

10 Turnings

11 30. Another category of “restricted” scrap that Respondent receives at the Facility is called
12 “Turnings.” Turnings is a form of scrap that may be generated by processing metal with cutting,
13 lubricating or cooling fluids, and thus it may contain free organic liquids.

14 31. Turnings loads must be visually inspected under the Permit and the 2008 PPP.

15 32. During the months of July 2020, January 2021, and November 2022, Respondent inspected
16 loads of Turnings delivered to the Facility as described in Table 3, below.

17 **Table 3. Inspections of Turnings loads during selected months**

	July 2020	January 2021	November 2022
Turnings loads inspected	3	11	5
Turnings loads not inspected	3	1	0
% inspected	50%	91.7%	100%

21 Scrap supplier audits

22 33. Respondent receives scrap from at least 44 different scrap suppliers.

23 34. Respondent conducted on-site audits of its scrap suppliers as follows:

- 24 a. In calendar year 2020, Respondent did not complete any scrap supplier audits;
- 25 b. In calendar year 2021, Respondent conducted audits of six of its scrap suppliers (four of
26 which were audited twice in 2021). All of the scrap suppliers audited in 2021 are owned
27 by Respondent’s parent company, Schnitzer Steel Industries, Inc. (SSI). Respondent
kept inspection records for all of the 2021 audits.

1 c. In calendar year 2022, Respondent conducted 13 scrap supplier audits, including five
2 audits of suppliers owned by SSI and eight of suppliers not owned by SSI. Respondent
3 did not keep records of any of the 13 audits in 2022.

4 Failure to provide motor vehicle scrap provider information requested by DEQ

5 35. Respondent procures motor vehicle scrap² from a variety of scrap providers and processes
6 that scrap as part of the steel manufacturing process at the Facility.

7 36. According to Part 2, Condition 3 of the Permit, Respondent is required to procure scrap
8 containing motor vehicle scrap according to one of the compliance options in Part 2, Conditions 3.a
9 through 3.c of the Permit.

10 37. On December 20, 2022, DEQ sent Respondent a written request for information pursuant to
11 OAR 340-214-0110 and Condition G.23 of the Permit. Among other requests for information, DEQ
12 requested that Respondent “provide a list of all motor vehicle scrap providers that have delivered scrap
13 to the CSRSM facility from January 2020 to the present.” DEQ requested that the information be
14 submitted by January 20, 2023, a deadline that was extended at Respondent’s request to February 28,
15 2023.

16 38. On February 28, 2023, Respondent submitted a response to DEQ’s information request, but
17 the response did not include the list of motor vehicle scrap providers requested by DEQ. As of the date
18 of this Notice, Respondent has not submitted such as list to DEQ.

19 Fluoride and hydrogen fluoride emissions

20 39. The Facility began operation in 1969. Respondent likely used fluoride-containing flux in its
21 steel manufacturing process since 1969 because fluorspar (a fluoride-containing flux) was commonly
22 used in the industry at that time. Flux is an additive that helps improve fluidity or remove impurities in
23 the steel manufacturing process.

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26 ² According to 40 CFR 63.10692, motor vehicle scrap means vehicle or automobile bodies, including
27 automobile body hulks, that have been processed through a shredder. Motor vehicle scrap does not
include automobile manufacturing bundles, or miscellaneous vehicle parts, such as wheels, bumpers or
other components that do not contain mercury switches.

1 40. Respondent's records of its flux use at the Facility date back to 2008, when it began using
2 its current software system for recording this information.

3 41. Since 2008, Respondent has used fluoride-containing flux in its steel manufacturing process
4 as described in the Table 4, below.

5 **Table 4. Fluoride-containing flux usage (2008-2022)**

6 Year	Total fluoride- containing flux material used (lbs)	CaF₂ (tons)	Fluoride (tons)
7 2008	168,200	31	15
8 2009	784,600	144	70
9 2010	1,697,300	311	151
10 2011	2,700,500	495	241
11 2012	2,140,700	392	191
12 2013	2,172,100	398	194
13 2014	2,101,900	384	187
14 2015	1,225,120	224	109
15 2016	980,200	179	87
16 2017	1,697,292	310	151
17 2018	1,439,200	263	128
18 2019	1,145,300	210	102
19 2020	5,030,960	550	268
20 2021	6,570,900	782	381
21 2022	7,525,935	836	407

22 42. More specifically, since at least 2008, Respondent has added the fluoride-containing flux to
23 the Facility's ladle furnace.

24 43. Due to the addition of the fluoride-containing flux, which is heated with the molten metal in
25 the ladle furnace, the ladle furnace emits fluoride (a regulated New Source Review pollutant) and
26 hydrogen fluoride (a Hazardous Air Pollutant).

27 44. Most of the air emissions from the ladle furnace are routed to baghouses 1, 1A and 2, and
then to the atmosphere. The remaining emissions from the ladle furnace escape through small gaps in
the lid of the ladle furnace and then escape to the atmosphere through the Melt Shop roof monitor or
other openings at the Facility.

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1 45. Since the Facility began operation in 1969 to January 20, 2023, Respondent did not notify
2 DEQ's air quality permitting section of its practice using fluoride-containing flux at the Facility or of
3 the associated fluoride and hydrogen fluoride emissions.

4 46. On January 20, 2023, Respondent submitted information in response to DEQ's information
5 request, including fluoride-containing flux usage for calendar year 2022 and a fluoride emissions
6 estimate. On March 10, 2023, in response to a follow up request, Respondent submitted information
7 regarding fluoride-containing flux usage from 2008 through 2022 and a hydrogen fluoride emissions
8 estimate.

9 47. Respondent submitted its original Title V operating permit application to DEQ on May 15,
10 1995 and submitted Title V operating permit renewal applications to DEQ on March 27, 2002, August
11 28, 2006, February 28, 2011 and January 20, 2017 (together "the Permit Applications").

12 48. Respondent's March 27, 2002 Title V renewal application, and every subsequent
13 application, included fluoride emission factors based on Respondent's practice of burning gortex
14 baghouse bags in the EAF (a practice that was discontinued in November 2020). The burning of
15 baghouse bags is expected to generate fluoride emissions. The fluoride emission factors are 0.0394
16 lb/bag for EU-1 (the emissions routed from the EAF and the ladle furnace through the baghouses),
17 0.00019 lb/bag for EU-3 (the Melt Shop roof monitor) and 0.0000095 lb/bag for other openings.

18 49. None of Respondent's Permit Applications describe Respondent's practice using fluoride-
19 containing flux at the Facility or of the associated fluoride and hydrogen fluoride emissions.

20 50. None of Respondent's Permit Applications request a PSEL for fluoride.

21 51. Based on the fluoride emission factors in Respondent's Title V permit applications starting
22 with the 2002 renewal application, described in Section II, paragraph 48, above, DEQ calculated total
23 fluoride emissions of 0.139 tons/year for the Facility. Because the total fluoride emissions were less
24 than the de minimis value of 0.3 tons per year, DEQ did not include a fluoride Plant Site Emission
25 Limit (PSEL) in the Title V operating permit renewal issued on October 2, 2002, or in any subsequent
26 renewal.

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1 52. Respondent's responsible official signed a certification in each of the Permit Applications
2 identical or very similar to the following: "Based on information and belief formed after reasonable
3 inquiry, the statements and information in this document and any attachments are true, accurate and
4 complete."

5 53. In addition to reporting emissions information to DEQ under its Title V operating permit,
6 Respondent reports greenhouse gas emissions data to DEQ's Greenhouse Gas Reporting Program.
7 Starting with the greenhouse gas report for calendar year 2015, which was submitted to DEQ in the
8 spring of 2016, and continuing through calendar year 2022, Respondent reported the use of fluoride-
9 containing flux at the Facility to DEQ's Greenhouse Gas Reporting Program.

10 54. According to Condition 58 of Respondent's current Permit (issued in 2020) and Condition
11 65 of the previous renewal permit (issued in 2013), Respondent's greenhouse gas reports described in
12 Section II, paragraph 53, above, must be submitted and certified as to truth, accuracy and completeness
13 by Respondent's responsible official.

14 55. Chapter 12.5.1 of the AP-42 (an EPA compilation of air emissions factors), last revised in
15 2009, includes air emissions factors for steel minimills like the Facility. The AP-42 fluoride emission
16 factor for EAFs, ladle metallurgy and melt shops controlled by direct shell evacuation and roof canopy
17 hood exhausted to a baghouse is 0.059 lbs/ton steel produced.

18 56. On January 20, 2023, in response to DEQ's information request about sources of fluoride in
19 Respondent's steelmaking process at the Facility, Respondent proposed a stack plus fugitive fluoride
20 emission factor of 0.0070 lb/ton steel produced. Respondent's proposed emission factor is based on two
21 recent air quality permits issued in West Virginia and Kentucky to steel mills that route furnace and
22 melt shop emissions to a baghouse.

23 57. Using emission factors described in Section II, paragraphs 55 and 56 above, DEQ calculates
24 the Facility's fluoride emissions as described in Table 5, below.

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1 **Table 5: Facility's fluoride emissions**

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Year	Production (tons metal/year)	Estimated fluoride emissions using AP-42 emission factor of 0.059 lbs/ton	Estimated fluoride emissions using Respondent's proposed stack + fugitive emission factor of 0.0070 lbs/ton
2006	745,891	22.00	2.61
2007 ³	790,229	23.31	2.77
2008	<i>No data available</i>	--	--
2009	409,977	12.09	1.43
2010	458,559	13.53	1.60
2011	476,105	14.05	1.67
2012	481,240	14.20	1.68
2013	551,673	16.27	1.93
2014	592,457	17.48	2.07
2015	591,347	17.44	2.07
2016	463,743	13.68	1.62
2017	535,052	15.78	1.87
2018	541,324	15.97	1.89
2019	523,278	15.44	1.83
2020	542,072	15.99	1.90
2021	444,518	13.11	1.56
2022	546,432	16.12	1.91

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17 58. Respondent has never conducted source testing to directly measure fluoride emissions or
18 hydrogen fluoride emissions from the Facility.

19 III. CONCLUSIONS

20 1. From at least January 2020 to the date of this Notice, Respondent violated Part 2, Condition
21 2.a of the Permit by failing to implement the 2008 PPP to minimize the amount of chlorinated plastics,
22 lead and free organic liquids that are charged to the EAF, as described in Section II, paragraphs 1-34
23 above. First, Respondent does not conduct visual inspections of all restricted scrap loads as required
24 under Part II.A of the 2008 PPP. During the 13-month period from February 2022 through February
25 2023, Respondent failed to conduct visual inspections of 1,562 restricted scrap loads received at the
26 Facility (just over 10% of the total number of restricted scrap loads received). During the months of
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³ 2007 was the historical maximum production when the Facility had two rolling mills in operation. Rolling Mill 1 was shut down effective October 31, 2016.

1 July 2020, January 2021, and November 2022, Respondent failed to inspect over 10% of incoming
2 loads of HMS, a type of restricted scrap that may contain automobile rims with lead wheel weights.
3 During the same months, Respondent failed to inspect four loads of turnings, which may contain free
4 organic liquids. Second, Respondent's inspection process, which is limited to a "top visual inspection"
5 of incoming scrap loads by the Facility's Weigh Masters, does not ensure that scrap which does not
6 conform to Respondent's scrap specifications, such as lead wheel weights, is removed from the
7 incoming scrap to the extent practicable as required under the Area Source Rule (40 CFR
8 63.106685(a)(1)(ii)), Part 2, Condition 2.a.i(3) of the Permit, and the 2008 PPP. Part I.B of the PPP
9 requires that "Lead containing components of scrap, such as batteries, battery cables, and wheel
10 weights, must be removed, to the extent practicable, prior to charging the furnace unless the scrap is
11 used to produce leaded steel." "To the extent practicable" means capable of being put into practice and
12 feasible.⁴ Respondent is capable of putting into practice, and it is feasible for Respondent to routinely
13 inspect scrap loads after they have been unloaded at the Facility and prior to charging the EAF.
14 However, Respondent has no routine inspection process in place following the top visual inspection to
15 ensure that leaded wheel weights and other lead-containing materials are removed from the hundreds of
16 thousands of automobile rims that Respondent receives each year for processing in the EAF. For
17 example, Respondent is capable of putting in place, and it is feasible to have a more robust inspection

18
19 ⁴ EPA's proposed Area Source Rule included the following requirement for PPPs: "A requirement in
20 your scrap specifications for removal (to the extent practicable) of lead-containing components (such as
21 batteries, battery cables, and wheel weights) from the scrap according to standard industry practice,
22 except for scrap used to produce leaded steel. See 72 FR 53832, Sept. 20, 2007. In response to
23 comments received about clarifying the meaning of "to the extent practicable" and "standard industry
24 practice," EPA provided the following explanation: "We do not see the need to codify a definition of
25 'practicable' but note here that our intent is that something is practicable if it is capable of being put
26 into practice and is feasible. However, we believe that the term 'standard industry practice' does not
27 have a significantly clearer meaning, and in fact, may not result in as much removal. We are deleting
the term in the final rule and continue to use the term 'to the extent practicable' as it relates to the
removal of lead-containing components such as batteries and wheel weights." 72 FR 74106, Dec. 28,
2007. The final Area Source Rule reads as follows: "A requirement in your scrap specifications for
removal (to the extent practicable) of lead-containing components (such as batteries, battery cables, and
wheel weights) from the scrap, except for scrap used to produce leaded steel." 40 CFR §
63.10685(a)(1)(ii). Thus, EPA determined that a standard based on industry practice is different and
less stringent than "to the extent practicable," which EPA intended to mean capable of being put into
practice and feasible.

1 process that would have detected and removed the wheel weights that were observed at the Facility on
2 February 24, 2021, in order to ensure that such nonconforming materials are not charged to the EAF.
3 Finally, Respondent has not consistently complied with the scrap supplier audit requirement in Part
4 II.A.4 of the 2008 PPP, which provides that Respondent “shall audit or inspect the facilities from which
5 such uninspected scrap is provided on a periodic basis at a rate of not less than 10-25% of such
6 facilities per year. Respondent has at least 44 scrap suppliers. However, Respondent conducted no
7 audits in 2020, audited only six different scrap suppliers owned by its parent company in 2021 (14% or
8 less). Respondent audited 13 suppliers in 2022 (30% or less) but did not keep audit records. These are
9 Class I violations, according to OAR 340-012-0054(1)(i). DEQ hereby assesses a \$94,604 civil penalty for
10 these violations.

11 2. Respondent violated Condition G.23 of the Permit by failing to furnish to DEQ, within a
12 reasonable time, information that DEQ requested to determine compliance with the Permit, as
13 described in Section II, paragraphs 35-38, above. Specifically, Respondent failed to submit to DEQ a
14 requested list of motor vehicle scrap providers that delivered scrap to the Facility from January 2020 to
15 the present. This is a Class II violation, according to OAR 340-012-0054(2)(b). DEQ has not assessed a
16 civil penalty for this violation.

17 3. Respondent violated Condition G.7 of the Permit and OAR 340-218-0040(2) and (3) by failing
18 to include emissions information in its Title V Permit Applications, as described in Section II, paragraphs
19 39-54, above. Specifically, Respondent failed to describe the practice of adding fluoride-containing flux to
20 the ladle furnace at the Facility and failed to include the associated fluoride and hydrogen fluoride
21 emissions in its Permit Applications submitted to DEQ between 1995 and 2017. Respondent failed to
22 include this information in its air quality permit applications despite the fact that Respondent likely has
23 been using fluoride-containing flux at the Facility since it began operation in 1969 and has kept records of
24 those flux additions since 2008. In addition, in 2015, Respondent began reporting information about its use
25 of fluoride-containing flux in its Greenhouse Gas reporting submittals to DEQ. After submitting the Permit
26 Applications in 1995, 2002, 2006, 2011 and 2017, Respondent failed to supplement, correct, or report the
27 material omissions as required by Condition G.7 of the Permit. As a result of those omissions, Respondent
emitted Fluoride in excess of the de minimis emission level of 0.3 tons/year (OAR

1 340-200-0020(39)(k)), without submitting an application for a fluoride PSEL as required by OAR 340-
2 222-0020(1). Respondent did not submit the required fluoride information to DEQ until 2023, in response
3 to DEQ's information request. This is a Class I violation, according to OAR 340-012-0053(1)(b). DEQ
4 hereby assesses a \$87,000 civil penalty for this violation.

5 4. DEQ has determined that source testing for fluoride and hydrogen fluoride is necessary to
6 evaluate the Facility's emissions and to evaluate applicable requirements, including New Source Review
7 requirements (OAR Chapter 340, Division 244) and Hazardous Air Pollutant requirements (OAR Chapter
8 340, Division 244). Specifically, as described above in Section II, paragraphs 55-58, there is a wide range
9 of Fluoride emission factors available for steel mills similar to Respondent's Facility, and there is no site-
10 specific source test data for Fluoride or Hydrogen Fluoride from the Facility.

11 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

14 1. Pay a total civil penalty of \$181,604. The determination of the civil penalties are attached as
15 Exhibits 1 and 2 and are incorporated as part of this Notice.

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

19 2. Within 10 days of this order becoming final by operation of law or on appeal, submit to
20 DEQ a list of all scrap providers that have delivered motor vehicle scrap, as defined in 40 CFR
21 63.10692, to the Facility for each semi-annual period from January 1, 2020 to December 31, 2022.

22 3. Immediately begin inspecting all loads of incoming restricted scrap at the Facility and
23 submit documentation of completed inspections to DEQ for the first two full months following the
24 issuance of the Notice. Documentation must be submitted to DEQ within 5 business days of the close
25 of the second month.

26 ///

27 ///

1 4. Within 45 days of this order becoming final by operation of law or on appeal, hire a third-
2 party expert with experience in environmental management systems to (a) conduct an audit of
3 Respondent's scrap purchasing, receiving, inspection, recordkeeping, and corrective action procedures;
4 (b) evaluate compliance with Area Source Rule requirements; and (c) prepare a report, including
5 recommended updates to the PPP. The audit must include an onsite inspection of the Facility as well as
6 onsite inspections of a representative sample of at least one third of Respondent's scrap suppliers
7 (including a representative sample of suppliers not owned by Respondent's parent company, Schnitzer
8 Steel, Inc.). The audit must also include a review of the last 3 years of documentation relevant to the
9 PPP. Respondent must submit a copy of the contract with the third-party auditor to DEQ for approval.

10 5. Within 90 days of DEQ's approval of the third-party auditor contract, complete the third-
11 party audit and submit a copy of the auditor's report to DEQ. The report must include findings and
12 recommendations to ensure compliance with the Area Source Rule, and recommended updates to the
13 PPP, associated forms and training materials.

14 6. Within 60 days of submitting the third-party auditor's report to DEQ, submit an updated
15 PPP to DEQ that complies with the Permit and the Area Source Rule, ensures consistent scrap
16 inspection, recordkeeping, record retention, and corrective action practices at the Facility, and ensures
17 consistent, recorded audits of Respondent's scrap suppliers. Respondent must operate according to the
18 revised PPP once it is approved by DEQ.

19 7. Pursuant to ORS 468A.070, conduct source testing at the Facility as follows:

- 20 a. By no later than August 11, 2023, conduct source testing to measure fluoride and
21 hydrogen fluoride emissions concentrations and rates at the outlet of Baghouse 1,
22 Baghouse 1A, and Baghouse 2. The source testing must be conducted according to the
23 DEQ Source Sampling Manual, and the methods and conditions included in DEQ's
24 source test plan approval letter. Respondent must submit results to DEQ within 60 days
25 of completing the source tests.

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27 ///

1 b. By no later than March 26, 2024, conduct source testing at a criteria location to measure
2 fluoride and hydrogen fluoride emissions at the Roof Monitor (EU-3). Respondent must
3 submit a draft source test plan to DEQ by October 27, 2023 and a final source test plan
4 to DEQ by November 27, 2023. The source testing must be conducted according to the
5 DEQ Source Sampling Manual, and the methods and conditions included in DEQ's
6 source test plan approval letter. Respondent must submit results to DEQ within 60 days
7 of completing the source tests, along with an updated estimate of fugitive Fluoride and
8 Hydrogen Fluoride emissions from the Facility.

9 8. From the date this order becomes final by operation of law or on appeal until a source test
10 plan for the Roof Monitor testing is submitted to DEQ according to Section IV, paragraph 7.b, above,
11 submit monthly reports to DEQ regarding progress to construct the necessary infrastructure to conduct
12 the source testing described in Section IV, paragraph 7.b. The monthly reports must be submitted
13 within 5 business days of the close of the previous month.

14 9. Within 30 days of DEQ's approval of the source test results from the source testing
15 described in Section IV, paragraph 7.a, submit an application to DEQ to include a Fluoride PSEL in the
16 Permit.

17 10. Written documentation demonstrating compliance with the requirements of Section IV,
18 paragraphs 1-9 must be submitted to Mike Eisele at Michael.eisele@deq.oregon.gov with a copy to
19 Becka Puskas at becka.puskas@deq.oregon.gov.

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

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

1 it to 503-229-6762 or email it to DEQappeals@deq.oregon.gov. An administrative law judge
2 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
3 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
4 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
5 you may represent yourself. If you are a corporation, partnership, limited liability company,
6 unincorporated association, trust or government body, you must be represented by an attorney or a duly
7 authorized representative, as set forth in OAR 137-003-0555.

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

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

19
20
21
22 6/22/2023
23 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 implement the 2008 PPP to minimize the amount of chlorinated plastics, lead and free organic liquids that are charged to the EAF, in violation of Part 2, Condition 2.a of the Permit.

CLASSIFICATION: This is a Class I violation 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 receives a value of 10 according to OAR 340-012-0145(2)(a)(C) and (D) and OAR 340-012-0145(2)(b) because Respondent has more than ten Class I violations in case no. AQ/V-WR-2020-129 issued on August 20, 2021.

"H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(b) because the violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions.

"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 implement the 2008 PPP from at least January 2020 to the present. As discussed below, DEQ is using its enforcement discretion to assess four separate penalties, one for each year of failing to implement the PPP. Thus, each penalty represents more than 28 occurrences of the violation.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. According to OAR 340-012-0030(20), reckless means the respondent consciously disregarded a substantial and

unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. Respondent identifies incoming loads of scrap as restricted scrap, which according to the 2008 PPP must be inspected precisely because restricted scrap is more likely to contain scrap with chlorinated plastics, lead, or free organic liquids. However, Respondent failed to inspect 1,562 restricted scrap loads (approximately 10% of all restricted scrap loads) received at the Facility during the 13-month period from February 2022 through February 2023. These missed inspections were following EPA and DEQ's inspection of the Facility in February 2021, which identified wheel weights in Respondent's scrap piles. By failing to inspect all of the incoming restricted scrap loads, despite the requirement in the PPP and an EPA/DEQ inspection that had identified nonconforming materials in Respondent's scrap piles a year before, Respondent consciously disregarded a substantial and unjustifiable risk of failing to implement the 2008 PPP to minimize the amount of chlorinated plastics, lead and free organic liquids that are charged to the EAF. The risk is of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable owner and operator of a steel mill subject to the Area Source Rule would observe in that situation.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondent did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f).

GRAVITY-BASED PENALTY CALCULATION:

$$\begin{aligned} \text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] \\ &= \$6,000 + [(0.1 \times \$6,000) \times (10 + -1 + 4 + 8 + 2)] \\ &= \$6,000 + (\$600 \times 23) \\ &= \$6,000 + \$13,800 \\ &= \$19,800 \end{aligned}$$

Respondent failed to implement the 2008 PPP from at least January 2000 to the date of this Notice. Pursuant to ORS 468.140(2), each day of violation is a separate offense. DEQ is using its enforcement discretion to assess a separate penalty for each year of violations. Thus, DEQ is assessing four separate penalties in the amount of \$19,800 for each penalty, for a total civil penalty of \$79,200.

ECONOMIC BENEFIT

"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 \$15,404. This is the amount Respondent gained by avoiding approximately \$20,850 in estimated labor costs associated with performing

adequate scrap inspections during 2020 through 2022. This “EB” was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency’s BEN computer model.

TOTAL CIVIL PENALTY

According to OAR 340-012-0045, the total civil penalty is the gravity-based penalty (\$79,200) plus the economic benefit (\$15,404). Therefore, the total civil penalty is \$94,604.

EXHIBIT 2

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

VIOLATION NO. 3 Failing to include emissions information in Title V permit applications, in violation of Condition G.7 of the Permit and OAR 340-218-0040(2) and (3).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0053(1)(b).

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 receives a value of 10 according to OAR 340-012-0145(2)(a)(C) and (D) and OAR 340-012-0145(2)(b) because Respondent has more than ten Class I violations in case no. AQ/V-WR-2020-129 issued on August 20, 2021.

"H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(b) because the violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions.

"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. As described in Section II of the Notice, since the Facility began operation in 1969 to January 20, 2023, Respondent did not notify DEQ's air quality permitting section of its practice using fluoride-containing flux at the Facility or of the associated fluoride and hydrogen fluoride emissions. Respondent did not include information about its flux addition practices or associated fluoride and hydrogen fluoride emissions in its original 1995 Title V permit application, or in subsequent renewal applications submitted to DEQ in 2002, 2006, 2011 and 2017. Respondent subsequently failed to correct, supplement or report these material omissions to DEQ until January 2023, when DEQ requested the information. As discussed below, DEQ

is using its enforcement discretion to assess five separate penalties, one for each of the Title V permit renewal periods during which Respondent has failed to submit or correct its permit information. Thus, each penalty represents more than 28 occurrences of the violation.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. According to OAR 340-012-0030(20), reckless means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. Respondent has likely used fluoride containing flux at the Facility since it began operation in 1969. Since 2008, when respondent has records of the flux additions, Respondent has added hundreds of thousands (in some years millions) of pounds of fluoride-containing flux to its ladle furnace each year. Nevertheless, Respondent did not include any information about the flux usage or the associated emissions in its Title V Permit Applications submitted to DEQ in 1995, 2002, 2006, 2011 and 2017. Starting with calendar year 2015, Respondent reported the use of fluoride-containing flux at the Facility to DEQ's Greenhouse Gas Reporting Program—a report that is required to be signed and certified by the responsible official for Respondent's Title V permit. Nevertheless, in its Title V permit Renewal Application submitted to DEQ in January 2017, Respondent did not describe its flux addition practices, and did not estimate the associated fluoride and hydrogen fluoride emissions. With the Renewal Application, Respondent's responsible official signed a certification statement that the information in the Renewal Application was true, accurate and complete, despite the missing information. By submitting the incomplete application and making this certification, despite knowing that fluoride-containing flux was used at the Facility and even reporting the use of the flux to another section at DEQ, Respondent consciously disregarded a substantial and unjustifiable risk of failing to submit material information to DEQ. The risk is of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation because by failing to provide information about the Facility's fluoride and hydrogen fluoride emissions, Respondent prevented DEQ from identifying the need for a fluoride PSEL and potentially other applicable requirements such as New Source Review and Hazardous Air Pollutant requirements.

"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 correct the violation. On January 20, 2023, March 10, 2023, and June 2, 2023, Respondent submitted information about its flux addition practices and associated fluoride and hydrogen fluoride emissions to DEQ. On March 27, 2023, Respondent submitted a source test plan for measuring fluoride and hydrogen fluoride emissions at the outlet of Baghouse 1, Baghouse 1A, and Baghouse 2, and on April 28, 2023, Respondent submitted a revised source test plan.

"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 calculate an economic benefit for this violation. 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 x \$6,000) x (10 + -1 + 4 + 8 + -2)] + \$0
= \$6,000 + (\$600 x 19) + \$0
= \$6,000 + \$11,400 + \$0
= \$17,400

Pursuant to ORS 468.140(2), each day of violation is a separate offense. DEQ is using its enforcement discretion to assess five separate penalties, one for each of the Title V permit renewal periods during which Respondent has failed to submit or correct its permit information from 1995 to the present. Thus, DEQ is assessing five separate penalties in the amount of \$17,400 for each penalty, for a total civil penalty of \$87,000.