



Oregon

Tina Kotek, 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

September 24, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6539 46

Radius Recycling, Inc.
fka Schnitzer Steel Industries, Inc.
c/o CT Corporation System
780 Commercial St SE Ste 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ-SW-NWR-2019-150

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$29,580 for operating an unpermitted solid waste disposal site at your metals recycling facility at 12005 N Burgard Road in Portland. DEQ has also cited you in the enclosed Notice of Civil Penalty Assessment and Order (Notice) for operating a waste tire storage site without a permit.

DEQ issued this penalty because it is against the law to operate an unpermitted solid waste disposal facility, and because your operations pose a potential threat of adverse impact on the environment and public health. Specifically, your Portland facility receives and processes a large volume of materials including end-of-life automobiles and appliances, and other scrap metals. Included with these materials are fluids, including refrigerants, oils, fuels, and antifreeze, tires, and hazardous and toxic substances including lead and mercury. Before and after processing, the materials are stored in large piles outdoors at the facility, which is located adjacent to the Willamette River. The material piles are prone to frequent small fires, and multiple large fires have occurred at the facility since 2017. Many of these concerns can be mitigated through compliance with a solid waste disposal site permit.

Included in the enclosed Notice is an Order to submit a plan to prevent and mitigate fires at the facility by September 30, 2024, and a complete solid waste permit application by October 24, 2024. \$5,580 of the penalty is based on the economic benefit you gained by avoiding solid waste permit fees. If you comply with the Order, DEQ will consider recalculating some of these costs as delayed rather than avoided and will reduce the civil penalty accordingly.

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

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232
Via email – DEQappeals@deq.state.or.us
Via fax – 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

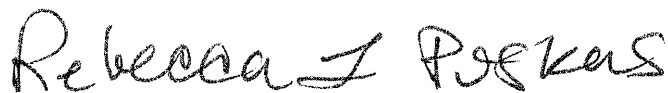
The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review and refer to it when discussing this case with DEQ.

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

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

If you have any questions, please contact Sarah Wheeler at 503-229-6927 or toll free in Oregon at 800-452-4011, extension 6927.

Sincerely,



Becca Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Ryan Lewis, DEQ
Audrey O'Brien, DEQ
Linda Shaffer, Radius Recycling, Inc., lshaffer@rdus.com,
Scott de Ridder, Radius Recycling Inc., sderidder@rdus.com
Kirk Maag, Attorney for Radius Recycling, Inc., kirk.maag@stoel.com
Gary Vrooman, Oregon Department of Justice, gary.l.vrooman@state.or.us

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3
4 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
RADIUS RECYCLING, INC.,) ASSESSMENT AND ORDER
5 formerly known as)
SCHNITZER STEEL INDUSTRIES, INC.,)
6 Respondent.) CASE NO. LQ-SW-NWR-2019-150

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, ORS 468.126 through 468.140,
10 ORS 459.995, ORS 459.376, ORS Chapters 183, and Oregon Administrative Rules (OAR) Chapter 340,
11 Divisions 011, 012, and 093.

12 II. FINDINGS OF FACT

13 1. Respondent operates a business accepting, processing, recycling and disposing materials
14 discarded at the Facility by businesses and the public including vehicles, appliances, other materials
15 that contain metal, and tires (the materials), at 12005 N Burgard Way in Portland, Oregon (the Facility).

16 2. The Facility is located adjacent to the Willamette River.

17 3. Respondent receives over 200,000 tons of discarded materials at the Facility per year,
18 approximately 60% of which is non-vehicles.

19 4. Respondent accepts vehicles and appliances at the Facility that contain fluids, including
20 refrigerants, oils, fuels, and antifreeze.

21 5. Respondent accepts materials at the Facility that contain hazardous and toxic substances
22 such as lead, mercury, and other hazardous metals.

23 6. Respondent processes metal at the Facility in a shredder, mobile shear, and by cutting
24 with a torch.

25 7. Respondent stores piles of tires, unprocessed metal, shredded metal, processed non-
26 metallic automotive shredder residue (ASR), used oil, and antifreeze outdoors at the Facility.

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1 8. Respondent disposes of ASR at landfills for use as alternative daily cover. Respondent's
2 ASR may contain tires, as Respondent sometimes shreds vehicles that have not had the tires removed.

3 9. Respondent or Respondent's contractor processes and disposes of refrigerants at the
4 Facility.

5 10. In 2019, 2022, 2023, and 2024, DEQ received complaints about the Facility relating to
6 environmental concerns including odor, smoke, dust, waste, and water contamination.

7 11. In 2017, there was a significant fire at the Facility involving a pile of scrap metal, paint,
8 oils, and plastic, that caused noxious smoke within the City of Portland.

9 12. There were two large fires at the Facility in 2024.

10 13. Frequent small fires ignite in material piles at the Facility, including one on May 22,
11 2024, while DEQ staff was present.

12 14. On May 23, 2018, May 22, 2024, and July 17, 2024, DEQ inspected the Facility.

13 15. On May 22, 2024, Respondent stored approximately 170 waste tires at the Facility.

14 16. On May 22, 2024, Respondent stored crushed cars to be shredded, some with waste tires
15 still attached to the cars.

16 17. As of the date of this Notice, Respondent has not submitted documentation to DEQ
17 demonstrating that it has removed waste tires from the Facility.

18 18. As of the date of this Notice, Respondent does not have a solid waste disposal site
19 permit or a waste tire storage permit from DEQ for the Facility, and Respondent has not applied for
20 either permit.

21 III. CONCLUSIONS

22 1. Respondent violated ORS 459.205(1) and OAR 340-093-0050(1) by establishing,
23 operating, and maintaining an unpermitted material recovery solid waste disposal site. The materials
24 received and processed at the Facility are solid wastes, as defined by ORS 459.005(25), because the
25 materials are useless to, and discarded by, the prior owner, they are not fit for their intended purpose
26 anymore, and are fit only for disposal or for remanufacture into something else. The Facility is a solid
27 waste disposal site, pursuant to ORS 459.005(8)(a), because it is used for handling, transfer, material

1 recovery and recycling (as defined in ORS 459.005(16) and (21)). Pursuant to OAR 340-093-
2 0050(5)(d), the nature, amount, or location of the materials or operations at the Facility may constitute
3 a potential threat of adverse impact on the environment or public health, as described in Section II
4 above. This is a Class I violation according to OAR 340-012-0065(1)(a). DEQ hereby assesses a
5 \$29,580 civil penalty for this violation.

6 2. Respondent violated ORS 459.715(1) and OAR 340-093-0050(1) by establishing,
7 operating, and maintaining an unpermitted waste tire storage site, as defined in ORS 459.705(6) and (11),
8 without a permit. Specifically, Respondent stored and continues to store over 100 waste tires at the Facility
9 and has not been issued a waste tire storage permit. This is a Class I violation according to OAR 340-012-
10 0066(1)(a). DEQ has not assessed a civil penalty for this violation.

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 \$29,580. The determination of the civil penalty is attached as
15 Exhibit No. 1 and is 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 order
17 must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business Office,**
18 **700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.** Once you pay the penalty, the
19 Findings of Fact, Conclusions and Order become final.

20 2. By September 30, 2024, submit to DEQ for approval a plan describing additional measures
21 implemented at the Facility to prevent and mitigate fires. Upon DEQ approval of the plan, implement the
22 approved plan.

23 3. By October 24, 2024, submit to DEQ a complete application for a solid waste disposal site
24 permit for the Facility.

25 All submittals should be directed to Ryan Lewis, DEQ, 700 NE Multnomah Street, Portland,
26 Oregon, 97232, or ryan.lewis@deq.oregon.gov.

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

2 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
3 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
4 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
5 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
6 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
7 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
8 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
9 it to **503-229-6762** or email it to **DEQappeals@deq.oregon.gov**. An administrative law judge
10 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
11 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
12 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
13 you may represent yourself. If you are a corporation, partnership, limited liability company,
14 unincorporated association, trust or government body, you must be represented by an attorney or a duly
15 authorized representative, as set forth in OAR 137-003-0555.

16 Active duty Service members have a right to stay proceedings under the federal Service
17 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
18 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
19 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
20 Department does not have a toll free telephone number.

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

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10 9/24/2024
11 Date

Rebecca J. Puskas
12 Becca Puskas, Interim Manager
13 Office of Compliance and Enforcement
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EXHIBIT 1

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

VIOLATION 1: Establishing, operating, and maintaining an unpermitted solid waste disposal site, in violation of ORS 459.205(1) and OAR 340-093-0050(1).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0065(1)(a).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(3)(a)(A) because the volume of unpermitted solid waste at Respondent's Facility exceeded 400 cubic yards.

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

"BP" is the base penalty, which is \$12,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(Q)(i) because Respondent should have had a solid waste disposal 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 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. Each day of violation constitutes a separate occurrence. DEQ first notified Respondent in writing that a solid waste permit was required on July 24, 2018, and as of the date of this Notice, Respondent has not applied for a permit.

"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. After inspecting Respondent's facility in May of 2018, DEQ issued Respondent a letter on July 24, 2018, notifying Respondent that Respondent was required to apply for a solid waste permit. On May 28, 2019, DEQ issued Respondent a Warning Letter with Opportunity to Correct, citing Respondent for violating the permit requirement, and again requesting that Respondent apply for a permit. DEQ issued a Pre-Enforcement Notice reiterating the violation and requirement on June 27, 2019, and an Amended Pre-Enforcement Notice on August 16, 2024. As of the date of this Notice, Respondent has not applied for a permit. By operating a business accepting solid waste without applying for a permit, despite the multiple notices

and requests from DEQ, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation.

"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).

"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 \$5,580. This is the amount Respondent gained by avoiding spending an estimated \$500 on a solid waste permit application fee and \$1,000 on annual compliance fees since July 24, 2018, the date the DEQ notified Respondent in writing that the Facility needed a permit. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$12,000 + [(0.1 \times \$12,000) \times (0 + 0 + 4 + 4 + 2)] + \$5,580$
 $= \$12,000 + (\$1,200 \times 10) + \$5,580$
 $= \$12,000 + \$12,000 + \$5,580$
 $= \$29,580$