

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Collegium Pharmaceutical, Inc.

FILE NO.: 2010-6-HW

NOTICE OF VIOLATION

A. Introduction

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. Facts

- (1) The facility is located at 400B Highland Corporate Drive in the town of Cumberland, Rhode Island (the “Facility”).
- (2) The Respondent is registered with the DEM as a small quantity hazardous waste generator at the Facility pursuant to the DEM Rules and Regulations for Hazardous Waste Management (the “Hazardous Waste Regulations”) and Title 40 of the Code of Federal Regulations (“40 CFR”) under the name of “Collegium Pharmaceutical” with the U. S. Environmental Protection Agency (“EPA”) identification number RIR000504464.
- (3) On October 30, 2009, DEM inspected the Facility. The inspection revealed the following:
 - (a) approximately fifty miscellaneous sized containers located in the ninety day storage area for which no determination was made whether the containers held waste that met the definition of hazardous waste.
 - (b) two five gallon and two one gallon satellite accumulation containers holding hazardous waste in the form of a mixture of acetonitrile and methanol located in the QC laboratory were not labeled with the words “Hazardous Waste” and one of the five gallon containers and both of the one gallon containers were open at the time of the inspection.
 - (c) two fifty-five gallon containers holding hazardous waste in the form of aerosol cans located in the ninety day storage area that were not marked with an accumulation start date. One of the containers was open at the time of the inspection.

- (d) a two and one half gallon container holding hazardous waste in the form of an acid waste located in the ninety day storage area that had a label that was missing the EPA identification number, the U.S. Department of Transportation shipping name of the principal hazardous waste components and the EPA waste number assigned to the waste.
 - (e) a five gallon container holding hazardous waste in the form of chlorinated hydrocarbons (including chloroform, dichloromethane, methanol, and acetonitrile) located in the ninety day storage area that was marked with an incorrect EPA identification number (RIP000024853). The container was marked with an accumulation start date of October 22, 2008 and was stored on site for greater than ninety days.
 - (f) three containers holding hazardous waste located in the ninety day storage area that were stored onsite for greater than ninety days, specifically:
 - (i) one fifty-five gallon container holding waste acid marked with an accumulation start date of October 22, 2008.
 - (ii) one five gallon container holding waste iodine marked with an accumulation start date of February 4, 2009.
 - (iii) one five gallon container holding waste caustic solution marked with an accumulation start date of May 13, 2009.
 - (g) five boxes holding universal waste (in the form of fluorescent light bulbs) in the ninety day storage area that were not labeled. Two of the boxes were open at the time of the inspection. In addition, there were fifteen pieces of universal waste that were not stored in a container or in a manner to prevent breakage, leakage or spillage.
- (4) During the October 30, 2009 inspection, the DEM inspector asked the laboratory technician, Wendy Woods, to produce a copy of records pertaining to the weekly inspections of the ninety day storage area for the last three (3) years. Ms. Woods stated that the company did not conduct weekly inspections of the container storage area and was not able to produce written inspection logs for review by DEM.
- (5) During the October 30, 2009 inspection, the DEM inspector asked Ms. Woods to produce a copy of the hazardous waste contingency plan and hazardous waste personnel training records for review. Ms. Woods stated that the company had not completed a contingency plan and had not provided hazardous waste management training to its employees.
- (6) During the October 30, 2009 inspection, the DEM inspector reviewed Respondent's records relating to offsite shipments of hazardous waste and determined that the Respondent failed to submit to DEM copies of the hazardous waste manifests.

- (7) After the October 30, 2009 inspection, the DEM reviewed its files and determined that the Respondent failed to submit to DEM a list of agents who were authorized by the company to sign hazardous waste manifests.
- (8) As of the date of this Notice of Violation (“NOV”), the Respondent has failed to comply with the Hazardous Waste Regulations.

C. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **Hazardous Waste Regulation 5.02A and Code of Federal Regulations 40 CFR 262.34(a)** – requiring that a hazardous waste generator store hazardous waste onsite for a period of time that does not exceed ninety days.
- (2) **Hazardous Waste Regulation 5.08 and 40 CFR 262.11** – requiring that a hazardous waste generator determine if the waste generated onsite meets the definition of a hazardous waste.
- (3) **Hazardous Waste Regulation 5.04C and 40 CFR 262.34(c)(1)(ii)** – requiring that a hazardous waste generator label all satellite accumulation containers holding hazardous waste with the words “Hazardous Waste”.
- (4) **Hazardous Waste Regulation 5.04A and 40 CFR 262.34(a)(3)** – requiring that a hazardous waste generator label each container holding hazardous waste, excluding satellite accumulation containers, with the U.S. Department of Transportation shipping name, the EPA waste number and the EPA identification number.
- (5) **Hazardous Waste Regulation 5.02A and 40 CFR 262.34 (a)(2)** – requiring that a hazardous waste generator mark containers holding hazardous waste with the date upon which the waste first began to accumulate.
- (6) **Hazardous Waste Regulation 5.02A, 40 CFR 262.34(a)(1)(i), 40 CFR 262.34(c)(1)(i) and 40 CFR 265.173(a)** – requiring that a hazardous waste generator keep containers holding hazardous waste closed except when adding or removing waste.
- (7) **Hazardous Waste Regulation 5.02 A, 40 CFR 262.34(a)(1)(i) and 40 CFR 265.174** – requiring that a hazardous waste generator conduct weekly inspections of container storage areas looking for leaking containers and signs of deterioration caused by corrosion or other factors and maintain documentation of the inspection of each hazardous waste storage area.
- (8) **Hazardous Waste Regulation 5.02A, 40 CFR 262.34(a)(4) and 40 CFR 265.51** – requiring that a hazardous waste generator prepare and maintain a contingency plan designed to minimize hazards to human health or the environment from fires,

explosions or unplanned releases of hazardous waste or constituents to the air, soil or surface water.

- (9) **Hazardous Waste Regulation 5.02A, 40 CFR 262.34(a)(4) and 40 CFR 265.16** – requiring that a hazardous waste generator provide training to company employees who handle and/or manage hazardous waste and provide employees with a review of the training on an annual basis.
- (10) **Hazardous Waste Regulation 5.09** – requiring that a hazardous waste generator submit to DEM a list of agents authorized by the company to sign uniform hazardous waste manifests for shipments of hazardous waste.
- (11) **Hazardous Waste Regulation 5.03D** – requiring that a hazardous waste generator submit to DEM a copy of each manifest once the transporter has signed the manifest.
- (12) **Hazardous Waste Regulation 13.06E and 40 CFR 273.13** – requiring that small quantity handlers of universal waste contain any universal waste mercury containing equipment with noncontained elemental mercury in a container that is closed, structurally sound, and compatible with the contents of the waste.
- (13) **Hazardous Waste Regulation 13.06F and 40 CFR 273.14** – requiring that a small quantity handler of universal waste properly label or mark the universal waste or the container(s) in which the waste(s) is/are contained.
- (14) **Hazardous Waste Regulation 13.06G and 40 CFR 273.15** – requiring that a small quantity handler of universal waste demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

D. Order

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **Within thirty days of receipt of the NOV:**
 - (a) remove all hazardous waste from the Facility that has been stored for greater than ninety days using a permitted hazardous waste transporter and ship the hazardous waste to a licensed Treatment, Storage and Disposal Facility (the “Designated Facility”) and submit to the DEM Office of Compliance and Inspection a copy of the uniform hazardous waste manifest signed by the Designated Facility.
 - (b) collect representative samples from the containers holding waste located in the QC laboratory and submit the samples to a laboratory for analysis to determine if the waste meets the definition of hazardous waste in accordance with the requirements of Hazardous Waste Regulation 5.08. A copy of the

test results must be submitted to the DEM Office of Compliance & Inspection. In the event that the waste is determined to meet the definition of a hazardous waste, **immediately** begin managing the waste in accordance with the applicable requirements of the Hazardous Waste Regulations.

- (c) label all satellite accumulation containers holding hazardous waste with the words “Hazardous Waste” and other words identifying the contents of the container.
- (d) label all containers holding hazardous waste, excluding satellite accumulation containers, with the words “Hazardous Waste”, the name and address of the generating facility, the U.S. Department of Transportation shipping name, the EPA or Rhode Island waste number and the EPA identification number (prior to being shipped offsite).
- (e) mark all containers holding hazardous waste, excluding satellite accumulation containers, with the date upon which the hazardous waste first began to accumulate.
- (f) close and keep closed all containers holding hazardous waste except when adding or removing waste.
- (g) begin conducting weekly inspections of the hazardous waste container storage areas looking for leaking containers and signs of deterioration caused by corrosion or other factors and maintain documentation onsite of the inspection of each hazardous waste storage area for a period of at least three (3) years.
- (h) develop and maintain a hazardous waste contingency plan for the Facility that includes all of the applicable information contained in 40 CFR 265 Subpart D and submit a copy to the DEM Office of Compliance & Inspection.
- (i) provide hazardous waste management training to Facility personnel that manage/handle hazardous waste which is relevant to the positions in which they are employed and submit copies of the training program and attendance sheet to the DEM Office of Compliance & Inspection.
- (j) submit copies of all manifests completed in the last three (3) years to the DEM Office of Waste Management.
- (k) store all universal waste in a structurally sound container that is compatible with the universal waste.
- (l) properly label and mark all universal waste or containers holding universal waste.

- (m) document the date upon which the universal waste first began to accumulate.

E. Penalty

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

Forty Five Thousand Seven Hundred Sixty Eight Dollars (\$45,768.00)

- (2) The proposed administrative penalty is calculated pursuant to the DEM Rules and Regulations for Assessment of Administrative Penalties, as amended, and must be paid to the Director within twenty (20) days of your receipt of this NOV. Payment shall be in the form of a certified check or money order made payable to the “General Treasury - Environmental Response Fund,” and shall be forwarded to the DEM Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against respondent in this NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if the Director determines that reasonable efforts have been made to comply promptly with this NOV.

F. Right to Administrative Hearing

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before the DEM Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through E above. All requests for hearing MUST:
 - (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b),
 - (b) Be **RECEIVED** by DEM's Administrative Adjudication Division, at the following address, within twenty (20) days of your receipt of this NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
DEM - Administrative Adjudication Division
235 Promenade Street, 3RD Floor

Providence, RI 02908-5767

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
 - (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Rule 7.00(b) of the DEM Administrative Rules of Practice and Procedure for the Administrative Adjudication Division of Environmental Matters.
- (2) A copy of each request for hearing must also be forwarded to:
- Joseph J. LoBianco, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767
- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
 - (4) Each respondent must file a separate and timely request for an administrative hearing before DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner with regard to any violation set forth herein, then this NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (v) and 42-17.6-4(b) and (c).
 - (5) Failure to comply with this NOV may subject each respondent to additional civil and/or criminal penalties.
 - (6) This NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Joseph J. LoBianco at the DEM Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Tracey Tyrrell of the DEM Office of Compliance and Inspection at (401) 222-1360 ext. 7407.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section F above.

FOR THE DIRECTOR

David E. Chopy, Chief
DEM Office of Compliance and Inspection

Date: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Notice of Violation was forwarded to:

Collegium Pharmaceutical, Inc.
c/o Corporation Service Company, Registered Agent
222 Jefferson Boulevard, Suite 200
Warwick, RI 02888

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, HAZARDOUS WASTE

File No.: 2010-6-HW

Respondent: Collegium Pharmaceutical, Inc.

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
C (1) – Storage of hazardous waste for greater than ninety day storage	Type I (\$ <u>25,000</u> Max. Penalty)*	Moderate	\$6,250	1	\$6,250
C (2) – Lack of waste determination	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$2,500	1	\$2,500
C (3) – Lack of proper labels on satellite containers	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$3,500	1	\$3,500
C (4) – Lack of proper labels on storage containers	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$2,500	1	\$2,500
C (5) – Lack of accumulation start dates on containers	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$3,500	1	\$3,500
C (6) – Failure to close containers	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$6,250	1	\$6,250
C (7) – Lack of weekly container inspections	Type II (\$ <u>12,500</u> Max. Penalty)*	Moderate	\$2,500	1	\$2,500
C (8) - Lack of contingency plan	Type I (\$ <u>25,000</u> Max. Penalty)*	Moderate	\$6,250	1	\$6,250

C (9) – Lack of training	Type I (\$ <u>25,000</u> Max. Penalty)*	Moderate	\$6,250	1	\$6,250
C (10) – Lack of manifest signers form	Type III (\$6,250 Max. Penalty)*	Minor	\$750	1	\$750
C (11) – Failure to submit manifest forms	Type III (\$6,250 Max. Penalty)*	Minor	\$250	1	\$250
C (12), (13), and (14) – Failure to properly manage universal waste	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$2,500	1	\$2,500
<i>SUB-TOTAL</i>					\$43,000.00

*Maximum Penalties represent the maximum penalty amounts per day, per violation.

PENALTY MATRIX WORKSHEET

CITATION: Storage of hazardous waste for greater than ninety day storage
 VIOLATION NO.: C (1)

TYPE		
<p><u>X</u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>____ TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>____ TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED: Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent stored four containers holding hazardous waste at the facility for greater than ninety days and failed to take necessary steps to obtain a permit as required by State law and Federal and State regulations or properly dispose of the hazardous waste. The requirement to obtain a permit to store hazardous waste or properly dispose of hazardous waste is a major component of the regulatory program.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: Three five gallon containers and one fifty-five gallon container. Based on the number and volume of the containers the total volume of hazardous waste could have equaled seventy gallons.</p> <p>(D) Toxicity or nature of the pollutant: The containers held chlorinated liquids, acid, caustic, and iodine wastes.</p> <p>(E) Duration of the violation: The containers holding the chlorinated liquid and acid wastes were marked with an accumulation start date of October 22, 2008, the container holding the iodine waste was marked with an accumulation start date of February 4, 2009, and the container holding caustic waste was marked with an accumulation start date of May 13, 2009.</p> <p>(F) Areal extent of the violation: Not relevant.</p>		
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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by obtaining a permit to store the hazardous waste or properly dispose of the hazardous waste within the ninety day time limit.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	<u>X</u> MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500 \$6,250	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Lack of waste determination

VIOLATION NO.: C (2)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">_____ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">_____ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to determine if waste generated at the facility met the definition of hazardous waste. State and Federal regulations require generators of waste to determine if their waste meets the definition of a hazardous waste.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: Approximately fifty miscellaneous sized containers holding waste that may meet the definition of hazardous waste.</p> <p>(D) Toxicity or nature of the pollutant: The toxicity and/or nature of the waste was not known at the time of the inspection due to the Respondent's failure to characterize the waste.</p> <p>(E) Duration of the violation: Unable to determine.</p> <p>(F) Areal extent of the violation: Not relevant.</p> <p style="text-align: right; margin-top: 20px;">(continued)</p>		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by determining if the containers met the definition of hazardous waste.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 \$2,500	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Lack of proper labels on satellite containers

VIOLATION NO.: C (3)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to label satellite accumulation containers holding hazardous waste. The requirement to label satellite containers holding hazardous waste is an integral part of the regulatory program because it reduces the potential for mismanagement of hazardous waste. Proper labeling of hazardous waste containers also provides important information regarding the chemical properties of the waste for emergency responders who may be called to a facility during a fire, spill or release.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: Two five gallon containers and two one gallon satellite containers. Based on the number and volume of the containers the total volume of hazardous waste could have equaled twelve gallons.</p> <p>(D) Toxicity or nature of the pollutant: The containers held acetonitrile and methanol solution which is a flammable hazardous waste having EPA waste number D001 and a federally listed hazardous waste having EPA waste number F003.</p> <p>(E) Duration of the violation: Unable to determine.</p> <p>(F) Areal extent of the violation: Not relevant.</p>		
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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent the noncompliance by properly labeling the containers. Respondent mitigated the noncompliance by properly labeling the containers at the time of the inspection.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 \$3,500	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Lack of proper labels on storage containers

VIOLATION NO.: C (4)

TYPE		
<p><u> X </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>

DEVIATION FROM THE STANDARD
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** Respondent failed to properly label containers holding hazardous waste while in temporary storage at the facility. One container was missing the EPA identification number, the U.S. Department of Transportation shipping name of the principal hazardous waste components and the EPA waste number assigned to the waste. A second container was marked with an incorrect EPA identification number. The requirement to properly label containers holding hazardous waste is an integral part of the regulatory program because it reduces the potential for mismanagement of hazardous waste. Proper labeling of hazardous waste containers also provides important information regarding the chemical properties of the waste for emergency responders who may be called to a facility during a fire, spill or release.
- (B) **Environmental conditions:** Not relevant.
- (C) **Amount of the pollutant:** One two and one half gallon container and one five gallon container. Based on the number and volume of the containers the total volume of hazardous waste could have equaled seven and one half gallons.
- (D) **Toxicity or nature of the pollutant:** The two and one half gallon container held acid waste and the five gallon container held chlorinated liquid waste containing chloroform, dichloromethane, methanol and acetonitrile. The waste acid is a corrosive hazardous waste having EPA waste number D002. The chlorinated liquid waste is a characteristic flammable hazardous waste having EPA waste number D001 and a federally listed waste resulting from its methanol content having EPA waste number F003.
- (E) **Duration of the violation:** Unable to determine.
- (F) **Areal extent of the violation:** Not relevant.

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by properly labeling the containers.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 \$2,500	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Lack of accumulation start dates on containers

VIOLATION NO.: C (5)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to mark two containers holding hazardous waste with the date upon which the waste first began to accumulate. State and Federal Regulations require generators to mark containers holding hazardous waste with an accumulation start date to ensure compliance with the less than ninety day temporary storage limit.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: Two fifty-five gallon containers.</p> <p>(D) Toxicity or nature of the pollutant: The containers held a characteristic flammable hazardous waste in the form of spent aerosol cans having EPA waste number D001. Based on the number and volume of the containers the total volume of hazardous waste could have equaled one hundred ten gallons.</p> <p>(E) Duration of the violation: Unable to determine.</p> <p>(F) Areal extent of the violation: Not relevant.</p> <p>(G) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance: Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by marking the containers with the date upon which the waste first began to accumulate.</p>		
(continued)		

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- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 \$3,500	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Failure to close containers

VIOLATION NO.: C (6)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to keep three satellite containers holding hazardous waste located in the QC laboratory and one container holding hazardous waste located in the ninety day storage area closed while in storage onsite. State and Federal Regulations require generators to keep containers holding hazardous waste closed except when adding or removing waste to prevent spills and releases.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: Two one gallon containers and one five gallon container located in the QC laboratory and one fifty-five gallon container in the ninety day storage area. Based on the number and volume of the containers the total volume of hazardous waste could have equaled sixty two gallons.</p> <p>(D) Toxicity or nature of the pollutant: The three satellite containers held acetonitrile and methanol solution which is a flammable hazardous waste having EPA waste number D001 and a federally listed hazardous waste having EPA waste number F003. The container in the ninety day storage area held a characteristic flammable hazardous waste in the form of spent aerosol cans having EPA waste number D001.</p> <p>(E) Duration of the violation: The DEM inspector was not able to determine the length of time the Respondent stored the hazardous waste in open containers at the time of the inspection.</p> <p>(F) Areal extent of the violation: Not relevant.</p>		
(continued)		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by failing to keep the containers holding waste stored at the facility closed as required by regulation.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Lack of weekly container inspections

VIOLATION NO.: C (7)

TYPE		
<p style="text-align: center;">___ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">X TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to conduct inspections of the hazardous waste storage area on a weekly basis. State and Federal Regulations require generators to inspect areas in which hazardous waste is stored and to maintain written logs documenting the results of the inspections. The requirement to inspect container storage areas enables generators to identify containers that have been damaged or deteriorated as a result of corrosion or other factors providing a safeguard against releases of hazardous waste.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: The storage area held seven fifty-five gallon containers, three five gallon containers and one two and one half gallon container. Based on the number and volume of the containers the total volume of hazardous waste could have equaled four hundred and two gallons.</p> <p>(D) Toxicity or nature of the pollutant: The waste was comprised of an acetonitrile and methanol solution which is a flammable hazardous waste having EPA waste number D001 and a federally listed hazardous waste having EPA waste number F003 and characteristic flammable and corrosive hazardous wastes having EPA waste numbers D001 and D002 respectively.</p> <p>(E) Duration of the violation: The Respondent was not able to produce written logs of weekly container inspections for the past three years.</p> <p>(F) Areal extent of the violation: Not relevant.</p>		
(continued)		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by conducting weekly inspections.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	<u>X</u> MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250 \$2,500	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Lack of contingency plan

VIOLATION NO.: C (8)

TYPE		
<p style="text-align: center;"><u>X</u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to develop and maintain a hazardous waste contingency plan for the facility. State and Federal Regulations require generators to develop and maintain a contingency plan containing procedures to follow to minimize hazards posed to human health and the environment from fires, explosions or planned or unplanned releases involving hazardous waste. A contingency plan reduces the potential for injury of employees working at the facility and/or response personnel that may be called upon for assistance during a fire, spill or release incident at the facility.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: The storage area held seven fifty-five gallon containers, three five gallon containers and one two and one half gallon container. Based on the number and volume of the containers the total volume of hazardous waste could have equaled four hundred and two gallons.</p> <p>(D) Toxicity or nature of the pollutant: The waste was comprised of an acetonitrile and methanol solution which is a flammable hazardous waste having EPA waste number D001 and a federally listed hazardous waste having EPA waste number F003 and characteristic flammable and corrosive hazardous wastes having EPA waste numbers D001 and D002 respectively.</p> <p>(E) Duration of the violation: Respondent first notified DEM of its regulated waste activity on March 31, 2004 and was obligated to develop a contingency plan prior to storing hazardous waste onsite.</p> <p>(F) Areal extent of the violation: Not relevant.</p>		
(continued)		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by developing a contingency plan.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	<u>X</u> MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500 \$6,250	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Lack of training

VIOLATION NO.: C (9)

TYPE		
<p>X TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>___ TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>___ TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>

DEVIATION FROM THE STANDARD
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** Respondent failed to provide hazardous waste management training to employees who work with hazardous waste at the facility. State and Federal Regulations require generators to develop a hazardous waste training program that teaches employees to perform their duties in a manner that ensures compliance with the regulations. Generators are required to provide this training to employees within six (6) months of employment and to provide an annual refresher of the training to their employees. Hazardous waste management training helps ensure that the facility will be operated in compliance with the regulations and reduces the potential for spills or releases of hazardous waste by teaching employees proper waste handling practices.
- (B) **Environmental conditions:** Not relevant.
- (C) **Amount of the pollutant:** The storage area held seven fifty-five gallon containers, three five gallon containers and one two and one half gallon container. Based on the number and volume of the containers the total volume of hazardous waste could have equaled four hundred and two gallons.
- (D) **Toxicity or nature of the pollutant:** The waste was comprised of an acetonitrile and methanol solution which is a flammable hazardous waste having EPA waste number D001 and a federally listed hazardous waste having EPA waste number F003 and characteristic flammable and corrosive hazardous wastes having EPA waste numbers D001 and D002 respectively.
- (E) **Duration of the violation:** Respondent first notified DEM of its regulated waste activity on March 31, 2004 and was obligated to provide hazardous waste management training to its employees within six months after Respondent began storing hazardous waste at the facility.
- (F) **Areal extent of the violation:** Not relevant.

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by providing its employees with hazardous waste management training.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	<u>X</u> MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500 \$6,250	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Lack of manifest signers form

VIOLATION NO.: C (10)

TYPE		
<p style="text-align: center;">____ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">____ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>X</u> TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to submit to the DEM a list of employees who are authorized by the company to sign uniform hazardous waste manifests. State regulations require generators to submit a list of the names and signatures of employees who are authorized by the company to sign uniform hazardous waste manifests.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: Not relevant.</p> <p>(D) Toxicity or nature of the pollutant: The waste was comprised of an acetonitrile and methanol solution which is a flammable hazardous waste having EPA waste number D001 and a federally listed hazardous waste having EPA waste number F003 and characteristic flammable and corrosive hazardous wastes having EPA waste numbers D001 and D002 respectively.</p> <p>(E) Duration of the violation: Respondent first notified DEM of its regulated waste activity on March 31, 2004 and was obligated to submit at manifest signers list at that time. On March 29, 2010 DEM received a copy of the manifest signers list.</p> <p>(F) Areal extent of the violation: Not relevant.</p> <p>(G) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance: Respondent failed to take reasonable steps to prevent the noncompliance. Respondent mitigated the noncompliance by submitting to the DEM a list of agents authorized to sign hazardous waste manifests.</p>		
(continued)		

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- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250 \$750

PENALTY MATRIX WORKSHEET

CITATION: Failure to submit manifest forms

VIOLATION NO.: C (11)

TYPE		
<p>___ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>___ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u>X</u> TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondents failed to submit copies of manifests to DEM. State Regulations require generators to submit a copy of the manifest for every shipment of hazardous waste to DEM. Manifests for shipping hazardous waste provide the primary tracking system to ensure that the hazardous waste is shipped to a permitted facility for proper treatment and disposal. In the event of an incident during transportation, such as a motor vehicle accident, emergency responders use the information contained on the manifest to determine the proper course of action to mitigate the spill/release and to contact the party that is responsible for the subject waste.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: At least six (6) shipments of hazardous waste.</p> <p>(D) Toxicity or nature of the pollutant: The waste was comprised of an acetonitrile and methanol solution which is a flammable hazardous waste having EPA waste number D001 and a federally listed hazardous waste having EPA waste number F003 and characteristic flammable and corrosive hazardous wastes having EPA waste numbers D001 and D002 respectively.</p> <p>(E) Duration of the violation: The earliest shipment of hazardous waste that was sent offsite without sending a copy to DEM occurred on January 24, 2008.</p> <p>(F) Areal extent of the violation: Not relevant.</p>		
(continued)		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by submitting copies of manifests to DEM.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondents had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250 \$250

PENALTY MATRIX WORKSHEET

CITATION: Failure to properly manage universal waste

VIOLATION NO.: C (12), (13) & (14)

TYPE		
<u> X </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	<u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to properly label and provide an accumulation start date for the containers of universal waste held in storage at the facility. Respondent also failed to place several universal waste items into a container to prevent breakage and/or unplanned releases of waste. Failure to properly label and protect universal wastes from possible breakage poses a threat to the health, safety, and welfare of workers and the environment. Failing to provide an accumulation start date for storage of containers holding universal waste prevents the regulatory program from determining how long universal waste was being stored by the Respondent.</p> <p>(B) Environmental conditions: Not relevant.</p> <p>(C) Amount of the pollutant: Five boxes four feet in length holding fluorescent light bulbs and fifteen individual fluorescent light bulbs that were not stored in a container.</p> <p>(D) Toxicity or nature of the pollutant: Fluorescent light bulbs are known to contain mercury which is an element that affects the central nervous system. Long term exposure may lead to the development of a variety of symptoms including, but not limited to, cardiac abnormalities, anemia, digestive problems and peripheral neuropathy.</p> <p>(E) Duration of the violation: Unable to determine.</p> <p>(F) Areal extent of the violation: Not relevant.</p>		
(continued)		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by properly managing the universal waste stored at the facility.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Not relevant.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	MODERATE	<u>X</u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 \$2,500	\$1,250 to \$2,500	\$250 to \$1,250