

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

OFFICE OF COMPLIANCE & INSPECTION

IN RE: JRB Associates, Inc.

FILE NOs.: OCI-HW-14-11 and 14-20

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 the DEM's jurisdiction.

B. Facts

- (1) The facilities are located at 2 Second Avenue in the city of Cranston (the “Second Avenue Facility”) and at 94 Silver Spring Street in the city of Providence (the “Silver Spring Facility”). The facilities apply metal coatings to jewelry products through an electroplating process.
- (2) The Respondent is currently registered with the DEM as a small quantity hazardous waste generator at the Second Avenue and Silver Spring facilities pursuant to the DEM's *Rules and Regulations for Hazardous Waste Management* (the “Hazardous Waste Regulations”) and pursuant to Title 40 of the Code of Federal Regulations (“40 CFR”).
- (3) The Second Avenue Facility is registered under the name “G&A Plating Company” with a U.S. Environmental Protection Agency (“EPA”) identification number (“ID”): RID987491222. The facility was previously registered with the DEM under the name “United Plating, Inc.” with the same EPA ID.
- (4) The Silver Spring Facility is registered under the name “G&A Plating & Polishing Co” with an EPA ID: RID043757608.
- (5) The Respondent is a small quantity handler of universal waste at the Silver Spring Facility.
- (6) On 24 January 2014, the DEM inspected the Second Avenue Facility and reviewed its records. The inspection and records review revealed the following:
 - (a) The hazardous waste contingency plan contained the following inaccuracies: “United Plating” was listed as the generator; incorrect contact telephone numbers were listed; and several employees were listed as emergency

coordinators that were not currently employed by the company at the time of the inspection;

- (b) No hazardous waste training had been provided to employees in the last 3 years; and
 - (c) No EPA ID was issued by the DEM to the Respondent to generate and store hazardous waste at the facility.
- (7) On 30 January 2014, the DEM inspected the Silver Spring Facility and reviewed its records. The inspection and records review revealed the following:
- (a) One 55-gallon open container holding hazardous waste (metal hydroxide sludge) in the filter press room. The container had an accumulation start date of 12 July 2013 on the label and had been stored for 202 days;
 - (b) One 55-gallon open container holding hazardous waste (metal hydroxide sludge). The container had an accumulation start date of 19 December 2013 on the label;
 - (c) One 30-gallon open satellite accumulation container holding hazardous waste (metal hydroxide sludge) that was not labeled;
 - (d) One 10-gallon open container holding used oil that was not labeled;
 - (e) Four boxes holding universal waste (fluorescent light bulbs) that were not marked with an accumulation start date;
 - (f) Twelve fluorescent light bulbs that were not in containers and were not marked with the words "Universal Waste";
 - (g) No hazardous waste contingency plan was prepared;
 - (h) No hazardous waste training had been provided to employees in the last 3 years;
 - (i) No weekly container inspections were being performed; and
 - (j) No list of agents authorized by the Respondent to sign manifests was on file with the DEM ("Authorization List").
- (8) On 7 February 2014, the Respondent submitted records to the DEM by electronic mail showing that on 6 February 2014 hazardous waste training was provided to employees at the Second Avenue Facility and the Silver Spring Facility.

- (9) On 20 February 2014, the Respondent submitted to the DEM a RCRA Subtitle C Site Identification Form notifying the DEM of its activity as a small quantity hazardous waste generator at the Second Avenue Facility (the "Notification Form").
- (10) On 24 February 2014 and 25 February 2014, the DEM received contingency plans from the Respondent for the Second Avenue Facility and the Silver Spring Facility (the "Contingency Plans"). The Contingency Plans include an incorrect mailing address for the DEM.
- (11) On 25 February 2014, the DEM received the Authorization List from the Respondent.
- (12) On 6 March 2014, the DEM issued the Respondent an EPA ID for the Second Avenue Facility in response to the Notification Form.
- (13) As of the date of this Notice of Violation ("NOV"), the Respondent has failed to show that it is in full compliance with the DEM's Hazardous Waste Regulations for all of the issues described above.

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) **DEM's Hazardous Waste Regulation 5.2D** – requiring that a hazardous waste generator store hazardous waste in the form of wastewater treatment sludge onsite for no longer than 180 days (applicable to the Silver Spring Facility only).
- (2) **DEM's Hazardous Waste Regulation 13.5 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 (applicable to the Silver Spring Facility only).
- (3) **DEM's Hazardous Waste Regulation 5.4C 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" and other words identifying the contents of the container (applicable to the Silver Spring Facility only).
- (4) **DEM's Hazardous Waste Regulation 13.5 and 40 CFR 273.14** – requiring that a small quantity handler of universal waste properly label or mark the universal waste with the words "Universal Waste" (applicable to Silver Spring Facility only).
- (5) **DEM's Hazardous Waste Regulation 15.4A3** – requiring that a used oil generator label each container holding used oil with the words "Used Oil" (applicable to the Silver Spring Facility only).

- (6) **DEM's Hazardous Waste Regulation 5.2A, 40 CFR 262.34(a)(1)(i) and 40 CFR 262.34(c)(1)(i) and 40 CFR 265.173(a)** – requiring that a hazardous waste generator keep all containers holding hazardous waste closed except when adding or removing waste (applicable to the Silver Spring Facility only).
- (7) **DEM's Hazardous Waste Regulation 5.2A, 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 for a period of at least three years (applicable to the Silver Spring Facility).
- (8) **DEM's Hazardous Waste Regulation 5.2A, 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 (applicable to the Silver Spring Facility).
- (9) **DEM's Hazardous Waste Regulation 5.2A, 40 CFR 262.34(a)(4) and 40 CFR 265.54** – requiring an amendment to a contingency plan if the facility changes its operation (applicable to the Second Avenue Facility).
- (10) **DEM's Hazardous Waste Regulation 5.2A, 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 (applicable to the Second Avenue Facility and the Silver Spring Facility)
- (11) **DEM's Hazardous Waste Regulation 5.1 and 40 CFR 262.12** – requiring that a hazardous waste generator apply for and obtain an EPA ID prior to generating or storing hazardous waste (applicable to the Second Avenue Facility).
- (12) **DEM's Hazardous Waste Regulation 5.9** – requiring that a hazardous waste generator submit to the DEM a list of agents authorized by the company to sign uniform hazardous waste manifests for shipments of hazardous waste (applicable to the Silver Spring Facility).

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 **within 30 days of receipt of the NOV:**

Silver Spring Facility

- (1) Remove the container holding wastewater treatment sludge that has been stored for greater than 180 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 a copy of the uniform hazardous waste manifest signed by the Designated Facility to the DEM's Office of Compliance & Inspection ("OC&I").
- (2) Mark all containers holding universal waste with the date upon which the waste first began to accumulate or otherwise track the accumulation of universal waste as required in 40 CFR 273.15(c).
- (3) Label the satellite accumulation container holding hazardous waste with the words "Hazardous Waste" and other words identifying the contents of the container.
- (4) Properly label and mark all universal waste or containers holding universal waste with the words "Universal Waste."
- (5) Label all containers holding used oil with the words "Used Oil".
- (6) Close and keep closed all containers holding hazardous waste except when adding or removing waste.
- (7) 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 3 years.

Silver Spring Facility and Second Avenue Facility

- (8) Revise the Contingency Plans to include the correct address for the DEM and submit revised copies to the OC&I.

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:

Twenty Seven Thousand Three Hundred and Eighty One Dollars (\$27,381)

- (2) The proposed administrative penalty is calculated pursuant to the DEM's *Rules and Regulations for Assessment of Administrative Penalties*, as amended, and must be paid to the DEM within 30 days of your receipt of this NOV. Payment shall be in the form of a certified check, cashiers 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 the 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 DEM 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's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Paragraphs 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 the DEM's Administrative Adjudication Division, at the following address, within 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
One Capitol Hill, 2ND Floor
Providence, RI 02903

- (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's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters*.
- (2) A copy of each request for hearing must also be forwarded to:

Christina A. Hoefsmit, Esq.
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 the 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) Christina A. Hoefsmit 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:

JRB Associates, Inc.
c/o James R. Brown, Registered Agent
94 Silver Spring Street
Providence, RI 02904

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, HAZARDOUS WASTE
 File No.: OCI-HW-14-11 and 14-20
 Respondent: JRB Associates, 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) - Greater than 180 Day Storage	Type I <i>(\$25,000 Max. Penalty)*</i>	Minor	\$2,500	1 violation	\$2,500
C (2) – Universal Waste Accumulation	Type I <i>(\$25,000 Max. Penalty)*</i>	Minor	\$2,500	1 violation	\$2,500
C (3), (4) & (5) - Container Labeling	Type I <i>(\$25,000 Max. Penalty)*</i>	Minor	\$2,500	3 violations	\$7,500
C (6) - Open Containers	Type I <i>(\$25,000 Max. Penalty)*</i>	Minor	\$2,500	1 violation	\$2,500
C (7) – Weekly Inspections	Type I <i>(\$25,000 Max. Penalty)*</i>	Minor	\$2,500	1 violation	\$2,500
C (8), (9) & (10) – Contingency Plan & Training	Type I <i>(\$25,000 Max. Penalty)*</i>	Minor	\$4,000	2 violations	\$8,000
C (11) & (12) – Notification & Authorized Agents List	Type III <i>(\$6,250 Max. Penalty)*</i>	Minor	\$1,250	1 violation (Notification)	\$1,500
			\$250	1 violation (List of Agents)	
SUB-TOTAL					\$27,000

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

ADMINISTRATIVE PENALTY SUMMARY (continued)

ECONOMIC BENEFIT FROM NONCOMPLIANCE

COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT ARE IN COMPLIANCE. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:

- THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE; OR
- THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.

DESCRIPTION OF BENEFIT	CALCULATION		AMOUNT
<p>Economic Benefit of noncompliance identified by DEM for failing to develop a contingency plan and for failing to provide hazardous waste training to employees. The expenses associated with the development of a contingency plan and provide training were derived from the EPA "Estimating Costs for the Economic Benefits of RCRA Noncompliance", updated December 1997.</p> <p>The Economic Benefit gained by the instances of noncompliance was calculated by utilizing an EPA computer model entitled "BEN". The model calculates the economic gain of noncompliance by performing a detailed economic analysis. The dates, dollar amounts and values used in this analysis are as listed in this table.</p>	<ul style="list-style-type: none"> ▪ Profit Status ▪ Filing Status ▪ Initial Capital Investment ▪ One-time Non-depreciable expense ▪ First Month of Noncompliance ▪ Compliance Date ▪ Penalty Due Date ▪ Useful Life of Pollution Control ▪ Equipment Annual Inflation Rate ▪ Discount Compound Rate 	<p>C-Corporation</p> <p>C-Corporation</p> <p>\$0</p> <p>\$4,814</p> <p>December 2012 – Contingency Plan</p> <p>January 2011 - Training October 31, 2014</p> <p>October 31, 2014</p> <p>N/A</p> <p>N/A</p> <p>7.8%</p>	<p>\$381</p>
SUB-TOTAL			\$381

COST RECOVERY

ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.

A review of the record in this matter has revealed that the DEM has not incurred any additional or extraordinary costs during the investigation, enforcement and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$27,381

PENALTY MATRIX WORKSHEET

CITATION: Greater than 180 Day Storage
 VIOLATION NO.: C (1)

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.

FACTORS CONSIDERED:

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

- (A) **The extent to which the act or failure to act was out of compliance:** The Respondent stored a hazardous waste (wastewater treatment sludge) at the Silver Spring Facility for more than 180 days. The DEM's Hazardous Waste Regulations establishes time limits allowing generators to temporarily store hazardous waste without obtaining a permit. A hazardous waste storage permit requires owners and operators of facilities designated to store and manage hazardous waste to install and maintain safety equipment to minimize the possibility of fires, explosions or unplanned releases involving the waste. The requirement to obtain a hazardous waste storage permit is a major component of the regulatory program.
- (B) **Environmental conditions:** The container was stored indoors at the facility.
- (C) **Amount of the pollutant:** One 55-gallon container.
- (D) **Toxicity or nature of the pollutant:** The waste was metal hydroxide wastewater treatment sludge from an electroplating operation onsite that contained various hazardous wastes including but not limited to: cadmium, hexavalent chromium, nickel and complexed cyanide.
- (E) **Duration of the violation:** 202 days.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by shipping the hazardous waste to a licensed disposal facility within 180 days.
- (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:** Considered, but not utilized for this calculation.
- (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 and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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: Universal Waste Accumulation

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;"><u> </u> TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u> </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's <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: The Respondent failed to mark containers holding universal waste at the Silver Spring Facility with the date upon which the waste first began to accumulate. State and federal regulations require generators to track the length of time that universal waste accumulates onsite. The requirement to track accumulation of universal waste provides a means for facility personnel and regulatory agencies to ensure compliance with waste storage time limits.</p> <p>(B) Environmental conditions: The containers were stored indoors at the facility.</p> <p>(C) Amount of the pollutant: Four boxes holding universal waste lamps.</p> <p>(D) Toxicity or nature of the pollutant: The universal waste lamps contain mercury, which is a toxic metal that can cause neurological damage to humans.</p> <p>(E) Duration of the violation: Unknown.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</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:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by tracking the time that the universal waste was 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:** Considered, but not utilized for this calculation.
- (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 and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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: Container Labeling

VIOLATION NO.: C (3), (4) & (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's <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: The Respondent failed to label a satellite accumulation container holding hazardous waste, containers holding universal waste lamps and a container holding used oil at the Silver Spring Facility. The requirement to label containers holding hazardous waste, universal waste and used oil are an integral parts of the regulatory program because this requirement reduces the potential for mismanagement of waste. Proper labeling of waste containers 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: The containers were stored indoors at the facility.</p> <p>(C) Amount of the pollutant: One 30-gallon container holding wastewater treatment sludge, four boxes holding universal waste lamps and one 10- gallon container holding used oil.</p> <p>(D) Toxicity or nature of the pollutant: The hazardous waste was metal hydroxide wastewater treatment sludge from an electroplating operation onsite containing various hazardous wastes including but not limited to: cadmium, hexavalent chromium, nickel and complexed cyanide. The universal waste lamps contain mercury, which is a toxic metal that can cause neurological damage to humans. Used oil may contain constituents that are suspected human carcinogens.</p> <p>(E) Duration of the violation: Unknown.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</p>		
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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by labeling the containers holding regulated wastes 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:** Considered, but not utilized for this calculation.
- (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 and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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: Open 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		
<p><small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small></p>		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Section 10(a)(2) of the DEM's <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <ul style="list-style-type: none"> (A) The extent to which the act or failure to act was out of compliance: The Respondent failed to keep closed four containers holding hazardous waste and one container holding used oil at the Silver Spring Facility. The DEM regulations require generators to keep all containers holding hazardous waste closed. The requirement to keep containers holding waste closed is designed to prevent spills and releases of hazardous waste and/or used oil from resulting in harm to human health and the environment. (B) Environmental conditions: The containers were stored indoors at the facility. (C) Amount of the pollutant: One 55-gallon container and one 30-gallon container holding hazardous waste and one 10-gallon container holding used oil. (D) Toxicity or nature of the pollutant: The hazardous waste was metal hydroxide wastewater treatment sludge from an electroplating operation onsite containing various hazardous wastes including but not limited to: cadmium, hexavalent chromium, nickel and complexed cyanide. Used oil may contain constituents that are suspected human carcinogens (E) Duration of the violation: Unknown. (F) Areal extent of the violation: Considered, but not utilized for this calculation. 		
<p>(continued)</p>		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by keeping containers holding regulated wastes closed.
- (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:** Considered, but not utilized for this calculation.
- (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 and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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: Weekly Inspections

VIOLATION NO.: C (7)

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
 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's *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** The Respondent failed to conduct inspections of the 90-day hazardous waste container storage area on a weekly basis at the Silver Spring Facility. DEM regulations require generators to inspect areas in which hazardous waste is stored in containers onsite. The requirement for generators 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.
- (B) **Environmental conditions:** The containers were stored indoors at the facilities.
- (C) **Amount of the pollutant:** Two 55-gallon containers holding hazardous waste.
- (D) **Toxicity or nature of the pollutant:** The hazardous waste was metal hydroxide wastewater treatment sludge from an electroplating operation onsite containing various hazardous wastes including but not limited to: cadmium, hexavalent chromium, nickel and complexed cyanide.
- (E) **Duration of the violation:** Unknown.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by conducting weekly inspections of the hazardous waste container storage area 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:** Considered, but not utilized for this calculation.
- (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 and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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: Contingency Plan & Training

VIOLATION NO.: C (8), (9) & (10)

TYPE		
<u>X</u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	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: Taken from Section 10(a)(2) of the DEM's <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: The Respondent failed to develop a hazardous waste contingency plan for the Silver Spring Facility and failed to amend a hazardous waste contingency plan for the Second Avenue 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 and/or response personnel that may be called upon for assistance during a fire, spill or release incident. The Respondent also failed to provide hazardous waste management training to employees who work with hazardous waste. State and Federal regulations require generators to provide hazardous waste training that teaches employees to perform their duties in a manner that ensures compliance with the regulations. 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.</p> <p>(B) Environmental conditions: Considered, but not utilized in this calculation.</p> <p>(C) Amount of the pollutant: Two 55-gallon containers and one 30-gallon container holding hazardous waste, four boxes holding universal waste lamps and one 10-gallon container holding used oil at the Silver Spring Facility. No hazardous waste was being stored at the Second Avenue Facility that required a contingency plan or hazardous waste training.</p> <p>(D) Toxicity or nature of the pollutant: The hazardous waste was metal hydroxide wastewater treatment sludge from an electroplating operation onsite containing various hazardous wastes including but not limited to: cadmium, hexavalent chromium, nickel and complexed cyanide. The universal waste lamps contain mercury which is a toxic metal that can cause neurological damage to humans. Used oil may contain constituents that are suspected human carcinogens.</p> <p>(E) Duration of the violation: Full duration unknown - at least 3 years.</p> <p>(F) Areal extent of the violation: Considered, but not utilized in this calculation.</p>		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable steps to prevent the noncompliance by developing/amending contingency plans or providing annual training to its employees. In February 2014 the Respondent submitted to DEM contingency plans for the facilities and documents showing that the employees have received 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:** Considered, but not utilized in this calculation.
- (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:** Considered, but not utilized in this calculation.

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 \$4,000	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Notification & Authorized Agents List

VIOLATION NO.: C (11) & (12)

TYPE		
<p style="text-align: center;"><u> </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u> </u> 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><u>FACTORS CONSIDERED:</u></p> <p>Taken from Section 10(a)(2) of the DEM's <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 a Notification of Regulated Waste Activity Form to DEM for its operation at the Second Avenue Property. The subject location was registered with DEM under the name "United Plating". DEM regulations require generators to notify the Department of waste generation activities prior to storing or shipping hazardous waste. Respondent also failed to submit to the DEM a list of employees who are authorized by the company to sign uniform hazardous waste manifests at the Silver Spring Street Property. DEM regulations also 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: Considered, but not utilized in this calculation.</p> <p>(C) Amount of the pollutant: Two (2) fifty five (55) gallon containers and one (1) thirty (30) gallon container holding hazardous waste, four (4) boxes holding universal waste lamps and one (1) ten (10) gallon container holding used oil.</p> <p>(D) Toxicity or nature of the pollutant: The hazardous waste was metal hydroxide wastewater treatment sludge from an electroplating operation onsite containing various hazardous wastes, including but not limited to: cadmium, hexavalent chromium, nickel and complexed cyanide. The universal waste lamps contain mercury which is a toxic metal that can cause neurological damage to humans. Used oil may contain constituents that are suspected human carcinogens.</p> <p>(E) Duration of the violation: Respondent submitted a biennial report on 1/19/94 indicating that hazardous waste was generated at the facility. Review of records maintained by DEM revealed that a list of agents authorized to sign manifests was not in the DEM's file.</p> <p>(F) Areal extent of the violation: Considered, but not utilized in this calculation.</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 and appropriate steps to prevent or mitigate the noncompliance by failing to notify DEM of its regulated waste activity and failing to submit to DEM a list of agents authorized to sign hazardous waste manifests as required by regulation. In February 2014 Respondent submitted a notification form for the Second Avenue Property and a list of authorized agents for the Facilities.
- (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:** On December 27, 2000 DEM issued a Letter of Non-Compliance to Respondent for failing to submit an authorized agents list for the Silver Spring Street Property.
- (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:** Considered, but not utilized in this calculation.

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 \$1,250 (Notification) \$250 (Authorized Agents)