

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

**OFFICE OF COMPLIANCE & INSPECTION**

**IN RE:           W. R. Cobb Company**

**FILE NO.: 2011-3-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 subject property is located at 800 Waterman Avenue, East Providence, Rhode Island (the “Property”). The Property includes a facility used for electroplating (the “Facility”).
- (2)    The Facility is operated by Respondent.
- (3)    The Respondent is not registered with the DEM as a hazardous waste generator at this Facility.
- (4)    On November 1, 2010, DEM inspected the Facility. The inspection revealed the following:
  - (a) Respondent transported one 55-gallon container holding hazardous waste in the form of sulfamic acid (the “sulfamic acid container”) and one 55-gallon container holding hazardous waste in the form of nitric acid (the “nitric acid container”) from its former facility located at 850 Wellington Avenue in Cranston (the “former Facility”) to the Facility.
  - (b) Respondent failed to complete a uniform hazardous waste manifest for the transport of the sulfamic acid container, the nitric acid container and one 55-gallon container holding a precious metal bearing hazardous waste from the former Facility to the Facility.

- (c) Respondent failed to label the following containers:
  - (i) One 55-gallon satellite accumulation container located in the plating room holding oily rags contaminated with a hazardous waste (in the form of mineral spirits);
  - (ii) Two 5-gallon containers located in the oil skimmer tub and vibe room holding used oil; and
  - (iii) Eight boxes holding waste lamps and one steel container holding waste electronics (the “electronic waste”).
- (d) Respondent failed to properly label the following containers:
  - (i) The sulfamic acid container with the Facility address, the Environmental Management Agency (“EPA”) identification number and the EPA waste number;
  - (ii) The nitric acid container with the Facility address, the accumulation start date, the EPA identification number and the EPA waste number; and
  - (iii) Two 55-gallon containers located in the ninety day storage area holding oily rags and absorbents with the accumulation start date and the EPA waste number.
- (e) Respondent failed to amend the contingency plan for the Facility. The plan on file was prepared by the company that previously occupied the Facility and was lacking the changes to the Facility’s floor plan, emergency shut down procedures, and addresses and phone numbers of Federal, State and local emergency response officials.
- (f) Respondent failed to send the contingency plan to the local fire and police departments and the local hospital.
- (g) Respondent failed to provide an annual review of hazardous waste management training to its employees.
- (5) During the November 1, 2010 inspection, James Braga, the Facility Hazardous Waste Coordinator, stated that the Respondent failed to conduct weekly inspections of the ninety day container storage area.
- (6) After the November 1, 2010 inspection, DEM reviewed its records and determined that the Respondent failed to submit to the DEM a list of agents authorized to sign uniform hazardous waste manifests.
- (7) As of the date of this Notice of Violation (“NOV”), the Respondent has failed to fully comply with the DEM’s Rules and Regulations for Hazardous Waste Management (the “Hazardous Waste Regulations”).

- (8) The Respondent did not receive approval from DEM to transport or store hazardous waste.

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) **R.I. Gen. Laws Section 23-19.1-10 and Hazardous Waste Regulation 6.01A** – requiring a person to obtain a permit prior to transporting hazardous waste.
- (2) **R.I. Gen. Laws Section 23-19.1-10, Hazardous Waste Regulation 7.1 A, and Title 40 of the Code of Federal Regulations (“40 CFR”) 270.1(b)** – requiring a person to obtain a permit from the DEM prior to treating, storing or disposing of hazardous waste.
- (3) **Hazardous Waste Regulation 5.1 and 40 CFR 262.12** - requiring that a hazardous waste generator apply for and obtain an EPA identification number prior to shipping hazardous waste offsite.
- (4) **Hazardous Waste Regulation 5.03** – requiring generators to prepare a manifest to accompany each shipment of hazardous waste offsite.
- (5) **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.
- (6) **Hazardous Waste Regulation 5.4A and 40 CFR 262.34(a)(3)** – requiring that a hazardous waste generator label each container, excluding satellite accumulation containers, holding hazardous waste with the name and address of the generating facility, the U.S. Department of Transportation shipping name, and the EPA or Rhode Island waste code.
- (7) **Hazardous Waste Regulation 5.2A 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.
- (8) **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.
- (9) **Hazardous Waste Regulation 5.2A, 40 CFR 262.34(a)(4), 40 CFR 265.53(b) and 40 CFR 265.54(c), (d) and (e)** – requiring that a hazardous waste generator submit copies of the facility’s contingency plan to local authorities that may be

called upon to provide assistance and to amend the plan whenever there are changes to the facility's personnel, processes or design.

- (10) **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.
- (11) **Hazardous Waste Regulation 15.4A3 and 40 CFR 279.22(c)(1)** – requiring generators to label containers holding used oil with the words “Used Oil”.
- (12) **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.
- (13) **Hazardous Waste Regulation 13.5I**– requiring that a small quantity handler of universal waste clearly label or mark each container of used electronics (not containing cathode ray tubes) with the phrase “Universal Waste – Used Electronic Devices not containing CRTs”.
- (14) **Hazardous Waste Regulation 13.5I and 40 CFR 273.14(e)** – requiring that a small quantity handler of universal waste mark each container or package in which mercury lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s)”, or “Waste Lamp(s)”, or “Used Lamp(s)”.
- (15) **Hazardous Waste Regulation 13.5 and 40 CFR 273.15(c)** – 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) **IMMEDIATELY upon receipt of the NOV**, cease and desist the transportation or storage of hazardous waste without a permit.
- (2) **Within ten (10) days of receipt of the NOV**, submit a completed Environmental Protection Agency Form 8700-12 to the DEM Office of Compliance and Inspection (“OC&I”) to obtain an EPA identification number.
- (3) **Within sixty (60) days of receipt of the NOV:**
  - (a) Ship all hazardous waste that has been transported to the Facility from the former Facility and all hazardous waste that has been stored for greater than ninety (90) days to a licensed Treatment, Storage and Disposal Facility

using a permitted hazardous waste transporter and submit a copy of the manifest to the OC&I.

- (b) Label all satellite accumulation containers holding hazardous waste with the words “Hazardous Waste” and other words identifying the contents of the container.
- (c) Label all containers holding hazardous waste, excluding satellite accumulation containers, with the name and address of the generating facility, the U.S. Department of Transportation shipping name, and the EPA or Rhode Island waste code.
- (d) Mark all containers holding hazardous waste, excluding satellite accumulation containers, with the date upon which the hazardous waste first began to accumulate.
- (e) Conduct 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 at the Facility of the inspection of each hazardous waste storage area for a period of at least three (3) years.
- (f) 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 OC&I.
- (g) 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 OC&I.
- (h) Label all containers holding used oil with the words “Used Oil”.
- (i) Properly label and mark all universal waste or containers holding universal waste.
- (j) Document the date upon which all of the universal waste first began to accumulate.
- (k) Submit the names and signatures of all agents authorized to sign the uniform hazardous waste manifests 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:

**Fifty Eight Thousand Three Hundred and Thirty Eight Dollars (\$58,338.00)**

- (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 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 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, 3<sup>RD</sup> 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, 4<sup>TH</sup> 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:

W. R. Cobb Company  
c/o Carl I. Freedman, Esq., Registered Agent  
Chace Ruttenberg & Freedman, LLP  
One Park Row, Suite 300  
Providence, RI 02903

by Certified Mail.

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# ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, HAZARDOUS WASTE  
 File No.: 2011-3-HW  
 Respondent: W.R. Cobb Company

<b>GRAVITY OF VIOLATION</b>					
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), (2) & (3) – Transportation, Permit and Notification Requirements	Type I (\$ 25,000 Max. Penalty)*	Major (Transporter & TSDF Permits)	\$12,500	2 violations	\$27,500.00
		Minor (Notification)	\$2,500	1 violation	
C (4) – Manifest Requirements	Type I (\$ 25,000 Max. Penalty)*	Minor	\$6,250	1 violation	\$6,250.00
C (5), (6) & (7) – Pre-Transport Requirements (Labeling and Accumulation Date)	Type I (\$ 25,000 Max. Penalty)*	Minor (Labeling)	\$2,500	2 violations	\$11,250.00
		Moderate (Accumulation Date)	\$ 6,250	1 violation	
C (8) – Use and Management of Containers (Inspections)	Type I (\$ 25,000 Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500.00
C (9) – Contingency Plan	Type I (\$ 25,000 Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500.00
C (10) –General Facility Standards (Training)	Type II (\$ 12,500 Max. Penalty)*	Moderate	\$2,500	1 violation	\$2,500.00
C (11) – Used Oil Standards Management (Labeling)	Type I (\$ 25,000 Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500.00
C (13), (14) and (15) – Universal Waste Requirements (Labeling and Accumulation Date)	Type I (\$ 25,000 Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500.00
<b>SUB-TOTAL</b>					<b>\$57,500.00</b>

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

## 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.

<b>DESCRIPTION OF BENEFIT</b>	<b>CALCULATION</b>		<b>AMOUNT</b>
<p>Economic Benefit of noncompliance identified by the State of Rhode Island for failing to obtain a permit to transport hazardous waste, for receiving hazardous waste without obtaining a permit to operate a Treatment, Storage and Disposal Facility (TSDF) from DEM and for failing to provide annual reviews of hazardous waste training to employees. The one-time non-depreciable expense associated with the failure to obtain transporter and TSDF permits was determined to be the combined application fees of \$25,100.00. The expense associated with providing personnel with required 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"> <li>• Profit Status</li> <li>• Filing Status</li> <li>• Initial Capital Investment</li> <li>• One-time Non-depreciable Expense</li> <li>• Annual Expense</li> <li>• First Month of Non-Compliance</li> <li>• Compliance Date</li> <li>• Penalty Due Date</li> <li>• Useful Life of Pollution Control</li> <li>• Equipment Annual Inflation Rate</li> <li>• Discount/Compound Rate</li> </ul>	<p>C-Corporation</p> <p>C-Corporation</p> <p>\$0</p> <p>\$25,100 (permits)</p> <p>\$1,800 (training)</p> <p>\$0</p> <p>5/1/10 (permits)</p> <p>9/24/09 (training)</p> <p>4/30/11</p> <p>4/30/11</p> <p>N/A</p> <p>N/A</p> <p>7.8%</p>	<p>\$838.00</p>
<b><i>SUB-TOTAL</i></b>			<b>\$838.00</b>

**TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$58,338.00**

**PENALTY MATRIX WORKSHEET**

CITATION: Transportation, Permit and Notification Requirements

VIOLATION NO.: C (1), (2) & (3)

<b>TYPE</b>		
<p><u>  X  </u> <b>TYPE I</b>  <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u>      </u> <b>TYPE II</b>  <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u>      </u> <b>TYPE III</b>  <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 transported and stored hazardous waste at the facility without first obtaining permits from the DEM to transport hazardous waste and to operate a Treatment, Storage and Disposal Facility. Respondent was also out of compliance for failing to notify the DEM that Respondent generated regulated hazardous waste at the facility. State and Federal regulations require any person who transports hazardous waste and/or constructs, operates or plans to operate a hazardous waste Treatment, Storage and Disposal facility to obtain a permit from the State prior to conducting either activity. State and Federal regulations also require generators of hazardous waste to notify the DEM of the activity and obtain an EPA Identification Number.
- (B) **Environmental conditions:** The transportation of the hazardous waste from the 850 Wellington Avenue property in Cranston to the facility involved driving over public roadways.
- (C) **Amount of the pollutant:** Respondent transported to and received at the facility two 55-gallon containers holding approximately 110 gallons of hazardous waste.
- (D) **Toxicity or nature of the pollutant:** Respondent identified the waste as sulfamic and nitric acids which are hazardous wastes based on the characteristic of corrosivity.
- (E) **Duration of the violation:** Not relevant.
- (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 appropriate steps to prevent the noncompliance.
- (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 violations.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

<u>  X  </u> 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	<b>MAJOR</b>	\$12,500 to \$25,000 <b>\$12,500</b> (Transporter & TSDF Permits)	\$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
	<b>MINOR</b>	\$2,500 to \$6,250 <b>\$2,500 (Notification)</b>	\$1,250 to \$2,500	\$250 to \$1,250

**PENALTY MATRIX WORKSHEET**

CITATION: Manifest Requirements

VIOLATION NO.: C (4)

<b>TYPE</b>		
<p><u>  X  </u> <b>TYPE I</b>  <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u>      </u> <b>TYPE II</b>  <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u>      </u> <b>TYPE III</b>  <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 complete a uniform hazardous waste manifest prior to transporting hazardous waste from its facility at 850 Wellington Avenue in Cranston to its East Providence facility. State and Federal regulations require generators to complete a uniform hazardous waste manifest prior to offering any hazardous waste for transportation offsite. The uniform manifest is important because it provides the “cradle to grave” tracking that is integral to hazardous waste regulatory program.
- (B) **Environmental conditions:** The transportation of the hazardous waste from the 850 Wellington Avenue facility in Cranston to the East Providence facility involved driving over public roadways.
- (C) **Amount of the pollutant:** Respondent failed to complete a uniform hazardous waste manifest for the shipment of three 55-gallon containers holding approximately 165 gallons of hazardous waste.
- (D) **Toxicity or nature of the pollutant:** Respondent identified the waste as sulfamic, nitric, sulfuric and phosphoric acids which are hazardous wastes based on the characteristic of corrosivity.
- (E) **Duration of the violation:** Not relevant.
- (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 appropriate steps to prevent the noncompliance.
- (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 violations.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

<b>MAJOR</b>	<b>MODERATE</b>	<u><b>X</b></u> <b>MINOR</b>
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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	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250 <b>\$6,250</b>	\$1,250 to \$2,500	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Pre-Transport Requirements (Labeling and Accumulation Date)

VIOLATION NO.: C (5), (6) & (7)

TYPE		
<p style="text-align: center;"><u>  X  </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">_____ <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">_____ <b>TYPE III</b></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><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to label a satellite accumulation container and failed to properly label storage containers holding hazardous waste. The requirement to properly label containers holding hazardous waste is an integral part of the regulatory program because this requirement reduces the potential for mismanagement of hazardous waste. Proper labeling of hazardous 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. The requirement to mark containers holding hazardous waste with the accumulation date enables facility personnel and regulatory agencies to ensure compliance with the less than 90 day accumulation time limit for hazardous waste storage.</p> <p>(B) <b>Environmental conditions:</b> Not relevant.</p> <p>(C) <b>Amount of the pollutant:</b> No label on the 55-gallon satellite accumulation container. Improper labels on the four 55-gallon containers holding nitric acid, sulfamic acid and oily rags – the labels lacked the EPA waste number, the EPA identification number, and/or the facility address. The labels on the three 55-gallon containers holding nitric acid and oily rags did not include with the date upon which the hazardous waste first began to accumulate. Based on the size of the containers the total volume of hazardous waste could have potentially equaled 275 gallons.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> The satellite accumulation container held used rags contaminated with solvents that are Federally listed hazardous waste. Sulfamic and nitric acids are hazardous wastes based on the characteristic of corrosivity. The waste in the remaining two 55-gallon storage containers was oily rags and sorbents contaminated with solvents which are Federally listed hazardous wastes.</p> <p>(E) <b>Duration of the violation:</b> Not relevant.</p> <p>(F) <b>Areal extent of the violation:</b> 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. Upon information and belief, the company has taken no action to mitigate the violation.
- (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 violations.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

MAJOR	<u>  X  </u> 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 <b>\$6,250 (Accumulation Date)</b>	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 <b>\$2,500 (Labeling)</b>	\$1,250 to \$2,500	\$250 to \$1,250



**PENALTY MATRIX WORKSHEET**

CITATION: Use and Management of Containers (Inspections)

VIOLATION NO.: C (8)

<b>TYPE</b>		
<p style="text-align: center;"><u><b>X</b></u> <b>TYPE I</b></p> <p><u><b>DIRECTLY</b></u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ <b>TYPE II</b></p> <p><u><b>INDIRECTLY</b></u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ <b>TYPE III</b></p> <p><u><b>INCIDENTAL</b></u> to protecting health, safety, welfare or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to conduct inspections of the 90-day hazardous waste container storage area on a weekly basis. State regulations require generators to inspect areas in which hazardous waste is stored in containers and to maintain written logs documenting the results of the inspections. 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.</p> <p>(B) <b>Environmental conditions:</b> Not relevant.</p> <p>(C) <b>Amount of the pollutant:</b> Four 55-gallon containers and three 1 cubic yard containers. Based on the size of the containers the total volume of hazardous waste could have potentially equaled 220 gallons and 3 cubic yards.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> Two of the 55-gallon storage containers held sulfamic and nitric acids which are hazardous wastes based on the characteristic of corrosivity. The remaining two 55- gallon storage containers held oily rags and sorbents contaminated with solvents and the three 1 - cubic yard containers held metal hydroxide sludge from an electroplating operation, both of which are Federally listed hazardous wastes.</p> <p>(E) <b>Duration of the violation:</b> May 2010 – the date the company moved to the East Providence facility to November 1, 2010 – the date of the inspection.</p> <p>(F) <b>Areal extent of the violation:</b> 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 the noncompliance. Upon information and belief, the company has taken no action to mitigate the violation.
- (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 <b>\$2,500</b>	\$1,250 to \$2,500	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Contingency Plan

VIOLATION NO.: C (9)

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.		
<p><b>FACTORS CONSIDERED:</b>            Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to amend the hazardous waste contingency plan for the facility and failed to send a copy of the contingency plan to local authorities. 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) <b>Environmental conditions:</b> Not relevant.</p> <p>(C) <b>Amount of the pollutant:</b> Four 55-gallon containers and three 1 cubic yard containers. Based on the size of the containers the total volume of hazardous waste could have potentially equaled 220 gallons and 3 cubic yards.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> Two of the 55-gallon storage containers held sulfamic and nitric acids which are hazardous wastes based on the characteristic of corrosivity. The remaining two 55- gallon storage containers held oily rags and sorbents contaminated with solvents and the three 1 - cubic yard containers held metal hydroxide sludge from an electroplating operation, both of which are Federally listed hazardous wastes.</p> <p>(E) <b>Duration of the violation:</b> May 2010 – the date the company moved to the East Providence facility to November 1, 2010 – the date of the inspection.</p> <p>(F) <b>Areal extent of the violation:</b> 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 the noncompliance. Upon information and belief, the company has taken no action to mitigate the violation.
- (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 <b>\$2,500 (Contingency Plan)</b>	\$1,250 to \$2,500	\$250 to \$1,250

## PENALTY MATRIX WORKSHEET

CITATION: General Facility Standards (Training)

VIOLATION NO.: C (10)

TYPE		
<p>___ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u>X</u> TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>___ 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><b>FACTORS CONSIDERED:</b></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to provide annual reviews of hazardous waste management training to employees who work with hazardous waste. State and Federal regulations require generators to provide an annual review of 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) <b>Environmental conditions:</b> Not relevant.</p> <p>(C) <b>Amount of the pollutant:</b> Four 55-gallon containers and three 1 cubic yard containers. Based on the size of the containers the total volume of hazardous waste could have potentially equaled 220 gallons and 3 cubic yards.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> Two of the 55-gallon storage containers held sulfamic and nitric acids which are hazardous wastes based on the characteristic of corrosivity. The remaining two 55- gallon storage containers held oily rags and sorbents contaminated with solvents and the three 1 - cubic yard containers held metal hydroxide sludge from an electroplating operation, both of which are Federally listed hazardous wastes.</p> <p>(E) <b>Duration of the violation:</b> May 2010 – the date the company moved to the East Providence facility to November 1, 2010 – the date of the inspection.</p> <p>(F) <b>Areal extent of the violation:</b> 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 the noncompliance. Upon information and belief, the company has taken no action to mitigate the violation.
- (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
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250 <b>\$2,500 (Training)</b>	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

**PENALTY MATRIX WORKSHEET**

CITATION: Used Oil Managements Standards (Labeling)

VIOLATION NO.: C (11)

<b>TYPE</b>		
<p style="text-align: center;"><u>  X  </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
<p>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</p>		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to label containers holding used oil. The requirement to label containers holding used oil is an integral part of the regulatory program because of the reduced regulatory requirements that apply to used oil that is recycled in lieu of disposal. 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. Proper labeling of used oil containers also ensures that the used oil will be managed as a recyclable material and not sent offsite for disposal.</p> <p>(B) <b>Environmental conditions:</b> Not relevant.</p> <p>(C) <b>Amount of the pollutant:</b> Two 5-gallon containers holding used oil.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> Used oil is known to be a combustible material and to contain heavy metals such as lead and occasionally cadmium.</p> <p>(E) <b>Duration of the violation:</b> Unknown.</p> <p>(F) <b>Areal extent of the violation:</b> Not relevant.</p>		
<p>(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 the noncompliance. Upon information and belief, the company has taken no action to mitigate the violation.
- (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.

<b>MAJOR</b>	<b>MODERATE</b>	<u><b>X</b></u> <b>MINOR</b>
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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 <b>\$2,500</b>	\$1,250 to \$2,500	\$250 to \$1,250

**PENALTY MATRIX WORKSHEET**

CITATION: Universal Waste Requirements (Labeling and Accumulation Date)



VIOLATION NO.: C (13), (14) and (15)

<b>TYPE</b>		
<p style="text-align: center;"><b><u>X</u> TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><b>___TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><b>___TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to properly label and provide an accumulation start date for containers holding universal waste held in storage at the facility. 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.</p> <p>(B) <b>Environmental conditions:</b> Not relevant.</p> <p>(C) <b>Amount of the pollutant:</b> Eight boxes holding fluorescent light bulbs of various sizes and one container holding used electronics.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> Fluorescent light bulbs are known to contain mercury which is an element that affects the central nervous system.</p> <p>(E) <b>Duration of the violation:</b> Unknown.</p> <p>(F) <b>Areal extent of the violation:</b> 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. Upon information and belief, the company has taken no action to mitigate the violation.
- (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.

<b>MAJOR</b>	<b>MODERATE</b>	<b><u>X</u> MINOR</b>
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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 <b>\$2,500</b>	\$1,250 to \$2,500	\$250 to \$1,250