

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Induplate Operations, LLC

FILE NO.: OCI-HW-22-90

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 Rhode Island Department of Environmental Management (“Director” of “RIDEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under RIDEM's jurisdiction.

B. ADMINISTRATIVE HISTORY

On 1 November 2022, RIDEM inspected the facility that is the subject of this Notice of Violation (“NOV”) and verbally advised Respondent’s representative at the time of the inspection of the alleged violations that are the subject of the NOV and the actions required to correct the violations. As of the date of the NOV, Respondent has not corrected all the violations.

C. FACTS

- (1) The property is located at 1 Greystone Drive in North Providence, Rhode Island (“Property”). The Property includes a facility used for electroplating, plating, polishing, anodizing, and coloring of medical components, firearms, automotive parts, industrial, aerospace, and electronic products (“Facility”).
- (2) Respondent operates the Facility.
- (3) Respondent is registered with RIDEM as a large quantity hazardous waste generator at the Facility pursuant to Rhode Island’s *Rules and Regulations for Hazardous Waste Management* (250-RICR-140-10-1) (“HW Rules”) and pursuant to Title 40 of the Code of Federal Regulations (“40 CFR”) under the name of “Induplate, LLC” with the U.S. Environmental Protection Agency (“EPA”) identification (“ID”) number RID00195387.

- (4) On 1 November 2022, RIDEM inspected the Facility. The inspection revealed the following:
- (a) Third floor chrome plating line: One 55-gallon blue, plastic container and one 55-gallon black, plastic container holding liquid waste Anode Kleen with no adequate secondary containment.
 - (b) First floor pre-treatment room: Four 55-gallon black, plastic containers holding waste tin, with no generator address, no EPA ID number, no adequate secondary containment, and no 3-foot aisle space.
 - (c) First floor pre-treatment room: One 55-gallon blue plastic container holding liquid waste AIK Etch, with no generator address, no adequate secondary containment, and no 3-foot aisle space.
 - (d) First floor pre-treatment room: Two 55-gallon plastic containers holding liquid waste used Alumon, with no adequate secondary containment, and no 3-foot aisle space.
 - (e) First floor pre-treatment room: Two 55-gallon black plastic containers holding liquid waste Hyproblack Chrome. One container had no adequate secondary containment, and no 3-foot aisle space. The other container had no EPA ID number, no adequate secondary containment, and no 3-foot aisle space.
 - (f) First floor pre-treatment room: One 55-gallon plastic container holding waste Chrome debris, with no 3-foot aisle space.
 - (g) First floor pre-treatment room: One 55-gallon plastic container holding liquid waste Rust Preventer, with no adequate secondary containment, and no 3-foot aisle space.
 - (h) First floor pre-treatment room: One 55-gallon black plastic container holding liquid waste Copper, with no generator address, no adequate secondary containment, and no 3-foot aisle space.
 - (i) First floor pre-treatment room: Two 55-gallon plastic containers holding liquid waste Alumon Med Rm, with no adequate secondary containment, and no 3-foot aisle space.
 - (j) First floor pre-treatment room: Three 55-gallon plastic containers holding liquid waste AIK Neutralization. One container had no generator name, no address, no EPA ID number, no accumulation start date, no adequate secondary containment, and no 3 foot of aisle space. Two containers had no adequate secondary containment, and no 3-foot of aisle space.
 - (k) First floor pre-treatment room: One 55-gallon plastic container holding liquid waste Olive Drab Chromate, with no adequate secondary containment, and no 3-foot aisle space.

- (l) First floor pre-treatment room: Two 55-gallon plastic containers holding liquid waste S-4 Alkaline Strip, with no adequate secondary containment, and no 3-foot aisle space.
- (m) First floor pre-treatment room: One 55-gallon plastic container holding waste liquid Hypercoat (sealer) 330, with no adequate secondary containment, and no 3-foot aisle space.
- (n) First floor-in front of the Wastewater Treatment Unit: Two 55-gallon blue, plastic containers holding liquid waste tank cleaner/cyanide rinse, with no adequate secondary containment.
- (o) First floor- in front of the Wastewater Treatment Unit: Two 55-gallon blue plastic containers holding liquid waste tank cleanout/Zinc to be treated, with no adequate secondary containment.
- (p) Basement-Central Accumulation Area: Two 55-gallon plastic containers holding waste AnodeKleen, with no 3-foot aisle space.
- (q) Basement-Central Accumulation Area: Two 55-gallon plastic containers holding waste chrome debris, with no 3-foot aisle space.
- (r) Basement-Central Accumulation Area: One 55-gallon plastic container holding waste zinc, with no 3-foot aisle space.
- (s) Basement-Central Accumulation Area: One 55-gallon plastic container holding waste alkaline zinc, with no 3-foot aisle space.

None of the containers noted above were satellite accumulation containers.

- (5) Review of the manifest records revealed that a shipment of 9,160 gallons of hazardous waste was shipped on or about 26 February 2021 and 29 March 2021, originally on bills of lading to Agmet, LLC. The shipments were sent under the reuse exemption, but it was ultimately rejected, rendering it hazardous waste, and requiring a manifest for shipment. Agmet, LLC then shipped the hazardous waste on or about 21 April 2022 to US Ecology using Enviroserve as its transporter. Enviroserve is not a licensed hazardous waste transporter approved by RIDEM. This resulted in a shipment being sent to an unlicensed facility, without manifest and an unlicensed transporter.
- (6) Review of Respondent's personnel training revealed that some elements were missing. Specifically, a list of hazardous waste generated at the Facility, proper implementation of the Facility's contingency plan and procedures to respond to fires, explosions, or spills/releases and proper evacuation procedures and routes. Additionally, the Facility's hazardous waste training program specifically states that the "generator must keep a signed copy of the manifest for at least three years from the date the waste was accepted by the initial transporter" but does not include a description of the manifest or the proper use.

- (7) Review of Respondent's hazardous waste contingency plan revealed that some items were missing. Specifically, a description of arrangements made with outside emergency responders, a list of emergency coordinators, designating one primary coordinator and a list of others, and a list and description of all emergency equipment identifying their function and location at the Facility.
- (8) As of the date of the NOV, Respondent has failed to provide documents to RIDEM to show that the noncompliance issues identified in sections C (5), C (7) and C (8) above have been corrected.

D. VIOLATION

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

- (1) **HW Rules, Part 1.7.12(G)(1)** – requiring that a large quantity hazardous waste generator label each container, excluding satellite accumulation containers, holding hazardous waste with the words “Hazardous Waste”, the chemical or common name of the waste, and name, address and EPA ID number of the generating facility while being accumulated onsite.
- (2) **HW Rules, Part 1.7.12(C)(1)(a)** – requiring that a large quantity hazardous waste generator mark containers holding hazardous waste with the date upon which the waste first began to accumulate.
- (3) **HW Rules, Part 1.7.12(C)(1)(k)** – requiring that a large quantity hazardous waste generator provide a containment system for all drums and containers holding liquid hazardous waste in storage onsite.
- (4) **HW Rules, Part 1.7.9** – requiring that a hazardous waste generator maintain adequate aisle space of no less than 3 feet in the facility to allow for the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment.
- (5) **HW Rules, Part 1.7.12(J)(1)(a), 1.7.12(J)(1)(f), Part 1.7.12(J)(1)(g) and Part 1.7.12(J)(1)(i)** – requiring that a large quantity 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 that includes a list of hazardous waste stored at the facility, use of hazardous waste manifests, proper implementation of contingency plan, and proper evacuation routes and procedures.

- (6) **HW Rules, Part 1.7.12(K)(1)(b), Part 1.7.12(K)(1)(c), and Part 1.7.12(K)(1)(d)** – requiring that a large quantity 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 that includes a description of arrangements made with outside emergency responders, a list of emergency coordinators, designating one primary coordinator and a list of others, and a list and description of all emergency equipment identifying their function and location at the facility.
- (7) **R.I. Gen. Laws Section 23-19.1-10 and HW Rules, Part 1.7.2(A)(1), Part 1.7.2(A)(2) and Part 1.7.12(L)(1)** – prohibiting a generator from shipping hazardous waste without completing a manifest, prohibiting the shipping of hazardous waste to a facility that is not licensed, and requiring that the generator use a licensed transporter to ship hazardous waste.

E. 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 treatment, storage and/or disposal of hazardous waste without manifest using an unlicensed transporter.
- (2) **Within 30 days of receipt of the NOV:**
 - (a) Label all containers holding hazardous waste, excluding satellite accumulation containers, with the words “Hazardous Waste”, the chemical or common name of the waste, and name, address and EPA ID number of the generating facility while being accumulated onsite.
 - (b) Mark all containers holding hazardous waste, excluding satellite accumulation containers, with the date upon which the hazardous waste first began to accumulate.
 - (c) Relocate all containers holding liquid hazardous waste, excluding satellite accumulation containers, to an area that has a containment system which is designed to contain spill and releases of the hazardous waste stored onsite.
 - (d) Provide hazardous waste management training to Facility personnel that manage/handle hazardous waste which is relevant to the positions in which they are employed that includes the elements described in section C (7) above and submit copies of the training program and attendance sheet to RIDEM's Office of Compliance & Inspection (OC&I).

- (e) Develop and maintain a hazardous waste contingency plan for the Facility that includes all the applicable information contained in 40 CFR 265 Subpart D and submit a copy to OC&I.
- (f) Provide aisle space of no less than 3 feet throughout the Facility to allow for the unobstructed movement of personnel and emergency equipment.

F. 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:

\$62,500

- (2) The proposed administrative penalty is calculated pursuant to Rhode Island's *Rules and Regulations for Assessment of Administrative Penalties* (250-RICR-130-00-1) ("Penalty Regulations") and must be paid to RIDEM within 30 days of your receipt of the NOV. Penalty payments shall be by one of two methods:

- (a) By certified check, cashier's check, or money order made payable to the **General Treasury – Environmental Response Fund** and forwarded to:

Administrator, RIDEM Office of Compliance and Inspection
235 Promenade Street, Suite 220
Providence, RI 02908-5767

- (b) By wire transfer in accordance with instructions provided by RIDEM.

- (3) Penalties assessed against Respondent in the 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 the NOV.

G. 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 RIDEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F 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 RIDEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
RIDEM - Administrative Adjudication Division
235 Promenade Street, Room 350
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).
- (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 Part 1.7(B) of Rhode Island's *Rules and Regulations for the Administrative Adjudication Division* (250-RICR-10-00-1).

(2) A copy of each request for hearing must also be forwarded to:

Jenna Giguere, Esquire
RIDEM - 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 RIDEM'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 regarding any violation set forth herein, then the 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 (vi) and 42-17.6-4(b) and (c).

- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) The 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) Jenna Giguere of RIDEM's Office of Legal Services at (401) 222-6607 ext. 2772306 or at jenna.giguere@dem.ri.gov. All other inquiries should be directed to Tracey Tyrrell of DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 2777407 or at tracey.tyrrell@dem.ri.gov.

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 G above.

FOR THE DIRECTOR

By: _____
David E. Chopy, Administrator
RIDEM Office of Compliance and Inspection

Dated: _____

CERTIFICATION

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

Induplate Operations, LLC
c/o National Registered Agents, Inc., Resident Agent
450 Veterans Memorial Parkway, Suite 7A
East Providence, RI 02914

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: Hazardous Waste
 File No.: OCI-HW-22-90
 Respondent: Induplate Operations, LLC

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	
D (1) – Accumulation Container Labeling	Type I <i>(\$25,000 Max. Penalty) *</i>	Major	\$12,500	1 violation	\$12,500
D (2) – Accumulation Start Date	Type I <i>(\$25,000 Max. Penalty) *</i>	Moderate	\$6,250	1 violation	\$6,250
D (3) – Secondary Containment	Type I <i>(\$25,000 Max. Penalty) *</i>	Major	\$12,500	1 violation	\$12,500
D (4) – Aisle Space	Type I <i>(\$25,000 Max. Penalty) *</i>	Major	\$12,500	1 violation	\$12,500
D (5) and D (6) – Personnel Training and Contingency Plan	Type I <i>(\$25,000 Max. Penalty) *</i>	Moderate	\$6,250	1 violation	\$6,250
D (7) – Hazardous waste shipped w/o manifest, to unlicensed facility with unlicensed transporter	Type I <i>(\$25,000 Max. Penalty) *</i>	Major	\$12,500	1 violation	\$12,500
SUB-TOTAL					\$62,500

*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 COMPLY. 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.

A review of the record in this matter has revealed that Respondent has either enjoyed no identifiable benefit from the noncompliance alleged in this enforcement action or that the amount of economic benefit that may have resulted can not be quantified.

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 RIDEM 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 RULES = \$62,500

PENALTY MATRIX WORKSHEET

CITATION: Accumulation Container Labeling

VIOLATION NO.: D (1)

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		
<small>THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondents failed to label accumulation containers holding hazardous waste. The requirement to 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. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: At the time of the inspection RIDEM's inspector observed eight 55-gallon containers holding hazardous waste that did not have adequate labeling. (4) Toxicity or nature of the pollutant: The containers were holding waste Tin, waste Nickel, waste AIK Etch, waste Copper, waste Hyproblack Chrome, and waste AIK Neutralization. (5) Duration of the violation: Full duration unknown – at least 1 day. On 1 November 2022, RIDEM observed hazardous waste containers that were marked with the following dates: 15 September 2022, 3 October 2022, and 22 October 2022. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to take reasonable and appropriate steps to prevent the noncompliance by properly labeling the containers. RIDEM has no information of what steps, if any, Respondent has taken to mitigate the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondents had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<u> X </u> MAJOR	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 \$12,500	\$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

PENALTY MATRIX WORKSHEET

CITATION: Accumulation Start Date

VIOLATION NO.: D (2)

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 VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Part 1.10(A)(1)(b) of the Penalty Rules.

- (1) **The extent to which the act or failure to act was out of compliance:** Respondents failed to mark an accumulation container with the date upon which the waste first began to accumulate. The accumulation start date enables generators and regulatory authorities to track the amount of time hazardous waste is stored at a facility. This requirement is of significant concern to the regulatory program because it helps ensure that hazardous waste is not stored onsite for extended periods of time. Storage exceeding certain time thresholds require the generator to obtain a hazardous waste storage permit.
- (2) **Environmental conditions:** Considered, but not utilized for this calculation.
- (3) **Amount of the pollutant:** At the time of the inspection RIDEM’s inspector observed one 55-gallon container holding hazardous waste that was not marked with an accumulation start date.
- (4) **Toxicity or nature of the pollutant:** The container was holding waste AIK Neutralization.
- (5) **Duration of the violation:** Full duration unknown – at least 1 day. On 1 November 2022, RIDEM observed that the container was not marked with an accumulation start date.
- (6) **Areal extent of the violation:** Considered, but not utilized for this calculation.

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to take appropriate steps to prevent the noncompliance by marking the accumulation container with the date upon which the waste first began to accumulate. RIDEM has no information of what steps, if any, Respondent has taken to mitigate the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondents had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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

PENALTY MATRIX WORKSHEET

CITATION: Secondary Containment

VIOLATION NO.: D (3)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondents failed to provide secondary containment for accumulation containers holding hazardous waste in storage. The containment system provides for the prevention of spills and leaks into areas where there may be personnel or emergency response contact. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: At the time of the inspection RIDEM's inspector observed twenty-one 55-gallon containers holding hazardous waste that did not have adequate secondary containment. (4) Toxicity or nature of the pollutant: The containers were holding waste Tin, waste Nickel, waste AIK Etch, waste Hyproblack Chrome, waste AIK Neutralization, waste Anode Kleen, waste used Alumon, waste Rust Preventor, waste Copper, waste Alumon Med RM, waste Olive Drab Chromate, waste S-4 Alkaline Strip, waste Hyprocoat sealer, waste tank cleaner/Cyanide Rinse, and waste tank cleanout/Zinc. (5) Duration of the violation: Full duration unknown – at least 1 day. On 1 November 2022, RIDEM observed the containers. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to take reasonable and appropriate steps to prevent the noncompliance by adequately providing secondary containment for accumulation containers in storage holding hazardous waste. RIDEM has no information of what steps, if any, Respondent has taken to mitigate the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondents had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<u> X </u> MAJOR	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 \$12,500	\$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

PENALTY MATRIX WORKSHEET

CITATION: Aisle Space

VIOLATION NO.: D (4)

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 VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondents failed to provide adequate aisle space for accumulation containers holding hazardous waste. The requirement to provide 3-feet of aisle space for accumulation containers holding hazardous waste is an integral part of the regulatory program because this requirement allows for personnel to read the container contents and reduces the potential for mismanagement of hazardous waste. Proper aisle space for hazardous waste accumulation containers also provides access to important label information regarding the chemical properties of the waste for emergency responders who may be called to a facility during a fire, spill, or release. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: At the time of the inspection RIDEM’s inspector observed twenty-three 55-gallon accumulation containers holding hazardous waste that did not have 3-feet of aisle space between containers in storage. (4) Toxicity or nature of the pollutant: The containers were holding waste Tin, waste AIK Etch, waste Hyproblack Chrome, waste AIK Neutralization, waste Anode Kleen, waste used Alumon, waste Rust Preventor, waste Copper, waste Alumon Med RM, waste Olive Drab Chromate, waste S-4 Alkaline Strip, waste Hyprocoat sealer, waste tank cleaner/Cyanide Rinse, and waste tank cleanout/Zinc, waste Chrome Debris, waste zinc, and waste Alkaline Zinc. (5) Duration of the violation: Full duration unknown – at least 1 day. On 1 November 2022, RIDEM observed the containers without adequate aisle space (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
(continued)		

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to take reasonable and appropriate steps to prevent the noncompliance by providing 3-feet of aisle space between accumulation containers holding hazardous waste in storage. RIDEM has no information of what steps, if any, Respondent has taken to mitigate the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondents had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<u> X </u> MAJOR	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 \$12,500	\$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

PENALTY MATRIX WORKSHEET

CITATION: Personnel Training and Contingency Plan
 VIOLATION NOs.: D (5) & (6)

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

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

FACTORS CONSIDERED:

Taken from Part 1.10(A)(1)(b) of the Penalty Rules.

- (1) **The extent to which the act or failure to act was out of compliance:** The Respondent failed to provide complete hazardous waste management training to its employees who manage hazardous waste. The training program that was reviewed by RIDEM was missing important elements, such as list of hazardous waste generated at the Facility, proper use of manifest and proper implementation of the Facility's contingency plan. Rhode Island and Federal regulations require generators to provide training that teaches employees to perform their duties in a manner that ensures compliance with the regulations. Hazardous waste training help 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. Rhode Island's regulations also require generators to develop and maintain a complete 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. The contingency plan that was reviewed by RIDEM was missing important elements, such as a list of emergency coordinators, a list of emergency equipment and their location throughout the Facility, and a description of emergency responder arrangements. 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.
- (2) **Environmental conditions:** Considered, but not utilized for this calculation.
- (3) **Amount of the pollutant:** At the time of the inspection RIDEM's inspector observed fifty-two 55-gallon containers holding hazardous waste.
- (4) **Toxicity or nature of the pollutant:** The containers were holding waste AIK Etch, waste Hyproblack Chrome, waste AIK Neutralization, waste Anode Kleen, waste used Alumon, waste Rust Preventor, waste Copper, waste Alumon Med RM, waste Olive Drab Chromate, waste S-4 Alkaline Strip, waste Hyprocoat sealer, waste tank cleaner/Cyanide Rinse, waste tank cleanout/Zinc, waste Chrome Debris, waste Zinc, and waste Alkaline Zinc.

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- (5) **Duration of the violation:** The duration of the violations is unknown.
- (6) **Areal extent of the violation:** Considered, but not utilized for this calculation.
- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to take reasonable and appropriate steps to prevent the noncompliance by providing complete training to personnel that manage hazardous waste and by preparing a complete hazardous waste contingency plan for the Facility. RIDEM has no information of what steps, if any, Respondent has taken to mitigate the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondents had complete control over the occurrence of the violations and failed to take steps to prevent the occurrence.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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

PENALTY MATRIX WORKSHEET

CITATION: Shipping HW w/o manifest, to unlicensed facility, with unlicensed transporter
 VIOLATION NO.: D (7)

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 VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondents failed to use a manifest for the shipment of hazardous waste. Respondent also failed to use a licensed transporter and failed to send its hazardous waste to a licensed facility. On 16 February and 29 March 2021, Respondent shipped corrosive liquids (Chromium, Sulfuric acids) and acid Chrome bearing solutions on a Bill of Lading to Agmet, LLC (Agmet), located in Ohio for reuse/recycle. Both shipments were rejected by Agmet, who, on behalf of Respondent, then sent the hazardous waste to US Ecology in Ohio, using a transporter named Enviroserve, which is not a RIDEM licensed hazardous waste transporter. The hazardous waste should have been sent on a manifest, not a Bill of Lading, and should not have been sent to Agmet, as the hazardous waste was not recyclable. Since both shipments were rejected by Agmet for recycling, the hazardous waste was no longer exempt because it could not be recycled and should have been considered hazardous waste before being shipped. Therefore, Respondent, as the generator shipped hazardous waste to a facility that is not licensed to receive hazardous waste and shipped hazardous waste off-site without completing a hazardous waste manifest, using an unlicensed hazardous waste transporter. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: Approximately 9,160 gallons of corrosive liquid hazardous waste was shipped. (4) Toxicity or nature of the pollutant: Chromium, Sulfuric acids and acid Chrome bearing solutions were shipped without manifest, with an unlicensed transporter to an unlicensed facility. (5) Duration of the violation: Hazardous waste was originally shipped on 16 February 2021 and 29 March 2021 to Agmet. Hazardous waste was then shipped by Agmet on behalf of Respondent to US Ecology on 22 April 2021. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to take reasonable and appropriate steps to prevent the noncompliance by shipping hazardous waste on a manifest, to a licensed facility using a licensed transporter. The noncompliance could not be mitigated.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondents had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<u> X </u> MAJOR	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 \$12,500	\$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