

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Bob's 1 Stop Cleansers, Inc.

FILE NO: OCI-HW-14-118

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 property is located at 287 Cumberland Street in the city of Woonsocket, Rhode Island (the "Property"). The Property includes a facility used for the dry cleaning of clothing (the "Facility").
- (2) The Respondent is registered with the DEM as a small quantity hazardous waste generator at the Facility 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") under the name of "Bobs 1 Stop Cleansers, Inc." with the U.S. Environmental Protection Agency ("EPA") identification number RID987473873.
- (3) On 2 December 2014, the DEM inspected the Facility. The inspection revealed the following:
 - (a) One 55-gallon, two 30-gallon and four 20-gallon containers located in the basement that were holding hazardous waste (in the form of perchloroethylene liquid, used filters and sludge/still bottoms) and were unmarked with an accumulation start date and unlabeled (the "90 Day Containers"); and
 - (b) One 5-gallon satellite accumulation container located behind the dry cleaning machine that was holding hazardous waste (in the form of perchloroethylene lint) and was unlabeled, open and damaged.

- (4) The DEM inspector spoke with Robert Sorel, who identified himself as the company owner. Mr. Sorel stated the following:
 - (a) The company does not conduct weekly inspections of the Non-Satellite Containers; and
 - (b) The company did not prepare a hazardous waste contingency plan for the Facility.
- (5) The DEM reviewed manifest records and information provided by the Respondent. The review revealed that hazardous waste (in the form of perchloroethylene liquid and used filters) was stored in 90-day containers at the Facility for about 384 days (from about 30 June 2012 to 19 July 2013).
- (6) On 4 February 2015, the Respondent submitted photographs and provided information by electronic correspondence to the DEM. The photographs and information showed the following:
 - (a) Several 90-Day Containers with hazardous waste labels that contain some of the required information;
 - (b) A new satellite accumulation container that was closed with a completed label;
 - (c) The 90-Day Containers have been in storage since 12 April 2014; and
 - (d) A sign containing the required emergency postings to fulfill the contingency plan requirements.
- (7) As of the date of this Notice of Violation (“NOV”), the Respondent has failed to provide documents to the DEM to demonstrate that it has fully addressed the noncompliance described in paragraphs B(3) and B(4) 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 5.2A (effective 7 June 2010)** – requiring a person to obtain a permit from the DEM prior to storing hazardous waste onsite for greater than 90 days.
- (2) **DEM's Hazardous Waste Regulation 5.15B1** - requiring that a hazardous waste generator mark containers holding hazardous waste with the date upon which the waste first began to accumulate.
- (3) **DEM's Hazardous Waste Regulation 5.15D1** – requiring that a 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 the name, address and EPA identification number of the generator.

- (4) **DEM’s Hazardous Waste Regulation 5.9A** – requiring that a hazardous waste generator label all satellite accumulation containers holding hazardous waste with the words “Hazardous Waste” and the chemical or common name of the waste.
- (5) **DEM’s Hazardous Waste Regulation 5.9D** – requiring that a hazardous waste generator keep satellite accumulation containers holding hazardous waste closed except when adding or removing waste.
- (6) **DEM’s Hazardous Waste Regulation 5.9B** – requiring that a hazardous waste generator transfer hazardous waste from a satellite accumulation container that is in poor condition to a container that is in good condition.
- (7) **DEM’s Hazardous Waste Regulation 5.14B8** – 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 3 years.
- (8) **DEM’s Hazardous Waste Regulation 5.14H** – 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.

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**:

- (1) Mark all containers holding hazardous waste, excluding satellite accumulation containers, with the date upon which the hazardous waste first began to accumulate;
- (2) Label all containers holding hazardous waste, excluding satellite accumulation containers, with the words “Hazardous Waste”, the chemical or common name of the waste and the name, address and EPA identification number of the generating facility; and
- (3) 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.

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:

\$21,250

- (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 the 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 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 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:

Joseph J. LoBianco, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767

- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before 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 DEM 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:

Bob's 1 Stop Cleansers, Inc.
c/o Robert M. Sorel, Registered Agent
287 Cumberland Street
Woonsocket, RI 02895

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, HAZARDOUS WASTE

File No.: OCI-HW-14-118

Respondent: Bob's 1 Stop Cleansers, Inc.

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
C (1) – Storage for Greater than 90 Days	Type I (\$25,000 Max. Penalty)*	Moderate	\$6,250	1 violation	\$6,250
C (2) & (3) – 90 Day Storage Container Management	Type I (\$25,000 Max. Penalty)*	Minor	\$2,500	2 violations	\$5,000
C (4) & (5) – Satellite Container Management	Type I (\$25,000 Max. Penalty)*	Minor	\$2,500	2 violations	\$5,000
C (7) – Weekly Inspections	Type I (\$25,000 Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500
C (8) – Contingency Plan	Type I (\$25,000 Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500
SUB-TOTAL					\$21,250

*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.

A review of the record in this matter has revealed that the 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 cannot 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 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 = \$21,250

PENALTY MATRIX WORKSHEET

CITATION: Storage for Greater than 90 Days

VIOLATION NO.: C (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;">_____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 stored hazardous waste onsite for a period of time exceeding the 90 day accumulation time limit. The DEM's regulations in effect at the time allowed generators to temporarily store hazardous waste onsite for less than 90 days 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.</p> <p>(B) Environmental conditions: Considered, but not utilized for this calculation.</p> <p>(C) Amount of the pollutant: 140 pounds of spent liquid and 195 pounds of used filters.</p> <p>(D) Toxicity or nature of the pollutant: Perchloroethylene is likely to be carcinogenic to humans and possess a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: About 384 days - 30 June 2012 to 19 July 2013.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</p>		
(continued)		

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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 facility within 90 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	<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: 90 Day Storage Container Management

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

TYPE		
<p><u>X</u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u>TYPE II</u> <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u>TYPE III</u> <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM'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 hazardous waste with the date upon which the waste first began to accumulate and failed to properly label containers. The DEM's regulations require generators to track the length of time that hazardous waste accumulates onsite. The requirement to track accumulation of hazardous waste provides a means for facility personnel and regulatory agencies to ensure compliance with waste storage time limits. The requirement to label containers holding hazardous waste is an integral part of the regulatory program because it 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: Considered, but not utilized for this calculation.</p> <p>(C) Amount of the pollutant: One 55-gallon, two 30-gallon and four 20-gallon containers.</p> <p>(D) Toxicity or nature of the pollutant: Perchloroethylene is likely to be carcinogenic to humans and poses a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: Full duration unknown - at least 8 months. The Respondent informed the DEM that the waste has been in storage since 12 April 2014.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</p>		
(continued)		

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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 dating and properly labeling the containers. The Respondent mitigated the violation and submitted photographs to the DEM on 4 February 2015 showing the containers with hazardous waste labels.
- (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 24 July 2002, the DEM issued a Letter of Non-Compliance to the Respondent for failing to label and date containers holding hazardous waste at the facility.
- (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> </u> X <u> </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: Satellite Container Management

VIOLATION NO.: C (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		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM'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 and close a satellite accumulation container holding hazardous waste. The requirement to label and close containers holding hazardous waste are integral parts of the regulatory program because they reduce the potential for mismanagement and release of hazardous 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: Considered, but not utilized for this calculation.</p> <p>(C) Amount of the pollutant: One 5-gallon container.</p> <p>(D) Toxicity or nature of the pollutant: Perchloroethylene is likely to be carcinogenic to humans and poses a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: Full duration unknown - at least 8 months. The Respondent informed the DEM that the waste has been in storage since 12 April 2014.</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 and keeping the satellite accumulation container closed. The Respondent mitigated the violation and submitted photographs to the DEM on 4 February 2015 showing a new satellite accumulation container that was closed, labeled and in good condition.
- (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 24 July 2002, the DEM issued a Letter of Non-Compliance to the Respondent for failing to label a satellite container holding hazardous waste at the facility.
- (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 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 conduct inspections of the hazardous waste container storage area on a weekly basis. The DEM's 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.</p> <p>(B) Environmental conditions: Considered, but not utilized for this calculation.</p> <p>(C) Amount of the pollutant: One 55-gallon, two 30-gallon and four 20-gallon containers.</p> <p>(D) Toxicity or nature of the pollutant: Perchloroethylene is likely to be carcinogenic to humans and poses a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: Full duration unknown - at least 8 months. The Respondent informed the DEM that the waste has been in storage since 12 April 2014.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</p>		
(continued)		

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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 completing weekly inspections of the containers.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On 24 July 2002, the DEM issued a Letter of Non-Compliance to the Respondent for failing to conduct weekly inspections of the hazardous waste container storage area at the facility.
- (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

VIOLATION NO.: C (8)

TYPE		
<p><u>X</u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>____TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED: Taken from Section 10 (a) (2) of the DEM'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 DEM's 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.</p> <p>(B) Environmental conditions: Considered, but not utilized in this calculation.</p> <p>(C) Amount of the pollutant: One 55-gallon, two 30-gallon and four 20-gallon containers.</p> <p>(D) Toxicity or nature of the pollutant: Perchloroethylene is likely to be carcinogenic to humans and poses a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: Full duration unknown - at least 8 months. The Respondent informed the DEM that the waste has been in storage since 12 April 2014.</p> <p>(F) Areal extent of the violation: Considered, but not utilized in this calculation.</p>		
(continued)		

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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 or mitigate the noncompliance by developing a contingency plan. The Respondent mitigated the violation and submitted photographs to the DEM on 4 February 2015 showing emergency procedures and contact numbers posted near telephones in the facility that satisfied the contingency plan requirements.
- (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 \$2,500	\$1,250 to \$2,500	\$250 to \$1,250