

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Technic, Inc.

FILE NO.: OCI-HW-12-49

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 facility is located at 300 Park East Drive in the city of Woonsocket, Rhode Island (the "Facility"). The Facility is used to manufacture precious metal electrical conductance powders.
- (2) The Respondent operates the Facility.
- (3) The Respondent is registered with the DEM as a large 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 "Technic Inc Engineered Powders Division" with the U.S. Environmental Protection Agency identification number RID987489473.
- (4) On April 26, 2012, DEM inspected the Facility. The inspection revealed the following:
  - (a) Failure to complete a waste determination on one (1) 50-gallon container located in the "Batching Area" holding spent wipes used to wipe up flammable solvents, and personal protective equipment (the "Rag Container").
  - (b) Failure to mark one (1) 55-gallon container holding flammable hazardous waste located in the outdoor storage area with the date upon which the waste first began to accumulate in the container.
  - (c) Failure to conduct weekly inspections of the hazardous waste outdoor storage area located in the outdoor storage unit.

- (d) Failure to maintain copies of hazardous waste manifests for the previous three (3) years.
- (e) Failure to have the only fire extinguisher located in the outdoor storage unit inspected on an annual basis and to post a “no smoking” sign at the outdoor storage area for flammable hazardous waste. The last certification of the fire extinguisher was completed in December 2008.
- (f) Failure to provide an annual review of hazardous waste management training to an employee during the years 2011 and 2012 and to develop and maintain a list of job titles, descriptions and amount of training required for each position for its employees.

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 Regulations 5.8 and 40 CFR 262.11** - requiring that a hazardous waste generator determine if the waste generated onsite meets the definition of a hazardous waste.
- (2) **DEM’s Hazardous Waste Regulations 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.
- (3) **DEM’s Hazardous Waste Regulations 5.2 A, 40 CFR 262.34(a)(1)(i) and 40 CFR 265.174** - requiring that a hazardous waste generator conduct weekly inspections of container storage areas looking for leaking containers and signs of deterioration caused by corrosion or other factors and maintain documentation of the inspection of each hazardous waste storage area.
- (4) **DEM’s Hazardous Waste Regulations 5.6 and 40 CFR 262.40** - requiring the generator to keep all pertinent records relating to the generation of hazardous waste for a period of three years.
- (5) **DEM’s Hazardous Waste Regulations 5.2 A and 40 CFR 265.33** - requiring that a hazardous waste generator test and maintain all communication or alarm systems, fire protection equipment, spill control equipment and decontamination equipment, where required to assure its proper operation in time of an emergency.
- (6) **DEM’s Hazardous Waste Regulations 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.
- (7) **DEM’s Hazardous Waste Regulations 5.2A, 40 CFR 262.34(a)(4) and 40 CFR 265.16(d)** - requiring that a hazardous waste generator maintain records regarding

the job title, job description, type and amount of hazardous waste management training required for the company's job positions and type and amount of training received by persons in these positions for all employees who handle or manage hazardous waste.

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 sixty (60) days of receipt of the Notice of Violation (the "NOV")**:

- (1) Collect a representative sample from the Rag Container and submit the sample to a laboratory for analysis to determine if the waste meets the definition of hazardous waste in accordance with the requirements of DEM's Hazardous Waste Regulations 5.8. A copy of the test results must be submitted to the DEM's Office of Compliance & Inspection ("OC&I"). In the event that the waste is determined to meet the definition of a hazardous waste, **IMMEDIATELY** begin managing the waste in accordance with the applicable requirements of the DEM's Hazardous Waste Regulations.
- (2) Mark all containers holding hazardous waste, excluding satellite accumulation containers, with the date upon which the hazardous waste first began to accumulate.
- (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 three years.
- (4) Maintain copies of all hazardous waste manifests completed for offsite shipments of waste for a period of at least three (3) years.
- (5) Arrange to test all fire protection equipment, where required to assure its proper operation in time of an emergency, and post "no smoking" signs in all areas at which flammable hazardous waste is stored onsite.
- (6) 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.
- (7) Develop and maintain records regarding the job title, job description, type and amount of hazardous waste management training required for the company's job positions and type and amount of training received by persons in these positions for all employees who handle or manage hazardous waste and submit copies of the records 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:

**Sixteen Thousand Two Hundred Fifty Dollars (\$16,250.00)**

- (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 thirty (30) days of your receipt of this NOV. Payment shall be in the form of a certified check, cashier's 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.

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  
One Capitol Hill, 2<sup>ND</sup> 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 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:

Susan Forcier, 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) Susan Forcier 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

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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:

Technic, Inc.  
c/o David Weisberg, Registered Agent  
1 Spectacle Street  
Cranston, RI 02910

by Certified Mail.

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## ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, HAZARDOUS WASTE SECTION

File No.: OCI-HW-12-49

Respondent: Technic, Inc.

<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) – Waste Determination	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500.00
C (2) – Accumulation Start Date	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500.00
C (3) – Weekly Inspections	Type II (\$ <u>12,500</u> Max. Penalty)*	Minor	\$1,250	1 violation	\$1,250.00
C (4) – Manifests	Type II (\$ <u>12,500</u> Max. Penalty)*	Moderate	\$6,250	1 violation	\$6,250.00
C (5) – Preparedness & Prevention	Type II (\$ <u>12,500</u> Max. Penalty)*	Minor	\$1,250	1 violation	\$1,250.00
C (6) & (7) – Annual Training	Type I (\$ <u>25,000</u> Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500.00
<b>SUB-TOTAL</b>					<b>\$16,250.00</b>

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

**TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$16,250.00**

**PENALTY MATRIX WORKSHEET**

CITATION: Waste Determination  
 VIOLATION NO.: C (1)

<b>TYPE</b>		
<u><b>X</b></u> <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	_____ <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	_____ <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.
<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>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 determine if a container holding solid waste met the definition of hazardous waste. State and Federal regulations require generators of waste to determine if their waste meets the definition of a hazardous waste. The failure to properly characterize waste may result in the mismanagement of hazardous waste and lead to improper disposal of hazardous waste.</p> <p>(B) <b>Environmental conditions:</b> The container holding the uncharacterized waste was stored inside a building on the property.</p> <p>(C) <b>Amount of the pollutant:</b> One (1) 50-gallon container holding uncharacterized waste.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> The toxicity and/or nature of the waste is not known at this time due to the Respondent's failure to characterize the waste. The container held rags and sorbents which were used to wipe up liquid containing precious metal bearing hazardous waste.</p> <p>(E) <b>Duration of the violation:</b> Unknown.</p> <p>(F) <b>Areal extent of the violation:</b> Considered, but not used 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:** Respondent failed to take reasonable steps to prevent and/or mitigate the noncompliance by determining if the waste met the definition of hazardous waste.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not used 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:** 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 used for this calculation.

<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

**PENALTY MATRIX WORKSHEET**

CITATION: Accumulation Start Date

VIOLATION NO.: C (2)

<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;">___ <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>		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<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 mark a container holding hazardous waste with the date the waste first began to accumulate. The requirement to date containers holding hazardous waste is an integral part of the regulatory program because this requirement reduces the potential for mismanagement of hazardous waste. 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 ninety (90) day accumulation time limit for hazardous waste storage.</p> <p>(B) <b>Environmental conditions:</b> The container holding the waste was stored inside a metal storage unit on outside of the building on the property.</p> <p>(C) <b>Amount of the pollutant:</b> One (1) 55-gallon container holding flammable hazardous waste.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> The container held a flammable hazardous waste comprised of a mixture of solvents including ethanol.</p> <p>(E) <b>Duration of the violation:</b> Unknown</p> <p>(F) <b>Areal extent of the violation:</b> Considered, but not used 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:** Respondent failed to take reasonable steps to prevent and/or mitigate 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:** Considered, but not used 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:** 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 used for this calculation.

<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
	<b>MINOR</b>	\$2,500 to \$6,250 <b>\$2,500</b>	\$1,250 to \$2,500	\$250 to \$1,250

**PENALTY MATRIX WORKSHEET**

CITATION: Weekly Inspections

VIOLATION NO.: C (3)

<b>TYPE</b>		
<p style="text-align: center;"><u>    </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>  X  </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>		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<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 conduct inspections of the hazardous waste container storage area on a weekly basis. State regulations require generators to inspect areas in which hazardous waste is stored in containers onsite 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> The containers holding the hazardous waste were located in a metal storage unit outside of the building on the property.</p> <p>(C) <b>Amount of the pollutant:</b> Four (4) 55-gallon containers holding flammable hazardous waste.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> The containers held a flammable hazardous waste comprised of a mixture of solvents including ethanol.</p> <p>(E) <b>Duration of the violation:</b> Considered, but not used for this calculation.</p> <p>(F) <b>Areal extent of the violation:</b> Considered, but not used 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:** Respondent took steps to mitigate the noncompliance by completing inspections of the container storage area on a monthly basis.
- (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 used 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:** 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 used for this calculation.

<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
	<b>MINOR</b>	\$2,500 to \$6,250	\$1,250 to \$2,500 <b>\$1,250</b>	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Manifests

VIOLATION NO.: C (4)

TYPE		
<p style="text-align: center;">___ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>X</u> 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><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 maintain copies of uniform hazardous waste manifests for each shipment of waste sent offsite. State and Federal regulations require generators to complete a uniform hazardous waste manifest prior to offering any hazardous waste for transportation offsite and to maintain copies of the manifests for a period of three (3) years. The uniform manifest is important because it provides the “cradle to grave” tracking that is integral to hazardous waste regulatory program.</p> <p>(B) <b>Environmental conditions:</b> Considered, but not used for this calculation.</p> <p>(C) <b>Amount of the pollutant:</b> Full amount unknown. Review of records maintained by the DEM revealed that the Respondent shipped at least 3,640 gallons in the past three (3) years.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> Flammable hazardous waste.</p> <p>(E) <b>Duration of the violation:</b> Full duration unknown – at least the past three (3) years.</p> <p>(F) <b>Areal extent of the violation:</b> Considered, but not used for this calculation.</p> <p>(G) <b>Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:</b> Respondent failed to take appropriate steps to prevent or mitigate the noncompliance by maintaining copies of manifest documents after shipping the hazardous waste offsite.</p> <p>(H) <b>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:</b> Considered, but not used for this calculation.</p>		
(continued)		

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- (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 used for this calculation.

<b>MAJOR</b>	<b><u>X</u> MODERATE</b>	<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
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250 <b>\$6,250</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: Preparedness and Prevention

VIOLATION NO.: C (5)

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 ensure that a fire extinguisher at the facility was inspected on an annual basis. Generators of hazardous waste must equip their facilities with fire control equipment of adequate type and volume to enable emergency personnel to respond to an incident at the facility. State regulations require that fire protection equipment be tested and maintained as required by the generator to ensure its proper operation at the time of emergency.</p> <p>(B) <b>Environmental conditions:</b> The containers holding the hazardous waste were located in a metal storage unit outside of the building on the property.</p> <p>(C) <b>Amount of the pollutant:</b> Four (4) 55-gallon containers holding flammable hazardous waste.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> The containers held a flammable hazardous waste comprised of a mixture of solvents including ethanol.</p> <p>(E) <b>Duration of the violation:</b> Three and one half (3½) years. The fire extinguisher had been last tested and inspected in December 2008.</p> <p>(F) <b>Areal extent of the violation:</b> Considered, but not used 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:** Respondent failed to take reasonable and appropriate steps to prevent or mitigate the noncompliance by inspecting and testing the fire extinguisher.
- (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 used 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.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not used for this calculation.

<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	\$1,250 to \$2,500 <b>\$1,250</b>	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Annual Training

VIOLATION NO.: C (6) & (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><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 hazardous waste management training to an employee who works with hazardous waste and to develop a list containing job descriptions and amount of training required for each position at the facility. State and Federal regulations require generators to develop a hazardous waste training program that teaches employees to perform their duties in a manner that ensures compliance with the regulations. 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. Generators are also required to develop a list of job descriptions with the type and amount of training required for each position.</p> <p>(B) <b>Environmental conditions:</b> The containers holding the hazardous waste were located in a metal storage unit outside of the building on the property.</p> <p>(C) <b>Amount of the pollutant:</b> Four (4) 55-gallon containers holding flammable hazardous waste.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> The containers held a flammable hazardous waste comprised of a mixture of solvents including ethanol.</p> <p>(E) <b>Duration of the violation:</b> Two (2) years.</p> <p>(F) <b>Areal extent of the violation:</b> Considered, but not used 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:** Respondent failed to prevent and/or mitigate the noncompliance by providing annual training to an employee and developing the list of job descriptions.
- (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 used 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.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not used for this calculation.

<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>\$2,500</b>	\$1,250 to \$2,500	\$250 to \$1,250