

**STATE OF RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF COMPLIANCE & INSPECTION**

**IN RE: F&G SALVAGE, INC.**

**FILE NOS.: OCI-HW-21-65 and  
OCI-WP-19-52**

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 26 July 2021, RIDEM issued a Notice of Intent to Enforce (“NIE”) to Respondent for some of the violations that are the subject of this Notice of Violation (“NOV”). The NIE required Respondent to take certain actions to correct the violations. On 9 August 2021 RIDEM received a letter from Respondent’s attorney in response to the NIE. The letter requested information regarding RIDEM’s inspection and stated that a comprehensive response would be submitted to RIDEM upon receipt of the information. Upon information and belief, Respondent’s attorney received the requested information. As of the date of the NOV, Respondent has failed to provide any further response to the NIE or comply with the NIE.

**C. FACTS**

- (1) The property is located at 530 Nooseneck Hill Road, Assessor’s Plat 46, Lot 2-1, in Exeter, Rhode Island (“Property”).
- (2) Respondent owns the Property.
- (3) Respondent operates an automobile salvage yard at the Property (“Facility”).
- (4) On 15 June 2021, RIDEM inspected the Property and collected water samples near the eastern boundary of the Property and submitted the samples to ESS Laboratory for analysis. The inspection revealed oil on the surface of the ground and on the puddles of standing stormwater and a partially buried makeshift oil collection unit with accumulated oil floating on the standing water and on the surface of the ground.
- (5) On 22 June 2021, RIDEM received a report titled *E and G Auto (WP-19-52)* dated 22 June 2021, prepared by ESS Laboratory. RIDEM’s review of the report revealed the presence of Total Petroleum Hydrocarbons (“TPH”) at 10.7 ppm.

- (6) On 2 November 2021, RIDEM inspected the Property and observed the following:
- (a) More than 1,320 gallons of used oil in storage without a contingency plan and without marking the containers holding the used oil with the initial date upon which the excess used oil began accumulating. The total volume of used oil in storage was determined to be more than 3,300 gallons as follows:
    - (i) Eight 300-gallon plastic totes storing used oil located outside near the main building and tractor trailers (“300-Gallon Totes”).
    - (ii) Two 275-gallon plastic totes storing used oil located outside near the main building and tractor trailers (“275-Gallon Totes”).
    - (iii) One 55-gallon red steel drum storing used oil located outside near the main building and tractor trailers (“Red Drum”).
    - (iv) One 55-gallon blue steel drum storing used oil located outside near the main building and tractor trailers (“Blue Drum”).
    - (v) One 55-gallon blue drum storing used oil located outside near tractor trailer that was  $\frac{1}{4}$  full (“Partly Filled Blue Drum”).
    - (vi) Four 5-gallon plastic containers storing used oil and transmission fluid located at the car dismantling area (“5-Gallon Containers”).
    - (vii) One 55-gallon black steel drum storing used oil located at the exterior storage area south of the main building (“Black Drum”).
    - (viii) One 55-gallon red steel drum and two of the 55-gallon blue steel drums located at the exterior storage area south of the building holding unknown liquid material (“Unknown Stored Liquids”).
    - (ix) One-275-gallon plastic tote storing used oil located outside near the tank trucks (“275-Gallon Tote Near Tank Trucks”).
  - (b) The 275-Gallon Totes and the Partly Filled Blue Drum were not free of rust or structural defects. The drum also showed evidence of leakage of oil to the ground.
  - (c) The 275-Gallon Totes, 300-Gallon Totes, Red Drum, Black Drum, Partly Filled Drum, the 5-Gallon Containers and the 275-Gallon Tote Near Tank Trucks were either not labeled or incorrectly labeled.
  - (d) The 275-Gallon Totes, 300-Gallon Totes, Red Drum, Blue Drum, Black Drum, Partly Filled Blue Drum, and the 5-Gallon Containers were stored outside, and were not under a roofed structure and protected from precipitation and flooding.
  - (e) The 5-Gallon Containers and the 275-Gallon Tote Near Tank Trucks were not closed.
  - (f) The amount of spill control equipment present onsite was not adequate based on the volume of used oil in storage.
  - (g) There was staining on the ground/soil surface and rainbow-colored sheens on the surface of standing water consistent with petroleum along the eastern limit of the car-crushing operation. The soil surface was a dark black color and had a strong petroleum odor.

- (h) Fifteen individual universal waste automobile batteries were not containerized or labeled with the words “universal waste, waste or used batteries” or marked with an accumulation start date.
- (7) On 23 November 2021, RIDEM inspected the Property and collected soil samples near an automobile crushing operation along the eastern boundary of the Property and submitted the samples to ESS Laboratory for analysis.
- (8) On 8 December 2021, RIDEM received a report titled *FGS Exeter RI* dated December 8, 2021, prepared by ESS Laboratory. RIDEM’s review of the report revealed that samples F.G.S. #2 and F.G.S. #3 contained concentrations of TPH exceeding the Industrial/Commercial Direct Exposure Criteria (“I/C DEC”) of 2,500 parts per million (“ppm”) contained in Rhode Island’s *Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases* (250-RICR-140-30-1) (“Remediation Regulations”). Sample FGS-2 and FGS-3 contained concentrations of TPH at 8,590 ppm and 15,700 ppm, respectively.
- (9) The observations on 2 November 2021 and 23 November 2021, along with the levels of TPH in the samples that exceed the I/C DEC, indicate that a jurisdictional release of a hazardous material and a release of oil (“Oil Release”) has occurred on the Property.
- (10) Respondent did not report the Oil Release to RIDEM.
- (11) Respondent did not take immediate steps to contain, control and remediate the Oil Release.

#### D. VIOLATIONS

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

- (1) **R.I. Gen Laws Section 46-12.5.1-3** – prohibiting discharges of oil into or upon the waters or land of the State except by regulation or by permit from RIDEM.
- (2) ***Oil Pollution Control Regulations (250-RICR-140-25-2)*** (“OPC Regulations”)
  - (a) **Part 2.6(A)** – prohibiting the placement of oil or pollutants into the waters of or onto land of the State or in a location where they are likely to enter the waters of the State.
  - (b) **Part 2.12(B)(2)** – requiring any person responsible for a release of oil to immediately stop the discharge, control the release and begin containment and removal of the oil and waste material.
- (3) **Remediation Regulations**
  - (a) **Part 1.5.1** – prohibiting the release of any hazardous material in any manner which may impact the classification or uses of the land, ground water, or surface water.
  - (b) **Part 1.5.2(A)** – requiring any responsible party who discovers or is notified of the potential unpermitted disposal, release or presence of hazardous materials released from, present on, or originating from its operations or property to immediately initiate investigations and actions.

- (4) ***Rules and Regulations for Hazardous Waste Management (250-RICR-140-10-1)***  
**(“HW Regulations”)**
- (a) **Part 1.14.5 and Title 40 of the Code of Federal Regulations (“40 CFR”) 273.15(c) and Part 1.14.5(A)(10) and 40 CFR 273.14** – requiring that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received and requiring universal waste automobile batteries be containerized and labeled with the words “universal waste, waste or used batteries”.
  - (b) **Part 1.16.4(A)(4)(a)** – requiring a generator of used oil to take immediate steps to stop and control a release.
  - (c) **Part 1.16.4(A)(1)(a)** – requiring a generator of used oil storing greater than 1,320 gallons to prepare a contingency plan, not store this amount for greater than 180 days and marks the containers holding the used oil with the initial date upon which the excess used oil began accumulating.
  - (d) **Part 1.16.4(A)(1)(b)** – requiring that a generator of used oil keep containers in good condition and free of rusting or defects. If a container deteriorates, the generator shall transfer the used oil to a container that is in good condition.
  - (e) **Part 1.16.4(A)(1)(c)** – requiring used oil generators to label containers holding used oil with the words “used oil”.
  - (f) **Part 1.16.4(A)(1)(d)** – requiring that a generator of used oil storing containers outside shall place the containers on an impervious surface under a roofed structure and protected from precipitation and flooding.
  - (g) **Part 1.16.4(A)(1)(e)** - requiring used oil generators to keep containers holding used oil closed except when adding or removing waste.
  - (h) **Part 1.16.4(A)(4)** – requiring that generators of used oil keep an adequate amount of spill control equipment onsite to contain and cleanup the entire volume of used oil stored onsite.

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** cease the discharge and release of oil onto the ground at the Property.
- (2) **IMMEDIATELY** cease storing greater than 1,320 gallons of used oil at the facility OR prepare and submit to RIDEM’s Office of Compliance and Inspection (“OC&I”) a contingency plan for the Facility to store the excess used oil for less than 180 days and mark the containers holding the used oil with the initial date upon which the excess used oil began accumulating.

- (3) **IMMEDIATELY** mark with the word “used oil” and close all containers of used oil stored at the Property.
- (4) **IMMEDIATELY** obtain and keep an adequate amount of spill control equipment onsite to contain and cleanup the entire volume of used oil stored onsite.
- (5) **IMMEDIATELY** place into containers and mark or label containers holding universal waste batteries with the words “universal waste batteries” and the date upon when it first began to accumulate.
- (6) **Within 7 days of receipt of the NOV**, submit to OC&I written verification that you have retained the services of a qualified environmental consultant to develop a Site Investigation Report (“SIR”) proposal in accordance with Part 1.8.1 of the Remediation Regulations.
- (7) **Within 14 days of receipt of the NOV**, submit a notification of a release to RIDEM’s Office of Land Revitalization and Sustainable Materials Management (“LRSMM”).
- (8) **Within 30 days of receipt of the NOV**, place the containers stored outside on an impervious surface under a roofed structure and protected from precipitation and flooding.
- (9) **Within 90 days of receipt of the NOV**, submit a completed SIR to LRSMM and complete the site investigation in accordance with the notification from LRSMM. Any remediation shall be completed in accordance with the approved remedial action and in accordance with Part 1.9.2 of the Remediation Regulations and Part 2.12(B)(2) of the OPC Regulations.

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:

**\$ 47,395**

- (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.
- (3) 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 – Water and Air Protection Program** 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.

- (4) 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.
- (5) 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:

Christina Hoefsmit, Esquire  
RIDEM - 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 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) An original signed copy of the NOV is being forwarded to the Town of Exeter, Rhode Island wherein the Property is located to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 23-19.1-33, as amended.
- (7) 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) Christina Hoefsmit of RIDEM's Office of Legal Services at (401) 222-6607 ext. 2772023 or at [christina.hoefsmit@dem.ri.gov](mailto:christina.hoefsmit@dem.ri.gov). All other inquiries should be directed to Tracey Tyrrell of RIDEM's Office of Compliance and Inspection at [tracey.tyrrell@dem.ri.gov](mailto:tracey.tyrrell@dem.ri.gov) or (401) 222-1360 ext. 2777407.

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:

F&G SALVAGE, INC.  
c/o Kevin G. Dodd, Registered Agent  
1033 Oaklawn Avenue  
Cranston, RI 02920

by Certified Mail.

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## ADMINISTRATIVE PENALTY SUMMARY

Programs: Hazardous Waste, Site Remediation, Oil Pollution, and Water Pollution  
 File Nos.: OCI-HW-21-65 and OCI-WP-19-52  
 Respondent: F&G SALVAGE, 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	
D (1), D (2)(a) and D (3)(a) – Release of oil to the land of the State	Type I <i>(\$25,000 Max. Penalty) *</i>	Moderate	\$12,500	1 violation	\$12,500
D (2)(b), D (3)(b) and D (4)(b) – Failure to take remedial action after a release of oil	Type I <i>(\$25,000 Max. Penalty) *</i>	Moderate	\$12,500	1 violation	\$12,500
D (4)(c) – Greater than 1,320 gallons of oil stored on site	Type I <i>(\$25,000 Max. Penalty) *</i>	Moderate	\$6,250	1 violation	\$6,250
D (4)(d), D (4)(e), D (4)(g) and D (4)(h) – HW container management	Type I <i>(\$25,000 Max. Penalty) *</i>	Minor	\$2,500	4 violations	\$10,000
D (4)(f) – Outdoor storage of HW containers requirements	Type I <i>(\$25,000 Max. Penalty) *</i>	Minor	\$2,500	1 violation	\$2,500
D (4)(a) – Universal waste management	Type I <i>(\$25,000 Max. Penalty) *</i>	Minor	\$2,500	1 violation	\$2,500
<b>SUB-TOTAL</b>					<b>\$46,250</b>

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

### ECONOMIC BENEFIT FROM NONCOMPLIANCE

COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT 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 cannot be quantified.

## ADMINISTRATIVE PENALTY SUMMARY (continued)

<b>COST RECOVERY</b>		
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.		
Soil and water sample analyses	Lead (@ \$11 x 5)	\$55
	Metals Prep (@ \$11 x 5)	\$55
	TCLP RCRA 8 Metals (@ \$75 x 5)	\$375 (soil) and \$75 (water)
	Total Petroleum Hydrocarbon GCFID (@\$65 x 5)	\$325 (soil) and \$65 (water)
	Semi volatile Organics	\$195 (water)
	<b>SUB-TOTAL</b>	<b>\$1,145</b>

**TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$47,395**

# PENALTY MATRIX WORKSHEET

CITATION: Release of oil to the land of the State  
 VIOLATION NOs.: D(1), D(2)(a) and D(3)(a)

<b>TYPE</b>		
<p style="text-align: center;"><u>  X  </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent released or allowed for the release of oil and petroleum products on the Property. The unpermitted release of oil and petroleum products to the land of the State is prohibited by Rhode Island’s law and the OPC Regulations. The release of oil and petroleum products to the land and/or waters of the State will likely result in adverse impacts to drinking water resources, public health and safety and the environment.</li> <li>(2) <b>Environmental conditions:</b> The Property is in a GA groundwater classification zone, which are groundwater resources suitable for drinking water use without treatment. Residences in the vicinity rely on private drinking water wells.</li> <li>(3) <b>Amount of the pollutant:</b> Unknown. The remedial actions required by RIDEM will likely reveal the extent of the releases.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Oil and petroleum products are capable of causing significant adverse impacts to subsurface soils, groundwater and surface water if released to the environment. Certain petroleum constituents are harmful to human health.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown – at least 1 year. The violation was first observed by RIDEM on 15 June 2021.</li> <li>(6) <b>Areal extent of the violation:</b> Unknown. The remedial actions required by RIDEM will likely reveal the extent of the releases.</li> </ol>		
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- (7) **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 the noncompliance and failed to take reasonable and appropriate steps to mitigate the noncompliance despite receiving the NIE requiring it to cease further releases of oil at the Property.
- (8) **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.
- (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:** Respondent 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.

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

# PENALTY MATRIX WORKSHEET

CITATION: Failure to take remedial action after a release of oil  
 VIOLATION NOs.: D (2)(b) and D (3)(b)

<b>TYPE</b>		
<u>  X  </u> <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u>      </u> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u>      </u> <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.
<b>DEVIATION FROM THE STANDARD</b> THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b>            Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to remediate the release of oil and petroleum products to the Property. The regulations require responsible parties to take immediate corrective action following the release of oil and petroleum products to the land or waters of the State. Failure to comply would likely result in adverse impacts to drinking water resources, public health and safety and the environment.</li> <li>(2) <b>Environmental conditions:</b> The Property is in a GA groundwater classification zone, which are groundwater resources suitable for drinking water use without treatment. Residences in the vicinity rely on private drinking water wells.</li> <li>(3) <b>Amount of the pollutant:</b> Unknown. The remedial actions required by RIDEM will likely reveal the extent of the releases.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Oil and petroleum products are capable of causing significant adverse impacts to subsurface soils, groundwater and surface water if released to the environment. Certain petroleum constituents are harmful to human health.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown – at least 1 year. The violation was first observed by RIDEM on 15 June 2021.</li> <li>(6) <b>Areal extent of the violation:</b> Unknown. The remedial actions required by RIDEM will likely reveal the extent of the releases.</li> </ol>		
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- (7) **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 the noncompliance by taking immediate steps to clean up the oil spilled at the Facility and failed to take reasonable and appropriate steps to mitigate the noncompliance, despite receiving the NIE requiring it to do so.
- (8) **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.
- (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.

<b>MAJOR</b>	<u>  X  </u> <b>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 <b>\$12,500</b>	\$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: Greater than 1,320 gallons of oil stored on site

VIOLATION NO.: D (4)(c)

<b>TYPE</b>		
<u>  X  </u> <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u>      </u> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u>      </u> <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 VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> The HW Regulations require that a generator of used oil storing greater than 1,320 gallons prepare a contingency plan, ship the excess amount offsite within 180 days and mark the containers holding the excess used oil with the initial date upon which the excess used oil began accumulating onsite. Respondent was storing greater than 1,320 gallons of used oil at the Facility without the above protections in place.</li> <li>(2) <b>Environmental conditions:</b> The Property is in a GA groundwater classification zone, which are groundwater resources suitable for drinking water use without treatment. Residences in the vicinity rely on private drinking water wells.</li> <li>(3) <b>Amount of the pollutant:</b> At the time of the inspection, RIDEM’s inspector observed more than 3,300 gallons of used oil in various containers at the Facility.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Oil and petroleum products are capable of causing significant adverse impacts to subsurface soils, groundwater and surface water if released to the environment. Certain petroleum constituents are harmful to human health.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown. RIDEM first documented the violation on 2 November 2021.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> </ol> <p style="text-align: right;">(continued)</p>		

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- (7) **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 the noncompliance by preparing a contingency plan and marking containers storing oil with accumulation dates. RIDEM is unaware of what steps, if any, Respondent took 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 the Department, or any law which the Department 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:** Respondent 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.

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



# PENALTY MATRIX WORKSHEET

CITATION: HW Container Management  
 VIOLATION NOs.: D (4)(d), D(4)(e), D(4)(g) & D(4)(h)

<b>TYPE</b>		
<p style="text-align: center;"><u>  X  </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to manage containers holding used oil in accordance with the HW Regulations. At the time of the inspection, Respondent was storing used oil in containers that were not free of rust or defects and showing evidence of leakage to the ground, storing containers of used oil that were either not labeled or incorrectly labeled, storing containers that were not closed and had an inadequate amount of spill control present based on the volume of used oil stored onsite.</li> <li>(2) <b>Environmental conditions:</b> The Property is in a GA groundwater classification zone, which are groundwater resources suitable for drinking water use without treatment. Residences in the vicinity rely on private drinking water wells.</li> <li>(3) <b>Amount of the pollutant:</b> At the time of the inspection, RIDEM’s inspector observed two 275-gallon plastic totes and one 55-gallon container that were not in good condition, three 275-gallon totes, eight 300-gallon totes, three 55-gallon containers and four 5-gallon plastic containers that were not labeled or incorrectly labeled; and four 5-gallon containers and one 275-gallon plastic tote of used oil that were not closed.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Oil and petroleum products are capable of causing significant adverse impacts to subsurface soils, groundwater and surface water if released to the environment. Certain petroleum constituents are harmful to human health.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown. RIDEM first documented the violation on 2 November 2021.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> </ol>		
(continued)		

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- (7) **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 the noncompliance by closing and labeling the containers, storing used oil in containers free of defects and maintaining an adequate amount of spill control equipment at the Facility. RIDEM is unaware of what steps, if any, Respondent took 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 the Department, or any law which the Department 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:** Respondent 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.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  X  </u> <b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		<b>TYPE I</b>	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

# PENALTY MATRIX WORKSHEET

CITATION: Outdoor storage of HW container requirements  
 VIOLATION NO.: D (4)(f)

<b>TYPE</b>		
<p style="text-align: center;"><u>  X  </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to manage outside containers storing used oil in accordance with the HW Regulations. At the time of the inspection, Respondent was storing containers of used oil outside that were not on an impervious surface, under a roofed structure and protected from precipitation and flooding.</li> <li>(2) <b>Environmental conditions:</b> The Property is in a GA groundwater classification zone, which are groundwater resources suitable for drinking water use without treatment. Residences in the vicinity rely on private drinking water wells.</li> <li>(3) <b>Amount of the pollutant:</b> At the time of the inspection RIDEM’s inspector observed eight 300-gallon totes, two 275-gallon totes, three 55-gallon containers and four 5-gallon containers holding used oil that were stored outside.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Oil and petroleum products are capable of causing significant adverse impacts to subsurface soils, groundwater and surface water if released to the environment. Certain petroleum constituents are harmful to human health.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown. The violations were first observed by RIDEM on 2 November 2021.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> </ol>		
(continued)		

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- (7) **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 the noncompliance by placing containers storing used oil on an impervious surface, under a roofed structure and protected from precipitation and flooding. RIDEM is unaware of what steps, if any, Respondent took 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 the Department, or any law which the Department 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:** Respondent 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.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  X  </u> <b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		<b>TYPE I</b>	<b>TYPE II</b>	<b>TYPE III</b>
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

# PENALTY MATRIX WORKSHEET

CITATION: Universal Waste Management  
 VIOLATION NO.: D (4)(a)

TYPE		
<u>  X  </u> TYPE I DIRECTLY related to protecting health, safety, welfare or environment.	_____TYPE II INDIRECTLY related to protecting health, safety, welfare or environment.	_____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.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent failed to store universal waste in the form of used automotive batteries in accordance with the regulations. At the time of the inspection, Respondent was storing automotive batteries that were not containerized or labeled with the words "universal waste, waste or used batteries" or marked with an accumulation start date.</li> <li>(2) <b>Environmental conditions:</b> The Property is in a GA groundwater classification zone, which are groundwater resources suitable for drinking water use without treatment. Residences in the vicinity rely on private drinking water wells.</li> <li>(3) <b>Amount of the pollutant:</b> At the time of the inspection, RIDEM's inspector observed 15 individual universal waste automobile batteries that were not containerized, labeled, or marked with an accumulation start date.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Automobile batteries contain sulfuric acid which is highly corrosive and can cause harm to human health and the environment by direct contact. Failure to properly manage automotive batteries may result in a release.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown. The violations were first observed by RIDEM on 2 November 2021.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> </ol>		
(continued)		

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- (7) **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 the noncompliance by placing batteries into containers, labeling the containers with the words “used batteries” and marking the container with an accumulation start date. RIDEM is unaware of what steps, if any, Respondent took 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 the Department, or any law which the Department 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:** Respondent 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.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  X  </u> <b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		<b>TYPE I</b>	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