

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

OFFICE OF COMPLIANCE & INSPECTION

IN RE: COVESTRO LLC

FILE NO.: OCI-HW-23-31

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 14 April 2023, RIDEM inspected the facility that is the subject of this Notice of Violation (“NOV”) and verbally advised Respondent’s representatives at the time of the inspection of the alleged violations that are the subject of the NOV and the actions required to correct the violations. As of the date of the NOV, upon information and belief, Respondent has not corrected all the violations.

C. FACTS

- (1) The property is located at 199 Amaral St. in East Providence, Rhode Island (“Property”). The Property includes a facility used for the manufacturing of solvent and aqueous polyurethane resins for coatings, adhesives, sealants, films, and specialty products (“Facility”).
- (2) Respondent owns the Property.
- (3) Respondent operates the Facility.
- (4) Respondent is registered with RIDEM as a large quantity hazardous waste generator at the Facility pursuant to Rhode Island’s *Rules and Regulations for Hazardous Waste Management* (250-RICR-140-10-1) (“HW Rules”) and pursuant to Title 40 of the Code of Federal Regulations (“40 CFR”) under the name of “Covestro, LLC” with the U.S. Environmental Protection Agency (“EPA”) identification number RID042131318.

- (5) On 14 April 2023, RIDEM inspected the Facility. The inspection revealed the following:
- (a) In the Main Production Room – one black steel 55-gallon satellite accumulation container that was holding waste flammable liquids (methyl ethyl ketone (“MEK”) and toluene) that was approximately 1/4 full. Also, one black steel 55-gallon satellite accumulation container that was holding waste solids containing flammable liquids (MEK and toluene) that was full. These containers were both at the same point of generation. The container that was ¼ full was not marked with the date the waste began to accumulate and was not properly managed as a 90-day accumulation container.
 - (b) In the 90-day Storage Room – three (one black, two blue) steel 55-gallon 90-day accumulation containers holding waste flammable liquids (acetone and MEK) with no accumulation start date.
 - (c) In the 90-day Storage Room – one 55-gallon black steel 90-day accumulation container holding waste flammable liquids (toluene and xylene) with no accumulation start date.
 - (d) In the 90-day Storage Room – one (1) 55-gallon blue steel 90-day accumulation container holding waste flammable liquids (MEK and toluene) that was marked with an accumulation start date of 10 March 2022 (in exceedance of the 90-day storage limit).
 - (e) In the 90-day Storage Room – two 55-gallon black steel 90-day accumulation containers holding waste carbon bed liquids that were not properly labeled with the words “Hazardous Waste”, the chemical/common name of the waste, the facility name and address and the EPA identification number. The containers were also not marked with an accumulation start date. One container was not closed.
 - (f) Within the Outdoor Tank Farm – one 6,000-gallon 90-day accumulation aboveground storage tank (AST) holding 2,070 gallons of waste acetone/water mixture that was not properly labeled with the chemical/common name of the waste.
- (6) During the 14 April 2023 inspection, RIDEM’s review of the Facility manifests revealed that although Respondent completes the generator section of the manifest, on three of the manifests (015379583FLE, 015699356FLE and 015700561FLE) dated 18 November 2021, the generator’s name was incorrectly listed as *DSM Coating Resins*.

- (7) During the 14 April 2023 inspection, Respondent informed RIDEM that hazardous waste training for personnel that manage hazardous waste was conducted by a designated corporate individual. On 23 April 2023, Respondent submitted to RIDEM certificates of training for personnel completing hazardous waste training in 2021, but none for 2022. On 5 May 2023, Respondent sent electronic correspondence to RIDEM of the Respondent's hazardous waste training program and qualifications for the instructor. Respondent stated in the electronic correspondence that no records were maintained for hazardous waste training in 2022.
- (8) On 28 April 2023, Respondent submitted to RIDEM the contingency plan for the Facility. RIDEM's review of the contingency plan revealed that it did not include a description of arrangements made with outside emergency responders and was not provided to local fire and police departments, hospitals and or state and local response team that may be called on to assist.
- (9) As of the date of the NOV, upon information and belief, Respondent has not corrected all the violations described in sections C (5), C (7) and C (8) above.

D. VIOLATION

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

- (1) **HW Rules, Part 1.7.8(A)(6) and Part 1.7.8(A)(7)** – prohibiting satellite accumulation containers in close proximity to exceed 55-gallons and requiring that a hazardous waste generator mark satellite accumulation containers holding hazardous waste with the date upon which the waste first began to accumulate within 3 days after the containers exceed 55-gallons.
- (2) **HW Rules, Part 1.7.12(B)(1)** – requiring that a large quantity hazardous waste generator store hazardous waste onsite for a period that does not exceed 90 days.
- (3) **HW Rules, Part 1.7.12(C)(1)(a)** – requiring that a large quantity hazardous waste generator mark containers holding hazardous waste with the date upon which the waste first began to accumulate.
- (4) **HW Rules, Part 1.7.12(C)(1)(b)** – requiring that a large quantity hazardous waste generator keep containers holding hazardous waste closed except when adding or removing waste.
- (5) **HW Rules, Part 1.7.12(G)(1)** – requiring that a large quantity hazardous waste generator label each container, excluding satellite accumulation containers, holding hazardous waste with the words “Hazardous Waste”, the chemical or common name of the waste, and name, address and EPA identification number of the generating facility while being accumulated onsite.

- (6) **HW Rules, Part 1.7.12(G)(2)** – requiring that a large quantity hazardous waste generator label each tank holding hazardous waste with the words “Hazardous Waste”, and the chemical or common name of the waste.
- (7) **HW Rules, Part 1.7.12(J)(1)(j)** – requiring that a large quantity hazardous waste generator provide training to company employees who handle and/or manage hazardous waste and provide employees with a review of the training on an annual basis 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.
- (8) **HW Rules, Part 1.7.12(K)(1)(b) and Part 1.7.12(K)(1)(f)** – requiring that a large quantity hazardous waste generator prepare and maintain a contingency plan designed to minimize hazards to human health or the environment from fires, explosions or unplanned releases of hazardous waste or constituents to the air, soil, or surface water. The plan shall include a description of the arrangements made with outside emergency responders (police, fire departments, hospitals, contractors, state and local emergency response teams) to coordinate emergency services to the facility; and a copy of the current plan shall be provided to all agencies (fire department, police department, hospital, State or local response agency) that may be called upon to respond to an incident at the facility and/or provide emergency services.
- (9) **HW Rules, Part 1.7.12(L)(1)(a)** – requiring that a large quantity generator complete the generator section of the manifest prior to sending any hazardous waste from the facility where it is generated.

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 **within 30 days of receipt of the NOV**:

- (1) Remove all hazardous waste from the Property that has been stored for greater than 90 days using a permitted hazardous waste transporter and ship the hazardous waste to a licensed Treatment, Storage and Disposal Facility (“Designated Facility”) and submit a copy of the uniform hazardous waste manifest signed by the Designated Facility to RIDEM's Office of Compliance & Inspection (“OC&I”).
- (2) Mark satellite accumulation containers holding hazardous waste with the date upon which the waste first began to accumulate within 3 days after the containers exceed 55-gallons and move satellite accumulation containers in close proximity to avoid exceeding 55-gallons at the point of generation.
- (3) Mark all containers holding hazardous waste, excluding satellite accumulation containers, with the date upon which the hazardous waste first began to accumulate.

- (4) Close and keep closed all containers holding hazardous waste except when adding or removing waste.
- (5) Label all containers and tanks holding hazardous waste with the words "Hazardous Waste" and the chemical or common name of the waste. For containers holding hazardous waste, excluding satellite accumulation containers, the label must also include the name, address and EPA identification number of the generating facility while being accumulated 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 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 OC&I.
- (8) Develop and maintain a hazardous waste contingency plan for the Facility that includes all the applicable information contained in Part 1.7.12(K)(1)(b) of the HW Rules and submit a copy to OC&I. The contingency plan shall also be provided to the response agencies listed in Part 1.7.12(K)(1)(f) of the HW Rules.
- (9) Ensure that the generator section of the manifests is prepared with the generator's correct name applied.

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:

\$42,500

- (2) The proposed administrative penalty is calculated pursuant to Rhode Island's *Rules and Regulations for Assessment of Administrative* ("Penalty Rules") and must be paid to RIDEM within 30 days of your receipt of the NOV. Penalty payments shall be by one of two methods:
- (a) By certified check, cashier's check, or money order made payable to the **General Treasury –Environmental Response Fund** and forwarded to:
- Administrator, RIDEM Office of Compliance and Inspection
235 Promenade Street, Suite 220
Providence, RI 02908-5767
- (b) By wire transfer in accordance with instructions provided by RIDEM.
- (3) Penalties assessed against Respondent in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if the Director determines that reasonable efforts have been made to comply promptly with the NOV.

G. RIGHT TO ADMINISTRATIVE HEARING

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before RIDEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F above. All requests for hearing MUST:
- (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b).
- (b) Be **RECEIVED** by RIDEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:
- Administrative Clerk
RIDEM - Administrative Adjudication Division
235 Promenade Street, Room 350
Providence, RI 02908-5767
- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b).

- (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Part 1.7(B) of Rhode Island's *Rules and Regulations for the Administrative Adjudication Division* (250-RICR-10-00-1).
- (2) A copy of each request for hearing must also be forwarded to:
- Jenna Giguere, Esquire
RIDEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767
- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before RIDEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner regarding any violation set forth herein, then the NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).
- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) The NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Jenna Giguere of RIDEM's Office of Legal Services at (401) 222-6607 ext. 2772306 or at jenna.giguere@dem.ri.gov. All other inquiries should be directed to Tracey Tyrrell of RIDEM's Office of Compliance and Inspection at (401) 222-1360 ext. 2777407 or at tracey.tyrrell@dem.ri.gov.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

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

Dated: _____

CERTIFICATION

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

COVESTRO LLC
c/o Corporation Service Company, Resident Agent
222 Jefferson Boulevard, Suite 200
Warwick, RI 02888

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: Hazardous Waste
 File No.: OCI-HW-23-31
 Respondent: COVESTRO LLC

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D (1) – Satellite accumulation exceeds 55-gallons	Type I <i>(\$25,000 Max. Penalty) *</i>	Moderate	\$6,250	1 violation	\$6,250
D (2) – Greater than 90-day storage limit	Type I <i>(\$25,000 Max. Penalty) *</i>	Moderate	\$6,250	1 violation	\$6,250
D (3) – Accumulation start date	Type I <i>(\$25,000 Max. Penalty) *</i>	Major	\$12,500	1 violation	\$12,500
D (4) – Closed containers	Type I <i>(\$25,000 Max. Penalty) *</i>	Minor	\$2,500	1 violation	\$2,500
D (5) & (6) – 90-day container & tank labeling	Type I <i>(\$25,000 Max. Penalty) *</i>	Major	\$12,500	1 violation	\$12,500
D (7) – Personnel training	Type II <i>(\$25,000 Max. Penalty) *</i>	Minor	\$1,250	1 violation	\$1,250
D (8) – Contingency plan	Type II <i>(\$25,000 Max. Penalty) *</i>	Minor	\$1,250	1 violation	\$1,250
SUB-TOTAL					\$42,500

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

ADMINISTRATIVE PENALTY SUMMARY (continued)

ECONOMIC BENEFIT FROM NONCOMPLIANCE

COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT COMPLY. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:

- THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE, OR
- THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.

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

COST RECOVERY

ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.

A review of the record in this matter has revealed that RIDEM has not incurred any additional or extraordinary costs during the investigation, enforcement, and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

TOTAL PENALTY PROPOSED UNDER PENALTY RULES = \$42,500

PENALTY MATRIX WORKSHEET

CITATION: Satellite accumulation exceeds 55-gallons

VIOLATION NO.: D (1)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;"><u> </u> TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;"><u> </u> TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to move one black steel 55-gallon satellite accumulation container that was holding waste flammable liquids (MEK and toluene) in excess of the 55-gallon storage limit for such containers. (2) Environmental conditions: The container was approximately ¼ full and was in close proximity to a second 55-gallon container that was full. The container was not marked with the date the excess waste began to accumulate and was not properly managed as a 90-day accumulation container in accordance with the HW Rules. (3) Amount of the pollutant: At the time of RIDEM’s inspection, one 55-gallon container holding hazardous waste in excess of the 55-gallon storage limit for satellites was ¼ full. (4) Toxicity or nature of the pollutant: The container was holding hazardous waste liquids (MEK and toluene). (5) Duration of the violation: Full duration unknown – at least 1 day. RIDEM’s inspector observed the container was not marked during the inspection (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable and appropriate steps to prevent the noncompliance by marking with the date the excess waste began to accumulate and properly managing the container as a 90-day accumulation container in accordance with the HW Rules.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** 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

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: Greater than 90-day storage limit

VIOLATION NO.: D (2)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to ship off-site one 55-gallon blue steel container holding waste flammable liquids (MEK and toluene) prior to the 90-day storage limit. (2) Environmental conditions: Considered, but not utilized for this calculation (3) Amount of the pollutant: At the time of RIDEM's inspection, one 55-gallon blue steel container holding waste flammable liquids (MEK and toluene) was stored in exceedance of the 90-day storage limit. (4) Toxicity or nature of the pollutant: The container was holding flammable liquids (MEK and toluene). (5) Duration of the violation: Approximately 10 months – the container was marked with an accumulation start date of 10 March 2022. The container should have been shipped off within 90 days of 10 March 2022. Therefore, the duration of the violation was from 10 June 2022 until 14 April 2023. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable and appropriate steps to prevent the noncompliance by shipping the container holding waste flammable liquids (MEK and toluene) off-site by 10 June 2022. RIDEM has no information whether Respondent has mitigated the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** 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.

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: Accumulation start date

VIOLATION NO.: D (3)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to mark six 55-gallon containers with an accumulation start date. HW Rules requires that the generator mark the side of all containers holding hazardous waste in storage with the date upon which the waste first began to accumulate (accumulation start date). (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: At the time of RIDEM’s inspection, six 55-gallon containers were not marked with an accumulation start date. (4) Toxicity or nature of the pollutant: The containers were storing waste flammable liquids and solids, (MEK, toluene, acetone, and xylene). (5) Duration of the violation: Full duration unknown – at least 1 day. RIDEM’s inspector observed that the containers were not marked during the inspection. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable and appropriate steps to prevent the noncompliance by marking the containers in storage with an accumulation start date. RIDEM has no information whether Respondent has mitigated the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** 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.

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

PENALTY MATRIX WORKSHEET

CITATION: Closed containers

VIOLATION NO.: D (4)

TYPE		
<p><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p>___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		
<p>THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</p>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to close one 55-gallon container holding waste carbon bed liquids. The HW Rules requires that generators keep all containers holding hazardous waste closed except when it's necessary to add or remove waste. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: At the time of RIDEM's inspection, one 55-gallon container holding waste carbon bed liquids was not closed. (4) Toxicity or nature of the pollutant: The container was holding waste carbon bed liquids. (5) Duration of the violation: Full duration unknown – at least 1 day. RIDEM's inspector observed the open container during the inspection. (6) Areal extent of the violation: Considered, but not utilized for this calculation. <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 keeping the container holding hazardous waste closed. RIDEM has no information whether Respondent has mitigated the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** 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.

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: 90-day container & tank labeling

VIOLATION NOs.: D (5) & D (6)

TYPE		
<p style="text-align: center;"><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">_____ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">_____ TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to properly label 90-day accumulation containers and one tank. The HW Rules require that generators mark each container and tank with the following: for containers holding hazardous waste, the words "Hazardous Waste, the chemical or common name of the waste and name, address, and EPA Identification Number of the generating facility. The HW Rules require that generators mark each tank holding hazardous waste with the following information: the words "Hazardous Waste" and the chemical or common name of the waste. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: At the time of RIDEM's inspection, two 55-gallon containers and one tank holding hazardous waste that were not properly labeled. (4) Toxicity or nature of the pollutant: The containers were storing waste flammable liquids and solids, (MEK, toluene, acetone, and xylene). The tank was holding waste acetone and water mixture. (5) Duration of the violation: Full duration unknown – at least 1 day. RIDEM's inspector observed that the containers were not properly labeled during the inspection. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
(continued)		

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable and appropriate steps to prevent the noncompliance by properly labeling each container and the tank storing hazardous waste in accordance with the HW Rules. RIDEM has no information whether Respondent has mitigated the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** 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.

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

PENALTY MATRIX WORKSHEET

CITATION: Personnel training

VIOLATION NO.: D (7)

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		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to maintain records for annual hazardous waste personnel training. On 23 April 2023, Respondent submitted certificates of training for personnel completing hazardous waste training in 2021, but none for 2022. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: Considered, but not utilized for this calculation. (4) Toxicity or nature of the pollutant: Respondent was storing containers and tanks with waste flammable liquids and solids (including MEK, toluene, acetone, and xylene). (5) Duration of the violation: 1 year. Respondent stated in electronic correspondence that no records were maintained for hazardous waste training in 2022. (6) Areal extent of the violation: Considered, but not utilized for this calculation. <p style="text-align: right; margin-top: 20px;">(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 provided hazardous waste personnel training for the year 2022 and maintaining records of such. Respondent cannot mitigate the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** 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.

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	\$1,250 to \$2,500 \$1,250	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Contingency plan
 VIOLATION NO.: D (8)

TYPE		
_____ TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u>X</u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.	_____ TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to complete a contingency plan with all the items required by the HW Rules. During the 14 April 2023 inspection, review of the Respondent’s contingency plan revealed that it did not include a description of arrangements made with outside emergency responders and had not been provided to local fire and police departments, hospitals and or state and local response team that may be called on to assist. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: Considered, but not utilized for this calculation. (4) Toxicity or nature of the pollutant: Respondent was storing containers and tanks with waste flammable liquids and solids (including MEK, toluene, acetone, and xylene). (5) Duration of the violation: Full duration unknown. (6) Areal extent of the violation: Considered, but not utilized for this calculation. <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 completing a contingency plan that complied with all the requirements in the HW Rules. RIDEM has no information whether Respondent has mitigated the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** 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.

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	\$1,250 to \$2,500 \$1,250	\$250 to \$1,250