



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

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June 28, 2013

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (ORA 18-1)
5 Post Office Square
Boston, Massachusetts 02140

Re: In the Matter of C & C Ventures, LLC;
Docket No. RCRA-01-2013-0028

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Complaint. Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink that reads "Andrea Simpson".

Andrea Simpson
Senior Enforcement Counsel

cc: Craig Lampini

Enclosure

Docket No. RCRA-01-2013-0028

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2013, the original and one copy of the Complaint in the Matter of C & C Ventures, LLC, Docket No. RCRA-01-2013-0028, were hand-delivered to the Regional Hearing Clerk and a copy was sent to Respondent, as set forth below:

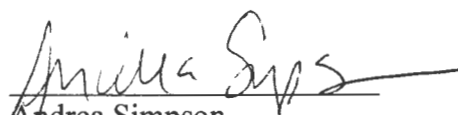
Original and one copy
by hand delivery to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I (ORA18-1)
5 Post Office Square, Suite 100
Boston, MA 02109

Copies by certified mail to:

Craig Lampini, President
C & C Ventures, LLC
33 Haynes Circle
Chicopee, Massachusetts 01020

Dated: 6/28/13


Andrea Simpson
Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region I
5 Post Office Square, Suite 100
Boston, MA 02109

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)	EPA Docket No. RCRA-01-2013-0028
)	
C & C Ventures, LLC)	COMPLAINT, COMPLIANCE
33 Haynes Circle)	ORDER AND NOTICE OF
Chicopee, MA 01020)	OPPORTUNITY FOR HEARING
)	
Respondent)	
)	
Proceeding under Section 3008(a) of the)	
Resource Conservation Recovery)	
Act, 142 U.S.C. § 6928(a))	

I. INTRODUCTION

1. This Complaint, Compliance Order and Notice of Opportunity for Hearing (“Complaint”) is filed pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 (hereinafter, “RCRA”), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (“Part 22”). Respondent, C & C Ventures, LLC, doing business as Randolph Products, is hereby notified that the United States Environmental Protection Agency, Region 1 (“EPA”) has determined that Respondent violated Section 3002 of RCRA, 42 U.S.C. § 6922, 40 C.F.R. Part 262, Chapter 21C of the Massachusetts General Laws and the regulations promulgated thereunder found at Title 310, Chapter 30 of the Code of Massachusetts Regulations

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OPERATIONS

set forth at 310 C.M.R. 30.100 *et seq.* EPA also provides notice of Respondent's opportunity to request a hearing.

II. NATURE OF ACTION

2. This is an action under RCRA, 42 U.S.C. §§ 6901-6987, to obtain compliance with RCRA and the hazardous waste regulations promulgated to implement RCRA and to seek civil penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), for violations of RCRA and its implementing regulations.

3. Notice of commencement of this action has been given to the Commonwealth of Massachusetts ("Massachusetts") pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. §6928(a)(2).

III. STATUTORY AND REGULATORY FRAMEWORK

4. In 1976, Congress enacted RCRA, amending the Solid Waste Disposal Act, to regulate hazardous waste management. RCRA Subtitle C, 42 U.S.C. § 6921 *et seq.*, empowers EPA to identify and list hazardous wastes. It also authorizes EPA to regulate hazardous waste generators, transporters, and the owners and operators of hazardous waste treatment, storage, and disposal facilities. EPA has promulgated federal regulations to implement RCRA Subtitle C, which are set forth at 40 C.F.R. Parts 260-270.

5. Pursuant to Section 3001 of RCRA, 42 U.S.C. § 6921, EPA promulgated regulations to define what materials are "solid wastes," and of these solid wastes, what wastes are regulated as "hazardous wastes." These regulations are set forth at 40 C.F.R. Part 261.

6. Section 3002 of RCRA, 42 U.S.C. § 6922, required EPA to establish standards applicable to generators of hazardous wastes. These standards are codified at 40 C.F.R. Part 262

and relate to such matters as determining whether a waste is hazardous, container management, labeling and dating containers, inspecting waste storage areas, training, and planning for emergencies.

7. In 1984, Congress substantially amended RCRA with the Hazardous and Solid Waste Amendments (“HSWA”) to, among other things: (a) restrict the disposal of hazardous wastes on the land or in landfills; and (b) change the method for determining whether wastes are toxic (and therefore hazardous). RCRA Section 3004(c)-(p), 42 U.S.C. § 6924(c)-(p).

8. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer its hazardous waste program in lieu of the federal program when the Administrator deems the state program to be equivalent to the federal program.

9. The Commonwealth of Massachusetts received final authorization to implement its base hazardous waste management program on January 24, 1985, with an effective date of February 7, 1985. 50 Fed. Reg. 3,344. EPA authorized revisions to Massachusetts’s hazardous waste management program on September 30, 1998 (63 Fed. Reg. 52,180), October 12, 1999 (64 Fed. Reg. 55,153), March 12, 2004 (69 Fed. Reg. 11,801), January 31, 2008 (73 Fed. Reg. 5,753), and June 23, 2010 (75 Fed. Reg. 35,660).

10. Promulgated pursuant to the authority granted by M.G.L. c. 21C, §§ 4 and 6, M.G.L. c. 21E, § 6, and by St. 1987, c. 587, § 47, Massachusetts’s federally authorized hazardous waste management regulations are codified at Title 310, Chapter 30 of the Code of Massachusetts Regulations (“C.M.R.”), 310 C.M.R. §§ 30.0001 *et seq.* (the “Massachusetts Hazardous Waste Regulations”).

11. Pursuant to Sections 3008(a) and 3006(g) of RCRA, 42 U.S.C. § 6928(a) and 6926(g), EPA may enforce the federally-approved Massachusetts hazardous waste program, as well as the federal regulations promulgated pursuant to HSWA, by issuing orders requiring compliance immediately or within a specified time for violations of any requirement of Subtitle C of RCRA, Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e. Sections 3008(a) and (g) of RCRA provide that any person who violates any order or requirement of Subchapter C of RCRA shall be liable to the United States for a civil penalty in an amount of up to \$25,000 per day for each violation. Pursuant to the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701 *et seq.*, as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA is up to \$32,500 per day per violation for violations that occurred after March 15, 2004 and before January 13, 2009. Violations that occur on or after January 13, 2009 are subject to penalties up to \$37,500 per day per violation.

12. Section 3006 of RCRA, 42 U.S.C. § 6926, as amended, provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.

IV. GENERAL AND FACTUAL ALLEGATIONS

13. C & C Ventures, LLC (“Respondent” or “C & C”) is a limited liability corporation established under the laws of Michigan, having a principal place of business at 33 Haynes Circle, Chicopee, Massachusetts.

14. C & C is a “person” as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(15), and 310 C.M.R. 30.010.

15. At all times relevant to the allegations set forth in this Complaint, C & C was and currently is the “owner,” as defined in 40 C.F.R. § 260.10 and 310 C.M.R. 30.010, of a facility located at 33 Haynes Circle, Chicopee, Massachusetts (“Facility”).

16. At all times relevant to the allegations set forth in this Complaint, C & C was and currently is the “operator” as defined in 40 C.F.R. § 260.10 and 310 C.M.R. 30.010, of the Facility.

17. At all times relevant to the allegations set forth in this Complaint, C & C was and currently is a manufacturer of military specification, general industrial, aerospace and conductive coatings at the Facility.

18. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), Randolph Products notified EPA that it was a large quantity generator of hazardous waste. The date of the notification was August 15, 1980.

19. At all times relevant to this Complaint, C & C generated and continues to generate “hazardous waste,” as that term is defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), and 310 C.M.R. 30.010, at the Facility. Hazardous wastes that are currently generated or have been generated at the Facility include, but are not limited to: waste solvents (solvent-contaminated waste-water) (EPA waste codes D001, F003, F005); paint wastes (D001, D006, D007, D035); universal waste; laboratory samples (D001, D035); and off specification materials (D001, F003, F005).

20. As the owner and operator of a facility that generates hazardous waste, C & C is subject to the requirements for generators of hazardous wastes set forth at 310 C.M.R. 30.300 *et seq.*

21. At all times relevant to the allegations set forth in this Complaint, C & C was and is: (1) a “generator,” as that term is defined in 40 C.F.R. § 260.10 and 310 C.M.R. 30.010; and (2) a “large quantity generator,” of hazardous waste pursuant to 310 C.M.R. 30.340.

22. On August 27 and 28, 2012, duly authorized representatives of EPA conducted an inspection at the Facility (“Inspection”) to determine Respondent’s compliance with RCRA and the federal and state regulations promulgated thereunder. During the Inspection, the inspectors observed conditions at the Facility and reviewed documents related to hazardous waste management.

V. VIOLATIONS

Based on the Inspection and document review, EPA identified the following violations of RCRA, M.G.L. Ch. 21C, and the Massachusetts Hazardous Waste Regulations.

COUNT I: Failure to Conduct Hazardous Waste Determinations

23. Complainant incorporates by reference the allegations of paragraphs 1-22 above.

24. Pursuant to 310 C.M.R. 30.302, a person who generates a waste shall determine if that waste is a hazardous waste as identified or otherwise described in 310 C.M.R. 30.100.

25. At the time of the Inspection, Respondent had not conducted hazardous waste determinations for the following waste streams:

A. Main Hazardous Waste Storage Area (“HWSA”)

During the inspection, two employees of Respondent stated that all containers in the area contained waste that was going to be disposed. Respondent was storing the following containers in the HWSA for which hazardous waste determinations had not been made;

i. Two drums that had Eastern Chemical Company labels, but no information describing the contents;

ii. One full, unlabeled 55-gallon drum;

iii. One 55-gallon container marked only with the words “isocyanate waste containing”;

iv. One 55-gallon container that was not marked. A sign above the container was marked “waste paint”; and

v. Old paint products that took up about one third of the HWSA, most of which was solvent-based paint. The following containers were stored in this area:

a. Located to the left of an olive green metal cabinet:

1. One shrink-wrapped wooden pallet containing approximately 62 shrink-wrapped five-gallon gray containers labeled “Valspar” (various products), and two loose one-gallon Valspar containers on top of the pallet; and

2. Two five-gallon white containers labeled “part #241, PKS7200, zenith waterborne universal sealer”;

b. Located in front of the pallet described above:

1. One box of spilled yellow powder identified by an employee as old paint pigment;

2. One approximately 3’ x 1’ x 2’ box labeled “black pearls, 1300, 50 lbs, Chem.

Tech specialties”;

3. One approximately 20-gallon fiber drum, approximately one third-full, labeled “spectra black 13”;

4. One approximately 20-gallon fiber drum, labeled “raven blk, November 30, 2011”;

5. One approximately eight-gallon metal container with a faded, illegible label;
6. One approximately 30-gallon blue poly container, full and unlabelled (on floor adjacent to wooden pallet with yellow powder); and
7. One approximately 20-gallon dented metal container labeled “sun chemical 47x76, Sunspere red, 57.1.”

c. Located to the left of the shrink-wrapped pallet described above:

Two pallets with shrink-wrapped containers. On the bottom pallet Respondent stored nine boxes containing what appeared to be one-gallon cans of paint products. The labels were not visible, except one marked “paint, UN1263,” and four other containers with Valspar paint product labels. On the top pallet, Respondent stored 13 boxes, all containing Valspar paints and stains.

d. Located in an area with a two-tiered storage rack to the left of the two pallets described above:

1. One, approximately 16-gallon blue fiber drum with an old lid that looked like a saw blade. This container had a label that read “Chevron, Dura Lith Grease”;

2. One shrink-wrapped pallet with fourteen five-gallon containers on a wooden pallet. The labels on these containers were old and illegible; and

3. Fifteen five-gallon containers on a wooden pallet including thirteen black containers marked as “Randolph black wiping stain, batch 13186,” and two white containers marked as “Randolph WB new green, Highlight, batch 21456.”

e. Two pallets in the HWSA with the following containers:

1. Twenty-eight five-gallon containers labeled as miscellaneous solvent-based paint products. Most of these containers had inventory sheets attached with a November 30, 2011 date; and

2. Nine five-gallon buckets, all labeled with solvent-based paint and stain product labels.

f. One wooden pallet in the HWSA with the following containers:

Miscellaneous small-sized containers of various paint-related products, and two fiber drums and one blue metal drum of old paint products.

g. One wooden pallet in the HWSA with the following containers:

Miscellaneous small-sized containers of various paint-related products, and two fiber drums and one blue metal drum old paint products.

B. Tarped Maintenance Shed

One 55-gallon drum that was obstructed by miscellaneous equipment; the container was marked faintly as “corr.”

C. Outside Along Respondent’s Production Building

1. Approximately twenty 55-gallon drums, containing various old chemicals, mostly with flammable properties. Craig Lampani, President of C & C, stated that the drums had been there for eight to ten years. Mr. Lampini also stated that Respondent would not be using the material in the drums and that it needed to be disposed of. Most of the containers were not labeled with any information, or the existing labeling was faded and/or illegible. The containers in this area were labeled as follows:

a. One 55-gallon drum labeled “AROLOM 465-G4-80, contains liquids and vapors harmful if inhaled”;

- b. One-55-gallon drum labeled “PPG paint additive 53901, this product is solely for industrial use”;
- c. One 55-gallon drum labeled “Desmophen NH1521”;
- d. One 55-gallon drum labeled “therm-check 5469, heat stabilizer, contains cadmium and barium, cancer hazard”;
- e. One 55-gallon drum labeled “acrylic copolymer resin solution”;
- f. One 55-gallon drum labeled “g-cure, 109HE75”; and
- g. One 55-gallon drum labeled “BASF PO60090.”

D. Located at the R&D Lab:

Two open 55-gallon drums used to accumulate small containers that an employee described as waste samples in need of disposal. An employee stated that the containers held wastes that needed to be managed as hazardous waste including miscellaneous solvent and water-based paint samples in need of disposal.

26. Respondent’s failure to determine if various wastes were hazardous wastes, as set forth in paragraph 25 above, constitutes violations of 310 C.M.R. 30.302.

COUNT II: Failure to Properly Label Containers of Hazardous Waste

27. Complainant incorporates by reference the allegations of paragraphs 1-26 above.

28. Pursuant to 310 C.M.R. 30.341(2)(a), (b) and (c), each container in which hazardous waste is being accumulated shall be clearly labeled during the period of accumulation with (a) the words “Hazardous Waste”; (b) the hazardous waste identified in words; and (c) the type of hazard(s) associated with the waste indicated in words (e.g. ignitable, toxic dangerous when wet)

29. At the time of the inspection, Respondent had not adequately labeled the following containers of hazardous wastes at the Facility:

A. Main Hazardous Waste Storage Area (“HWSA”)

i. Approximately ten quart-sized cans of paints labeled only with the manufacturing product label, identified by an employee as waste solvent-based paints;

ii. Three unlabelled 55-gallon containers identified as “mop water” that Respondent managed as hazardous waste;

iii. Three undated 55-gallon containers. One of the containers was marked as mineral spirits, one of the containers was marked only as rinse, and one container was completely unlabeled. An employee stated that each of the containers held spent mineral spirits that had been used to clean out tanks and lines;

iv. Two unlabeled 55-gallon containers. After an employee opened the containers to attempt to determine their contents, it was determined by Respondent’s employees that both containers held spent mineral spirits. An employee further identified the contents as spent mop-water that is managed as hazardous waste;

v. One 55-gallon drum with an open metal funnel in the bung and a hose attachment from the distillation unit into the funnel opening. The container was marked only as dirty solvent;

vi. One 55-gallon container located in a hazardous waste satellite accumulation area labeled “catalyst part b waste drum only”;

vii. One 55-gallon container located in a satellite accumulation area marked “retains only, flammable, catalyst part B only”;

viii. One cardboard box resting on top of a 55-gallon container. The container, marked “nitrocellulose first rinse waste drum only,” was empty. However, the box on top of this container held about ten approximately one-quart cans marked as “catalyst for military 23377F, hazardous ingredients MEK”; and

ix. Approximately thirteen boxes of aerosol cans containing old paint product.

B. Quality control color match laboratory

One, unlabeled, five-gallon container containing waste solvent-based paint located on the floor under a work bench.

C. Color Matching Paint Booth

Two five-gallon containers marked as “dirty water wash” that an employee described as waste solvent-based paint.

30. Respondent’s failure to properly label the containers of hazardous waste described in paragraph 29 above constitutes a violation of 310 C.M.R. 30.341(2)(a), (b) and (c).

COUNT III: Failure to label containers storing hazardous waste with the accumulation date

31. Complainant incorporates by reference the allegations of paragraphs 1-30 above.

32. Pursuant to 310 C.M.R. 30.341(2)(d), each container accumulating hazardous waste must be labeled throughout the period of accumulation with the date upon which accumulation begins.

33. At the time of the inspection, all of the containers described in paragraph 29 above, were not labeled with the beginning date of accumulation. Additionally, in the main HWSA,

Respondent stored the following containers of hazardous waste that were not at or near the point where the waste was generated, and that were not labeled with the beginning accumulation date:

- A. One 55-gallon container marked “catalyst part b waste drum only”;
- B. One 55-gallon container marked “retains only, flammable.” A sign above the container was marked “all part B catalyst, activator, first rinse waste drum only”;
- C. One 55-gallon container with a cardboard box resting top of it. This container was marked “nitrocellulose first rinse waste drum only”;
- D. One 55-gallon container marked with the words “isocyanate waste containing.” The container had an aerosol paint can and an empty silver small bucket on top of it; and
- E. One 55-gallon container with an empty five-gallon container on top of it. The 55-gallon container was not marked, dated or grounded, but a sign above the container was marked “waste paint.”

34. Respondent’s failure to label containers of hazardous waste with the date that accumulation began constitutes a violation of 310 C.M.R. 30.341(2)(d).

COUNT IV: Failure to Keep Hazardous Waste Containers Closed

35. Complainant incorporates by reference the allegations of paragraphs 1-34 above.

36. Pursuant to 310 C.M.R. 30.685(1), as referenced by 310 C.M.R. 30.342(1)(c), a generator of hazardous waste must keep containers of hazardous waste closed at all times except when it is necessary to add or remove waste from the container.

37. At the time of the inspection, Respondent did not keep hazardous waste containers closed at times when it was not adding or removing waste. Specifically, the following containers of hazardous waste were not closed:

A. Located in front of the distillation unit in the HWSA:

i. One, approximately half-full, 55-gallon drum with an open metal funnel in the bung and a hose attachment from the distillation unit into the funnel opening. The lid was resting loosely on the top of the drum without a snap ring to secure it. The container was marked as dirty solvent. An employee stated that the container held dirty MEK that was going to be fed into the distillation unit for recycling; and

ii. One 55-gallon drum labeled “hazardous waste, waste paint, D001” that employees stated contained sludge generated from the distillation process. The drum’s lid was not secured with a snap ring.

B. Located at the satellite storage area within the HWSA:

i. One 55-gallon container marked ”catalyst part b waste drum only.” This container had an open-top lid that was not secured;

ii. One 55-gallon container marked “retains only, flammable, catalyst part B only.” This container had an open-top style lid that was not secured; and

iii. One 55-gallon container marked “isocyanate waste containing.” The container had an open bung.

38. Respondent’s failure to keep containers of hazardous waste closed, except when adding or removing waste, constitutes a violation of 310 C.M.R. 30.685(1), as referenced by 310 C.M.R. 30.342(1)(c)

COUNT V: Failure to Conduct Hazardous Waste Training

39. Complainant incorporates by reference the allegations of paragraphs 1-38 above.

40. Pursuant to 310 C.M.R. 30.516(1), as referenced by 310 C.M.R. 30.341(1)(a), site personnel assigned to the management of hazardous waste must successfully complete a program of instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with 310 C.M.R. 30.000. Personnel must complete training within six months of their employment and take part in an annual review of initial training required by 310 C.M.R. 30.516(1).

41. At the time of the inspection, Respondent was not providing adequate training to employees with hazardous waste management responsibilities. Specifically, at the time of the inspection, Laurie Magnusson, Respondent's Regulatory Compliance and Inventory Control Manager, who was responsible for training Respondent's employees, had not received hazardous waste training since 1999. In addition, Dan Toper, Respondent's Production Manager, served as the Emergency Coordinator. At the time of the inspection, he had not received any hazardous waste training. Further, Sabino Rebelo and Javier Ortiz, both of whom worked in the HWSA, had not received hazardous waste training in 2010.

42. Respondent's failure to provide training to employees with hazardous waste management responsibilities, as set forth in paragraph 41 above, constitutes violations of 310 C.M.R. 30.516(1), as referenced by 310 C.M.R. 30.341(1)(a).

COUNT VI: Failure to Maintain a Hazardous Waste Training Plan

43. Complainant incorporates by reference the allegations of paragraphs 1-42 above.

44. Pursuant to 310 C.M.R. 30.516(2), as referenced by 310 C.M.R. 30.341(1)(a), a generator must prepare a written personnel training plan designed to ensure compliance with 310 C.M.R. 30.516(1). At a minimum, the training plan shall specify how personnel will be

familiarized with the properties and hazardous nature of the hazardous waste at the facility and with emergency procedures, emergency equipment, emergency systems and personnel safety equipment. In addition, the following documents must be included with the training plan: (a) the job title for each position at the facility related to hazardous waste management; (b) a written job description for each position at the facility listed in (a); (c) a written description of the type and amount of both introductory and continuing training that will be given to each individual filling the position(s) listed in (a); and (d) records that document that the training or job experience required has been given to and satisfactorily completed by facility personnel.

45. At the time of the inspection, Respondent did not have a hazardous waste training plan that met the requirements of 310 C.M.R. 30.516(2).

46. Respondent's failure to prepare and maintain a written training plan at the facility constitutes a violation of 310 C.M.R. 30.516(2), as referenced by 310 C.M.R. 30.341(1)(a).

COUNT VII: Failure to Conduct and Document Weekly Inspections of Hazardous Waste Containers

47. Complainant incorporates by reference the allegations of paragraphs 1-46 above.

48. Pursuant to 310 C.M.R. 30.686, as referenced by 310 C.M.R. 30.342(d), a generator must conduct weekly inspections of areas where containers of hazardous waste are stored looking for leaks and for deterioration caused by corrosion or other factors. In addition, a generator must record every inspection in an inspection log or summary.

49. Respondent did not conduct inspections and/or failed to record inspections for 37 separate weeks between January 2009 and September 2011. Specifically, inspections were not conducted and/or not recorded during the following time periods:

9/9/2011-9/30/2011 (two inspections)

6/17/2011-7/1/2011 (two inspections)
4/1/2011-4/22/2011 (three inspections)
3/11/2011-3/25/2011(two inspections)
11/11/2010-12/10/2010 (four inspections)
6/18/2010-7/23/2010 (five inspections)
4/23/2010-5/7/2010 (two inspections)
3/26/2010-4/16/2010 (three inspections)
1/1/2010-1/15/2010 (two inspections)
11/6/2009-11/20/2009 (two inspections)
10/23/2009-11/6/2009 (two inspections)
9/25/2009-10/9/2009 (two inspections)
7/10/2009-8/7/2009 (four inspections)
1/9/2009-1/23/2009 (two inspections)

50. Respondent's failure to conduct weekly inspections of areas where containers of hazardous were stored and/or record those inspections constitutes violations of 310 C.M.R. 30.686, as referenced by 310 C.M.R. 30.342(d).

COUNT VIII: Failure to Maintain Adequate Aisle Space in Areas Where Hazardous Wastes Are Stored

51. Complainant incorporates by reference the allegations of paragraphs 1-50 above.

52. Pursuant to 310 C.M.R. 30.685(4), as referenced by 310 C.M.R. 30.342(c), aisle spacing for container storage of hazardous waste shall be such that each row of containers can be inspected to ensure compliance with the container management standards set forth at 310 C.M.R. 680.

53. At the time of the Inspection, Respondent was storing nearly all of its hazardous waste in 55-gallon containers in an area designated as the main HWSA. The aisle space between the containers was too narrow to allow them to be adequately inspected.

54. Respondent's failure to store containers of hazardous waste in a manner that allows them to be inspected to ensure compliance with the container management standards of 310

C.M.R. 680 constitutes a violation of 310 C.M.R. 30.685(4), as referenced by 310 C.M.R. 30.342(c).

COUNT IX: Failure to Operate a Hazardous Waste Management Unit in a Manner that Prevents and Minimizes the Possibility of Release of Hazardous Waste

55. Complainant incorporates by reference the allegations of paragraphs 1-54 above.

56. Pursuant to 310 C.M.R. 30.524(1), as referenced by 310 C.M.R. 341(1)(e), a Hazardous Waste Management Unit must be designed, constructed, maintained and operated to prevent and to minimize the possibility of a release of hazardous wastes or hazardous waste constituents to the environment. Pursuant to 310 C.M.R. 30.010, the definition of Hazardous Waste Management Unit includes a container storage area.

57. At the time of the Inspection, Respondent's main HWSA was not being maintained and operated to prevent and to minimize the possibility of a release of hazardous wastes or hazardous waste constituents to the environment, as follows:

A. The concrete containment was cracked and not adequately sealed with material to prevent a release from entering the subsurface;

B. Part of the main HWSA was used by Respondent to consolidate paint residues from five-gallon buckets. The floor in the area was wet with spilled paints. There was build-up of what appeared to be dried spilled paints. An employee stated that the spilled paint was a combination of water-based and solvent-based paints. Respondent manages the solvent-based paints as hazardous waste. Due to the cracks in the floor, the paints could have been released to the subsurface.

58. Respondent's failure to operate and maintain a Hazardous Waste Management Unit to prevent and to minimize the possibility of a release of hazardous wastes or hazardous waste

constituents to the environment constitutes a violation of 310 C.M.R. 30.524(1), as referenced by 310 C.M.R. 341(1)(e).

COUNT X: Failure to Maintain a Telephone or Other Communication Device in the Main Hazardous Waste Storage Area

59. Complainant incorporates by reference the allegations of paragraphs 1-58 above.

60. Pursuant to 310 C.M.R. 30.524(2)(b), as referenced by 310 C.M.R. 30.341(e)(4), all Hazardous Waste Management Units shall be equipped with a device, such as a telephone or a hand-held two-way radio, call box or other instrument capable of summoning emergency assistance from, and which is acceptable to, local police departments, fire departments, or federal, state or local emergency response teams.

61. At the time of the Inspection, there was no telephone or other communication device located in Respondent's main HWSA.

62. Respondent's failure to maintain a telephone or other communication device capable of summoning emergency assistance in the main HWSA constitutes a violation of 310 C.M.R. 30.524(2)(b), as referenced by 310 C.M.R. 30.341(4).

COMPLIANCE ORDER

63. Based on the foregoing findings, Respondent is hereby ordered to achieve and maintain compliance with all applicable requirements of RCRA and 310 C.M.R. 30.100 *et seq.* Specifically, Respondent shall do the following:

64. Within 30 days of receipt of this Complaint, Respondent shall perform hazardous waste determinations for all wastes present at the Facility, in accordance with 310 C.M.R. 30.302.

65. Immediately upon receipt of this Complaint, Respondent shall label containers of hazardous waste, in accordance with 310 C.M.R. 30.341(2)(a),(b) and (c).

66. Immediately upon receipt of this Complaint, Respondent shall mark each container of hazardous waste with the date that accumulation began, in accordance with 310 C.M.R. 30.341(2)(d).

67. Immediately upon receipt of this Complaint, Respondent shall keep containers of hazardous waste closed, except when adding or removing waste, in accordance with 310 C.M.R. 30.685(1), as referenced by 310 C.M.R. 30.342(1)(c).

68. Within 30 days of receipt to of this Complaint, Respondent shall provide initial and annual hazardous waste training to employees with hazardous waste management responsibilities, in accordance with 310 C.M.R. 30.516(1), as referenced by 310 C.M.R. 30.341(1)(a).

69. Within 30 days of receipt of this Complaint, Respondent shall prepare and maintain at the Facility a hazardous waste training plan, in accordance with the requirements of C.M.R. 30.516(2), as referenced by 310 C.M.R. 30.341(1)(a).

70. Immediately upon receipt of this Complaint, Respondent shall conduct weekly inspections of all areas where hazardous wastes are stored, and record those inspections in a log or summary, in accordance with the requirements of 310 C.M.R. 30.686, as referenced by 310 C.M.R. 30.342(d).

71. Immediately upon receipt of this Complaint, Respondent shall maintain adequate aisle space in hazardous waste storage areas such that each row of containers can be inspected to

ensure compliance with the container management standards set forth at 310 C.M.R. 680, in accordance with 310 C.M.R. 30.685(4), as referenced by 310 C.M.R. 30.342(c).

72. Within 30 days of receipt of this Complaint, Respondent shall operate and manage the facility in a manner that minimizes the potential for a release to the environment in accordance with 310 C.M.R. 30.524(1), as referenced by 310 C.M.R. 341(1)(e). Specifically, Respondent shall (a) repair the cracks in the concrete floor in the HWSA and (b) clean up the paint consolidation area in the main HWSA where paints have been spilled and cease the spillage of paints on the floor.

73. Immediately upon receipt of this Complaint, install in the main HWSA, a device, such as a telephone or a hand-held two-way radio, call box or other instrument capable of summoning emergency assistance from, and which is acceptable to, local police departments, fire departments, or federal, state or local emergency response teams in accordance with the requirements of 310 C.M.R. 30.524(2)(b), as referenced by 310 C.M.R. 30.341(4) and(5).

74. To ensure compliance with the requirements cited in paragraphs 63 through 73 above, Respondent shall submit to EPA, within 35 days of receipt of this Complaint, a written confirmation of compliance (accompanied by a copy of any appropriate supporting documentation, such as hazardous waste manifests) or noncompliance with the requirements set forth in paragraphs 63 through 73. Any notice of noncompliance with the requirements of paragraphs 63 through 73 shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will in no way excuse the noncompliance. This statement shall specify all actions taken by Respondent to comply with paragraph 63 through 73 of this Complaint.

75. The information requested in this Order is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §3501 et seq.

76. Respondent shall submit the copies of any information, reports, and/or notices required by this Order to:

Drew Meyer
RCRA, EPCRA and Federal Programs Unit
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES05-1
Boston, MA 02109-3912

and

Andrea Simpson, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

77. If Respondent fails to comply with the requirements of this Complaint within the time specified, Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), 31 U.S.C. § 3701 *et seq.* and 40 C.F.R. Part 19 provide for further enforcement action in which EPA may seek the imposition of penalties of up to \$37,500 for each day of continued noncompliance.

78. This Complaint shall become effective immediately upon receipt by Respondent.

79. In accordance with 40 C.F.R. § 22.37(b), this Compliance Order shall automatically become a final order unless, no later than 30 days after the Complaint is served, Respondent requests a hearing pursuant to 40 C.F.R. § 22.15.

VII. PROPOSED PENALTY

80. The civil penalty proposed below has been determined in accordance with Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). In determining the amount of any RCRA penalty to be assessed, Section 3008(a) requires EPA to take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. To develop the proposed penalty for the violations cited in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's RCRA Civil Penalty Policy, dated June 2003 ("Penalty Policy"). A copy of the Penalty Policy is enclosed with this Complaint. The Penalty Policy provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors identified above to particular cases.

81. Based on the nature, circumstances, extent, and gravity of the above-cited violations, a RCRA civil penalty in the amount of \$ 222,746 is hereby proposed to be assessed against Respondent. Attachment I to this Complaint explains the reasoning for this penalty.

The penalties proposed to be assessed for each count pled in Section V above are as follows:

<u>COUNT</u>	<u>PROPOSED PENALTY</u>
I. Failure to properly conduct hazardous waste determinations	\$45,680
II. Failure to adequately label containers of hazardous waste	\$ 9,210
III. Failure to label containers storing hazardous waste with the accumulation date	\$ 9,210
IV. Failure to keep hazardous waste containers closed	\$ 5,670
V. Failure to provide adequate initial and annual refresher training	\$24,841
VI. Failure to maintain a hazardous waste training plan	\$24,790

VII.	Failure to adequately conduct and document weekly inspections	\$45,210
VIII.	Failure to maintain adequate aisle space	\$32,915
IX.	Failure to operate and manage operations in a way that minimizes the potential for a release	\$24,790
X.	Failure to maintain a telephone at the Main HWSA	<u>\$ 430</u>

TOTAL PROPOSED PENALTY **\$222,746**

VIII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

82. As provided by Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and in accordance with 40 C.F.R. § 22.15, Respondent has a right to request a hearing on the issues raised in this Complaint. Any such hearing would be conducted in accordance with Part 22. **To avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing, Respondent must file a written Answer within thirty (30) days of Respondent's receipt of this Complaint.** The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which Respondent has any knowledge. If Respondent has no knowledge of a particular fact and so states, the allegation is considered denied. Failure to admit, deny, or explain an allegation constitutes an admission of that allegation. Respondent's Answer must also state all arguments or circumstances that are alleged to constitute grounds for a defense; the facts that Respondent intends to place at issue; and must specifically request an administrative hearing if such a hearing

is desired. If Respondent denies any material fact or raises any affirmative defense, Respondent will be considered to have requested a hearing. The Answer must be sent to:

Wanda Santiago, Regional Hearing Clerk
U.S. Environment Protection Agency, Region I
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

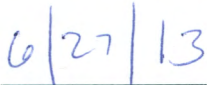
IX. DEFAULT ORDER

83. If Respondent fails to file a timely Answer to the Order, Respondent may be found to be in default pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Order and a waiver of Respondent's right to a hearing on such factual allegations under Section 3008 of RCRA, 42 U.S.C. § 6928. In addition, default will preclude Respondent from thereafter obtaining adjudicative review of any of the provisions contained in the Order.

84. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with the EPA concerning the alleged violations. Such conference provides Respondent with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. Any settlement shall be made final by the signing of a Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region I. Please note that a request for an informal settlement conference does not extend the thirty (30) day period within which a written Answer must be submitted in order to avoid default. To explore the possibility of settlement in this matter, Respondent should contact Andrea Simpson, Senior Enforcement

Counsel, Office of Environmental Stewardship, EPA Region I, who is also designated to receive service on behalf of Complainant, at the above address or at (617) 918-1738.

For Complainant:



Joanna Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1

Date

Attachment 1
Explanation of Penalty Calculation
In the Matter of C & C Ventures, LLC
Chicopee, MA

Administrative Complaint
EPA Docket No. RCRA-01-2013-0028

The following discussion provides a justification for the proposed penalty against C & C Ventures, LLC (“C & C”) for violations of certain requirements of the Resource Conservation and Recovery Act (RCRA), the Hazardous and Solid Waste Amendments of 1984 (“HSWA”) and the State of Massachusetts Hazardous Waste Regulations. C & C operates a facility at 33 Haynes Circle, Chicopee, MA.

Gravity-based penalties and multiple or multi-day penalties were calculated in accordance with the RCRA Civil Penalty Policy, dated June 23, 2003, (“RCPP”), the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701 *et seq.*, as well as 40 C.F.R. Part 19.

The following RCRA violations were documented during an EPA Compliance Evaluation Inspection (“CEI”) conducted at C & C on August, 27 and 28, 2012, and information that has been provided to EPA after the inspection:

B. Summary of Violations

1. Failure to properly conduct hazardous waste determinations

At the time of the inspection, C & C had not conducted adequate hazardous waste determinations for the following categories of waste:

- a. unknown waste streams;
- b. old paint products stored inside the main hazardous waste storage area (“HWSA”);
- c. old flammable liquids stored outside; and
- d. spent samples generated in laboratory

Penalty Assessment

- (a) Potential for Harm - Major

Potential for Harm to the Environment

The failure to adequately characterize the waste streams listed above poses a substantial risk of harm to the environment. By not making a determination as to whether a waste is hazardous at the point of generation, hazardous waste may not be managed in accordance with the regulations designed to ensure proper

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Penalty summary – C & C Products, Chicopee, MA

management from cradle to grave, thus leading to a possible release of hazardous wastes into the environment. In C & C's case, these containers were not being inspected, and C & C personnel could not determine how long most of the material had been in storage at the facility. Also, HWSA had visible cracks in the concrete floor, which served as the containment. The longer a material is in storage, the more potential there is for a container to deteriorate and leak. C & C's failure to include these waste containers in their weekly inspection program further increased the likelihood of a container releasing its contents to the environment.

Additionally, at the outside storage area, C & C was storing approximately twenty-five 55-gallon containers without a roof or other suitable cover to protect them from the elements and without any secondary containment to protect the environment in the event of an accidental release. Because of the way the area was sloped, any release from these containers would flow directly to a grassy, non-impervious area of C & C's property. Most of these containers were badly rusted and had been stored outside and unprotected for eight to ten years.

Potential for Harm to the Regulatory Program

The potential for harm to the regulatory program caused by C & C's failure to conduct waste determinations is substantial. The inspection team was not able to determine how long many of these wastes had been in storage, and was not able to determine if wastes were being stored compatibly with surrounding containers of waste. Additionally, these containers were stored in arrangements that made it difficult and unsafe to fully evaluate their condition.

(b) Extent of Deviation - Major

The number of containers and total volume of waste observed during the inspection that had not been properly characterized represented a significant amount of the waste that was observed on-site at the time of the inspection. C & C completely failed to comply with this regulatory requirement for the waste streams listed. Therefore, the extent of deviation is major.

(c) Penalty Assessment:

EPA has determined that C & C's violation of these requirements warrants a classification of Major/Major.

- (1) Matrix Cell Range (gravity-based penalty): \$28,330 - \$37,500
Penalty Amount Chosen - \$32,915 (mid-point)

- (2) Multiple/Multi-day Assessment

There were multiple violations of this requirement. Each of the four waste streams listed above for which a waste determination was not conducted constitutes a violation. Pursuant to page 22 of the RCPP, multi-day penalties are

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Penalty summary – C & C Products, Chicopee, MA

being applied for the second through fourth violation because C & C repeatedly violated the same requirement through a series of independent omissions:

- a. unknown waste streams;
- b. old paint products stored inside at the Main HWSA;
- c. old flammable liquids stored outside; and
- d. spent samples generated in the laboratory.

Penalties have been assessed as follows:

First violation	\$ 32,915
Second through fourth violation	<u>\$ 12,765</u>
\$4,255 (mid-point) x 3	
Total Penalty	\$ 45,680

TOTAL PENALTY AMOUNT: \$45,680

2. Failure to adequately label containers of hazardous waste

At the time of the inspection, EPA inspectors observed numerous containers of hazardous wastes that were not adequately labeled with the words “hazardous waste,” a description of the hazardous waste identified in words, and/or the type of hazard(s) associated with the waste.

Penalty Assessment

(a) Potential for Harm - Moderate

Potential for Harm to the Environment

A significant number of hazardous waste containers at the facility were not properly labeled. However, most were able to be identified by information on the product labels on the containers (old paint related production products), or by knowing what process generated the waste (laboratory wastes and production wastes stored in satellite accumulation areas). The failure to properly label containers of hazardous waste can lead to improper management of those wastes and/or can detrimentally impact emergency responders in the case of a fire or chemical emergency because they would not be able to determine the hazards associated with the waste.

Potential for Harm to the Regulatory Program

There was significant regulatory harm associated with the failure to properly label containers because inspectors were not able to determine by observation alone whether the contents were hazardous wastes, what potential hazard(s) the wastes posed, and whether they were being properly managed by the facility in terms of compatibility.

(b) Extent of Deviation - Moderate

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Penalty summary – C & C Products, Chicopee, MA

Justification – Although most of the containers subject to this count were labeled with some product information, it was difficult for the inspectors to adequately determine compatibility without reviewing Material Safety Data Sheets, some of which are not informative enough to make meaningful determinations.

(c) Penalty Assessment

EPA has determined that C & C's violation of these requirements warrants a classification of Moderate/Moderate.

Matrix Cell Range (gravity-based penalty): \$7,090 - \$11,330.

Penalty Amount: \$9,210 (mid-point)

TOTAL PENALTY AMOUNT: \$9,210

3. Failure to label containers storing hazardous waste with the accumulation date

At the time of the inspection, all of the containers cited in Count 2 also were not labeled with the beginning date of accumulation. Additionally, at the Main HWSA, C & C maintained a series of satellite accumulation areas that were not at or near the point of generation, and therefore, should have been dated because they did not fulfill the conditions for satellite accumulation.

Penalty Assessment

(a) Potential for Harm - Moderate

Potential for Harm to the Environment

The longer a container is in storage, the more potential there is for the container to deteriorate and leak. The purpose of labeling a container with an accumulation date is to ensure that containers of hazardous waste are stored for no longer than 90 days. By failing to label these containers with the accumulation start date, C & C increased the likelihood that containers were stored for long periods of time, thus increasing the potential for a release of hazardous waste.

Potential for Harm to the Regulatory Program

There is substantial regulatory harm associated with the failure to date containers because it prevents EPA and state inspectors from determining how long the containers have been in storage.

(b) Extent of Deviation - Moderate

These approximately fifty containers that were not dated represent a moderate amount of the total number of containers of hazardous waste observed during the inspection.

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Penalty summary – C & C Products, Chicopee, MA

(c) Penalty Assessment

EPA has determined that C & C's violation of these requirements warrants a classification of Moderate/Moderate.

Matrix Cell Range (gravity-based penalty): \$7,090 - \$11,330.

Penalty Amount: \$9,210 (mid-point)

TOTAL PENALTY AMOUNT: \$9,210

4. Failure to keep hazardous waste containers closed unless actively adding or removing waste from the container.

At the time of the inspection, C & C failed to keep hazardous waste containers closed and sealed.

Penalty Assessment

(a) Potential for Harm - Moderate

Potential for Harm to the Environment

Failing to store hazardous waste in closed containers creates a significant potential for harm to the environment because it increases the chances that hazardous waste will be released to the environment. Additionally, most of C & C's waste containers contained paint and paint thinner wastes that contain volatile organic compounds. By storing them in open containers, C & C unnecessarily exposed workers to released VOCs. Overall the potential for harm for this violation is moderate.

(b) Extent of Deviation - Minor

At the time of the inspection, there were five containers that were not closed. This is a small percentage of the total number containers observed in storage at the time of the inspection.

(c) Penalty Assessment

EPA has determined that C & C's violation of these requirements warrants a classification of Moderate/Minor.

Matrix Cell Range (gravity-based penalty): \$4,250 - 7,090.

Penalty Amount: \$ 5,670 (mid-point).

TOTAL PENALTY AMOUNT: \$5,670

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Penalty summary – C & C Products, Chicopee, MA

5 Failure to provide adequate initial and annual refresher training.

C & C did not provide adequate hazardous waste training to all employees with hazardous waste management responsibilities.

Penalty Assessment

(a) Potential for Harm - Moderate

Employees who manage hazardous waste as part of their normal job duties must be properly trained and must receive initial and annual refresher training. The purpose of this annual hazardous waste training is to reinforce both good hazardous waste management practices and safe and effective emergency procedures. This training is necessary to reduce the potential for mismanagement of hazardous waste, which could threaten human health or the environment.

At C & C, Laurie Magnuson (LM) had the majority of the responsibility for managing the company's hazardous waste management program. LM served as C & C's in-house trainer, and was the only person that conducted training for C & C's employees. Therefore, it was important that LM be trained annually so that the requirements were periodically refreshed through a formal training. LM had not received formal RCRA training since 1999. LM had conducted some hazardous waste training to employees, but no training was conducted in 2010.

(b) Extent of Deviation - Major

LM did not received hazardous waste training in 2010 and 2011. She attended training after the inspection in 2012. Also, Dan Topper, C & C's primary emergency coordinator, was not trained in 2010 and 2011, but was trained after the inspection in 2012. Sabino Rebelo (SR) and Javier Ortiz (JO) both had significant responsibilities for maintaining C & C's hazardous waste storage areas, but were not trained during the missed training event in 2010. Therefore, the extent of deviation is major.

(c) Penalty Assessment:

EPA has determined that C & C's violation of these requirements warrants a classification of Moderate/Major.

(1) Matrix Cell Range (gravity-based penalty): Moderate/Major \$11,330-\$15,580.
Penalty Amount Chosen - \$13,455 (mid-point)

(2) Multi-day/Multi-event Assessment of Violations

In accordance with page 22 of the RCRA Civil Penalty Policy, EPA is applying multiple penalties for the failure to conduct training. However, due to the similarity of the violations, EPA has chosen to apply the multi-day penalty matrix rather than to assess a full gravity-based penalty for the violations occurring

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Penalty summary – C & C Products, Chicopee, MA

during the most recent three years. Individual training events missed by C & C have been estimated as:

LM-two missed events;
DT-two missed events;
SR-one missed event; and
JO-one missed event.

The multi-day matrix cell range for a violation that poses a moderate potential for harm and a major extent of deviation is \$570-\$3,120. The midpoint of this cell range is \$1,845.

Moderate-Major

First violation		\$ 13,455
Second through 6th violation (5)(\$1,845)	=	<u>\$ 9,225</u>
Total Penalty		\$ 22,680

(3) Adjustment for Economic Benefit

Using EPA's BEN model, the economic benefit derived by C & C for its failure to provide hazardous waste training to four employees for a total of six missed training events is \$2,161.

TOTAL PENALTY AMOUNT: \$22,680 + \$2,161 (BEN) = 24,841

6. Failure to maintain a hazardous waste training plan.

At the time of the inspection, C & C did not have a hazardous waste training plan, and therefore, did not adequately maintain the following information:

- i.. a listing of job titles for each position at the facility related to hazardous waste management and the name of the employee filling each job;
- ii. a written job description for each position with hazardous waste duties; and
- iii. a written description of the type and amount of both introductory and continuing training that will be given to each position with hazardous waste responsibilities listed above.

Penalty Assessment

(a) Potential for Harm - Moderate

Potential for Harm to the Environment -

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Penalty summary – C & C Products, Chicopee, MA

The failure to develop and maintain a complete training plan poses a significant risk that that employees with hazardous waste management responsibilities will not be properly trained, thereby increasing the likelihood for mismanagement of hazardous waste and for a release or exposure to occur. In C & C's case, annually training was being conducted except in 2010.

Potential for Harm to the Regulatory Program -

This violation created significant regulatory harm because without a training plan, there is no way for EPA inspectors to determine from documentation whether a company is providing adequate training to employees who are responsible for the management of hazardous wastes.

(b) Extent of Deviation - Major

There is substantial deviation from the requirement because at the time of the inspection, C & C did not have a training plan.

(c) Penalty Assessment

EPA has determined that C & C's violation of these requirements warrants a classification of Moderate/Major.

Matrix Cell Range (gravity-based penalty): \$21,250- \$28,330.

Penalty Amount: \$24,790 (mid-point).

TOTAL PENALTY AMOUNT: \$24,790

7. Failure to adequately conduct and document weekly inspections of hazardous waste containers used to accumulate hazardous waste.

A review of C & C's inspection records for 2009, 2010 and 2011 revealed that at least thirty-five weekly inspections had not been conducted during that period of time.

Penalty Assessment

(a) Potential for Harm - Moderate

Potential for Harm to the Environment and to the Regulatory Program-

For the three years of inspection records reviewed, there were significant gaps - as long as five weeks - without inspections being performed. Also, during the inspection, there were a number of container management and other issues that should have been observed and documented in C & C's inspection logs as areas needing corrective action, but that were not documented in the reviewed logs. The purpose of conducting inspections of hazardous waste storage areas is to detect deterioration of containers and secondary containment and other hazardous waste

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Penalty summary – C & C Products, Chicopee, MA

management problems, and to prevent releases of hazardous waste. During the inspection, the inspection team observed many physical storage problems that should have been discovered during inspections and then corrected. Many of the violations, including lack of aisle space, unlabeled and undated containers, spills, and cracking secondary containment, are the types of things that a proper inspection program should detect and correct.

(b) Extent of Deviation - Moderate

C & C routinely missed weekly inspections, and on multiple occasions, went as long as five weeks without conducting an inspection. The company missed a total of thirty-seven weekly inspections during the three year time period reviewed.

(c) Penalty Assessment

(1) Matrix Cell Range (gravity-based penalty): \$7,090 - \$11,330.
Penalty Amount: \$9,210 (mid-point).

(2) Multiple/Multi-day Assessment

EPA is applying multiple penalties for each failure to inspect the hazardous waste storage area. Because the violations are so similar in nature, pursuant to page 22 of the RCPP, EPA is using the multi-day penalty matrix for each violation after the first. A total of 37 weekly inspections were missed between 2009 and 2011. The multi-day matrix cell range for a violation which poses a moderate potential for harm and a moderate extent of deviation is \$360- \$2,230. EPA has chosen a value below the mid-point for this violation (\$1,000) because the Region believes the assessed penalty is sufficient to deter future noncompliance.

First violation	\$ 9,210
Second through 37 th violation (36)(\$1,000) =	<u>\$ 36,000</u>
Total Penalty	\$ 45,210

TOTAL PENALTY AMOUNT: \$45,210

8. Failure to maintain adequate aisle space at areas where hazardous wastes are stored.

At the time of the inspection, C & C was storing nearly all of its routinely generated hazardous waste in 55-gallon containers in the Main HWSA with inadequate aisle space.

Penalty Assessment

(a) Potential for Harm - Major

Potential for Harm to the Environment -

Storage of hazardous wastes without adequate aisle space poses a substantial risk of harm to human health and the environment. The majority of C & C's routinely

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Penalty summary – C & C Products, Chicopee, MA

generated hazardous waste was stored in 55-gallon containers palletized and stacked as high as three high. All of the aisles in this area were so constricted that there was no way for C & C's weekly inspections to be adequately conducted. Additionally, if a container in this area were to leak, the spill would likely be undetected. Also, the HWSA's surface was cracking and not properly sealed. If a leak were to occur, hazardous waste could enter the subsurface. Finally, inadequate aisle space prevents emergency response personnel from gaining the access they need to quickly respond to a spill.

Potential for Harm to the Regulatory Program -

The lack of adequate aisle space in the HWSA created substantial regulatory harm because there was no way for the inspectors to fully evaluate the condition of the containers. Specifically, the inspectors could not adequately observe how containers in the area were labeled and dated, and were not able to check to determine that C & C was properly segregating incompatible waste streams.

(b) Extent of Deviation - Major

The extent of deviation from the regulatory requirement is substantial because at the time of the inspection most of the containers in the HWSA were stored with inadequate aisle space.

(c) Penalty Assessment:

Matrix Cell Range (gravity-based penalty): \$28,330 - \$37,500.
Penalty Amount Chosen - \$32,915 (mid-point).

PENALTY AMOUNT = \$32,915

9. Failure to operate and manage operations in a way that minimizes the potential for a release.

At the time of the inspection, C & C did not operate the main HWSA in a manner that minimized the potential for release.

Penalty Assessment

(a) Potential for Harm – Major

Potential for Harm to the Environment -

C & C's practice of allowing spilled paints to accumulate on the floor of the main HWSA without immediate clean-up increases the likelihood of contaminants entering the environment by means of employees tracking paint outside of the facility and/or migration of paint into the cracks existing in C & C's concrete containment pad.

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Penalty summary – C & C Products, Chicopee, MA

(b) Extent of Deviation - Moderate

At the time of the inspection, the entire concrete pad in C & C's HWSA, where most of the hazardous waste was stored, was cracked and not properly sealed to contain a release. C & C's practice of allowing paints to accumulate on the inadequately maintained floor at the Main HWSA, resulted in a significant likelihood that paint would be released into the environment. The extent of deviation from the regulatory requirement is therefore, moderate.

(c) Penalty Assessment

EPA has determined that C & C's violation of these requirements warrants a classification of Major/Moderate.

Matrix Cell Range (gravity-based penalty): \$21,250 - \$28,330.

Penalty Amount: \$24,790 (mid-point).

PENALTY AMOUNT: \$24,790

10. Failure to maintain a telephone at the Main Hazardous Waste Storage Area.

At the time of the inspection, C & C did not have a telephone at the main HWSA where C & C stored the vast majority of its hazardous waste. The nearest phone was through two doors in an adjacent product storage location that was not in the immediate vicinity of the main HWSA. Emergency numbers were posted at the phone in the product storage area.

Penalty Assessment

(a) Potential for Harm – Minor

Potential for Harm to the Environment -

Although C & C did not have a phone at the main HWSA, a phone was located at an adjacent product storage area. Also, the C & C employee responsible for maintaining the HWSA was constantly in the area, and said he maintains a communication device at all times. The employee responsible for environmental compliance also stated she possesses a communication device at all times. However, a phone was not immediately accessible in the event that someone who did not have a communication device encountered an emergency.

(b) Extent of Deviation - Minor

C & C's primary employees responsible for the management of the HWSA were equipped with communication devices. The nearest phone was not far away, but was separated from the main HWSA by two doors.

(c) Penalty Assessment

USEPA

Penalty summary – C & C Products, Chicopee, MA

EPA has determined that C & C's violation of these requirements warrants a classification of Minor/Minor.

(1) Matrix Cell Range (gravity-based penalty): \$150 - \$710. Penalty Amount: \$430

PENALTY AMOUNT: \$430

PENALTY SUMMARY

1.	Failure to properly conduct hazardous waste determinations	\$45,680
2.	Failure to adequately label containers of hazardous waste	\$9,210
3.	Failure to label containers storing hazardous waste with the accumulation date	\$9,210
4.	Failure to keep hazardous waste containers closed	\$5,670
5.	Failure to provide adequate initial and annual refresher training	\$24,841
6.	Failure to maintain a hazardous waste training plan	\$24,790
7.	Failure to adequately conduct and document weekly inspections	\$45,210
8.	Failure to maintain adequate aisle space	\$32,915
9.	Failure to operate and manage operations in a way that minimizes the potential for a release	\$24,790
10.	Failure to maintain a telephone at the Main HWSA	<u>\$430</u>

TOTAL PROPOSED PENALTY **\$222,746**