UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – New England
5 Post Office Square - Suite 100
Boston, Massachusetts 02109-3912

BY HAND

February 7, 2012

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

Re: In the Matter of Bradford Printing and Finishing, L.L.C., Docket No. RCRA-01-2011-0019

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter are the original and one copy of a Complaint, Compliance Order, Notice of Opportunity for Hearing, and Notice of Opportunity to Confer.

Thank you for your assistance in this matter.

Sincerely,

Kevin P. Pechulis
Enforcement Counsel

Enclosures

cc: Nicholas L. Griseto, President, Bradford Printing and Finishing, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Complaint, Compliance Order, Notice of Opportunity for Hearing, and Notice of Opportunity to Confer was delivered in the following manner to the addresses listed below:

Original and One Copy by Hand Delivery to:

Wanda I. Santiago
Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (DRA 18-1)
Boston, MA 02109-3912

One Copy (with Part 22 Rules enclosed) by Certified Mail Return Receipt Requested to:

Nicholas L. Griseto
Bradford Printing & Finishing, L.L.C.
460 Bradford Road
Westerly, Rhode Island 02891

One Copy (with Part 22 Rules) by overnight delivery to:

Christopher C. Cassara, Esquire
Partridge Snow & Hahn, LLP
180 South Main Street
Providence, Rhode Island 02903

Date : 2/7/2012

Signed: Kevin P Pechulis

Kevin P. Pechulis
Enforcement Counsel
Office of Environmental Stewardship (OES04-3)
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Phone (dir.): 617-918-1612
E-mail: pechulis.kevin@epa.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of: Bradford Printing and Finishing, L.L.C. 460 Bradford Road Westerly, Rhode Island 02808 Respondent. EPA I.D. No. RID075679530 Proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)	Docket No. RCRA-01-2012-0019 **COMPLAINT, COMPLIANCE ORDER, NOTICE OF OPPORTUNITY FOR HEARING, AND NOTICE OF OPPORTUNITY TO CONFER**

I. STATEMENT OF AUTHORITY

1. This Complaint, Compliance Order, Notice of Opportunity for Hearing, and Notice of Opportunity to Confer (the "Complaint") is filed pursuant to Sections 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6928(a) and 6928(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 ("Part 22" or the "Consolidated Rules"). The Complainant is, by lawful delegation, the Legal Enforcement Manager in the Office of Environmental Stewardship, EPA Region 1.

2. Respondent, Bradford Printing and Finishing, L.L.C. ("Bradford"), is hereby notified of Complainant's determination that Respondent has violated Section 3002 of RCRA, 42 U.S.C. § 6922, 40 C.F.R. Parts 262, 265 and 273, Chapter 23-19.1 of the Rhode Island General Laws, and the Rhode Island Consolidated Rules and Regulations for Hazardous Waste Management 1.0 through 17.0 ("RI Rules").

3. This Complaint provides written notice of the United States Environmental Protection Agency's ("EPA") proposed RCRA compliance order included herein. This Complaint also provides notice of Respondent's opportunity to request a hearing to contest any material fact set forth in this Complaint and the RCRA compliance order proposed herein.

II. NATURE OF ACTION

4. Complainant takes this action under the authority of Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), to obtain compliance with RCRA and the hazardous waste regulations promulgated to implement RCRA.

5. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), notice of this action has been given to the State of Rhode Island and Providence Plantations (the "State of Rhode Island" or "Rhode Island").

III. STATUTORY AND REGULATORY FRAMEWORK

6. RCRA was enacted on October 21, 1976, and amended thereafter by, among other things, the Hazardous and Solid Waste Amendments of 1984, Pub.L. 98-616, Nov. 8, 1984, 98 Stat. 3221 ("HSWA"). Subchapter III of RCRA establishes a comprehensive federal regulatory program for the management of hazardous waste. See 42 U.S.C. §§ 6921-6939h. Pursuant to Subchapter III of RCRA, EPA has promulgated regulations that set forth standards and requirements applicable to generators and transporters of hazardous waste, as well as standards and requirements that are applicable to owners and operators of facilities that treat, store, and/or dispose of hazardous waste. These regulations are codified at 40 C.F.R. Parts 260-271.

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

8. On January 30, 1986, EPA granted the State of Rhode Island final authorization to administer its hazardous waste management program in lieu of the federal hazardous waste management program. See 51 Fed. Reg. 3780 (January 30, 1986). Updates to the Rhode Island hazardous waste management program were authorized by EPA on March 12, 1990, effective March 26, 1990; March 6, 1992, effective May 5, 1992; October 2, 1992, effective December 1, 1992; August 9, 2002, effective October 8, 2002; December 11, 2007, effective February 11, 2008; and July 26, 2010 and September 20, 2010, effective September 24, 2010. The authority for the Rhode Island hazardous waste program is set out at Chapter 23-19.1 of the Rhode Island General Laws, with implementing regulations promulgated as RI Rules 1.00 through 17.00.

9. Because EPA has not yet authorized the State of Rhode Island to implement some HSWA portions of the federal RCRA program, there is a dual State/Federal RCRA program in Rhode Island. State law governs the base hazardous waste program, but EPA has exclusive jurisdiction to implement and enforce the 1984 HSWA provisions for which Rhode Island is not authorized.

10. Pursuant to Sections 3006(g) and 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6926(g) and 6928(a) and (g), EPA may enforce the federally approved State of Rhode Island hazardous waste program, as well as the federal regulations promulgated pursuant to HSWA, by issuing an order assessing a civil penalty for any past or current violation of RCRA and/or requiring immediate compliance. Section 3006 of RCRA, 42 U.S.C. § 6926, as amended, provides that, among other things, 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 Subchapter C of RCRA.

11. Section 3008(a) of RCRA provides that upon finding that any person has violated

or is violating any requirement of Subchapter C of RCRA, including violations in an authorized state, EPA may issue an order requiring compliance immediately or within a specified time and assessing a civil penalty for any past or current violation. Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), 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. See 69 Fed. Reg. 7121 (February 13, 2004). Violations that occur on or after January 13, 2009 are subject to penalties up to $37,500 per day per violation. See 73 Fed. Reg. 75340 (December 11, 2008).

IV. GENERAL ALLEGATIONS

12. Respondent is a limited liability company organized under the laws of Rhode Island with its principal place of business located at 460 Bradford Road, Westerly, Rhode Island 02808, which is located within the historic district of Bradford, Rhode Island. Respondent's facility (the "Facility") is also located at 460 Bradford Road, Westerly, Rhode Island 02808. The Facility is located along the Pawcatuck River.

13. Among other activities, Respondent is primarily engaged in the printing, coating and finishing of specialty fabrics at its Facility, and Respondent uses a variety of dyes in its fabric finishing operations.

14. On July 7, 2009, authorized representatives of EPA Region 1 (the "Inspectors") conducted a RCRA compliance evaluation inspection of the Facility (the "July 2009 Inspection"), pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

15. On July 7-8, 2010, the Inspectors conducted a follow-up RCRA compliance evaluation inspection of the Facility (the "July 2010 Inspection"), pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

16. Respondent's Facility consists of two main structures: the Main Building and the Old Mill Building, along with several small buildings, which include a garage and gatehouse. The Main Building includes, among other areas, the drum storage room, shipping dock area, laboratory, quality control laboratory (referred to as the "White House"), and the "Tin Shed." The Old Mill Building is located toward the north-east of the Main Building and closer to the Pawcatuck River.

17. At all times relevant to this Complaint, Respondent stored unlabeled wastes throughout its Facility, including in the Main Building, which includes the drum storage room, laboratory, and the Tin Shed, and the Old Mill Building. Respondent did not maintain a RCRA 90-day hazardous waste accumulation area within its Facility that was operated in accordance with the requirements of 40 C.F.R. § 262.34(a).

18. During a flood that occurred in the Spring of 2010, the Main Building and the Old Mill Building experienced severe flooding. The Old Mill Building was flooded to a height of approximately 2.5 feet of water during the flood, and the Main Building experienced equipment failures during the flood.

19. At all times relevant to this Complaint, Respondent was and currently is a "person," as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, and RI Rule 3.0.

20. At all times relevant to this Complaint, Respondent's Facility was and currently is a "facility," as defined at 40 C.F.R. § 260.10 and RI Rule 3.0.

21. At all times relevant to this Complaint, Respondent was and currently is the "owner" and/or "operator" of the Facility, as defined at 40 C.F.R. § 260.10 and R.I. Rule 3.0.

22. At all times relevant to this Complaint, Respondent has generated "solid waste," as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), and 40 C.F.R. §§ 260.10 and 261.2. See also R.I Rule 3.0 ("Waste shall mean solid waste as defined in 40 CFR 261.2.").

23. At all times relevant to this Complaint, Respondent has generated "Rhode Island Wastes," as defined in RI Rule 3.0.

24. On December 11, 1980, Respondent submitted a Notice of Hazardous Waste Activity to EPA, identifying itself as a small quantity generator of hazardous waste.

25. At all times relevant to this Complaint, some of the wastes Respondent has generated were "hazardous wastes," as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), 40 C.F.R. §§ 260.10 and 261.3, and RI Rule 3.0.

26. At all times relevant to this Complaint, Respondent was and currently is a "generator," as defined in 40 C.F.R. § 260.10 and RI Rule 3.0.

27. Accordingly, as a generator of hazardous waste, Respondent is subject to RCRA, the federal regulations promulgated at 40 C.F.R. Parts 260-271, 273 and 279, and the RI Rules.

V. VIOLATIONS

28. Based on the July 2009 Inspection and the July 2010 Inspection, and further investigation by EPA, Complainant has identified the following violations at the Facility:

Count 1 - Failure to Make Hazardous Waste Determinations

29. Paragraphs 1-28 are realleged and incorporated by reference.

30. Pursuant to RI Rule 5.8, a generator must determine if any of its wastes meet any of the definitions of a hazardous waste. The generator must determine if any of its wastes meet

any of the federal definitions of "hazardous waste" as required by 40 C.F.R. § 262.11. See also 40 C.F.R. §§ 268.7(a) and 268.9(a).

31. At the time of the July 2010 Inspection, Respondent was not conducting hazardous waste determinations for the following waste streams and/or containers of waste:

a. Waste dyes. At the time of the July 2010 Inspection, there were four 275-gallon totes (the "Totes") located in the east end of the Tin Shed at the Facility, which is located in the southeast corner of the Main Building. David Gibbons, Respondent's Environmental Director at the Facility at the time of the July 2010 Inspection, informed the Inspectors that the Totes contained spent dyes and gum mixtures, which had been used in Respondent's printing and fabric finishing operations at the Facility. Mr. Gibbons also informed the Inspectors that the spent dyes and gum mixtures in the Totes were being stored to be sent off-site for disposal as non-hazardous waste. The Totes were not labeled with the words "hazardous waste" or with the date on which wastes began to be accumulated in the Totes (i.e., an accumulation start date). At the time of the July 2010 Inspection, Respondent maintained filing cabinets in the laboratory that contained hundreds of material safety data sheets ("MSDSs") for dyes and other chemicals used at the Facility. The Inspectors reviewed a sample of 38 MSDSs for dyes from Respondent's MSDS files at the time of the July 2010 Inspection. The MSDSs reviewed by the Inspectors showed that certain of the dyes contained chromium and/or heavy metals in concentrations that could cause the spent dyes and gum mixtures that Respondent generated at the Facility and stored in the Totes prior to shipment offsite to meet the definition of a hazardous waste. After the July 2010 Inspection, in a letter dated July 12, 2010 from Mr. Gibbons to EPA, Mr. Gibbons stated that there were seven product dyes in inventory at the Facility at the time of the July 2010 Inspection that were also among the 38 MSDSs reviewed by the Inspectors at the July 2010

Inspection. At least five of the MSDSs for the dyes that Mr. Gibbons identified as being product dyes in inventory at the Facility at the time of the July 2010 Inspection showed that the dyes contained chromium in concentrations that could cause the spent dyes and gum mixtures that Respondent generated at the Facility and stored in the Totes prior to shipment offsite to meet the definition of hazardous waste.

b. Waste containers storing unused dyes. At the time of the July 2010 Inspection, there were 261 containers stored in the Old Mill Building. There were 85 55-gallon containers located in bays marked 1, 2 and 3; 138 containers, of sizes ranging from five to 55 gallons, in bays marked X, Y and Z and two unmarked bays; and 38 containers, of sizes ranging from five to 55 gallons, which were located toward the west end of the Old Mill Building. Many of the 261 containers that were stored in the Old Mill Building did not have labels, or the labels were illegible. Mr. Gibbons informed the Inspectors that these 261 containers mostly contained unused dyes, but that Respondent's waste hauler, The Environmental Quality Company ("EQ") had not been to the Old Mill Building since the time of the flood in the Spring of 2010 to segregate, classify, or label the 261 containers. Mr. Gibbons also informed the Inspectors that the Facility had historically used metal-based dyes in its printing and finishing operations. The sample of 38 MSDSs for dyes reviewed by the Inspectors at the July 2010 Inspection showed that certain of the dyes contained chromium and/or heavy metals in concentrations that could cause the unused dyes that Respondent stored in containers in the Old Mill Building to meet the definition of a hazardous waste.

c. Containers storing unknown wastes. At the time of the July 2010 Inspection, there were two locations in the Main Building at the Facility that had containers storing unknown wastes.

i. In the drum storage room, which is located in the middle of the north side of the Main Building, there were 31 unlabeled 55-gallon containers, along with the following additional containers: 20 five-gallon pails on a shelf; one pallet of small containers, which included containers storing paint and inks, along with three one-gallon containers storing duplicating fluid that were labeled with the words "Bantam Duplicating Fluid" and "Caution Flammable Mixture;" one shelf with small containers of paint and six batteries; one 55-gallon drum labeled with the words "flammable liquids;" one container of alkaline salt; one container of glycol ether concentrate; and one container of nitrate. Mr. Gibbons informed the Inspectors that the containers stored in the drum storage room had washed through the Facility during the flood that occurred in the Spring of 2010, and that EQ had segregated the containers in the drum storage room. The containers that were labeled as "flammable" are likely to contain ignitable hazardous waste. The unlabeled containers storing unknown wastes may contain constituents that could cause the waste to meet the definition of a hazardous waste.

ii. The following containers were stored in the shipping dock area of the Main Building, which is located in the middle of the north side of the Main Building, just south of the drum storage area: one pallet containing 16 five-gallon pails; one pallet containing one 15-gallon pail and five poly drums; one pallet containing six miscellaneous containers; and two 55-gallon containers not on a pallet. Mr. Gibbons informed the Inspectors that these containers, which were all marked with blue tags, all contained unknown waste. These containers storing unknown wastes may contain constituents that could cause the waste to meet the definition of a hazardous waste.

d. Used Paints and Solvent Materials. At the time of the July 2010 Inspection, there was a cardboard box on the northern side of the eastern end of the Old Mill

Building, which was approximately five feet wide by two and a half feet long, that held paint cans and containers of solvent materials, all of which were old and in poor condition. Mr. Gibbons informed the Inspectors that the paint cans and containers of solvent materials in this box were wastes. The paint cans may have contained constituents that could cause the waste paint to meet the definition of a hazardous waste, and the solvent materials were likely to be ignitable hazardous wastes.

e. Waste laboratory chemicals. At the time of the July 2010 Inspection, there were numerous containers of varying sizes of old laboratory chemicals that were stored in four cabinets located in the laboratory, which was located in the middle of the Main Building to the west of the White House quality control laboratory. The containers of old laboratory chemicals were old, with a coating of dust, and many contained illegible labels. Rich Abramson, one of Respondent's laboratory technicians, informed the Inspectors that nearly all of the chemicals stored in the four cabinets were wastes by stating that "98% of the laboratory chemicals stored in the laboratory cabinets could be disposed." The laboratory cabinets included containers of the following laboratory chemicals: in the first cabinet, sodium hydroxide, potassium permanganate, iodine, and sulfuric acid; in the second cabinet, acetic acid (glacial), Stoddard solution (also marked "waste"), ammonium nitrate, potassium hydroxide, silver acetate, methyl orange, and naphthol; in the third cabinet, titanium dioxide, ammonium sulfate, carbazole, diphenylamine, and titanium trichloride; and in the fourth cabinet, sodium nitrite, N, N dimethyl formamide, lead, potassium bromate, and sodium oxalate. The laboratory chemicals stored in the four cabinets within the laboratory may contain metal constituents, acids, bases, ignitable or reactive materials that could cause the chemicals to meet the definition of a hazardous waste.

32. Respondent's failure to conduct proper hazardous waste determinations for the

waste streams and/or containers of waste described above in Paragraph 31, violates RI Rule 5.8. See also 40 C.F.R. §§ 262.11, 268.7(a) and 268.9(a).

Count 2 – Failure to Separate or Protect Containers Holding Hazardous Wastes that are Incompatible with any Waste or Other Materials Stored Nearby in Other Containers

33. Paragraphs 1-32 are realleged and incorporated by reference.

34. Pursuant to RI Rule 5.2, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. § 262.34.

35. Pursuant to 40 C.F.R. § 262.34(a)(1), a generator must comply with, among other requirements, the provisions of 40 C.F.R. Part 265, Subpart I for containers storing hazardous waste.

36. Pursuant to 40 C.F.R. § 265.177(c), a storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

37. At the time of the July 2010 Inspection, Respondent stored numerous containers of varying sizes of waste laboratory chemicals without any separation or protective barrier in four cabinets located in the laboratory, which was located in the middle of the Main Building to the west of the White House quality control laboratory. Within the first of those four cabinets, Respondent stored the following waste laboratory chemicals, which are incompatible hazardous wastes: sodium hydroxide is incompatible with potassium permanganate, iodine, and sulfuric acid; potassium permanganate is incompatible with sulfuric acid; and iodine is incompatible with sulfuric acid. Within the second of those four cabinets, Respondent stored the following

laboratory chemicals, which are incompatible hazardous wastes: acetic acid (glacial), is incompatible with Stoddard solution, ammonium nitrate, potassium hydroxide, iodine, silver acetate, methyl orange, and naphthol; and Stoddard solution is incompatible with ammonium nitrate and iodine. Within the third of those four cabinets, Respondent stored the following laboratory chemicals, which are incompatible hazardous wastes: ammonium sulfate is incompatible with carbazole and diphenylamine; carbazole is incompatible with titanium trichloride; and diphenylamine is incompatible with titanium trichloride. Within the fourth of those four cabinets, Respondent stored the following laboratory chemicals, which are incompatible hazardous wastes: sodium nitrite is incompatible with N, N dimethyl formamide, lead, and sodium oxalate; N, N dimethyl formamide is incompatible with potassium bromate; lead is incompatible with potassium bromate; and potassium bromate is incompatible with sodium oxalate.

38. Accordingly, Respondent's failure to separate or protect containers holding hazardous waste from containers storing incompatible waste or other materials, as described above in Paragraph 37, constitutes a violation of RI Rule 5.02, which incorporates by reference 40 C.F.R. § 262.34(a)(1), which in turn, incorporates by reference 40 C.F.R. § 265.177(c).

Count 3 - Failure to Provide Adequate Hazardous Waste Management Training

39. Paragraphs 1-38 are realleged and incorporated by reference.

40. Pursuant to RI Rule 5.2, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. § 262.34.

41. Pursuant to 40 C.F.R. § 262.34(a)(4), a generator must comply with, among other requirements, 40 C.F.R. § 265.16.

42. Pursuant to 40 C.F.R. § 265.16(a)(1), employees who manage hazardous wastes must complete a hazardous waste management training program that teaches them to perform their duties in a way that ensures the facility's compliance with RCRA.

43. Pursuant to 40 C.F.R. § 265.16(a)(2), the training program must be directed by a person trained in hazardous waste management procedures and must include instruction that teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed (i.e., "initial RCRA training").

44. Pursuant to 40 C.F.R. § 265.16(b), employees who manage hazardous waste must successfully complete the program within six months after the date of their employment, and they must not work in unsupervised positions until they have completed the training requirements.

45. Pursuant to 40 C.F.R. § 265.16(c), employees who manage hazardous wastes must also take part in an annual review of the training (i.e., "annual RCRA training").

46. Pursuant to 40 C.F.R. § 265.16(e), the owner or operator of the facility must maintain hazardous waste training records on all current personnel until the facility is closed. For former employees, such records must be maintained for at least three years after their last work date at the facility.

47. At the time of the July 2009 Inspection and the July 2010 Inspection, Respondent did not maintain any RCRA personnel training records at its Facility.

48. At the time of the July 2010 Inspection, Mr. Gibbons informed the Inspectors that he had not received any formal RCRA hazardous waste training, but that he had received Hazardous Waste Operations and Emergency Response Standard ("HAZWOPER") training under the Occupational Safety and Health Act ("OSHA").

49. At the time of the July 2009 Inspection and the July 2010 Inspection, Mr. Gibbons appeared to be the only employee of Respondent managing hazardous waste at the Facility, including by being responsible for signing hazardous waste manifests for the Facility.

50. Accordingly, Respondent's failure to provide adequate hazardous waste management training to Mr. Gibbons during calendar years 2009 and 2010, as described above in Paragraphs 47 through 49, violates RI Rule 5.2, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which in turn, incorporates by reference 40 C.F.R. § 265.16.

Count 4 - Failure to Have a Hazardous Waste Contingency Plan

51. Paragraphs 1-50 are realleged and incorporated by reference.

52. Pursuant to RI Rule 5.2, a generator may store hazardous waste onsite for 90 days or less without a permit as long as the hazardous waste is managed in accordance with, among other requirements, the requirements of 40 C.F.R. § 262.34.

53. Pursuant to 40 C.F.R. § 262.34(a)(4), a generator must comply with, among other requirements, the provisions of 40 C.F.R. §§ 265.51 and 265.52.

54. Pursuant to 40 C.F.R. § 265.51(a), an owner or operator must have a contingency plan for its facility. The plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil or surface water.

55. Pursuant to 40 C.F.R. § 265.52(a), the contingency plan must describe the actions facility personnel must take to comply with 40 C.F.R. §§ 265.51 and 265.56 (requirements for emergency procedures) in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil or surface water at the facility. Pursuant to 40 C.F.R. § 265.52(b), if the owner or operator already has a Spill Prevention, Control, and

Countermeasures ("SPCC") Plan or some other emergency or contingency plan, it need only to amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of 40 C.F.R. Part 265, Subpart D.

56. Pursuant to 40 C.F.R. § 265.52(c), the contingency plan must describe arrangements agreed to by local police and fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services.

57. Pursuant to 40 C.F.R. § 262.52(d), the contingency plan must list names, addresses, and office and home phone numbers of all persons qualified to act as emergency coordinator and the list must be kept up to date. If more than one person is listed, one person must be named as a primary emergency coordinator and the others must be listed in the order in which they will assume responsibility as alternates.

58. Pursuant to 40 C.F.R. § 262.52(e), the contingency plan must include a list of all emergency equipment at the facility, which must be kept up to date, and must include the location and a physical description of each item on that list and a brief outline of its capabilities.

59. Pursuant to 40 C.F.R. § 262.52(f), the contingency plan must include an evacuation plan for facility personnel. The plan must describe signal(s) to be used to begin an evacuation, evacuation routes, and alternate evacuation routes.

60. At the time of the July 2009 Inspection and the July 2010 Inspection, Respondent did not maintain a hazardous waste contingency plan for the Facility that met the requirements of 40 C.F.R. §§ 265.51 and 265.52.

61. At the time of the July 2010 Inspection, Respondent had a Spill Prevention Control and Countermeasures ("SPCC") Plan, which was limited to oil spills. The SPCC Plan, however, lacked many of the requirements necessary for a hazardous waste contingency plan.

Missing requirements included: the locations and capabilities of emergency and decontamination equipment, and identification of the types and locations of the wastes stored at the Facility.

62. Accordingly, Respondent's failure to maintain a hazardous waste contingency plan, as described above in Paragraphs 60 and 61, constitutes violations of RI Rule 5.2, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which in turn, incorporates by reference 40 C.F.R. §§ 265.51 and 265.52.

Count 5 - Failure to Properly Manage Universal Wastes

63. Paragraphs 1-62 are realleged and incorporated by reference.

64. Pursuant to RI Rule 13.1 universal wastes must be managed in accordance with 40 C.F.R. Part 273 and the additional requirements imposed by RI Rule 13.0.

65. Pursuant to RI Rules 13.1 and 13.5H and 40 C.F.R. § 273.1, 40 C.F.R. Part 273 and RI Rule 13.0 establish requirements for managing "lamps" as described in 40 C.F.R. § 273.5, which incorporates 40 C.F.R. § 273.9 by reference, as "universal wastes."

66. Pursuant to 40 C.F.R. § 273.9, a lamp is defined as follows: "the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps."

67. Pursuant to RI Rule 13.5D, waste lamps must be managed as universal waste (or hazardous waste) whether or not they exhibit a hazardous waste characteristic.

68. Pursuant to 40 C.F.R. § 273.13(d), a small quantity handler of universal waste must, among other requirements, contain any lamp in containers or packages that are structurally

sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

69. Pursuant to 40 C.F.R. § 273.13(d), a small quantity handler of universal waste must, among other requirements, immediately clean up and place in a container any lamp that is broken, and must place in a container any lamp that shows evidence of breakage, leakage or damage that could cause the release of mercury or other hazardous constituents to the environment.

70. At the time of the July 2009 Inspection, Respondent stored four lamps in a waste storage area in the east end of the Main Building at the Facility. These four lamps were not stored in a container, but rather were stored directly on a shelf.

71. At the time of the July 2010 Inspection, Respondent stored in a waste storage area in the east end of the Main Building at the Facility: three broken, unpackaged waste lamps, along with pieces of broken lamps on the surrounding floor and on top of a 55-gallon container, and two unpackaged lamps in a lamp assembly on the floor. The three broken, unpackaged waste lamps were stored in the same location as the four non-containerized waste lamps that the Inspectors observed during the July 2009 Inspection. Neither the three broken lamps, along with the pieces of broken lamps on the floor and on top of a 55-gallon container, nor the two lamps contained within the lamp assembly were stored in a container. In addition, Respondent had not immediately cleaned up and placed into a proper container the broken lamps and broken lamp pieces that were located on the floor and on top of a 55-gallon container.

72. At the time of the July 2010 Inspection, Respondent stored in the east end of the Tin Shed area of the Main Building an eight foot long, open top, wooden box that contained

approximately 20 unpackaged lamps, along with two cardboard boxes containing an unknown quantity of lamps, and other wastes. One of the cardboard boxes that was stored within the wooden box and contained lamps appeared to be bent as a result of a bolt of fabric lying on top of it. The approximately 20 unpackaged lamps were not stored in a container that satisfied the requirements of 40 C.F.R. § 273.13(d).

73. At all times relevant to this Complaint, Respondent has been a "small quantity handler of universal waste," as defined in RI Rule 3.0.

74. Accordingly, Respondent's failure to manage the lamps and lamp containers in accordance with 40 C.F.R. Part 273, as described above in Paragraphs 70 through 72, violates RI Rules 13.1 and 13.5, which incorporate 40 C.F.R. § 273.13(d) by reference.

Count 6 - Failure to Label Universal Waste Containers and Demonstrate Length of Accumulation Time of Universal Waste

75. Paragraphs 1-74 are realleged and incorporated by reference.

76. Pursuant to RI Rules 13.1 and 13.5I and 40 C.F.R. § 273.14, lamps or a container in which lamps are contained must be labeled or clearly marked with any one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

77. Pursuant to RI Rule 13.1 and 40 C.F.R. § 273.15(c), a small quantity handler of universal waste who accumulates universal waste (including lamps) must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

78. At the time of the July 2009 Inspection, Respondent stored four lamps in a waste storage area in the east end of the Main Building at the Facility. These four lamps were not stored in a container and were not labeled as "Universal Wastes" or marked with an accumulation date. In addition, two boxes of waste lamps were being stored in the east end of

the Main Building at the Facility prior to being recycled. These two (2) boxes of waste lamps were not labeled as "Universal Wastes" or marked with an accumulation start date.

79. At the time of the July 2010 Inspection, Respondent stored in a waste storage area in the east end of the Main Building at the Facility: three broken, unpackaged lamps, along with pieces of broken lamps on the surrounding floor and on top of a 55-gallon container, and two unpackaged lamps in a lamp assembly on the floor. The three broken, unpackaged lamps were stored in the same location as the four non-containerized lamps that the Inspectors observed at the time of the July 2009 Inspection. The three broken lamps, along with the pieces of broken lamps on the floor and on top of a 55-gallon container, and the two lamps contained within the lamp assembly were not stored in a container, and were not labeled "Universal Wastes" or marked with an accumulation start date.

80. At the time of the July 2010 Inspection, Respondent stored in the east end of the Tin Shed within the Main Building an eight foot long, open top, wooden box that contained 20 unpackaged lamps, along with two cardboard boxes containing an unknown quantity of lamps, and other wastes. One of the cardboard boxes that was stored within the wooden box and contained lamps appeared to be bent as a result of a bolt of fabric lying on top of it. Neither the 20 unpackaged lamps nor the two boxes containing lamps were labeled as "Universal Wastes" or marked with an accumulation start date.

81. Accordingly, Respondent's failure to label or clearly mark waste lamps or containers in which waste lamps are stored, and to demonstrate the length of time that the waste lamps have been accumulated from the date they became a waste, as described above in Paragraphs 78 through 80, violates RI Rules 13.1 and 13.5, which incorporate by reference 40 C.F.R. §§ 273.14 and 273.15(c).

VI. RCRA COMPLIANCE ORDER

Based on the foregoing findings, Respondent is hereby ordered to comply with the following requirements upon receipt of this Compliance Order:

82. Respondent shall achieve and maintain compliance with all applicable requirements of RCRA. Specifically, Respondent shall comply with the following requirements:

a. Within 14 days of receipt of this Compliance Order, and in accordance with RI Rule 5.8, Respondent shall submit to EPA for review and approval a hazardous waste identification plan that describes how Respondent will make hazardous waste determinations on all solid wastes stored at Respondent's Facility for which such determinations have not yet been made. Respondent's hazardous waste identification plan shall include, at a minimum, the following elements: a description of all wastes that Respondent plans to test to determine whether they are a hazardous waste under Rule 5.8, see also 40 C.F.R. § 262.11, along with the tests that Respondent plans to apply to each waste; and a description of all wastes that Respondent plans to apply its knowledge in accordance with 40 C.F.R. § 262.11(c)(2) to determine if the wastes are hazardous, along with the data or information that forms the basis of Respondent's knowledge. After review of the hazardous waste identification plan, EPA shall in writing approve, in whole or in part, the plan with or without conditions, or disapprove, in whole or in part, the plan, directing Respondent to modify the plan. Within 14 days of EPA's approval of Respondent's hazardous waste identification plan, or such other time as EPA agrees to in writing, Respondent shall submit to EPA its final hazardous waste determinations for all wastes stored at Respondent's facility, along with all test results and other documentation supporting Respondent's determinations. Within seven days of submission of Respondent's final hazardous waste determinations, or such other time as EPA agrees in writing, Respondent must send all

hazardous waste offsite, in accordance with all applicable RCRA regulations, for appropriate treatment, storage and/or disposal. Within ten days of submission of Respondent's final hazardous waste determinations, or such other time as EPA agrees in writing, Respondent must provide EPA with copies of all hazardous waste manifests used to send such wastes offsite, as well as copies of all hazardous waste manifests used to send hazardous waste offsite since September 1, 2011.

b. Immediately upon receipt of this Compliance Order and in accordance with RI Rule 5.2, which incorporates by reference 40 C.F.R. § 262.34(a)(1), which in turn incorporate by reference 40 C.F.R. § 265.177(c), Respondent shall separate and/or properly protect all containers holding hazardous waste from containers storing incompatible wastes or other materials.

c. Within 90 days of receipt of this Compliance Order and in accordance with RI Rule 5.2A, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which in turn incorporates by reference 40 C.F.R. § 265.16, Respondent shall ensure that personnel who manage hazardous waste at the Facility complete a hazardous waste training program that meets the standards of 40 C.F.R. § 265.16. Respondent shall also ensure that personnel who manage hazardous waste at the Facility complete such a program within six months after the date of their employment, or assignment to the Facility, or assignment to a position managing hazardous wastes. Furthermore, Respondent shall ensure that personnel who manage hazardous waste at the Facility take part in an annual review of such training. In addition, Respondent shall maintain the training documents and records required by 40 C.F.R. § 265.16.

d. Within 90 days of receipt of this Compliance Order and in accordance with RI Rule 5.2A, which incorporates by reference 40 C.F.R. § 262.34(a)(4), which in turn incorporates

by reference 40 C.F.R. §§ 265.51 and 265.52, Respondent shall develop and maintain a hazardous waste contingency plan at the Facility that meets all of the requirements of 40 C.F.R. §§ 265.51 and 265.52. The plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil or surface water. If Respondent has already prepared other emergency or contingency plans, it may elect to either amend those plans to incorporate hazardous waste management provisions that are sufficient to comply with 40 C.F.R. Part 265, Subpart D, or develop one contingency plan that meets all regulatory requirements (e.g., a plan based upon the National Response Team's Integrated Contingency Plan Guidance such as the "One Plan"). Respondent shall maintain a copy of the contingency plan at the Facility and shall submit copies of the contingency plan to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

e. Immediately upon receipt of this Compliance Order and in accordance with RI Rules 13.1 and 13.5H, which incorporates 40 C.F.R. § 273.13 by reference, Respondent shall store all universal waste in accordance with the applicable standards of Part 273, Subpart B – Standards for Small Quantity Handlers of Universal Wastes, including, but not limited to, the standards in 40 C.F.R. § 273.13(d) pertaining to storing waste lamps in proper containers and immediately cleaning up and containerizing broken lamps.

f. Immediately upon receipt of this Compliance Order, and in accordance with RI Rules 13.1 and 13.5I, which incorporates 40 C.F.R. §§ 273.14 and 273.15(c) by reference, Respondent shall store all universal wastes by clearly marking containers of lamps with the words "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," and be able to

demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

83. Within 97 days of receipt of this Compliance Order, or such other time as EPA agrees in writing, Respondent shall submit to EPA written confirmation of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance with the requirements set forth in Paragraph 82. Any notice of noncompliance with the requirements of Paragraph 82 shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will in no way excuse the noncompliance. The information requested in this Compliance Order is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 et seq. Respondent shall submit the copies of the above required information and notices to:

Donald R. MacLeod
RCRA Technical Enforcement Office
U.S. Environmental Protection Agency, Region 1
Office of Environmental Stewardship
5 Post Office Square, Suite 100 – Mail Code OES05-1
Boston, MA 02109-3912

84. If Respondent fails to comply with the requirements of this Compliance Order within the time specified, Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), and the DCIA 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.

VII. NOTICE OF OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

85. As provided in Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and in accordance with 5 U.S.C. § 554 and 40 C.F.R. § 22.14, Respondent has the right to request a formal hearing to contest any material fact set forth in this Complaint. To avoid being found in default, Respondent must file a written Answer within thirty (30) days of receipt of this Complaint. The

Answer should (1) clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint, (2) briefly state all facts and circumstances, if any, which constitute grounds for a defense, and (3) specifically request an administrative hearing (if desired). The denial of any material fact or raising any affirmative defense(s) shall be construed as a request for a hearing. Failure to deny any of the factual allegations in this Complaint will constitute an admission of the undenied allegations. The original and one copy of the Answer, as well as a copy of all other documents that Respondent files in this action, must be sent to:

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

86. Respondent should also send a copy of the Answer, as well as a copy of all other documents that Respondent files in this action to Kevin P. Pechulis, the attorney assigned to represent EPA and designated to receive service on behalf of Complainant in this matter at:

Kevin P. Pechulis
Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Office of Environmental Stewardship (OES04-3)
5 Post Office Square, Suite 100
Boston, MA 02109-3912
(617) 918-1612
(617) 918-0612 fax

87. The hearing that will be held upon Respondent's request will be conducted in accordance with the Administrative Procedure Act (5 U.S.C. §§ 551 et seq.) and the Consolidated Rules.

IX. DEFAULT ORDER

88. If Respondent fails to file a written Answer within 30 days of the service of this Complaint, pursuant to 40 C.F.R § 22.17(a) Respondent may be found in default, which

constitutes an admission of all the facts alleged in this Complaint and a waiver of the right to a hearing.

X. INFORMAL SETTLEMENT CONFERENCE

89. Whether or not Respondent requests a hearing, Respondent may confer informally with EPA to discuss the facts of this case and/or the possibility of settlement. The terms of such an agreement would be embodied in a Consent Agreement and Final Order. A Consent Agreement and Final Order, signed by Complainant and Respondent, would be binding as to all terms and conditions specified therein.

90. A request for an informal settlement conference does not extend any deadline in this proceeding, including the 30-day period for the submission of a written Answer to this Complaint.

91. If Respondent has any questions concerning the settlement process, or wishes to arrange for an informal conference, Respondent should contact Kevin P. Pechulis at (617) 918-1612.

XI. EFFECTIVE DATE

92. This Compliance Order shall become effective immediately upon receipt by Respondent.

Joanna B. Jerison
Legal Enforcement Manager
Office of Environmental Stewardship
U.S. EPA, Region 1

Date: 2/6/12