

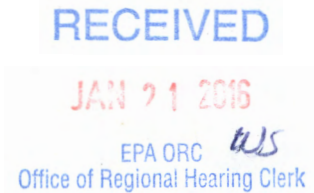


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

January 21, 2016

BY HAND

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



Re: Administrative Complaint, Compliance Order, and Notice of Opportunity for Hearing,
In the Matter of Specialty Materials Business Trust d/b/a/ Specialty Materials, Inc., EPA
Docket No. RCRA-01-2015-0073

Dear Ms. Santiago:

Enclosed are an original and one copy of the Complaint and Certificate of Service for filing with respect to the above-captioned matter.

Kindly file the documents in the usual manner. Thanks very much for your help.

Sincerely,

A handwritten signature in blue ink that reads "Christine M. Foot".

Christine M. Foot
Enforcement Counsel

Enclosures

cc: Mr. John Menzel, CEO, Specialty Materials, Inc.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)
)
SPECIALTY MATERIALS BUSINESS TRUST)
d/b/a SPECIALTY MATERIALS, INC.)
1449 Middlesex Street)
Lowell, MA 01851)
)
Respondent)
)
Proceeding under Section 3008(a) of the)
Resource Conservation Recovery)
Act, 142 U.S.C. § 6928(a))
)

EPA Docket No. RCRA-01-2015-0073

**ADMINISTRATIVE COMPLAINT,
COMPLIANCE ORDER, AND
NOTICE OF OPPORTUNITY FOR
HEARING**

RECEIVED
JAN 21 2016
EPA ORC WS
Office of Regional Hearing Clerk

I. STATEMENT OF AUTHORITY

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 (“Consolidated Rules of Practice”). The Complainant is the Legal Enforcement Manager of the Office of Environmental Stewardship, United States Environmental Protection Agency, Region 1 (“EPA”).

2. The Respondent, Specialty Materials Business Trust, d/b/a Specialty Materials, Inc. (“Specialty Materials” or “Respondent”), is hereby notified of EPA’s determination that it has violated Sections 3002 and 3005 of RCRA, 42 U.S.C. §§ 6922 and 6925; regulations

promulgated thereunder at 40 C.F.R. Parts 262 and 265; Chapter 21C of the Massachusetts General Laws; and the regulations promulgated thereunder found at Title 310, Chapter 30 of the Code of Massachusetts Regulations set forth at 310 C.M.R. 30.000 *et seq.* Complainant hereby provides notice of Respondent's opportunity to request a hearing concerning this allegation.

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).

II. NATURE OF ACTION

4. This Complaint seeks to obtain civil penalties and compliance with RCRA and is issued pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939e. Specifically, Complainant seeks civil penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), for Respondent's violations of the federal and state hazardous waste regulations promulgated pursuant to RCRA. Complainant also seeks compliance under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to ensure that Respondent complies with various violated regulations.

III. STATUTORY AND REGULATORY FRAMEWORK

5. Congress enacted RCRA in 1976, amending the Solid Waste Disposal Act, to regulate hazardous waste management. RCRA established a program for the management of hazardous wastes, to be administered by the Administrator of EPA. Subtitle C of RCRA, 42 U.S.C. § 6921–6939e, 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. The regulations promulgated by the Administrator are codified at 40 C.F.R. Parts 260 through 271.

6. 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.

7. 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.

8. In 1984, Congress substantially amended RCRA with the Hazardous and Solid Waste Amendments 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). 42 U.S.C. § 6924(c)–(p).

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

10. The Commonwealth of Massachusetts received final authorization to implement its base hazardous waste management program, effective February 7, 1985. 50 Fed. Reg. 3,344 (Jan. 24, 1985). 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).

11. 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, 310 C.M.R. §§ 30.000 *et seq.*

12. As amended, Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA (Sections 3001–3023), 42 U.S.C. §§ 6921–6939e. Therefore, a violation of any requirement under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.

13. Pursuant to Sections 3006(g), 3008(a), and 3008(g) of RCRA, 42 U.S.C. §§ 6926(g), 6928(a), and 6928(g), EPA may enforce violations of any requirement of Subtitle C of RCRA, including the federally approved Massachusetts hazardous waste management regulations as well as the federal regulations promulgated pursuant to the Hazardous and Solid Waste Amendments, by issuing orders requiring compliance immediately or within a specified time.

14. 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 Subtitle 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 Subtitle C of RCRA is up to \$37,500 per day per violation for violations that occurred on or after January 13, 2009.

IV. GENERAL AND FACTUAL ALLEGATIONS

15. Specialty Materials Business Trust is a business trust established under the laws of the Commonwealth of Massachusetts that merged with Specialty Materials, Inc. on December 13, 2007, and conducts business under the name Specialty Materials, Inc. Specialty Materials has a principal place of business located at 1449 Middlesex Street, Lowell, Massachusetts.

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

17. At all times relevant to the allegations set forth in this Complaint, Specialty Materials was and is the “owner” and/or “operator,” as those terms are defined in 310 C.M.R. 30.010, of a facility located at 1449 Middlesex Street, Lowell, Massachusetts (“Facility”).

18. At the Facility, Specialty Materials manufactures fiber products and composite materials that are used in aerospace, sporting, and industrial applications. At all times relevant to the allegations set forth in this Complaint, Specialty Materials manufactured boron epoxy tape and epoxy pitch and performed the spinning of epoxy fibers and epoxy film at the Facility. Manufacturing of boron fiber and silicon carbide fiber (along with the spinning of silicon carbide fibers) ceased in May 2014 and June 2012, respectively. At the time of the Inspection, Specialty Materials was no longer manufacturing petroleum-based pitch.

19. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), Avco Specialty Materials, Respondent’s predecessor in interest, notified EPA in 1980 that the Facility was a generator of hazardous waste, and it notified the Massachusetts Department of Environmental Protection (“MassDEP”) in 1987 that the Facility was a large quantity generator of hazardous waste. The Facility’s EPA identification number is: MAD000639054.

20. At all times relevant to this Complaint, Specialty Materials generated and continues to generate “solid wastes,” as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), and 40 C.F.R. §§ 260.10 and 261.2, and “wastes” as defined in 310 C.M.R. 30.010.

21. At all times relevant to this Complaint, at least some of the wastes that Specialty Materials generated at the Facility 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 310 C.M.R. 30.010 and 30.102(2).

22. Hazardous wastes that are currently generated or have been generated at the Facility include, but are not limited to: unwanted epoxy and adhesive (D001), solids contaminated with methylene chloride (F002), wastewater and solids contaminated with mercury (D009), resins with methyl ethyl ketone (D001, D035, F005), acetone with resin (D001, F003), solids contaminated with acetone (D001, F003), waste ethanol (D001), waste methanol (D001), waste methyl ethyl ketone (D035), spent carbon filter drum used to scrub hydrogen sulfide (D003), mixed silanes and silane-contaminated debris (D001, D003), and various out-of-date/unwanted chemicals, universal waste lamps and debris (D009).

23. At all times relevant to the allegations set forth in this Complaint, Specialty Materials has been and is: (1) a “generator” of hazardous waste, 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.

24. Respondent, therefore, is subject to the federal and state standards applicable to generators of hazardous waste found at Section 3002 of RCRA, 42 U.S.C. § 6922, the federal regulations promulgated at 40 C.F.R. Parts 260–271 and 279, and 310 C.M.R. 30.300 *et seq.*

25. On July 23 and 24, 2014, duly authorized representatives from 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, EPA observed conditions at the Facility and reviewed documents provided by Respondent, including (but not necessarily limited to) hazardous waste manifests, land disposal restriction notifications, weekly hazardous waste storage area/shed (“HWSA”) and monthly satellite accumulation area (“SAA”)

inspection records, training records, the current hazardous waste contingency plan, and available waste profiles.

26. At all times relevant to this Complaint, the Facility consisted of five buildings and a free-standing, two-compartment, less-than-ninety-day HWSA. "Building 20" houses current and former manufacturing processes (namely, manufacturing of boron and silicon carbide fibers, epoxy tape manufacturing, and fiber spinning). Building 20 also houses the Facility's industrial wastewater treatment facility covered by the City of Lowell Regional Wastewater Treatment Utility's Clean Water Act industrial user permit for neutralization and ion exchange removal of mercury. "Building 21" houses current and former manufacturing processes (namely, manufacturing of petroleum-based pitch, epoxy pitch, silicon fibers, fiber spinning, and film manufacturing). "Building 22" contains offices and administrative space. At the time of the Inspection, production units were being installed in "Building 23," which was planned to house manufacturing of fiber-reinforced aluminum billet in the future. "Building 24" is used for the storage of finished products. The HWSA is located adjacent to and behind Building 23.

27. After the Inspection, Respondent transmitted to EPA, by emails dated August 1, 2014 and February 13, 2015: an updated hazardous materials contingency plan (dated August 1, 2014); certain training records for two employees; a HWSA and SAA inspection spreadsheet covering April 28, 2013 through February 3, 2015; and copies of inspection logs for the HWSA developed and used by the Facility after the Inspection, covering the period of August 4, 2014 through December 26, 2014.

28. On March 4, 2015, EPA issued Respondent a Notice of Potential Violation.

29. On March 23, 2015, Respondent submitted an email response to EPA's March 4, 2015

Notice of Potential Violation.

V. VIOLATIONS

30. Based on the Inspection and EPA's review of subsequently provided information, the following violations were identified.

COUNT 1: Failure to Close Containers of Hazardous Waste during Storage

31. Paragraphs 1 through 30 are incorporated by reference as if fully set forth herein.

32. Pursuant to 310 C.M.R. 30.342(1)(c), throughout the period of accumulation, a large quantity generator must comply with the standards for the use and management of containers at 310 C.M.R. 30.685. Compliance with 310 C.M.R. 30.342(1)(c) is also required by 310 C.M.R. 30.340(6), when a generator accumulates up to fifty-five (55) gallons of non-acutely hazardous waste at or near the point of generation (at an SAA), provided that such accumulation meets various other requirements as well.

33. Under 310 C.M.R. 30.685(1), 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.

34. At the time of the Inspection, Respondent had not kept certain hazardous waste containers closed at all times when it was not adding or removing waste. Specifically, the following containers of hazardous waste were not closed:

Left compartment of the HWSA

- a. One (1) full 55-gallon, metal drum located along the left wall of the HWSA with a loosely fitted, red metal funnel screwed into the drum bung. The lid of the funnel was not securely sealed or locked into place (*i.e.*, only loosely placed in a downward position). The drum was labeled "hazardous waste, waste MEK" and additional labeling indicated "toxic" and "flammable";

Building 21, Second Floor, Film and Scrim Room

- b. One (1) half-full, 55-gallon SAA container labeled “hazardous waste, waste methylene chloride, liquid.” The drum had a funnel screwed into the drum bung and the funnel lid was not latched into place; and

Building 20, Third Floor, Boron and Silicon Carbide Fiber/Boron Epoxy Tape/Carbon Spinning

- c. One (1) one-third-full, 55-gallon SAA container that was labeled “hazardous waste, waste mercury solids, toxic.” The lid was placed loosely on the drum rim and the ring had not been secured.

35. 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), which is required by 310 C.M.R. 30.342(1)(c).

COUNT 2: Failure to Fully Label Each Container of Hazardous Waste

36. Paragraphs 1 through 35 are incorporated by reference as if fully set forth herein.

37. 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). Compliance with 310 C.M.R. 30.341(2)(a), (b), and (c) is also required by 310 C.M.R. 30.340(6), when a generator accumulates up to fifty-five gallons of non-acutely hazardous waste at or near the point of generation (at an SAA) without a standard license or interim status, provided that such accumulation meets various other requirements as well.

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

Left compartment of the HWSA

- a. One (1) half-full, closed, 1-liter, amber glass bottle surrounded with bubble wrap and placed within a 1-gallon secondary container, located on the bottom shelf of a shelving unit to the left of the entrance. The secondary container was labeled "Pentane, 1-12-10." The amber glass bottle was labeled "Alfa Aesar, Pentane HPLC Grade, 99+% (n-pentane, 95% minimum), highly flammable, Lot # K549447." The Material Safety Data Sheet ("MSDS") for this product indicates that it has a flash point of minus 57 degrees Fahrenheit. This hazard associated with the waste, as well as the words "hazardous waste" and were missing from the container labeling;
- b. One (1) closed, extremely rusted, approximately 3-gallon metal container, located on the top shelf of a shelving unit to the left of the entrance, that was labeled "dangerous when wet, 4.3, UN No. 1398." The words "hazardous waste," words that describe the contents, and words that describe the associated hazards were missing;
- c. One (1) full 55-gallon, metal drum with a loosely fitted red metal funnel screwed into the bung, labeled "hazardous waste, waste MEK." Additional labeling indicated "toxic" and "flammable," but did not identify the hazardous waste in words;
- d. One (1) unlabeled, closed, one-third-full, 55-gallon metal drum, adjacent to the drum labeled "MEK" described above, that was not marked or labeled with the words "hazardous waste," with words that describe the contents, or with words that describe the hazards associated with the waste, and which, according to a Facility representative, corresponded to methylene chloride waste;
- e. One (1) closed, full, 55-gallon metal drum that was labeled "hazardous waste, waste Quinoline and pitch" that did not have a label identifying the associated hazard;
- f. Two (2) closed, full, 5-gallon containers that had manufacturer's labels identifying the contents as methyl ethyl ketone. A Facility representative indicated that these were chemicals brought to the HWSA for disposal, but neither container was labeled with the words "hazardous waste";

Building 21, First Floor, Epoxy Resin and Fiber Manufacturing Area

- g. One (1) metal, closed, grounded, approximately two-thirds-full, 55-gallon SAA container that was labeled "hazardous waste, waste, epoxy and adhesive cleaner, toxic." However, while the waste profile and the MSDS identifies this waste stream as ignitable (*i.e.*, it has a flash point of 109 degrees Fahrenheit), the container was not labeled with this hazard associated with the waste.

Building 21, Second Floor Film and Scrim Room

- h. One (1) partially full, 30-gallon SAA drum labeled "hazardous waste, waste acetone, toxic." The MSDS for acetone indicates that it is ignitable (*i.e.*, it has a flash point of minus 4 degrees Fahrenheit), but this associated hazard was not labeled on the container;

- i. One (1) half-full, 55-gallon SAA container labeled “hazardous waste, waste methylene chloride, liquid.” The associated hazard was not provided on the label;
- j. One (1) one-third-full, 55-gallon SAA container labeled “hazardous waste, waste methylene chloride, solids (rags contaminated with methylene chloride).” The associated hazard was not provided on the label; and

Building 20 First Floor, Two-Step Tape Room

- k. One (1) partially full, 55-gallon metal SAA drum labeled “hazardous waste, acetone, toxic.” The writing on the label was very faint, barely visible, and difficult to read, and the label did not identify the associated hazard, which the MSDS indicates is “ignitable” (*i.e.*, it has a flash point of minus 4 degrees Fahrenheit).

39. Respondent’s failure to fully label containers of hazardous waste constitutes violations of 310 C.M.R. 30.341(2)(a), (b), and (c).

COUNT 3: Failure to Mark Containers with the Beginning Accumulation Date

40. Paragraphs 1 through 39 are incorporated by reference as if fully set forth herein.

41. Pursuant to 310 C.M.R. 30.341(2)(d), each container in which hazardous waste is being accumulated shall be clearly marked during the period of accumulation with the date upon which accumulation begins.

42. At the time of the Inspection, the six containers described in Sub-paragraphs 38(b) through 38(f) above, were not labeled with the beginning date of accumulation. Additionally, at the time of the Inspection, Respondent also had not labeled the following containers of hazardous wastes in the HWSA with the beginning date of accumulation:

- a. One (1) closed, full, 55-gallon metal drum, located in the left compartment of the HWSA, that had a partially accessible label indicating “toxic, waste [illegible/inaccessible].” The visible U.S. Department of Transportation label was blank, including the space for notation of the date of accumulation, which was also not otherwise marked on the container; and
- b. One (1) closed, full, 55-gallon, black metal drum, within a group of six similar drums, located in the right compartment of the HWSA. Each of the six drums was labeled

“hazardous waste, waste mercury solids, toxic,” but the middle drum in the back row was not marked with the date of accumulation.

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

COUNT 4: Failure to Maintain Adequate Aisle Space Where Hazardous Wastes Are Stored

44. Paragraphs 1 through 43 are incorporated by reference as if fully set forth herein.

45. Pursuant to 310 C.M.R. 30.342(1)(c), throughout the period of accumulation, a large quantity generator must comply with the standards for the use and management of containers at 310 C.M.R. 30.685. Pursuant to 310 C.M.R. 30.685(4), 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. 30.680. Similarly, 310 C.M.R. 30.341(1)(e)(6) requires a generator to comply with 310 C.M.R. 30.524(5), which in turn requires that the generator maintain sufficient aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area within the hazardous waste management unit in an emergency, unless the generator determines and documents in its files that aisle space is not needed for any of these purposes. A hazardous waste management unit is defined by 310 C.M.R. 30.010 to include a hazardous waste container storage area.

46. Respondent’s HWSA is a hazardous waste container storage area that constitutes a hazardous waste management unit.

47. At the time of the Inspection, Respondent was storing hazardous waste in three areas of the HWSA without providing sufficient aisle space between the containers to allow them to be fully inspected or accessed in an emergency:

- a. One (1) full 55-gallon metal drum, discussed above in Paragraph 42(a), that was located in the left compartment of the HWSA, along the back and right walls and very closely placed amongst several other 55-gallon and 5-gallon containers. This drum was labeled “toxic” and “waste [something illegible and inaccessible].” This drum was very difficult to access and inspect due to the close proximity of the other drums and its placement against the HWSA wall. The other containers of waste surrounding this drum consisted of “waste quinoline and pitch (toxic),” “methyl ethyl ketone,” and an unlabeled container of unknown waste;
- b. Six (6) closed, full, 55-gallon, black metal drums, discussed in Paragraph 42(b) above, each of which was labeled “hazardous waste, waste mercury solids, toxic.” The drums were positioned in two rows, each of three drums, against the back wall in the right compartment of the HWSA. The three containers in the back row were inaccessible for inspection by EPA. Furthermore, none of the drums could be inspected around their entire perimeter due to the proximity of the two rows to each other and the back and left walls of this compartment of the HWSA; and
- c. One (1) full, 55-gallon drum, which was among four closely placed 55-gallon drums located along the left wall of the left compartment of the HWSA. The metal drum in question was extremely rusted, with an old, partial label that read “___RDOUS WAST_, Specialty Materials.” This drum was placed in the far left, inaccessible corner, inhibiting access and inspection.

48. Respondent’s failure to store containers of hazardous waste to allow them to be inspected and to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment constitutes a violation of 310 C.M.R. 30.685(4), which is required by 310 C.M.R. 30.342(1)(c), and 310 C.M.R. 30.524(5), which is required by 310 C.M.R. 30.341(1)(e)(6).

COUNT 5: Failure to Conduct Adequate Hazardous Waste Determinations

49. Paragraphs 1 through 48 are incorporated by reference as if fully set forth herein.

50. Pursuant to 310 C.M.R. 30.302, any 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.

51. Under 310 C.M.R. 30.302, if a waste is not listed in 310 C.M.R. 30.104, a generator shall determine whether the waste is identified in 310 C.M.R. 30.130 through 30.136 or if it

constitutes a hazardous waste mixture or other regulated material by testing the waste according to the hazardous waste determination methods set forth in 310 C.M.R. 30.151 through 30.157, or by applying the knowledge of the hazardous nature or characteristics of the waste based on the materials or processes used to generate the waste.

52. At the time of the Inspection, Respondent was storing the following containers of waste in the Facility for which hazardous waste determinations had not been made:

Left compartment of the HWSA

- a. Five (5) full aerosol spray cans, located in an unlabeled, open cardboard box placed on the floor near and to the left of the entrance to the HWSA. These aerosol spray cans were labeled “Frekote Release Product 55-NC Releasing Interface, Highly Flammable (liquid)”;
- b. Eleven (11) full aerosol spray cans, located in the same unlabeled, open cardboard box placed on the floor near and to the left of the entrance to the HWSA. These aerosol spray cans were labeled “Certified WAS-16 Anti-Spatter Compound, Extremely Flammable”;
- c. One (1) partially full aerosol spray can, located in the same unlabeled, open cardboard box placed on the floor near and to the left of the entrance to the HWSA, which was labeled “Water-based Marker, Flammable”;
- d. One (1) full, closed, pint-sized container, located in the same unlabeled, open cardboard box placed on the floor near and to the left of the entrance to the HWSA, labeled “Devcon Company, Liquid Steel”;
- e. One (1) full, 55-gallon metal drum, located along the back wall, which was labeled “isopropyl alcohol”;
- f. One (1) extremely rusted, full, closed, 55-gallon metal drum, located in the far left corner, which had an old partial label that read “____RDOUS WAST_, Specialty Materials” (described above in Paragraph 47(c)). No other labeling or marking was found on the drum. Facility representatives indicated that they had no idea as to the drum contents;

Building 21, First Floor, Epoxy Resin and Fiber Manufacturing Area

- g. Thirty-one (31) 1-gallon cans of finished petroleum-based pitch, located on shelving outside of the Mixing Room, which had been manufactured between June 30, 2011

and May 17, 2012. Facility representatives informed EPA that, approximately three months prior to the Inspection, the pitch was found to be “no longer good.” Facility representatives explained that the material in these 31 cans was off-specification because it had oxidized. These cans were stored together with another thirty-eight (38) 1-gallon cans of the same material that were, according to Facility representatives, still viable. At the time of the Inspection, Facility representatives were unsure if the waste in the off-specification containers was hazardous or non-hazardous;

Building 20, Boron Recovery Basement (formerly called the Refrigeration Room)

- h. Two (2) 1-gallon, open, partially full, paint cans labeled “Weather Beater Ultra Super Bond Formula Exterior Semi-gloss” containing acrylic polymer, urethane polymer, cristobalite and 1-(2-butoxymethylethoxy) propanol; and
- i. One (1) 1-gallon paint can, partially full and open (*i.e.*, lid placed loosely over the opening) labeled “Sherwin Williams Water-based acrylic Paint” containing acrylic polymer, calcium carbonate, titanium dioxide, and 2-methoxymethylethyl propanol.

53. Respondent’s failure to determine whether approximately fifty-four (54) containers of waste at the Facility were hazardous constitutes violations of 310 C.M.R. 30.302.

COUNT 6: Failure to Have Proper Emergency Prevention and Response Measures

54. Paragraphs 1 through 53 are incorporated by reference as if fully set forth herein.

55. Pursuant to 310 C.M.R. 30.341(1)(e)(4), a generator must comply with 310 C.M.R. 30.524(2), which specifies the emergency prevention and response equipment that is required for all hazardous waste management units. Under 310 C.M.R. 30.524(2)(a), a hazardous waste management unit is required to have an internal communications or alarm system that can provide immediate emergency instruction to all facility personnel by voice or signal. Under 310 C.M.R. 30.524(2)(c), a hazardous waste management unit is required to be equipped with (among other things) spill control and decontamination equipment. Under 310 C.M.R. 30.524(2)(f), a hazardous waste management unit is required to post an up-to-date written list of certain emergency information, including the names and contact information for the emergency

coordinators, the locations of various emergency response equipment, the telephone number of the fire department, instructions on how to activate any direct alarm system, and evacuation routes.

56. At the time of the Inspection, the HWSA, which, as discussed above in Paragraph 46, meets the definition of a hazardous waste management unit, was not tied into the Facility's alarm system, leaving this area equipped with only a hand-held compressed air/aerosol air horn that was not capable of providing sufficient immediate emergency instruction to all Facility personnel.

57. Additionally, at the time of the Inspection, the closest spill kit was located approximately 120 feet away from the HWSA, at the loading dock of Building 20. Other than a man-hole sock that could be placed on the storm drain located near and outside of the HWSA, no other spill response or decontamination equipment existed in or near the HWSA.

58. Finally, at the time of the Inspection, the HWSA did not have an emergency posting at or near the HWSA that provided contact information, location of fire extinguishers and other emergency response equipment, and evacuation routes.

59. Respondent's failure to equip the HWSA with the required emergency prevention and response equipment and information constitutes a violation of 310 C.M.R. 30.524(2), which is required by 310 C.M.R. 30.341(1)(e)(4).

COUNT 7: Failure to Take Precautions to Prevent Accidental Ignition of Ignitable Hazardous Waste

60. Paragraphs 1 through 59 are incorporated by reference as if fully set forth herein.

61. Pursuant to 310 C.M.R. 30.341(1)(f), a generator must comply with 310 C.M.R. 30.560(1)(f), which in turn requires that the generator take precautions to prevent accidental ignition of ignitable hazardous waste at the facility from static, electrical, or mechanical sparks.

62. At the time of the Inspection, the left compartment of the HWSA contained a 55-gallon metal container with a red, loosely fitted, metal funnel screwed into the drum bung, described above in Paragraph 34(a), that was labeled “hazardous waste, waste MEK,” “toxic,” and “flammable” and that was not electrically grounded. MEK is an acronym for methyl ethyl ketone, which has a flash point of 26 degrees Fahrenheit, making it ignitable. Further, as discussed in Count 1, the lid of the funnel on this drum was not securely sealed or locked into place, increasing the possibility that this container of ignitable waste could be ignited by a spark.

63. Respondent’s failure to electrically ground or otherwise take precautions to prevent accidental ignition of a container of ignitable waste constitutes a violation of 310 C.M.R. 30.560(1)(f), which is required by 310 C.M.R. 341(1)(f).

COUNT 8: Failure to Conduct and Record Adequate Hazardous Waste Inspections

64. Paragraphs 1 through 63 are incorporated by reference as if fully set forth herein.

65. Pursuant to 310 C.M.R. 30.342(1)(d), throughout the period of accumulation, a large quantity generator must comply with 310 C.M.R. 30.686, which requires that the owner or operator conduct at least weekly inspections of areas where containers of hazardous waste are stored, looking for leaks and deterioration caused by corrosion or other factors. Also pursuant to 310 C.M.R. 30.342(1)(d), a generator must take the necessary remedial actions for issues revealed by the inspection, record every inspection in an inspection log or summary, noting the date and time of the inspection, the name of the inspectors, any observations made, and the date and nature of any repairs or other remedial actions, and retain the inspection logs for three years.

66. On February 13, 2015, Respondent provided EPA with documentation of weekly inspections beginning April 28, 2013. Respondent was unable to provide any documentation indicating it had conducted and recorded inspections and maintained records thereof for ninety-one (91) separate weeks between July 23, 2011 (three years before the Inspection) and April 21, 2013 (one week before Respondent's inspection documentation began).

67. Respondent's failure to conduct weekly inspections of areas where containers of hazardous waste were stored and/or record those inspections constitutes violations of 310 C.M.R. 30.686 and 310 C.M.R. 30.342(1)(d).

COUNT 9: Failure to Maintain Containers of Hazardous Waste in Good Condition

68. Paragraphs 1 through 67 are incorporated by reference as if fully set forth herein.

69. Pursuant to 310 C.M.R. 30.342(1)(a), throughout the period of accumulation, a large quantity generator must comply with 310 C.M.R. 30.683, which requires the generator to transfer any hazardous waste in a container that is not in good condition, or that has begun to leak, to a container that is in good condition and that otherwise complies with the requirements of 310 C.M.R. 30.000.

70. At the time of the Inspection, Respondent was storing hazardous waste in the HWSA in two containers that were not in good condition:

- a. One (1) container, among the six closed, full, 55-gallon, black metal drums in the right compartment of the HWSA described above in Paragraph 42(b), located in the front row and furthest to the left of the group. This container was marked with an accumulation start date of March 9, 2014 and it was markedly pitted at the bottom third of the drum. The surface of the drum had white crystallized material in the areas of the pit marks. Pitting was also visible, to a lesser extent, near the center and top of the drum. The floor immediately surrounding this drum was also marked with white crystallized material; and
- b. One (1) extremely rusted, approximately 3-gallon metal container described above in Paragraph 38(b), located on the top shelf of a shelving unit to the immediate left of

the entrance into the left compartment of the HWSA. The container was labeled “dangerous when wet, 4.3, UN No. 1398.” UN1398 corresponds to aluminum silicon powder (uncoated) and the MSDS sheet for this compound indicates that it is a highly flammable, strong reducing, water-reactive, and pyrophoric agent, capable of reacting vigorously or explosively on contact with water or moisture in the air. The condition of the rusted container is indicative of its contact with either moisture or water.

71. Respondent’s failure to ensure that these hazardous wastes were stored in containers that were in good condition, or were transferred to other containers that were in good condition, constitutes a violation of 310 C.M.R. 30.683, which is required by 310 C.M.R. 30.342(1)(a).

COUNT 10: Failure to Segregate Containers of Incompatible Hazardous Waste

72. Paragraphs 1 through 71 are incorporated by reference as if fully set forth herein.

73. Pursuant to 310 C.M.R. 30.342(1)(f), throughout the period of accumulation, a large quantity generator is required to comply with 310 C.M.R. 30.688(4), which requires that a container holding hazardous waste that is incompatible with any waste or material stored nearby be separated from the other waste or material or protected from it by means of a dike, berm, wall, or other device.

74. At the time of the Inspection, Respondent was storing containers of incompatible hazardous wastes and materials in the left compartment of the main HWSA without adequate segregation. Specifically, Respondent was storing:

- a. One (1) closed, unlabeled, one-third-full, 55-gallon metal drum, described above in Paragraph 38(d), which Facility representatives identified as waste methylene chloride (also known as dichloromethane);
- b. One (1) closed, extremely rusted, approximately 3-gallon metal container on the top shelf of shelving that was over the container described immediately above in Paragraph 74(a) and that was labeled “dangerous when wet, 4.3, UN No. 1398,” which corresponds to aluminum silicon powder (uncoated);
- c. One (1) closed, full, 55-gallon metal drum along the back of the HWSA that was labeled “isopropyl alcohol”;

- d. One (1) closed, full, 55-gallon metal drum, also along the back of the HWSA, with a label that indicated “hazardous waste, waste Quinoline and pitch”;
- e. One (1) closed, full, 5-gallon, light blue plastic container, also along the back of the HWSA, labeled “Quinoline 97.5%”; and
- f. Six (6) closed, light gray, approximately 5-gallon, metal containers, located inside the door to the left compartment of the HWSA, labeled “Quinoline UN2656, PGIII.”

All of the above-listed containers were in close proximity to (above, below, and/or adjacent to) each other, and none of the containers were separated from any of the other containers by dike, berm, wall, or other device.

75. According to the National Oceanic and Atmospheric Administration’s CAMEO Chemicals program, aluminum silicon powder (uncoated) is incompatible with methylene chloride, isopropyl alcohol, Quinoline, and water (which is a compound that may be commonly introduced to the HWSA and its containers via leaks, open doors, or as an emergency response measure). Additionally, methylene chloride is incompatible with Quinoline.

76. The mixtures of the above pairs of incompatible compounds can, in summary, lead to intense, violent, and explosive reactions that can cause pressurization (and potential failure) of containers due to the generation of gases; release of heat due to chemical exothermic reactions (even under such ambient temperature conditions normally found within the HWSA); and can result in the production of reaction products that are themselves toxic, flammable/ignitable, corrosive, and friction/shock sensitive.

77. Respondent’s failure to keep incompatible wastes and materials separated from each other by means of a dike, berm, wall, or other device constitutes a violation of 310 C.M.R. 30.688(4), which is required by 310 C.M.R. 30.342(1)(f).

COUNT 11: Storage of Hazardous Waste without a License

78. Paragraphs 1 through 77 are incorporated by reference as fully set forth herein.

79. Pursuant to 310 C.M.R. 30.801(1), 310 C.M.R. 30.340(4), and Section 3005 of RCRA, 42 U.S.C. § 6925, a generator is required to obtain a license issued by MassDEP in accordance with M.G.L. c. 21C and 310 C.M.R. 30.300 for the storage of hazardous waste for greater than ninety days.

80. At the time of the Inspection, Respondent was storing six closed, full, 55-gallon, black metal drums in the right compartment of the main HWSA, as described above in Paragraph 42(b). All of the drums were labeled "hazardous waste, waste mercury solid, toxic." Of the six drums, five were marked with dates of accumulation and one had no date. Four of the five dated containers were in storage for greater than ninety days at the time of the July 23, 2014 Inspection, as indicated by the following marked accumulation start-dates:

- a. One (1) drum, in the back-left of the grouping, dated December 12, 2013 (in storage for 214 days);
- b. Two (2) drums, in the back-right and front-left of the grouping, dated March 9, 2014 (in storage for 136 days), one of which is the drum discussed above in Paragraph 70(a), that was corroded and pitted with white crystallized material on the outside and at its base; and
- c. One (1) drum, in the front-center of the grouping, dated March 28, 2014 (in storage for 117 days).

81. Respondent's storage of hazardous waste for greater than ninety days without a license constitutes violations of 310 C.M.R. 30.801(1), 310 C.M.R. 30.340(4), and Section 3005 of RCRA, 42 U.S.C. § 6925.

COUNT 12: Failure to Maintain an Adequate Hazardous Waste Contingency Plan

82. Paragraphs 1 through 81 are incorporated by reference as if fully set forth herein.

83. Pursuant to 310 C.M.R. 30.341(1)(b), a generator must comply with 310 C.M.R. 30.521, and pursuant to 310 C.M.R. 30.341(1)(d), a generator must comply with 310 C.M.R. 30.523. Under 310 C.M.R. 30.521, a generator shall have a contingency plan that addresses all on-site hazardous waste management units and meets various requirements, including, pursuant to 310 C.M.R. 30.521(11), primary and alternate evacuation routes. Under 310 C.M.R. 30.521(9), a generator must keep an up-to-date list of all emergency equipment and shall include the location and physical description of each item on the list and a brief outline of its capabilities. Additionally, pursuant to 310 C.M.R. 30.523, the contingency plan must be amended whenever (among other things) the list of emergency equipment changes; there is any change in the operation or maintenance of any hazardous waste management unit; or when any other circumstance arises which indicates the need for a change in the contingency plan.

84. As described in Paragraph 46 above, the HWSA meets the definition of a hazardous waste management unit.

85. EPA reviewed Respondent's "Hazardous Materials Contingency Plan ("Plan") for the Facility, dated November 7, 2013. The Plan did not include a complete Facility site plan. Building No. 20 was the only building covered in detail in the site plans included in the contingency plan, and this site plan identified the location of SAAs and fire, medical, safety, and maintenance equipment. However, the Plan did not include any detailed information on the other production building (Building 21). Further, the general facility site plan did not depict the HWSA, despite Section 1.5 of the Plan indicating that the site plans identified "the location of areas where hazardous materials are stored and where wastes are accumulated and stored prior to off-site disposal."

86. Additionally, although Section 8.2 of the Plan outlines the Facility's emergency response equipment, Section 8.2.1 of the Plan states that telephones are located throughout the Facility, and that a list of emergency telephone numbers and a map, showing the location of emergency response equipment, is posted near a telephone located in the HWSA. However, at the time of the Inspection, no emergency posting or even a telephone were located in or near the HWSA. The remaining subsections of Section 8.2 generally describe the location and capabilities of emergency response equipment, but no details are provided regarding such equipment for the HWSA. Furthermore, Section 8.2.2 states that locations of fire extinguishers are denoted on the site plans, yet the site plan does not address these items for the HWSA or Building 21. Similarly, Section 8.2.3 indicates that the HWSA contains barrel(s) of Speedi-Dri, but this material was not actually present there.

87. Respondent's failure to maintain an adequate up-to-date hazardous waste contingency plan constitutes violations of 310 C.M.R. 30.521 and 310 C.M.R. 30.523, which are required by 310 C.M.R. 30.341(1).

COUNT 13: Failure to Have an Adequate Hazardous Waste Training Plan

88. Paragraphs 1 through 87 are incorporated by reference as if fully set forth herein.

89. Pursuant to 310 C.M.R. 30.341(1)(a), a generator must comply with 310 C.M.R. 30.516(2), which requires the generator to prepare a written personnel training plan according to certain requirements. At a minimum, the training plan shall specify how personnel will be familiarized with the properties and hazardous nature of the hazardous wastes 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.

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

91. 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), which is required by 310 C.M.R. 30.341(1)(a).

COUNT 14: Failure to Provide Adequate Personnel Training

92. Paragraphs 1 through 91 are incorporated by reference as if fully set forth herein.

93. Pursuant to 310 C.M.R. 30.341(1)(a), a generator must comply with 310 C.M.R. 30.516(1), which requires that all site personnel assigned to the management of hazardous waste 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 initial training within six months of their employment and must take part in an annual review of the initial training. The generator should keep training records on current personnel until the closure of the facility and for at least three years from the date former personnel last worked at the facility.

94. At the time of the Inspection, Respondent had not provided adequate training to employees with hazardous waste management responsibilities. Respondent provided EPA with certificates showing that Mr. Doug Smith, who functioned as the Alternate Emergency Coordinator and also signed hazardous waste manifests in the years 2011 through 2014, had received some hazardous material and HAZWOPER training. However, this training did not

comprehensively address all of the hazardous waste management standards and contingency planning elements required by the RCRA regulations, leaving Mr. Smith without the required training for the three-year period prior to the Inspection (July 23, 2011 through July 23, 2014). Further, several other employees who should have received RCRA training had not received it. At the time of the Inspection, Mr. Steve Pilioglos, Respondent's Primary Emergency Coordinator, and Mr. Mike Sweezey, who signed hazardous waste manifests from 2011 through 2013, had not received hazardous waste training during the three-year period preceding the Inspection. Additionally, Mr. John Coconis, who functioned as an SAA and HWSA inspector during at least April 28, 2014 to May 23, 2014, had not received hazardous waste training during that period.

95. Respondent's failure to provide training to employees with hazardous waste management responsibilities constitutes violations of 310 C.M.R. 30.516(1), which is required by 310 C.M.R. 30.341(1)(a).

VI. COMPLIANCE ORDER

96. Based on the foregoing findings, Respondent is hereby ordered to achieve and maintain compliance with all applicable requirements of RCRA and the Massachusetts hazardous waste management regulations, specifically including compliance with the following requirements.

97. **Immediately upon receipt of this Complaint**, Respondent shall:

- a. perform hazardous waste determinations for all wastes present at the Facility for which no determination has been conducted, in accordance with 310 C.M.R. 30.302;
- b. keep containers of hazardous waste closed, except when adding or removing waste, in accordance with 310 C.M.R. 30.685(1), as required by 310 C.M.R. 30.342(1)(c);

- c. label containers of hazardous waste, in accordance with 310 C.M.R. 30.341(2)(a), (b) and (c);
- d. mark each container of hazardous waste with the date that accumulation began, in accordance with 310 C.M.R. 30.341(2)(d);
- e. 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. 30.680, in accordance with 310 C.M.R. 30.685(4), as required by 310 C.M.R. 30.342(c);
- f. take precautions to prevent accidental ignition or reaction of ignitable or reactive hazardous wastes by (among other things) separating and protecting them from sources of ignition or reaction, such as static, electrical, or mechanical sparks, in accordance with 310 C.M.R. 30.560(1)(f), as required by 310 C.M.R. 30.341(1)(f);
- g. 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(1)(d);
- h. ensure that if a container holding hazardous waste is not in good condition or if it begins to leak, the hazardous waste is transferred from this container to a container that is in good condition, or is otherwise managed in compliance with the requirements of 310 C.M.R. 30.000, in accordance with 310 C.M.R. 30.683, as required by 310 C.M.R. 30.342(1)(a);
- i. separate any container holding hazardous waste that is incompatible with any waste or other material stored nearby by means of a dike, berm, wall, or other device, in accordance with 310 C.M.R. 30.688(4), as required by 310 C.M.R. 30.342(1)(f); and

- j. implement measures to ensure that containers of hazardous waste are not stored for greater than ninety days, by shipping them to a licensed treatment, storage, or disposal facility, or apply for and obtain a valid license issued by MassDEP pursuant to M.G. L. c. 21C and 310 C.M.R. 30.000, in accordance with 310 C.M.R. 30.801(1) and 310 C.M.R. 30.340(6).

98. Within thirty (30) days of receipt of this Complaint, Respondent shall:

- a. maintain and implement standards for emergency prevention and response, by installing in the main HWSA an internal communication or alarm system that can provide immediate emergency instruction to Facility all personnel, equipping the HWSA with the required spill control and decontamination equipment, and posting an up-to-date written list of required emergency information, in accordance with the requirements of 310 C.M.R. 30.524(2), as required by 310 C.M.R. 30.341(e)(4);
- b. update the contingency plan and submit the revised contingency plan, and any subsequent revisions thereto, to the required authorities and emergency responders in accordance with 310 C.M.R. 30.521 and 310 C.M.R. 30.523, as required by 310 C.M.R. 30.341(1); and
- c. prepare and maintain at the Facility a hazardous waste training plan, in accordance with the requirements of 310 C.M.R. 30.516(2), as required by 310 C.M.R. 30.341(1)(a).

99. Within sixty (60) days of receipt of this Complaint, and annually thereafter,

Respondent shall provide the necessary hazardous waste training to employees with hazardous waste management responsibilities, in accordance with 310 C.M.R. 30.516(1), as required by 310 C.M.R. 30.341(1)(a).

100. **Within sixty-five (65) days of receipt of this Complaint**, Respondent shall submit to Complainant written confirmation of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance with the requirements set forth in Paragraphs 97 through 99 above. Any notice of noncompliance required under this paragraph shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will not excuse the noncompliance. This statement shall specify all actions taken by Respondent to comply with Paragraphs 97 through 99 of this Compliance Order. Respondent shall submit the above-required information and notices to:

Susann D. Nachmann, Environmental Engineer
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES05-1
Boston, MA 02109-3912

and

Christine Foot, Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

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

102. 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), provides for further enforcement action in which EPA may seek the imposition of penalties of up to \$37,500 for each day of continued noncompliance.

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

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

105. Upon receipt of a compliance order issued under RCRA Section 3008(a), Respondent may seek administrative review in accordance with 40 C.F.R. Part 22. Respondent may seek judicial review of the Compliance Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701–706, once it is final and reviewable pursuant to RCRA section 3008(b) and 40 C.F.R. Part 22.

VII. PROPOSED PENALTY

106. The civil penalty proposed below has been determined in accordance with Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). In determining the amount of any penalty to be assessed, Section 3008(a) of RCRA 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 alleged violations 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. This policy provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors identified above to a particular case.

107. Based on the nature, circumstances, extent, and gravity of the above-cited violations, a civil penalty in the amount of \$292,623 is hereby proposed to be assessed against Respondent

(see Attachment A to this Complaint explaining the reasoning for this penalty). By this Complaint, Complainant seeks to assess Respondent the following civil penalties:

<u>COUNT</u>	<u>PENALTY</u>
1. Failure to Close Containers of Hazardous Waste during Storage	\$5,946
2. Failure to Fully Label Each Container of Hazardous Waste	\$5,946
3. Failure to Mark Containers with the Beginning Accumulation Date	\$5,946
4. Failure to Maintain Adequate Aisle Space where Hazardous Wastes Are Stored	\$5,946
5. Failure to Conduct Adequate Hazardous Waste Determinations	\$11,017
6. Failure to Have Proper Emergency Prevention and Response Measures	\$5,946
7. Failure to Take Precautions to Prevent Accidental Ignition of Ignitable Hazardous Waste	\$5,946
8. Failure to Conduct and Record Adequate Hazardous Waste Inspections	\$48,770
9. Failure to Maintain Containers of Hazardous Waste in Good Condition	\$5,946
10. Failure to Segregate Containers of Incompatible Hazardous Waste	\$25,997
11. Storage of Hazardous Waste without a License	\$68,945
12. Failure to Maintain an Adequate Hazardous Waste Contingency Plan	\$451
13. Failure to Have an Adequate Hazardous Waste Training Plan	\$34,518
14. Failure to Provide Adequate Personnel Training	\$61,303
TOTAL PROPOSED PENALTY	\$292,623

108. Payment of the penalty may be made by a cashier's or certified check, or by wire transfer, and shall include the case name ("*In Re Specialty Materials, Inc.*") and docket number ("*RCRA-01-2015-0073*") on the face of the check or wire transfer confirmation. A check should

be payable to the Treasurer, United States of America. Each payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. Environmental Protection Agency / Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

In addition, at the time of payment, notice of payment of the civil penalty and copies of the check should be forwarded to:

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

and

Christine Foot, Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2

VIII. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

109. As provided by Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and in accordance with 40 C.F.R. § 22.14 of the Consolidated Rules of Practice, Respondent has the right to request a hearing on any material fact alleged in this Complaint, or on the appropriateness of the proposed penalty or Compliance Order. Any such hearing would be conducted in accordance with 40 C.F.R. Part 22, a copy of which is provided with this Complaint. **A request for a hearing must be incorporated into a written Answer filed with the Regional Hearing Clerk at the address listed below within thirty (30) days of receipt of this Complaint.**

110. In its Answer, Respondent may contest any material fact contained in the Complaint. The Answer shall directly admit, deny, or explain each of the factual allegations contained in the Complaint and shall state: (1) the circumstances or arguments alleged to constitute the grounds of defense; (2) the facts Respondent intends to place at issue; and (3) whether a hearing is requested. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. Any failure of Respondent to admit, deny, or explain any material fact contained in the Complaint constitutes an admission of that allegation. If Respondent denies any material fact or raises any affirmative defense, Respondent will be considered to have requested a hearing. *See* 40 C.F.R. § 22.15 of the Consolidated Rules of Practice for the required contents of an Answer.

111. The original and one copy of any motions or other pleadings filed or made before an Answer to the Complaint is filed, the Answer to the Complaint, and any Consent Agreement and Final Order to settle the case filed in this action must be sent to:

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

After an Answer has been filed, except for a Consent Agreement and Final Order settling the case, a copy of all other documents that Respondent files in this action must be sent to the Headquarters Hearing Clerk, in the following manner:

For U.S. Postal Service mailings –
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mail Code 1900R
1200 Pennsylvania Ave., NW
Washington, DC 20460

For UPS, FedEx, DHL, or other courier, or personal delivery –
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Rm. M1200
1300 Pennsylvania Ave., NW
Washington, DC 20460

112. 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 Christine M. Foot, the attorney assigned to represent EPA and designated, under 40 C.F.R. § 22.5(c)(4), to receive service on behalf of Complainant in this matter at:

Christine M. Foot, Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

113. The filing and service of documents, other than the complaint, rulings, orders, and decisions, in all cases before the Region 1 Regional Judicial Officer governed by the Consolidated Rules of Practice may be filed and served by email, consistent with the “Standing Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional Judicial Officer,” a copy of which has been provided with the Complaint.

IX. DEFAULT ORDER

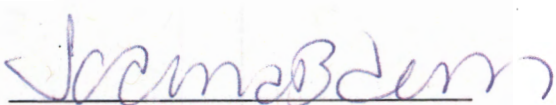
114. **If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default** pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent’s right to contest 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 Compliance Order section of the Complaint.

X. SETTLEMENT CONFERENCE

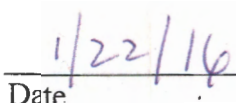
115. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with EPA concerning the alleged violations. Such a conference provides Respondent with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. In addition, where circumstances so warrant, a recommendation that any or all of the charges be dropped may be made to the Regional Judicial Officer. Any settlement shall be made final by the issuance of a written Consent Agreement and Final Order

by the Regional Judicial Officer, EPA Region I. The issuance of such a Consent Agreement shall constitute a waiver of Respondent's right to a hearing on any issues of law, fact, or discretion included in the Agreement.

116. 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 Christine Foot, Enforcement Counsel, Office of Environmental Stewardship, EPA Region 1, at the address cited above, at (617) 918-1333, or at foot.christine@epa.gov.



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



Date

In the Matter of Specialty Materials, Inc.
RCRA-01-2015-0073
Explanation of Proposed Penalty

This document presents the calculation and justification for the penalty proposed against Specialty Materials Business Trust (“Specialty Materials” or “Respondent”), located in Lowell, Massachusetts, for violations of certain requirements of the:

1. Resource Conservation and Recovery Act (“RCRA”);
2. Hazardous and Solid Waste Amendments of 1984; and
3. The Massachusetts Hazardous Waste Management Regulations found at 310 C.M.R. Sections 30.000 *et seq.*

The penalties were calculated in accordance with the RCRA Civil Penalty Policy (“Penalty Policy”), dated June 23, 2003 and revised on September 21, 2004, and in accordance with the Civil Monetary Inflation Adjustment Rules, which became effective on March 15, 2004, January 13, 2009, and December 6, 2013. The 2013 inflation adjustment increased all penalties by 4.87 percent over the 2009 amount, up to a maximum of \$37,500.

Adjustment factors examined by EPA in determining the amount of the proposed penalty against Specialty Materials include: economic benefit of noncompliance; history of noncompliance; the degree of willfulness or negligence; good faith efforts to comply; and other unique factors. Adjustments for some of these factors may have been deemed appropriate, as discussed below. Where applicable, economic benefit estimates were calculated by using the 1997 EPA manual “Estimating Costs for the Economic Benefit of RCRA Noncompliance,” other cost-estimate research, and EPA’s BEN model.

The penalty calculations are based upon alleged RCRA violations documented during an EPA compliance evaluation inspection (“Inspection”) conducted July 23–24, 2014, and upon subsequent information submitted to EPA by Specialty Materials.

The following violations have been documented and are included in the Complaint issued pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), against Specialty Materials.

COUNT 1: Failure to Close Containers of Hazardous Waste during Storage

Provision Violated: *310 C.M.R. 30.685(1), which is required by 310 C.M.R. 30.342(1)(c)*

Specialty Materials failed to close one container of hazardous waste in the hazardous waste storage area (“HWSA”) and two containers of hazardous waste in satellite accumulation areas (“SAAs”) (in the Film and Scrim Room on the second floor of Building 21 and in the Boron and Silicon Carbide Fiber/Boron Epoxy Tape/Carbon Spinning Area on the third floor of Building 20).

Potential for Harm: MODERATE¹

Respondent's failure to close these containers posed a significant risk of human or environmental exposure to hazardous waste. The purpose of this requirement is to minimize emissions of volatile wastes, to help protect ignitable or reactive wastes from sources of ignition or reaction, to help prevent spills, to reduce the potential of mixing incompatible wastes, and to prevent direct contact of personnel with hazardous wastes. Failure to close containers of toxic and ignitable wastes completely circumvents this release minimization technique. Additionally, the open containers create harm to the regulatory program because there is no way for an inspector to know, upon inspection, if there has been a release of hazardous waste or mixing of incompatible hazardous wastes.

The three containers all had some manner of cover, but the seals on each cover were compromised by either loosely placed (unlatched) funnel lids or by a loosely placed drum lid. All three were stored on firm, level surfaces (some with built in secondary containment and all in areas devoid of floor drains). The two drums that contained liquid represent both a spill risk and release of volatile constituents to the immediate atmosphere. The remaining one-third-full drum of solid mercury-contaminated waste represents a lower spill and volatilization risk.

Extent of Deviation: MINOR

Given that only three partially covered containers were involved in this Count, the extent of deviation from the regulatory requirement is minor.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Minor.

Gravity Matrix Cell Range: \$4,250-\$7,090

Penalty Amount Chosen: \$5,946 = \$5,670 (mid-point)² x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$5,946

COUNT 2: Failure to Fully Label Each Container of Hazardous Waste

Provisions Violated: *310 C.M.R. 30.341(2)(a) through (c), and which is additionally required by 310 C.M.R. 30.340(6)(e)*

¹ When determining the gravity-based penalty of a violation in accordance with the Penalty Policy, EPA considers two factors: the violation's potential for harm and its extent of deviation from the requirements. The gravity-based penalty is always assessed against the first violation of a given count.

² Factors such as seriousness of the violation (as compared to other violations in the same matrix cell), size and sophistication of the facility, efforts to remediate the violation, number of days of the violation, and other relevant factors specific to the violation are considered in determining the appropriate selection within the matrix cell for all components of the gravity-based penalty throughout this justification.

Specialty Materials failed to label twelve containers of hazardous waste with one or more of: the words "Hazardous Waste," words that described their contents, and/or the type of hazard associated with the waste. Seven of the containers were in the left compartment of the HWSA, one was in the Epoxy Resin and Fiber Manufacturing Area on the first floor of Building 21, three were in the Film and Scrim Room on the second floor of Building 21, and one was in the Two Step Tape Room on the first floor of Building 20.

Potential for Harm: MODERATE

Respondent's failure to label twelve containers of hazardous waste with the necessary words posed a significant risk of harm to the environment by increasing the risk that the hazardous waste within them would be mismanaged. Without proper labeling, facility personnel, responders, and inspectors may not fully recognize potentially dangerous constituents in hazardous waste containers. The likelihood that these hazardous wastes could be improperly managed increases the likelihood of fires, explosions, releases, or improper disposition of hazardous waste. Proper labeling provides facility personnel and emergency responders with the necessary information about the types of wastes and their associated hazards. This helps to ensure proper storage and management during accumulation, enable an appropriate response to an emergency situation, and prevent the commingling of incompatible hazardous wastes within the same container. There is also regulatory harm associated with the failure to properly label containers of hazardous waste because inspectors cannot easily determine, solely by observation, whether container contents are hazardous and what potential hazards they pose.

By not completely and clearly labeling containers of hazardous waste, as prescribed by the regulations, Specialty Materials increased the potential for containers to be mismanaged. However, many of these containers were not totally devoid of labeling and included some wording sufficient to let personnel know about their contents.

Extent of Deviation: MINOR

Failure to completely label containers represents a serious deviation from the regulations. However, of the approximately 100 waste containers observed at the Facility at the time of the Inspection, only twelve of the containers were in violation of the labeling requirement. Further, some of these containers were partially labeled. Therefore, the extent of deviation is minor.

Penalty Assessment

EPA has determined that Respondent's violation of this requirement warrants a classification of Moderate/Minor.

Gravity Matrix Cell Range: \$4,250–\$7,090

Penalty Amount Chosen: \$5,946 = \$5,670 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$5,946

COUNT 3: Failure to Mark Containers with the Beginning Accumulation Date

Provision Violated: 310 C.M.R. 30.341(2)(d)

Specialty Materials failed to mark eight containers (seven in the left compartment of the HWSA and one in the right compartment of the HWSA) with the date upon which their accumulation began. These containers of ignitable, toxic and water reactive hazardous wastes, contained methyl ethyl ketone, methylene chloride, Quinoline and pitch, mercury solids, aluminum silicon powder, uncoated (UN 1398), and a partially labeled toxic unknown.

Potential for Harm: MODERATE

Respondent's failure to date these eight containers of hazardous waste with the accumulation start-date posed a significant risk of harm to human health and the environment by increasing the risk of a release of hazardous waste. Failing to mark containers of hazardous wastes with the date that accumulation began creates the potential that hazardous waste will be stored for greater than the ninety days allowed. Long-term storage increases the likelihood that wastes could be mismanaged, thereby increasing the likelihood of contamination or accidents due to leaks and spills. The requirement to date containers allows inspectors to determine if a facility is regularly shipping wastes off-site within the maximum amount of storage time. A facility that stores hazardous waste for greater than ninety days is required to get a permit and is subject to numerous additional requirements designed to ensure safe and proper management of waste.

By failing to mark containers with the accumulation date, Specialty Materials undermined the purpose of the regulatory requirement to obtain a permit. The longer waste is in storage without the additional requirements of a permitted facility, the more likely the chance of release to the environment.

Extent of Deviation: MINOR

Of approximately 100 containers of hazardous waste observed during the Inspection, EPA observed four full 55-gallon drums, one 1/3-full 55-gallon drum, two full 5-gallon containers, and one full 3-gallon container that were missing the accumulation date. The total amount of hazardous waste stored in these eight containers was approximately 251 gallons. Respondent's failure to mark the accumulation date on these containers of hazardous waste deviated somewhat from the regulations.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Minor.

Gravity Matrix Cell Range: \$4,250-\$7,090

Penalty Amount Chosen: \$5,946 = \$5,670 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$5,946

COUNT 4: Failure to Maintain Adequate Aisle Space Where Hazardous Wastes Are Stored

Provision Violated: *310 C.M.R. 30.685(4), which is required by 310 C.M.R. 30.342(1)(c); 310 C.M.R. 30.524(5), which is required by 310 C.M.R. 30.341(1)(e)(6)*

At the time of the Inspection, Specialty Materials had not maintained sufficient aisle space in three areas of the HWSA (two areas within the left compartment and one in the right compartment), which affected eight containers.

Potential for Harm: MODERATE

Respondent's failure to maintain adequate aisle space between containers of hazardous waste posed a significant risk of harm to human health or the environment by increasing the risk of a release of hazardous waste from any of these containers. Failing to provide adequate aisle space can result in containers being stored in a manner such that any conditions that might lead to a release, fire, or explosion could not be readily detected and corrected during routine inspections. In addition, the timely and effective access of emergency response personnel and equipment to damaged, leaking, pressurized, or otherwise compromised containers is hampered by the inadequate aisle space. Further, this violation also results in harm to the RCRA regulatory program because the proper storage and placement of containers of hazardous waste are essential to implement other container management regulations, such as routine inspections by facility staff to verify whether containers are closed, appropriately labeled and dated, and not co-located with incompatible wastes, and to provide access for inspection by state and federal regulators.

The containers involved in this violation contained, at minimum, toxic and unknown waste (either because the container was not labeled or the label was inaccessible). Further, the containers in the left compartment of the HWSA were in close proximity to ignitable wastes and materials. The hazardous nature of these wastes and materials in such close proximity could present significant problems in an emergency. However, the individual 55-gallon drums in both compartments of the HWSA were staged in single tiers (providing access to drum tops and some side surface areas and making it easier to move drums during an emergency), and the drums in the right side were stored in two orderly rows (providing some available space between the doorway and the first row of drums).

Extent of Deviation: MINOR

Given that this violation affected eight out of approximately 100 containers observed at the Facility during the Inspection, Respondent deviated somewhat from the regulations.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Minor.

Gravity Matrix Cell Range: \$4,250–\$7,090

Penalty Amount Chosen: \$5,946 = \$5,670 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$5,946

COUNT 5: Failure to Conduct Adequate Hazardous Waste Determinations

Provision Violated: 310 C.M.R 30.302

At the time of the Inspection, Specialty Materials had not performed adequate hazardous waste determinations on fifty-four containers of wastes (twenty in the left compartment of the HWSA, thirty-one in the Epoxy Resin and Fiber Manufacturing Area on the first floor of Building 21, and three in the Boron Recovery area in the basement of Building 20).

Potential for Harm: MODERATE

Respondent's failure to conduct complete and timely hazardous waste determinations posed a significant threat to human health, the environment, and the RCRA regulatory program. The purpose of the waste determination regulation is to identify those wastes that should be subject to appropriate management requirements under Subtitle C of RCRA because of the hazards they may pose in handling, transit, treatment, storage, and/or disposal. Without prompt solid waste identification as soon as a material is deemed an unwanted commercial chemical product or waste, followed by appropriate and timely hazardous waste determination, waste materials could be neglected and/or stored in an uncontrolled manner in areas where emergency responders, inspectors, and facility personnel might not recognize associated hazards. This increases the likelihood for mismanagement, improper disposal, or release of hazardous wastes to the environment. The proper and timely determination of solid and hazardous wastes generated and/or stored on-site is essential to a generator's waste management program. The failure to conduct proper hazardous waste determinations also poses a significant threat to the regulatory program because it is not possible for inspectors to determine whether the solid wastes generated and/or stored on-site are hazardous, or whether additional precautions are required to properly manage these wastes prior to off-site shipment or disposal (*i.e.*, due to ignitability, reactivity, or incompatibility). The harm to the regulatory program is magnified because wastes that do not receive timely and proper hazardous waste determinations drop out of RCRA regulation and oversight.

Specialty Materials was storing old, rusted, and compromised containers of chemicals and wastes, indicating to EPA that the materials were unwanted and no longer served a purpose at the Facility, and that the containers had been in extended storage without benefit of prompt hazardous waste determinations that led to the implementation of safe storage practices (such as labeling and dating, electrical grounding, or transfer of wastes into containers of good condition). Furthermore, old chemicals and wastes were stored in a neglected fashion (as in the left compartment of the HWSA), further indicating they were unwanted materials in storage without the proper management standards that stem from hazardous waste determinations. In several instances, Facility representatives had no idea regarding the origin and/or contents of a container, or were unsure if a container held virgin product, unwanted commercial chemical products, or waste. None of these uncertainties would exist if proper hazardous waste determinations were implemented in a timely fashion. With regard to the thirty-one 1-gallon containers of petroleum-based pitch found in Building 21, Mr. Smith informed EPA that they had been deemed "no good" approximately three months prior to the

Inspection (namely, for approximately ninety days – the allowed hazardous waste accumulation period for a large quantity generator such as Specialty Materials). Had a timely hazardous waste determination been performed on these containers, they should have already been shipped off-site around the time of the Inspection. However, with the exception of one container, Facility representatives did have some knowledge about what the wastes were (either through generator knowledge or via manufacturer labeling on the various containers). Furthermore, approximately 144 gallons of ignitable and/or unknown wastes (or about two-and-one-half 55-gallon drums), had not undergone complete and timely hazardous waste determinations.

Extent of Deviation: MODERATE

Respondent's failure to conduct adequate waste determinations on these materials deviated significantly from the regulatory standards because it impeded the timely application of management standards designed to ensure safe accumulation and the timely removal of said wastes within ninety days of becoming characterized as hazardous wastes. In addition, numerous subsequent violations flow from the failure to conduct waste determinations. These violations include failure to properly label, failure to mark with accumulation dates, failure to have containers in good condition, failure to ensure storage with regard to chemical compatibility, failure to keep containers closed, failure to maintain proper aisle space, failure to conduct weekly inspections, failure to place warning signs, storage without a permit, failure to inspect, and failure to post emergency contact information. However, EPA notes that, with the exception of one container, Facility representatives at least had knowledge about what the wastes were (either through generator knowledge or via manufacturer labeling on the various containers). The fifty-four individual containers that had not undergone complete and timely hazardous waste determinations contained approximately 144 gallons of waste, while at the Inspection, EPA observed approximately thirty-three additional various-sized containers of waste throughout the Facility which contained approximately 900 gallons of waste that had undergone proper hazardous waste determinations. Accordingly, only 144 gallons of a total of approximately 1,044 gallons of waste had not undergone proper hazardous waste determination.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Moderate.

Gravity Matrix Cell Range: \$7,090–\$11,330

Penalty Amount Chosen: \$9,659 = \$9,210 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

Multiple/Multi-day Assessment: Multiple (multi-day) penalties are being sought. In accordance with page 22 of the Penalty Policy, EPA has chosen to apply the multi-day penalty matrix for each violation after the first, rather than assessing a full gravity-based penalty for each subsequent violations. This is because Specialty Materials repeatedly violated the same regulatory requirement, and the violations are so similar in nature for the following categories of hazardous waste: 1) Ignitables, and 2) Unknowns.

Multi-Day Cell Range: \$360–\$2,230

Penalty Amount Chosen: \$1,358 = \$1,295 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

Multiple Penalty Amount: \$1,358 = \$1,358 x 1 (The first waste-type is assessed as the gravity-based penalty.)

Adjustment for Economic Benefit: Negligible. An economic benefit of noncompliance was calculated for the cost savings enjoyed by Specialty Materials for failure to conduct the above hazardous waste determinations using EPA's BEN model and EPA guidance entitled "Estimating Costs for the Economic Benefits of RCRA Non-compliance" (1997). Because the resultant economic benefit was determined to be negligible, it is not included in this count.

TOTAL PENALTY AMOUNT: \$11,017

COUNT 6: Failure to Have Proper Emergency Prevention and Response Measures

Provisions Violated: *310 C.M.R. 30.524(2)(a), (c), and (f), which are required by 310 C.M.R. 30.341(1)(e)*

At the time of the Inspection, the HWSA lacked an internal communications or alarm system, sufficient spill control and decontamination equipment, and a posting detailing certain emergency information.

Potential for Harm: MODERATE

Respondent's failure to equip the HWSA with the proper emergency prevention and response measures could have led to significant harm to human health and the environment. The requirements to have these measures in place are designed to ensure the safe management of hazardous wastes, and to allow personnel to address, mitigate, and minimize emergencies as soon as they are detected. Therefore, the lack of these components represents significant harm to the regulatory program.

The missing preventative measure and response components have the potential to delay initial response actions thereby allowing emergencies to escalate. However, Specialty Materials did have other emergency postings and management practices in place at the HWSA designed to prevent and mitigate emergencies (*e.g.*, certain other postings, built-in secondary containment, locked HWSA doors, explosion-proof lighting, active ventilation, and cellular telephones for staff working in or around the Facility's hazardous waste).

Extent of Deviation: MINOR

Specialty Materials deviated somewhat from the requirements – many of the necessary management practices for minimizing the possibility of threat to public health/safety/welfare or the environment from releases of hazardous waste or hazardous waste constituents were in place. Specialty Materials at least attempted to make provisions for an alarm (its air horn),

had one response tool immediately present in the HWSA (the storm drain man-hole sock), and had some form of spill kit 120 feet from the HWSA.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Minor.

Gravity Matrix Cell Range: \$4,250–\$7,090

Penalty Amount Chosen: \$5,946 = \$5,670 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$5,946

COUNT 7: Failure to Take Precautions to Prevent Accidental Ignition of Ignitable Hazardous Waste

Provision Violated: *310 C.M.R. 30.560(1), which is required by 310 C.M.R. 30.341(1)(f)*

At the time of Inspection, one container of ignitable wastes was being stored without protection from an ignition source.

Potential for Harm: MODERATE

Respondent's hazardous waste management practice could have easily led to significant harm to human health and the environment due to lack of electrical grounding on this partially open, metal drum holding an ignitable hazardous waste with a flash point of 16 degrees Fahrenheit. This preventative measure is designed to prevent an explosion, which could also possibly impact other nearby containers, if a spark from static, an electrical source (such as a camera or mobile phone), or friction between metal components were to occur in the vicinity of this drum.

The ambient temperature in the HWSA at the time of the Inspection was well above the flash point of this waste. However, Specialty Materials did have other management practices in place at the HWSA designed to mitigate events that could lead to emergencies, such as the presence of warning postings that read "Flammable," "Hazardous Waste Storage," and "No Smoking, Eating or Drinking, Authorized Personnel Only," explosion proof lighting, and active ventilation.

Extent of Deviation: MINOR

Specialty Materials deviated somewhat from the requirements – many of the required management practices for minimizing the possibility of threat to public health/safety/welfare or the environment from the ignition of hazardous waste were in place at the HWSA, and only one container is involved in this Count.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Minor.

Gravity Matrix Cell Range: \$4,250–\$7,090

Penalty Amount Chosen: \$5,946 = \$5,670 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$5,946

COUNT 8: Failure to Conduct and Record Adequate Hazardous Waste Inspections

Provisions Violated: *310 C.M.R. 30.342(1)(d) and 310 C.M.R. 30.686*

Specialty Materials did not provide EPA any documentation of inspections occurring prior to April 28, 2013. Given that a generator must keep inspection records for at least three years, Respondent either failed to perform or failed to retain records of approximately ninety-one weekly inspections (July 23, 2011 through April 21, 2013).

Potential for Harm: MODERATE

Respondent's failure to implement an adequate hazardous waste inspection program posed a significant threat to human health, the environment, and the RCRA regulatory program. An inspection plan and weekly HWSA inspections are required so that staff remain aware of the condition of the storage area and the containers therein on a frequent enough basis to ensure that proper and timely action are taken to eliminate health and environmental harm. Without a plan and weekly inspections (including documentation of findings and remedial actions), containers could remain in poor condition, open, mislabeled, unlabeled, leaking, and/or stored for greater than the allowed time period without these facts being brought to anyone's attention for correction. The RCRA regulatory program depends upon timely and accurate self-inspections by facility owners and operators to ensure that hazardous waste leaks, spills, and other problems are detected early and promptly remedied. Without the means to demonstrate that inspections of containers, storage areas, and safety equipment were done (*e.g.*, via simple inspection logs), EPA and state inspectors cannot determine, with certainty, if inspections occurred, or whether corrective measures were implemented in a timely fashion.

At the time of the Inspection, EPA observed numerous HWSA container management violations (described in the Complaint and this document) that may have been detected and corrected with the proper implementation of an inspection program. Furthermore, documentation of weekly inspections allows both Specialty Materials staff and inspectors to confirm that inspections actually occurred, that the inspections reviewed all aspects of the storage area and container conditions, including the presence and suitability of emergency response equipment, and that remedial actions were recommended, documented, and implemented in a timely fashion. However, Facility staff periodically entered the HWSA to move containers into storage and to manifest containers of hazardous waste off-site, including during the period before significant manufacturing reductions in June 2012 and

May 2014. Presumably, such staff would have observed and responded to spills/releases of hazardous waste had they been detected, limiting the danger posed by this violation.

Extent of Deviation: MODERATE

Specialty Materials provided documentation showing that weekly inspections of both the HWSA and the SAAs were occurring for approximately sixty-four weeks prior to the Inspection. Given that facilities are required to maintain inspection records for a period of three years (156 weeks), Specialty Materials appears to have met its inspection requirement for approximately 41% of the time. The extent of deviation is moderate.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Moderate.

Gravity Matrix Cell Range: \$7,090–\$11,330

Penalty Amount Chosen: \$9,210 (mid-point) (no inflation adjustment needed)

Multiple/Multi-day Assessment: Multiple (multi-day) penalties are being sought. In accordance with page 22 of the Penalty Policy, EPA has chosen to treat multiple violations of the inspection requirements as multi-day violations because of the number and similarity of the violations, rather than assessing a full gravity-based penalty for each missed inspection. Specialty Materials repeatedly violated the same regulatory requirement for the containers of hazardous waste stored in the HWSA.

Multi-Day Cell Range: \$360–\$2,230

Penalty Amount Chosen: \$460 (low-point plus \$100) (no inflation adjustment needed)

(Given that Specialty Materials staff is likely to have made some level of observations when periodically entering and exiting the HWSA, EPA has chosen to use the low-point of the range plus \$100 for the multiple penalty.)

Multiple Penalty Amount: \$39,560 = \$460 x 86 (Although Specialty Materials missed ninety-one inspections, EPA is only assessing missing weekly inspections for eighty-seven weeks, deducting one December/January holiday week in 2011 and 2012, and one July/August plant shut-down/maintenance week in 2011 and 2012. One missed inspection will be assessed at the full gravity-based penalty.)

TOTAL PENALTY AMOUNT: \$48,770

COUNT 9: Failure to Maintain Containers of Hazardous Waste in Good Condition

Provision Violated: *310 C.M.R. 30.683, which is required by 310 C.M.R. 30.342(1)(a)*

At the time of the Inspection, Specialty Materials was storing hazardous waste in two containers, located in the HWSA, that were not in good condition.

Potential for Harm: MODERATE

Respondent's failure to store hazardous waste in containers that were in good condition posed a significant risk of human or environmental exposure to hazardous waste. The threat of harm to the health of Specialty Materials staff, waste haulers, emergency response personnel, and regulators moving and working amongst these containers is considerable if these containers of toxic and reactive wastes were to fail. Given that one of the containers was identified as water-reactive waste, any emergency response using water (either on this particular container or any other adjacent container), could create or accelerate a violent reaction. The compromised container of toxic mercury has a potential of contaminating the interior of the HWSA, anyone working with or near the container and HWSA, and the immediate environment around the HWSA (including the storm drain located outside of the HWSA). However, since these containers were stored indoors, over the HWSA's built-in secondary containment, the threat of release to the environment is diminished somewhat.

Extent of Deviation: MINOR

During the Inspection, the inspection team only observed two containers in structurally compromised, poor condition. Therefore, the extent of deviation is deemed to be minor.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Minor.

Gravity Matrix Cell Range: \$4,250-\$7,090

Penalty Amount Chosen: \$5,946 = \$5,670 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$5,946

COUNT 10: Failure to Segregate Containers of Incompatible Hazardous Waste

Provision Violated: *310 C.M.R. 30.688(4), which is required by 310 C.M.R. 30.342(1)(f)*

At the time of the Inspection, Specialty Materials was storing incompatible hazardous wastes and materials without adequate segregation in the HWSA.

Potential for Harm: MAJOR

Respondent's failure to adequately segregate incompatible wastes and materials posed a substantial potential of harm to human health and the environment in the event of releases and commingling of container contents. Such commingling can result from unforeseen container failure, the unintended damage of containers from handling/manipulation or extended storage, or collateral damage of containers during an emergency situation within the storage area (*i.e.*, reactions between containers of incompatible wastes or materials that then impact nearby or adjacent drums of ignitable wastes or materials).

The pairs of incompatible wastes and materials in the HWSA (consisting of toxic and flammable halogenated and non-halogenated solvents, ignitable chemicals, aerosols and propellants, and water reactive metal compounds), can lead to intense, violent, and explosive reactions that can cause pressurization (and potential failure) of containers due to the generation of gases, release of heat due to chemical exothermic reactions (even under such ambient temperature conditions normally found within the HWSA), and can result in the production of reaction products that are themselves toxic, flammable/ignitable, corrosive, and friction/shock sensitive. Further, two of the containers were not in good condition, increasing the risk that the materials in them could comeingle.

Extent of Deviation: MODERATE

Of the eight chemicals and compounds present in the HWSA, only four, in addition to water, yielded results indicating chemical incompatibility, significantly deviating from the requirements.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Major/Moderate.

Gravity Matrix Cell Range: \$21,250–\$28,330

Penalty Amount Chosen: \$25,997 = \$24,790 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$25,997

COUNT 11: Storage of Hazardous Waste without a License

Provision Violated: *310 C.M.R. 30.340(4) and 310 C.M.R. 30.801(1)*

At the time of the Inspection, Specialty Materials had stored four containers of hazardous waste in excess of ninety days.

Potential for Harm: MODERATE

Respondent's storage of hazardous waste for greater than ninety days without obtaining a license poses a significant potential for harm to human health and/or the environment since many of the regulatory programs implemented during the development, public notice and comment period, and issuance of a permit designed to protect human health and the environment (such as financial assurance, hazardous waste closure plans, and waste analysis plans) are not in place.

Consequently, storage of hazardous waste for greater than ninety days without obtaining a permit violates a central and fundamental requirement of the RCRA regulatory program. Although there is major harm posed to the regulatory program for Respondent's failure to obtain a permit, EPA considered the small number of containers stored in excess of ninety days (four drums) and the relatively good condition of three of these four drums in assessing the potential for harm.

Extent of Deviation: MODERATE

The storage of hazardous wastes for greater than ninety days without a permit is a major deviation from the requirements. EPA considered the relatively small number of containers of toxic waste involved in this count (four 55-gallon drums), the number of days these containers of waste were stored over the ninety-day threshold at the time of the Inspection (27, 46, 46, and 124 days), the compromised container condition of one of the containers, and the fact that Specialty Materials had in the past routinely manifested off-site similar wastes in a timely fashion to evaluate the deviation. Accordingly, the potential for harm is moderate.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Moderate/Moderate.

Gravity Matrix Cell Range: \$7,090–\$11,330

Penalty Amount Chosen: \$9,659 = \$9,210 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

Multiple/Multi-day Assessment: One drum was in storage for 124 days over the allowed storage period of ninety days. In accordance with page 22 of the Penalty Policy, EPA has chosen to treat each day over the ninety-day period as a multi-day violation because of the number and similarity of the violations, rather than assessing each day over the limit as a full gravity-based penalty. Specialty Materials repeatedly violated the same regulatory requirement for the containers of hazardous waste stored in the HWSA.

Multi-Day Cell Range: \$360–\$2,230

Penalty Amount Chosen: \$482 = \$460 (low-point plus \$100) x 1.0487 (inflation adjustment for violation after 12/6/13)

Multiple Penalty Amount: \$59,286 = \$482 x 123 (One day of violation will be assessed as a full gravity-based penalty.)

TOTAL PENALTY AMOUNT: \$68,945

COUNT 12: Failure to Maintain an Adequate Hazardous Waste Contingency Plan

Provisions Violated: *310 C.M.R. 30.521(1), (3), (9) and (11), and 310 C.M.R. 30.523, which are required by 310 C.M.R. 30.341(1)(b) and (d)*

At the time of the Inspection, Respondent had a Contingency Plan, but it did not include a complete Facility site plan that showed all areas of the Facility, did not accurately identify the location of and capabilities of all emergency response equipment, including in the HWSA, and identified a telephone and emergency posting that were not actually present.

Potential for Harm: MINOR

A contingency plan must, in part, direct what is required on site for adequate emergency preparedness and response, while also reflecting conditions that exist at the Facility.

Respondent's failure to have a complete contingency plan represents a serious potential of harm to human health and the environment, especially considering the myriad of wastes generated at the Facility. The primary function of a contingency plan is to establish a framework for making management decisions during a chemical emergency. Specifically, the plan must be designed to prevent and to minimize hazards to public health, safety, and welfare, and to minimize threats to the environment from fires, explosions, spills, or other unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to air, soil, surface water, or ground water. There is also regulatory harm since the regulations specifically outline all aspects that must be addressed in the development, maintenance, and implementation of an adequate contingency plan. However, Respondent's contingency plan addressed many of the requirements of an adequate contingency plan, limiting the potential for harm of this violation.

Extent of Deviation: MINOR

Respondent's failure to have an adequate contingency plan deviated somewhat from the requirements, but most of the elements of contingency planning were sufficiently addressed.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Minor/Minor.

Gravity Matrix Cell Range: \$150–\$710

Penalty Amount Chosen: \$451 = \$430 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$451

COUNT 13: Failure to Have an Adequate Hazardous Waste Training Plan

Provision Violated: *310 C.M.R. 30.516(2), which is required by 310 C.M.R. 30.341(1)(a)(4)*

At the time of the Inspection, Respondent did not have a training plan in place. Consequently, Specialty Materials was not maintaining the necessary training documentation (*i.e.*, written job titles, job descriptions, and training types and amounts for each position at the Facility related to hazardous waste management).

Potential for Harm: MAJOR

Respondent's failure to have a training plan for personnel who handle or manage hazardous waste posed a substantial potential for harm to human health, the environment, and the regulatory program. Personnel training is an essential part of proper hazardous waste management. The likelihood of mishandling hazardous wastes increases when staff are untrained on hazardous waste identification, handling and storage, hazardous waste shipment, (if

applicable) treatment, disposal and permitting requirements, and effective contingency planning. An in-place, up-to-date training plan will ensure that all staff with hazardous waste management duties receive initial and recurring training when they assume their duties. A complete training plan will also ensure that a Facility will maintain all the documents and records required for an adequate hazardous waste management training program.

Extent of Deviation: MAJOR

Respondent's complete lack of a training plan or any associated documentation at the time of the Inspection constitutes a substantial deviation from the requirements.

Penalty Assessment

Respondent's violation of this requirement warrants a classification of Major/Major.

Gravity Matrix Cell Range: \$28,330–\$37,500

Penalty Amount Chosen: \$34,518 = \$32,915 (mid-point) x 1.0487 (inflation adjustment for violation after 12/6/13)

TOTAL PENALTY AMOUNT: \$34,518

COUNT 14: Failure to Provide Adequate Personnel Training

Provision Violated: *310 C.M.R. 30.516(1), which is required by 310 C.M.R. 30.341(1)(a)*

EPA has identified that the following Specialty Materials employees should have received RCRA hazardous waste management training (including on implementation of contingency plan requirements) for the three-year period prior to the Inspection (*i.e.*, 7/23/2011 to 7/23/2014):

Mr. Steve Pilioglos: Primary Emergency Coordinator; emergency contact for certain areas of Facility

Mr. Doug Smith: Alternate Emergency Coordinator; hazardous waste manifest signer in CYs 2011, 2012, 2013, and 2014; emergency contact for certain areas of Facility

Mr. Mike Sweezey: Hazardous waste manifest signer in CYs 2011, 2012, and 2013

Mr. John Coconis: SAA and HWSA inspector for at least 4/28/13 to 5/23/14

Messrs. Pilioglos, Smith, and Sweezey had been working in their hazardous waste management capacity well before the Inspection. For the purposes of this penalty calculation, 7/23/2011–7/22/2012 will be considered the year of initial training for each of them.

Mr. Coconis was a Facility hazardous waste inspector during 4/28/2013–5/23/2014. He should have received initial training within six months of assuming his inspector duties, therefore, 7/23/2013-7/22/2014 is considered his missed initial year of training.

Annual and Recurring Training Instances: 1 through 12					
7/23/11-7/22/12:	1 Pilioglos	2 Smith	3 Sweezey		
7/23/12-7/22/13:	4 Pilioglos	5 Smith	6 Sweezey		
7/23/13-7/22/14:	7 Pilioglos	8 Smith	9 Sweezey	10 Coconis	
	initial training				
	annual recurring				

Potential for Harm: MAJOR

Respondent’s failure to train Facility personnel who handle or manage hazardous waste posed a substantial potential for harm to human health, the environment, and the regulatory program. Personnel training is an essential part of proper hazardous waste management. The failure to provide initial and annual training is a substantial violation because only through proper training comes the knowledge of how to manage hazardous waste safely and in accordance with all State and Federal regulations. Improper handling of hazardous waste increases the likelihood of releases and needless worker exposure to hazardous waste. Furthermore, the regulations themselves encompass the body of knowledge upon which a training program should be based, since they describe all the requirements and standards that must be carried out by generators, transporters, and permitted facilities. At the time of the Inspection, Specialty Materials was not training its employees on proper hazardous waste management or on the requirements and implementation of contingency planning. The specific mismanagement attributable to these training deficiencies is made evident by the other counts described in the Complaint and this document.

Extent of Deviation: MAJOR

Comprehensive training is paramount to ensuring that hazardous wastes are properly managed. At the time of the Inspection, Specialty Materials had not trained any of its employees on the requirements of RCRA hazardous waste management, on the elements of contingency planning, or the contents of its own contingency plan in place at the time of the Inspection, resulting in a substantial noncompliance.

Penalty Assessment

Respondent’s violation of this requirement warrants a classification of Major/Major.

Gravity Matrix Cell Range: \$28,330–\$37,500

Penalty Amount Chosen: \$32,915 (mid-point) (no inflation adjustment needed)

Multiple/Multi-day Assessment: Multiple (multi-day) penalties will be sought for instances 2 through 12 for failure to train the individuals identified above. In accordance with page 22 of the 2003 RCRA Civil Penalty Policy, the Region has chosen to apply the multi-day penalty matrix for each violation after the first, rather than assessing a full gravity-based penalty for these violations. Specialty Materials repeatedly violated the same regulatory training requirement for at least four employees with hazardous waste management duties

(resulting in ten instances of missed training) over the three-year period prior to the Inspection, and the violations are so similar in nature.

Multi-Day Cell Range: \$1,420–\$7,090

Penalty Amount Chosen: \$1,520 (low-point plus \$100) (no inflation adjustment needed)

Multiple Penalty Amount: \$13,680 = \$1,520 x 9 (First instance of failure to train is assessed as the full gravity-based penalty.)

Adjustment for Economic Benefit: \$14,708 (EPA calculated an economic benefit penalty for four employees with significant responsibilities for managing hazardous wastes over the three-year period covering July 23, 2011 through July 23, 2014. Using Tables 13-1 and 13-2 of EPA guidance entitled “Estimating Costs for the Economic Benefits of RCRA Non-compliance” (9/97, updated 12/97), EPA calculated the one-time, non-depreciable, delayed costs for the developing, implementing, and documenting initial training for Messrs. Pilioglos, Smith, Sweezey, and Coconis; and the avoided costs for developing, implementing, and documenting two years of annual training for Messrs. Pilioglos, Smith, and Sweezey.)

TOTAL PENALTY AMOUNT: \$61,303

SUMMARY OF VIOLATIONS

Ct	Description	Harm/ Deviation	\$ Gravity	Econ. Ben.	\$ Total Penalty
1	Failure to Close Containers of Hazardous Waste during Storage	moderate/ minor	\$5,946	NA	\$5,946
2	Failure to Fully Label Each Container of Hazardous Waste	moderate/ minor	\$5,946	NA	\$5,946
3	Failure to Mark Containers with the Beginning Accumulation Date	moderate/ minor	\$5,946	NA	\$5,946
4	Failure to Maintain Adequate Aisle Space Where Hazardous Wastes Are Stored	moderate/ minor	\$5,946	NA	\$5,946
5	Failure to Conduct Adequate Hazardous Waste Determinations	moderate/ moderate	\$9,659 +\$1,358 (multiple)	Negl.	\$11,017
6	Failure to Have Proper Emergency Prevention and Response Measures	moderate/ minor	\$5,946	NA	\$5,946
7	Failure to Take Precautions to Prevent Accidental Ignition of Ignitable Hazardous Waste	moderate/ minor	\$5,946	NA	\$5,946
8	Failure to Conduct and Record Adequate Hazardous Waste Inspections	moderate/ moderate	\$9,210 + \$39,794 (multiple)	NA	\$48,770
9	Failure to Maintain Containers of Hazardous Waste in Good Condition	moderate/ minor	\$5,946	NA	\$5,946
10	Failure to Segregate Containers of Incompatible Hazardous Waste	major/ moderate	\$9,659	NA	\$25,997
11	Storage of Hazardous Waste without a License	moderate/ moderate	\$9,659 + \$59,286 (multiple)	NA	\$68,945
12	Failure to Maintain an Adequate Hazardous Waste Contingency Plan	minor/ minor	\$451	NA	\$451
13	Failure to Have an Adequate Hazardous Waste Training Plan	major/ major	\$34,518	NA	\$34,518
14	Failure to Provide Adequate Personnel Training	major/ major	\$32,915 + \$13,680 (multiple)	\$14,708	\$61,303

GRAND TOTAL: \$292,623

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)	
)	
SPECIALTY MATERIALS BUSINESS TRUST)	EPA Docket No. RCRA-01-2015-0073
d/b/a SPECIALTY MATERIALS, INC.)	
1449 Middlesex Street)	
Lowell, MA 01851)	
)	CERTIFICATE OF SERVICE
Respondent)	
)	
)	
Proceeding under Section 3008(a) of the)	
Resource Conservation Recovery)	
Act, 142 U.S.C. § 6928(a))	

I hereby certify that the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing has been sent to the following persons on the date noted below:

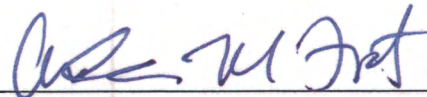
Original and one copy,
hand-delivered:

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

Copy of Complaint (with the
Consolidated Rules of Practice
and Penalty Policy), certified mail,
return receipt requested:

Mr. John Menzel, Chief Executive Officer
Specialty Materials Business Trust d/b/a
Specialty Materials, Inc.
1449 Middlesex Street
Lowell, Massachusetts 01851

Dated: 1/21/14



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