



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

October 1, 2015

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




Re: C.E. Bradley Laboratories, Inc.
Docket No. RCRA-01-2015-0052

Dear Ms. Santiago:

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

Very truly yours,


Andrea Simpson
Senior Enforcement Counsel

cc: Rashad Kanaan

Enclosure

Docket No. RCRA-01-2015-0052

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2015, the original and one copy of the Complaint, Compliance Order and Notice of Opportunity for Hearing in the Matter of C.E. Bradley Laboratories, Inc., Docket No. RCRA-01-2015-0052, were hand-delivered to the Regional Hearing Clerk and a copy was sent to Respondent, as set forth below:

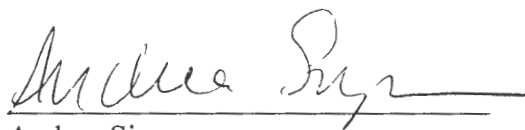
Original and one copy
by hand delivery to:

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

Copies by certified mail to:

Rashad Kanaan, President
C.E. Bradley Laboratories, Inc.
55 Bennett Drive
Brattleboro, Vermont 05301

Dated: 10/1/15



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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)	EPA Docket No. RCRA-01-2015-0052
)	
C.E. Bradley Laboratories, Inc.)	COMPLAINT, COMPLIANCE
56 Bennett Drive)	ORDER AND NOTICE OF
Brattleboro, Vermont 05301)	OPPORTUNITY FOR HEARING
)	
)	
Respondent)	
)	
Proceeding under Section 3008(a) of the)	
Resource Conservation Recovery)	
Act, 142 U.S.C. § 6928(a))	

I. INTRODUCTION

1. This Complaint, Compliance Order and Notice of Opportunity for Hearing (“Complaint”) is filed pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 (hereinafter, “RCRA”), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (“Part 22”). Respondent, C.E. Bradley, Inc. (“Respondent”), is hereby notified that the United States Environmental Protection Agency, Region 1 (“EPA”) has determined that Respondent violated Sections 3002 and 3005 of RCRA, 42 U.S.C. § 6922 and 6925, 40 C.F.R. Parts 262 and 265, 10 Vermont Statutes Annotated chapter 159, and the Vermont Hazardous Waste Management Regulations (“VHWMR”) 7-101 *et seq.* EPA also provides notice of Respondent’s opportunity to request a hearing.

RECEIVED
OCT 01 2015
EPA ORC: WS
Office of Regional Hearing Clerk

II. NATURE OF ACTION

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

3. Notice of commencement of this action has been given to the State of Vermont (“Vermont”) pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

III. STATUTORY AND REGULATORY FRAMEWORK

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

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

6. Section 3002 of RCRA, 42 U.S.C. § 6922, required EPA to establish standards applicable to generators of hazardous wastes. These standards are codified at 40 C.F.R. Part 262 and relate to such matters as determining whether a waste is hazardous, container management,

labeling and dating containers, inspecting waste storage areas, training, and planning for emergencies.

7. Section 3005 of RCRA, 42 U.S.C. § 6925, required EPA to establish standards requiring owners or operators of a hazardous waste treatment, storage or disposal facility to obtain an operating permit.

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

9. Subpart CC of 40 C.F.R. Part 265 contains air emission standards applicable to facilities that treat, store or dispose of hazardous waste in tanks, surface impoundments or containers.

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

11. The State of Vermont received final authorization on January 7, 1985, with an effective date of January 21, 1985 (50 FR 775) to implement the RCRA hazardous waste management program. The Region published an immediate final rule for certain revisions to Vermont's program on May 3, 1993 (58 FR 26,242). This authorization became effective August

6, 1993 (see 58 FR 31,911). The Region granted authorization for further revisions to Vermont's program on September 24, 1999 (64 FR 51,702), effective November 23, 1999. The Region granted authorization for further revisions to Vermont's program on October 26, 2000, effective December 26, 2000 (65 FR 64,164). On June 23, 2005 (70 FR 36,350) the Region published an immediate final rule for additional revisions to Vermont's program. This authorization became effective on August 22, 2005. The Region granted authorization for further revisions to Vermont's program on March 16, 2007 (72 FR 12,568), which became effective on May 15, 2007. The Region granted authorization for further revisions to Vermont's program on December 31, 2013 (78 FR 79,615), which became effective on March 3, 2014.

12. Vermont's federally authorized hazardous waste management regulations are codified at VHWMR, Subchapters 1-9, § 7-101 through § 7-916.

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

14. Pursuant to Sections 3008(a) and 3006(g) of RCRA, 42 U.S.C. § 6928(a) and 6926(g), EPA may enforce the federally-approved Vermont hazardous waste program, as well as the federal regulations promulgated pursuant to HSWA, by issuing orders requiring compliance immediately or within a specified time for violations of any requirement of Subtitle C of RCRA, Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e.

15. Sections 3008(a) and (g) of RCRA provide that any person who violates any order or requirement of Subchapter C of RCRA shall be liable to the United States for a civil penalty in an amount of up to \$25,000 per day for each violation. Pursuant to the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701 *et seq.*, as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA is up to \$32,500 per day per violation for violations that occurred after March 15, 2004 and before January 13, 2009. Violations that occur on or after January 13, 2009, are subject to penalties up to \$37,500 per day per violation. Violations that occurred after December 6, 2013, are subject to an increase of 4.87 percent. However, the statutory maximum of \$37,500 has not changed.

IV. GENERAL AND FACTUAL ALLEGATIONS

16. C.E. Bradley Laboratories, Inc. (“Respondent” or “C.E. Bradley”) is a corporation established under the laws of Vermont, having a principal place of business located at 55 Bennett Drive, Brattleboro, Vermont.

17. Respondent is a “person” as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(15), and VHWMR § 7-103.

18. At all times relevant to the allegations set forth in this Complaint, Respondent was and currently is the “owner,” as defined in 40 C.F.R. § 260.10, of a facility located at 55 Bennett Drive, Brattleboro, Vermont (“Facility”).

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

20. At all times relevant to the allegations set forth in this Complaint, Respondent was and currently is a manufacturer of coatings for the wood, metal, graphic arts and plastic industries at the Facility.

21. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), Respondent notified EPA that it was a large quantity generator of hazardous waste on July 21, 1980.

22. At all times relevant to this Complaint, Respondent generated and continues to generate “hazardous waste,” as that term is defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), and VHWMR § 7-103, at the Facility. Hazardous wastes that are currently generated or have been generated at the Facility include, but are not limited to: waste solvents (EPA waste codes D001, D035, F003, F005) and solvent-based waste-related material (EPA waste codes D001, D035, F003 and F005).

23. As the owner and operator of a facility that generates hazardous waste, Respondent is subject to the requirements for generators of hazardous wastes set forth at VHWMR § 7-301 *et seq.*

24. At all times relevant to the allegations set forth in this Complaint, Respondent was and is a “generator,” as that term is defined in 40 C.F.R. § 260.10 and VHWMR § 7-103, of hazardous waste.

25. On August 11 and 12, 2014, duly authorized representatives of EPA conducted an inspection at the Facility (“Inspection”) to determine Respondent’s compliance with RCRA and the federal and state regulations promulgated thereunder. During the Inspection, the inspectors

observed conditions at the Facility and reviewed documents related to hazardous waste management.

V. VIOLATIONS

Based on the Inspection and document review, EPA identified the following violations of RCRA, 10 Vermont Annotated Statutes chapter 159, and VHWMR.

COUNT I: Treatment and Storage of Hazardous Waste without Certification

26. Complainant incorporates by reference the allegations of paragraphs 1-25 above.

27. Pursuant to Section 3005 of RCRA and VHWMR § 7-504(a), except for the facilities and activities excluded under § 7-502, certification from the Secretary (of the Vermont Agency for Natural Resources) is required to treat, store, dispose, or accept any hazardous waste.

28. At the time of the Inspection, Respondent conducted the following activities at the Facility without obtaining certification from the Secretary: (a) operating a carbon adsorption system on site to treat solvent-contaminated wastewater generated in the solvent paint manufacturing process; and (b) steam stripping (treatment) of carbon from the carbon adsorption system; (c) treating solvent-contaminated wipes by hanging them to dry; and (d) storing the following containers of hazardous waste for greater than 90 days:

(i) two 10-gallon salvage containers in the road Paint Area marked “paint, flammable” with the following dates: 1/31/14 and 2/3/14. According to an employee of Respondent, the containers held waste clean-up residue and had been sent to Respondent by a client;

(ii) approximately 70 55-gallon containers and 20 five-gallon containers in the Bulk Accumulation Storage Area identified by an employee of Respondent as solvent-contaminated

hazardous waste being accumulated for bulk waste shipment. According to the employee, the containers had been stored there for a few years.

29. Respondent's treatment and storage of hazardous waste, as set forth in paragraph 28 above, without certification from the Secretary violated Section 3005 of RCRA and VHWMR § 7-504(a).

COUNT II: Failure to Keep Hazardous Waste Containers Closed

30. Complainant incorporates by reference the allegations of paragraphs 1-29 above.

31. Pursuant to VHWMR § 7-311(f)(4)(A), a container holding hazardous waste must always be closed except when it is necessary to add or remove waste.

32. At the time of the Inspection, Respondent was storing the following containers of hazardous waste that were open in the following areas. Waste was not being added or removed from the containers at the time of the Inspection.

(a) Two 55-gallon containers of waste paint-related material in the road paint area;

(b) Approximately 60 five-gallon containers and one 55-gallon container of waste paint and solvent in the paint drain operation area;

(c) One 55-gallon container marked as hazardous waste solids to the left of the distillation unit;

(d) One 55-gallon container of solvent-contaminated water with a hose into the drum behind the distillation unit; and

(e) Thirteen 55-gallon containers holding solvent-contaminated water in front of the carbon treatment system.

33. Respondent's failure to keep containers of hazardous waste closed, except when adding or removing waste from the containers, violated VHWMR § 7-311(f)(4)(A).

COUNT III: Failure to Label Containers Storing Hazardous Waste with the Accumulation Date

34. Complainant incorporates by reference the allegations of paragraphs 1-33 above.

35. Pursuant to VHWMR § 7-311(f)(1)(C), containers used for the storage of hazardous waste shall be clearly marked from the time they are first used to accumulate or store waste. Such marking shall include the date when the container was first used to accumulate or store hazardous waste.

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

- (a) Two 55-gallon containers of waste paint-related material in the road paint area;
- (b) Approximately 60 five-gallon containers and three 55-gallon containers of waste paint and five 55-gallon containers of waste paint related material, all in the paint drain operation area;
- (c) One 55-gallon container of solvent-contaminated water immediately in front of the distillation unit;
- (d) Approximately 70 55-gallon containers and 25 five-gallon containers of waste paint in the bulk storage area;

- (e) One 55-gallon container of used solvent behind the distillation unit; and
- (f) Thirteen 55-gallon containers holding solvent-contaminated water in front of the carbon treatment system.

37. Respondent's failure to label containers of hazardous waste with the date that accumulation began constitutes a violation of VHWMR § 7-311(f)(1)(C).

COUNT IV: Failure to Label Containers of Hazardous Waste

38. Complainant incorporates by reference the allegations of paragraphs 1-37 above.

39. Pursuant to VHWMR § 7-311(f)(1), with the exception of satellite accumulation containers, containers used for the storage of hazardous waste shall be clearly marked from the time they are first used to accumulate or store waste. Such marking shall include: (a) the generator's name, address and EPA identification number; (b) the name and hazardous waste identification code(s) of the hazardous waste stored therein; and (c) the following language: "Hazardous Waste – Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency."

40. At the time of the Inspection, Respondent stored the following unlabeled and improperly labeled containers of hazardous waste:

- (a) approximately 60 five-gallon containers of solvent-based waste paint, one 55-gallon container of solvent-based paint-related waste and one 55-gallon container of solvent-based waste paint in the paint drain operation area;
- (b) approximately 70 55-gallon containers and 25 five-gallon containers of waste paint-related material in the bulk storage area;

- (c) one 55-gallon container of used solvent behind the distillation unit; and
- (d) thirteen 55-gallon containers holding solvent-contaminated water in front of the carbon treatment system.

41. Respondent's failure to properly label or mark containers of hazardous waste violated VHWMR § 7-311(f)(1)(A), (B) and (D).

COUNT V: Failure to Minimize the Potential for Release of Hazardous Waste

42. Complainant incorporates by reference the allegations of paragraphs 1-41 above.

43. Pursuant to VHWMR § 7-309(a), small and large quantity generator facilities must be maintained and operated to minimize the possibility of fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, groundwater or surface water which could threaten human health or the environment.

44. At the time of the Inspection, the concrete containment pad in the main hazardous waste storage area was significantly deteriorated with gaps along the edges of the side containment berm. This side berm had completely separated from the containment pad under the side berm. Therefore, it was not in a condition to contain any spillage that may occur in the area. Also, the area was not equipped with secondary containment to prevent spills from releasing to the nearby open doorway, located approximately five feet from where the hazardous waste drums were being stored.

45. At the time of the Inspection, in Respondent's drain operation area, there were dry, partially dried, and wet paints in and all around the floor. Additionally, the concrete flooring was deteriorated and not sealed or maintained to properly to contain paint spillage in and around

the area. Furthermore, the draining operation was located close to the outside of the building without adequate secondary containment to minimize the likelihood of a release exiting the doors leading outside. During the Inspection, these doors were open. Respondent's employee stated that the company tries to leave them open to help control the volatile organic compounds from the paint manufacturing processes in the area.

46. Respondent's failure to minimize the possibility of fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, groundwater or surface water which could threaten human health or the environment as described in paragraphs 44 and 45 above, violated VHWMR § 7-309(a).

COUNT VI – Failure to Maintain Adequate Aisle Space

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

48. Pursuant to VHWMR § 7-311(b)(3), aisle space between rows of containers of hazardous waste must be sufficient to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of the facility operation. In no circumstances shall the aisle space be less than twenty-four (24) inches wide.

49. At the time of the Inspection, Respondent was not maintaining aisle space in the following areas where hazardous waste was stored:

(a) approximately 70 55-gallon containers and 25 five-gallon containers in the Bulk Accumulation Storage Area. These containers that held paint related wastes being accumulated

for bulk waste shipment, were stored along the outside wall of the production building with no aisle space to be inspected or accessed in the event of a spill or other incident in the area.

(b) approximately 60 open five-gallon containers of paint located in the Drain Operation area; and

(c) 13 open 55-gallon containers holding contaminated water located in front of the Carbon Adsorption System.

50. Respondent's failure to maintain proper aisle space in short term storage areas violated VHWMR § 7-311(b)(3).

COUNT VII – Failure to Maintain an Inventory of All Hazardous Wastes in Storage

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

52. Pursuant to VHWMR § 7-311(d)(1), small and large quantity generators must maintain a list of all hazardous waste currently in storage. For generators storing hazardous waste in containers, the list shall identify each container being stored and the type of hazardous waste held by each container. Waste being accumulated within a short-term storage area must be included on the list of hazardous waste in storage.

53. At the time of the Inspection, Respondent did not maintain an inventory of hazardous waste containers in storage. Respondent was storing numerous hazardous waste containers in several areas at the time of the Inspection.

54. Respondent's failure to maintain an inventory of all hazardous waste containers in storage violated VHWMR § 7-311(d)(1).

COUNT VIII – Failure to Conduct and Document Inspections

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

56. Pursuant to VHMR § 7-311(d)(2), large quantity generators shall conduct daily inspections during regular business days of each short-term storage area. The inspections shall be recorded in a log that is kept at the facility for at least three years.

57. At the time of the Inspection, Respondent was not conducting inspections at the following areas where hazardous wastes were stored:

(a) Bulk Accumulation Storage Area: Respondent stored approximately 70 55-gallon containers and 25 five-gallon containers identified by Respondent's employee as waste paint related materials being accumulated for bulk shipment;

(b) near the Road Paint Area: Respondent stored one 55-gallon container marked as hazardous waste, waste paint- related material, D001, F003, F005;

(c) near the Drain Operation Area: approximately 60 five-gallon containers holding small amounts of waste paint;

(d) three 55-gallon containers of waste paint in the vicinity of the drain operation;

(e) five 55-gallon containers marked as hazardous waste, D001, D006, D035, F003, and F005, in the vicinity of the drain operation, identified by Respondent as awaiting distillation in Respondent's distillation system.

58 . Respondent's failure to inspect the hazardous waste containers listed above and document those inspections, violated VHWMR § 7-311(d)(2).

COUNT IX - Failure to Determine the Average Volatile Organic Concentration of a Hazardous Waste

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

60. Pursuant to 40 C.F.R. § 265.1084(a)(1), as referenced by 40 C.F.R. § 262.34(a)(1), a generator shall determine the average volatile organic (VO) concentration of a hazardous waste at the point of generation for each waste placed in a waste management unit exempted under the provisions of § 265.1083(c)(1) of this subpart from using air emission controls in accordance with standards specified in § 265.1085 through § 265.1088 as applicable to the waste management unit.

61. At the time of the Inspection, Respondent was treating organically contaminated wastewater on site in the carbon adsorption system that did not have air emission controls without having determined the average VO concentration of the contaminated wastewater at its point of generation.

62. Respondent's failure to determine the average VO concentration of contaminated wastewater in the carbon adsorption system violated 40 C.F.R. § 265.1084(a)(1).

VI. COMPLIANCE ORDER

63. Based on the foregoing findings, Respondent is hereby ordered to achieve and maintain compliance with all applicable requirements of RCRA and VHMR § 7- 301 *et seq.* Specifically, Respondent shall do the following:

64. Immediately upon receipt of this Complaint, Respondent shall cease treating hazardous waste and storing hazardous waste for greater than 90 days without obtaining a

certificate from the Secretary, in accordance with VHWMR § 7-504(a). In addition, Respondent shall ship off site any hazardous wastes that have been stored for more than 90 days.

65. Immediately upon receipt of this Complaint, Respondent shall keep containers of hazardous waste closed, except when adding or removing waste from the containers, in accordance with VHWMR § 7-311(f)(4)(A).

66. Immediately upon receipt of this Complaint, Respondent shall properly label containers of hazardous waste with the accumulation date, in accordance with VHWMR § 7-311(f)(1)(c).

67. Immediately upon receipt of this Complaint, Respondent shall mark or label each container of hazardous waste, in accordance with VHWMR § 7-311(f)(1)(A), (B) and (D).

68. Within 30 days of receipt of this Complaint, Respondent shall minimize the possibility of fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, groundwater or surface water which could threaten human health or the environment with respect to the situations described in paragraphs 45 and 46 above, in accordance with VHWMR § 7-309(a).

69. Immediately upon receipt of this Complaint, Respondent shall maintain adequate aisle space in short term storage areas sufficient to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of the facility operation, such that each row of containers can be inspected to ensure compliance with the container management standards, in accordance with violated VHWMR § 7-311(b)(3).

70. Within 30 days of receipt of this Complaint, Respondent shall establish and maintain at the Facility an inventory of all hazardous waste containers in storage, in accordance with VHWMR § 7-311(d)(1).

71. Immediately upon receipt of this Complaint, Respondent shall conduct daily inspections of all areas where hazardous wastes are stored, and record those inspections in a log or summary, in accordance with the requirements of § 7-311(d)(2).

72. Within 30 days of receipt of this Complaint, Respondent shall determine the average VO concentration of the waste stream being treated in the carbon adsorption unit at the point of origination of the waste, in accordance with 40 C.F.R. § 265.1084(a)(1).

73. To ensure compliance with the requirements cited in paragraphs 64 through 72 above, Respondent shall submit to EPA, within 35 days of receipt of this Complaint, a written confirmation of compliance (accompanied by a copy of any appropriate supporting documentation, such as hazardous waste manifests) or noncompliance with the requirements set forth in paragraphs 64 through 72. Any notice of noncompliance with the requirements of paragraphs 64 through 72 shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will in no way excuse the noncompliance. This statement shall specify all actions taken by Respondent to comply with paragraph 64 through 72 of this Complaint.

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

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

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

and

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

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

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

78. 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.

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

VII. PROPOSED PENALTY

80. In determining the amount of any penalty to be assessed, pursuant to Section 3008(a) of RCRA, EPA will take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. To assess a penalty for the alleged violations in this Complaint, Region 1 will take into account the particular facts and circumstances of this case as applied to the RCRA Civil Penalty Policy, dated June 2003, as revised ("Penalty Policy"). A copy of the Penalty Policy is enclosed with this Complaint. This Penalty Policy provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors identified above to a particular case. By this Complaint, Region 1 seeks to assess Respondents civil penalties of up to \$37,500 per day per violation of RCRA for:

a. One hundred eighty-three violations by Respondent for treatment and storage of hazardous waste without certification: These violations are significant because by treating and storing hazardous waste without a certificate, a facility avoids all of the requirements that are put in place to ensure such activities are done in a manner that will prevent the release of hazardous waste to the environment. In addition, the treatment of solvent-contaminated wipes through evaporation resulted in emissions of hazardous waste to the air.

b. One violation by Respondent for failing to keep hazardous waste containers closed, except when necessary to add or remove waste: This violation is significant because the failure keep such containers closed increases the potential for direct contact of personnel with hazardous wastes, emissions of volatile wastes, reaction, ignition, spills, and/or commingling of incompatible wastes.

c. One violation by Respondent for failing to properly date hazardous waste containers: This violation is significant because the failure to mark hazardous waste containers with the accumulation start date increases the potential that such wastes would be stored for more than the 90 days allowed under the regulations. Such long-term storage increases the likelihood of mismanagement and contamination due to leaks and spills.

d. One violation by Respondent for failure to label containers of hazardous waste: This violation is significant because the failure to label containers of hazardous waste can lead to improper management of such containers. In addition, without proper labeling, both agency inspectors and emergency responders are not able to tell what type of material is stored in the containers, potentially leading to a delayed emergency response.

e. Two violations by Respondent for failing to maintain and operate a facility in order to minimize the possibility of a fire, explosion or any unplanned release of hazardous waste: These violations are significant because due to Respondent's failure to properly maintain the containment pad in its hazardous waste storage area and properly clean the drain operation area, hazardous wastes could have been released to the environment.

f. One violation by Respondent for failing to maintain adequate aisle space: This violation is significant because inadequate aisle space impedes the detection and correction of conditions that may lead to a release, fire and/or explosion, and hampers the timely and effective access of emergency responders and equipment to compromised containers.

g. One violations by Respondent for failing to maintain an inventory of all hazardous wastes in storage: This violation is significant because without an inventory of hazardous wastes, facility personnel, regulating agencies, and emergency responders are hampered in their ability to properly manage, inspect and effectively respond to any releases of hazardous wastes at the facility.

h. One violation by Respondent for failing to adequately conduct and document inspections: This violation is significant because daily inspections of hazardous waste containers are necessary to ensure that hazardous waste management problems are detected early and remedied promptly. Moreover, poorly documented inspection logs prevent facility personnel from being able to clearly demonstrate whether inspections revealed problems, and how and when such problems were remedied to prevent harm to human health and the environment.

i. One violation by Respondent for failing to determine the average volatile organic compound concentration at the point of waste origination for a hazardous waste placed in a tank: This violation is significant because tanks containing hazardous wastes with high VOC concentrations have the potential to pollute when applicable RCRA air emission controls are not followed. Respondent's failure to make the requisite determination circumvented such air emission controls and increased the potential for release of VOCs into the environment.

81. Complainant will calculate a proposed penalty based, in part, on its current knowledge of Respondents' financial condition. Respondent shall pay the civil penalty with a cashier's or certified check, payable to the Treasurer, United States of America. Respondent should note on this check the docket number of this Complaint (EPA Docket No. RCRA-01-2015-0052). The check shall be forwarded to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

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

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

and

Andrea Simpson, Esq.
U.S. Environmental Protection Agency, Region 1
Mail Code OES04-2
5 Post Office Square, Suite 100
Boston, Massachusetts 02109

VIII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

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

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

83. 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

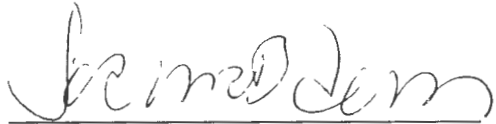
Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional Judicial Officer,” a copy of which has been provided with the Complaint.

IX. DEFAULT ORDER

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

85. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with the EPA concerning the alleged violations. Such conference provides Respondent with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. Any settlement shall be made final by the signing of a Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region I. Please note that a request for an informal settlement conference does not extend the thirty (30) day period within which a written Answer must be submitted in order to avoid default. To explore the possibility of settlement in this matter, Respondent should contact Andrea Simpson, Senior Enforcement Counsel, Office of Environmental Stewardship, EPA Region I, who is also designated to receive service on behalf of Complainant, at the above address or at (617) 918-1738.

For Complainant:



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

9/29/15

Date