



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

BY HAND

September 28, 2017

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environment Protection Agency, Region I
5 Post Office Square, Suite 100 (Mailcode: ORC04-6)
Boston, MA 02109-3912

RECEIVED

SEP 28 2017

EPA ORC
Office of Regional Hearing Clerk

Re: In the Matter of Tasman Leather Group, LLC, Docket No. RCRA-01-2017-0054

Dear Ms. Santiago:

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

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Kevin P. Pechulis".

Kevin P. Pechulis
Enforcement Counsel

Enclosures

cc: Norman Tasman, President, Tasman Leather Group, LLC
Kenneth F. Gray, Esq., Pierce Atwood LLP

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

IN THE MATTER OF:)
)
Tasman Leather Group, LLC)
9 Main Street)
Hartland, ME 04943)
Respondent)
)
EPA I.D. No. MER000511501)
)
Proceeding under Section 3008(a))
Resource Conservation and Recovery)
Act, 42 U.S.C. § 6928(a))
_____)

Docket No.
RCRA-01-2017-0054

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

RECEIVED

SEP 28 2017

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 (hereafter, “RCRA”), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22 (“Part 22”). Complainant is the Legal Enforcement Manager, Office of Environmental Stewardship, United States Environmental Protection Agency, Region 1 (“EPA” or “Region 1”).

2. Respondent, Tasman Leather Group, LLC (“Tasman”), is hereby notified of Complainant’s determination that Respondent has violated Sections 3002 and 3005 of RCRA, 42 U.S.C. §§ 6922 and 6925, Chapter 13 of Title 38 of the Maine Revised Statutes (“M.R.S.”) and the regulations promulgated thereunder at Chapter 850 et seq. (the “Maine Rules”). Complainant

also provides notice of Respondent's opportunity to request a hearing concerning these allegations.

II. NATURE OF ACTION

3. This is an action under RCRA, 42 U.S.C. §§ 6901 *et seq.*, seeking civil penalties and ordering compliance with RCRA pursuant to Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928 (a) and (g), for violations of the federal and state hazardous waste regulations promulgated pursuant to RCRA.

4. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), notice of commencement of this action has been given to the State of Maine.

III. STATUTORY AND REGULATORY FRAMEWORK

5. RCRA, enacted in 1976, was amended by, among other amendments, the Hazardous and Solid Waste Amendments of 1984. Subchapter III of RCRA establishes a comprehensive federal regulatory program for the management of hazardous waste. *See* 42 U.S.C. §§ 6921-6939e. Pursuant to Subchapter III of RCRA, EPA has promulgated regulations for the management of hazardous waste, which are codified at 40 C.F.R. Parts 260-299.

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

7. The State of Maine received final authorization to implement its hazardous waste management program on May 6, 1988, with an effective date of May 20, 1988. *See* 53 Fed. Reg. 16264-16267 (May 6, 1988). The Maine regulations are codified at Chapters 850-860 of

the Maine Rules.

8. Maine submitted a final application for program revisions on February 28, 1997, and received final authorization for the revisions on June 24, 1997, with an effective date of August 25, 1997 (62 Fed. Reg. 34007-34012, June 24, 1997). On September 27, 2004, Maine submitted a final complete program revision application, seeking authorization for changes to its hazardous waste program that would allow it to meet EPA requirements. EPA granted Maine final authorization for the revisions effective on January 10, 2005 (69 Fed. Reg. 64861-64865, November 9, 2004).

9. 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 Maine hazardous waste program 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. 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.

10. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides that upon finding that any person has violated or is violating any requirement of Subchapter III of RCRA, including violations in an authorized state, EPA may issue an order requiring compliance immediately or within a specified time and assessing a civil penalty for any past or current violation. Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928 (a) and (g), provide that any person who violates

any order or requirement of Subchapter III 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 Improvements Act of 1996, 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 increased to \$37,500 per day for each violation which occurred after January 12, 2009 and on or before November 2, 2015. Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461 note, Pub. L. 114-74, as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA increased to \$95,284 per day for each violation that occurred after November 2, 2015, and is assessed on or after January 15, 2017.

IV. GENERAL ALLEGATIONS

11. Respondent is a Maine limited liability company registered to conduct business in Maine. Respondent owns and operates a tannery facility located at 9 Main Street, Hartland, Maine (the “Facility”).

12. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10.

13. Respondent’s Facility in Hartland, Maine is comprised of multiple multi-story buildings. Respondent has operated at this location since 2011, and employs a total of about 110 people who work in two shifts. At the Facility, Respondent performs re-tanning and finishing of various types of leather for the footwear and fashion industries. The leather manufacturing operations performed at the Facility include splitting and shaving hides, using dyes for coloring, drying, and finish re-tanning.

14. Respondent generates various hazardous wastes within its Facility, including, but not limited to, hazardous wastes generated during manufacturing operations, primarily from the finish coating operations, consisting of waste finish application mixes containing flammable solvents and chromium. Hazardous wastes generated during finish operations are waste finishes that are no longer able to be used due to production mix or finish quality. These wastes are classified as characteristic hazardous wastes due to ignitability and chromium content (toxicity). The buildings at Respondent's Facility include, but are not limited to, the Main Building, which is located on the north side of Main Street where finishing operations take place, and the Woolen Mill, Huni Building, and Wastewater Pretreatment Building on the south side of Main Street where dyeing operations take place. Respondent uses an area of the basement in the Woolen Mill as a hazardous waste storage area ("HWSA"), where Respondent stores hazardous wastes.

15. At all times relevant to this Complaint, Respondent was the "owner" and/or "operator," as defined in 40 C.F.R. § 260.10, of its Facility in Hartland, Maine.

16. Respondent generates wastes at its Facility that are "hazardous wastes" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5); 40 C.F.R. § 261.3; 38 M.R.S. § 1303-C(15); and Chapter 850, Section 4A(3) of the Maine Rules.

17. At all times relevant to this Complaint, Respondent has been and is a "generator" of hazardous wastes, as that term is defined in 40 C.F.R. § 260.10 and Chapter 851, Section 3C of the Maine Rules.

18. Under Section 3B of Chapter 850 of the Maine Rules, a "Large Quantity Generator" means a generator that does any one of the following: (1) generates more than 100

kilograms (approximately 27 gallons) per month of hazardous waste, (2) generates more than 1 kilogram of acute hazardous waste per month, (3) accumulates more than 600 kilograms (approximately 165 gallons) of hazardous waste at any one time, (4) accumulates more than 1 kilogram of acute hazardous at any one time, or (5) accumulates acute hazardous waste in a container that is larger than 20 liters in capacity.

19. On May 3, 2016, authorized representatives of EPA conducted a RCRA compliance evaluation inspection of Respondent's Facility ("Inspection"), pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

20. On or about June 2, 2016, pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), Respondent submitted a Notice of Hazardous Waste Activity to the State of Maine, identifying itself as an LQG of hazardous waste at the Facility.

21. According to a June 24, 2016 letter sent to EPA by Pierce Atwood LLP concerning Respondent, and calculations based on Respondent's hazardous waste manifest records, Respondent changed its business practices in 2014 and became subject to regulation as a large quantity generator ("LQG") of hazardous wastes under the Maine Rules at that time, and operated as an LQG through the date of the Inspection. Also, at the time of the Inspection, Wayne Chasse, Facility Engineer for Respondent, stated that the Facility was operating as an LQG.

22. As an owner and/or operator of a facility that is an LQG of hazardous waste, Respondent is subject to state standards applicable to LQGs found at Chapters 850, 851, 852, 855, 857 and 858 of the Maine Rules.

23. On July 22, 2016, EPA sent Respondent a request for information pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9604, and Section 114(a)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7414(a)(1).

24. On August 5, 2016, Respondent provided EPA with its response to the July 22, 2016 request for information.

25. Based on the Inspection and review of documents provided by Respondent to EPA, Complainant has identified the following violations at Respondent’s Facility:

V. VIOLATIONS

Count 1 - Failure to Notify and Obtain a Valid EPA Identification Number

26. Complainant realleges and incorporates by reference Paragraphs 1 - 25.

27. Under Section 6A of Chapter 851 of the Maine Rules, no person shall generate hazardous waste without first having obtained a generator identification number specific for the site of waste generation, except as provided for a small quantity generator in the Maine Rules.

28. Under Section 3E of Chapter 851 of the Maine Rules, site “means the same or geographically contiguous property which may be divided by a public or private right-of-way, provided that the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered site property.”

29. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person

generating a hazardous waste must file a notification with EPA (or the state, if the state's hazardous waste program has been approved) of its hazardous waste activity.

30. At the time of the Inspection, Respondent had not obtained a generator identification number specific for the site of waste generation at the Facility located at 9 Main Street, Hartland, Maine. Rather, from 2014, when Respondent became a large quantity generator at the Facility, until May 2016, Respondent had been using the generator identification number assigned to a non-contiguous facility formerly owned by the entity from which Respondent bought assets out of bankruptcy located at Rear Pleasant Street, Hartland, Maine, which is located approximately 0.4 miles away from the Facility.

31. As described above in Paragraph 20, on or about June 2, 2016, Respondent submitted a RCRA Subtitle C site identification form with the State of Maine for the Facility, and received a generator identification number specific for the site of waste generation at the Facility located at 9 Main Street, Hartland, Maine.

32. By failing to notify and obtain an identification number specific to the site of waste generation while generating hazardous waste at the Facility, Respondent violated Chapter 851, Section 6A of the Maine Rules and Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Count 2 - Failure to maintain a contingency plan

33. Complainant realleges and incorporates by reference Paragraphs 1 - 32.

34. Pursuant to Chapter 851, Section 8B(5) of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.52, a generator must have a contingency plan for its facility meeting the requirements of 40 C.F.R. § 264.52. The contingency plan must be designed to

minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water. The plan must also describe actions facility personnel must take in response to emergency situations. Specifically, the plan must describe arrangements agreed to by local emergency responders and hospitals to coordinate emergency services. In addition, the plan must: list the names, addresses, and phone numbers of all persons qualified to act as an emergency coordinator for the facility; include a list of all emergency equipment at the facility including the location, description and capabilities of the equipment; and the information in the plan must be kept up-to-date.

35. At the time of the Inspection, Respondent did not have a hazardous waste contingency plan for the Facility that met the requirements of 40 C.F.R. § 264.52. Rather, after the Inspection, Respondent informed EPA that it had a contingency plan for the Facility under development at the time of the Inspection, which Respondent adopted for the Facility in May 2016.

36. Respondent's failure to maintain a contingency plan for the Facility meeting the requirements of 40 C.F.R. § 264.52 from the time Respondent became subject to regulation as a large quantity generator at the Facility in 2014 until May 2016 was a violation of Chapter 851, Section 8B(5) of the Maine Rules.

Count 3 - Failure of a Generator to Submit an Annual Report

37. Complainant realleges and incorporates by reference Paragraphs 1 - 36.

38. Pursuant to Chapter 851, Section 9F of the Maine Rules, a generator who handles

his hazardous waste on the site of its generation shall submit an Annual Report covering those wastes including any universal wastes: (1) in accordance with the provisions of Chapter 854, Section 6C(11), which cross-references 40 C.F.R. § 264.75; (2) to the Maine Department of Environmental Protection (“Maine DEP”); (3) no later than March 1st for the preceding calendar year.

39. Chapter 851, Section 3D of the Maine Rules defines “handle” as “to store, transfer, collect, separate, salvage, process, reduce, recover, incinerate, treat or dispose of.”

40. Respondent handled hazardous waste on the site of its generation in calendar year 2015 by collecting and storing waste at the Facility that was generated at the Facility in 2015.

41. Respondent did not submit an Annual Report for its calendar year 2015 hazardous waste activities to the Maine DEP in accordance with Chapter 851, Section 9F of the Maine Rules until May 31, 2016.

42. Respondent’s failure to submit an Annual Report for its calendar year 2015 hazardous waste activities at the Facility to the Maine DEP by March 1, 2016, violated Chapter 851, Section 9F of the Maine Rules.

**Count 4 - Failure to Provide Waste Training Annual Review to
Employees Managing Hazardous Waste**

43. Complainant realleges and incorporates by reference Paragraphs 1 – 42.

44. Pursuant to Chapter 851, Section 8B(5) of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16, facility personnel with hazardous waste management responsibilities must successfully complete a training program that teaches them to perform their

duties in a way that ensures the facility's compliance with hazardous waste management regulatory requirements.

45. Pursuant to 40 C.F.R. § 264.16(a)(1), employees who manage hazardous waste must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with RCRA requirements.

46. Pursuant to 40 C.F.R. § 264.16(a)(2), the training program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. Pursuant to 40 C.F.R. § 264.16(a)(3), at a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment and emergency systems.

47. Pursuant to 40 C.F.R. § 264.16(b), facility personnel must successfully complete the training program within six months after their employment to a facility, or to a new position at a facility, whichever is later.

48. Pursuant to 40 C.F.R. § 264.16(c), facility personnel must take part in an annual review of the initial training required under 40 C.F.R. § 264.16(a).

49. Pursuant to 40 C.F.R. § 264.16(d), the facility owner/operator must maintain records that document that training has been given to, and completed by, relevant facility personnel.

50. Based on information EPA received from Respondent after the Inspection, Respondent did not provide an annual review of hazardous waste training in 2015 to the following employees of Respondent who were responsible for managing hazardous waste at the Facility: Wayne Chasse, Facility Engineer – hazardous waste management, manifest signer, emergency coordinator; Mike Thompson, Chemical Inventory Clerk and Purchasing Clerk – hazardous waste management and manifest signer; Harold Lovejoy, Finish Mixer – hazardous waste management and inspections; Allen Plourde, Facility Trucking – hazardous waste management; Russell Bishop, Safety Coordinator – emergency coordinator; and Bob Braley, Maintenance Supervisor – emergency coordinator. At the time of the Inspection, Respondent also failed to maintain records that the 2015 annual review of hazardous waste training had been provided to all appropriate Facility employees.

51. By failing to ensure that all employees with hazardous waste management responsibilities received an annual review of hazardous waste training in 2015, and by failing to maintain records of such training, Respondent violated Chapter 851, Section 8B(5) of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16.

Count 5 - Failure to Conduct Adequate Hazardous Waste Determination

52. Complainant realleges and incorporates by reference Paragraphs 1 – 51.

53. Under Section 5 of Chapter 851 of the Maine Rules, a person who generates waste shall determine if that waste is hazardous by using the following method:

- A. First determine if the waste is excluded from regulation under Chapter 850 of the [Maine Rules].
- B. Then determine if the waste is listed as a hazardous waste in Chapter

850 of the [Maine Rules].

C. If the waste is not listed as a hazardous waste in Chapter 850, the person shall determine whether the waste is identified by characteristic, as a hazardous waste in Chapter 850 by either:

- (1) Testing the waste according to the methods set forth in Chapter 850, or according to an equivalent method approved under Chapter 850; or
- (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

See also 40 C.F.R. §§ 262.11 and 268.7(a) (federal RCRA regulations requiring that generators perform hazardous waste determinations to ensure safe handling and disposal).

54. In December of 2015, Respondent shipped eighty-three (83) containers of non-hazardous waste liquid (vegetable oil) under a non-hazardous waste manifest, with waste tracking number 000077847, to Vexor Technology, Inc. (“Vexor”) in Medina, Ohio. Vexor received Respondent’s waste shipped under this non-hazardous waste manifest on December 14, 2015. Upon review of the wastes received, Vexor determined that one drum of the waste shipped by Respondent could not be accepted because it was an ignitable hazardous waste. In the “Discrepancy Indication Space,” section 17a, of non-hazardous waste manifest 000077847, Vexor marked a partial rejection and provided the following explanation of the discrepancies: “1 drum off spec due to flash. Drum will be rejected to Tradebe Treatment & Recycling per T. Zimmerman of Vexor and G Reppert of Univar.” Vexor prepared a uniform hazardous waste manifest, with manifest tracking number 008913667 FLE, on behalf of Respondent and shipped the drum of ignitable hazardous waste, with a quantity of 200 pounds, to Tradebe Treatment and Recycling, LLC in East Chicago, Indiana on January 4, 2016. The U.S. DOT description of the waste on the hazardous waste manifest prepared on behalf of Respondent included “Waste

Petroleum distillates,” and hazardous waste code “D001.” In the special handling instructions and additional information section of the hazardous waste manifest, the following information was included “15120156 – Describes Material from Manifest 000077847.” Accordingly, Respondent did not conduct an adequate hazardous waste determination for the waste contained in the drum sent by Vexor to Tradebe Treatment and Recycling, LLC using the hazardous waste manifest with manifest tracking number 008913667 FLE.

55. By failing to determine if the solid waste contained in the drum described in the hazardous waste manifest with manifest tracking number 008913667 FLE was a hazardous waste, Respondent violated Chapter 851, Section 5 of the Maine Rules.

**Count 6 - Failure to Place a “No Smoking” Sign Wherever
There is a Hazard From Ignitable or Reactive Waste**

56. Complainant realleges and incorporates by reference Paragraphs 1 – 55.

57. Pursuant to Chapter 851, Section 13C(7)(c)(ii) of the Maine Rules, which incorporates by reference 40 C.F.R § 264.17(a), “No Smoking” signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

58. Chapter 850, Section 4B(2)(b) of Maine Rules assigns waste code D001 to waste that exhibits the characteristic of ignitability, but is not listed as a hazardous waste in Section 4C of Chapter 850.

59. At the time of the Inspection, Respondent stored nine (9) 55-gallon containers, one 30-gallon container, and one 5-gallon container of hazardous waste in the hazardous waste storage area located in the basement of the Woolen Mill at the Facility. The labels on five (5)

55-gallon containers stored in the hazardous waste storage area indicated that they contained ignitable hazardous wastes, as each container was marked “Flammable – Toxic for Chrome,” in the EPA hazard name space, and the waste codes were listed as “D001/D007.” The Respondent did not post a “No Smoking” sign in the vicinity of the hazardous waste storage area at the Facility.

60. Respondent’s failure to place a “No Smoking” sign conspicuously in the hazardous waste storage area where there was a hazard from ignitable hazardous waste violated Chapter 851, Section 13C(7)(c)(ii) of the Maine Rules.

Count 7 – Storage of Hazardous Waste Without a License

61. Complainant realleges and incorporates by reference Paragraphs 1 - 60.

62. Pursuant to Section 5A of Chapter 856 of the Maine Rules, any person who proposes to own or operate a waste facility for hazardous waste must apply for and obtain a license prior to establishment, construction or operation of the facility.

63. There is an exemption to the license requirement set forth in Section 6A of Chapter 856 of the Maine Rules for generators of hazardous waste. Under Section 6A of Chapter 856 of the Maine Rules, generators of hazardous waste who accumulate hazardous waste on site for ninety (90) days or less, as provided in Chapter 851, Section 8B of the Maine Rules, are not required to obtain a license.

64. At the time of the Inspection, Respondent stored four (4) 55-gallon containers and one (1) 30-gallon container of hazardous waste in the Facility’s hazardous waste storage area that had been stored for more than ninety (90) days. On four containers of hazardous waste (three (3)

55-gallon containers and one (1) 30-gallon container), Respondent marked the accumulation start date (i.e., “full date”) as February 2, 2016 (i.e., each of these containers had been in storage for ninety-two (92) days). On one (1) 55-gallon container of hazardous waste, Respondent marked the accumulation start date (i.e., “full date”) as January 17, 2016 (i.e., the container had been in storage for one hundred and six (106) days).

65. Respondent’s storage of hazardous waste in the hazardous waste storage area of the Facility for more than ninety (90) days without a license violated Chapter 856, Section 5A of the Maine Rules.

Count 8 – Failure to Store all Universal Waste in Containers

66. Complainant realleges and incorporates by reference Paragraphs 1 - 65.

67. Pursuant to Chapter 858, Section 7F of the Maine Rules, generators of universal waste must store all universal wastes in containers. The containers must not show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The containers must be closed, structurally sound, compatible with the content of the waste, and must not be leaking, spilling, dented or damaged such that it could cause leakage under reasonably foreseeable conditions.

68. Chapter 858, Section 4Q of the Maine Rules defines “universal waste” to include, among other wastes, cathode ray tubes (“CRTs”) and lamps. Chapter 858, Section 4C defines “CRTs” as a product video display component of televisions, computer displays, military and commercial radar, and other display devices. Chapter 858, Section 4I defines “lamp” as a bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant

energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of lamps are fluorescent lamps, high intensity discharge lamps, neon lamps, mercury vapor lamps, high pressure sodium lamps and metal halide lamps. Lamps include both lamps that fail the Toxicity Characteristic Leaching Procedure (TCLP) and those that contain mercury but pass the TCLP.

69. Pursuant to Chapter 858, Section 7V of the Maine Rules, CRTs must also be managed in accordance with the following requirements: (1) pack CRTs in containers, boxes, gaylord, or another acceptable container method approved by the Department that will contain any breakage. CRTs must have packing materials adequate to prevent breakage during storage, handling and transportation; (2) seal securely, such as with tape, around the box openings of all full boxes and immediately if incidental breakage should occur; (3) do not stack containers or boxes of CRTs more than five feet in height; (4) store CRTs in an inside, dry area not exposed to weather; (5) mark the container or box with the words "Waste Cathode Ray Tube"; (6) designate each waste CRT storage area by a clearly marked sign which states "Waste Cathode Ray Tube Storage" or "Universal Waste Storage."

70. Pursuant to Chapter 858, Section 7W of the Maine Rules, lamps must also be managed in accordance with the following requirements: (1) pack lamps in containers or boxes with packing materials adequate to prevent breakage during storage, handling and transportation; (2) seal securely, such as with tape, around the box openings of all full boxes and immediately if incidental breakage should occur; (3) do not stack containers or boxes of lamps more than five feet in height; (4) store lamps in an inside, dry area not exposed to weather; (5) mark the

container with the words “Waste Lamps”; (6) designate each waste lamp storage area by a clearly marked sign which states “Waste Lamp Storage” or “Universal Waste Storage.”

71. At the time of the Inspection, Respondent stored nine (9) eight-foot banded waste fluorescent lamps on a shelf above a table in the universal waste storage area of the Facility without containers or boxes or packing materials. Respondent stored other universal waste fluorescent lamps in containers above the non-containerized fluorescent lamps and on a table located under the shelf where the non-containerized fluorescent lamps were stored. Respondent also stored approximately eight (8) palletized cathode ray tubes (CRTs) in the universal waste storage area at the Facility without containers or boxes or packing materials.

72. Respondent’s failure to store universal waste in containers or boxes with packing materials violated Chapter 858, Sections 7F, 7V and 7W of the Maine Rules.

**Count 9 – Failure to Store Universal Waste Containers or Collection Containers
With Adequate Aisle Space**

73. Complainant realleges and incorporates by reference Paragraphs 1 – 72.

74. Pursuant to Chapter 858, Section 7N of the Maine Rules, generators of universal waste must store universal waste containers or collection containers with adequate aisle space to be able to inspect the condition of the containers and collection containers and determine the accumulation start dates and container and collection container full dates.

75. At the time of the Inspection, Respondent stored approximately eight (8) CRTs in the universal waste storage area on pallets and dollies that were located directly against a table that held containers of universal waste lamps with no aisle space to be able to adequately inspect

the containers of universal waste lamps or the CRTs and determine the accumulation start dates and container full dates.

76. Respondent's failure to store universal waste containers and CRTs with adequate aisle space to be able to inspect the condition of the containers and CRTs and determine the accumulation start dates and container full dates violated Chapter 858, Section 7N of the Maine Rules.

VI. PROPOSED PENALTY

77. In determining the amount of any penalty to be assessed, Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), requires EPA to 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, 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.

78. By this Complaint, Complainant seeks to assess Respondent a total civil penalty of \$120,088.00. The calculation of the proposed penalty is explained in detail in Attachment 1 to this Complaint, and is summarized as follows:

| | |
|---|-----------|
| 1. Failure to notify and obtain a valid EPA identification number | \$ 36,701 |
| 2. Failure to have a contingency plan | \$ 36,701 |
| 3. Failure of generator to submit an annual report | \$ 15,495 |
| 4. Failure to provide employees annual review of hazardous waste training | \$ 18,147 |
| 5. Failure to conduct adequate hazardous waste determination | \$ 6,524 |

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Docket No. RCRA-01-2017-0054

| | |
|--|------------|
| 6. Failure to place a "No Smoking" sign where there are ignitable wastes | \$ 1,630 |
| 7. Failure to have a license for storage of hazardous waste | \$ 1,630 |
| 8. Failure to store all universal waste in containers | \$ 1,630 |
| 9. Failure to store universal waste containers with adequate aisle space | \$ 1,630 |
| <hr/> | |
| Total Proposed Penalty | \$ 120,088 |

79. Quick Resolution. Under Section 22.18(a) of EPA's Consolidated Rules of Practice, Respondent has the option of resolving this matter at any time by paying in full the penalty proposed in this Complaint. Payment of the penalty may be made by a bank, cashier's or certified check, payable to "The Treasurer, United States of America." The check should also note the docket number of this Complaint ("RCRA-01-2017-0054) and should be forwarded to:

U.S. EPA
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 a copy of the check should also be forwarded to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street, Suite 1100 (ORA 18-1)
Boston, Massachusetts 02114-2023

and to:

Kevin Pechulis
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OES 04-3)
Boston, Massachusetts 02109-3912

VIII. COMPLIANCE ORDER

80. Based on the foregoing findings, Respondent is hereby ordered to comply with the following requirements immediately upon receipt of this Compliance Order (“Order”):

(a) Respondent shall achieve and maintain compliance with all applicable requirements of RCRA and the Maine Rules. Specifically, Respondent shall comply with the following requirements:

(b) Respondent shall annually, by March 1st, submit an Annual Report for its calendar year hazardous waste activities for the preceding year, in accordance with Chapter 851, Section 9F of the Maine Rules;

(c) Respondent shall provide annual hazardous waste training to all employees at the Facility with hazardous waste management responsibilities, and document the training, in accordance with Chapter 851, Section 8B(5) of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16;

(d) Respondent shall accumulate hazardous waste on site for ninety (90) days or less in accordance with the applicable requirements of Chapter 851, Section 8B of the Maine Rules, unless Respondent obtains a hazardous waste license from the State of Maine in accordance with Section 5A of Chapter 856 of the Maine Rules;

(e) Respondent shall store all universal waste in containers with adequate aisle space, in accordance with the applicable requirements of Chapter 858, Sections 7F, 7N, 7V, and 7W of the Maine Rules.

(f) Within forty-five (45) days of receipt of this Order, Respondent shall submit

to EPA written confirmation of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance with the requirements set forth in Paragraph 80. Any notice of noncompliance with the requirements of Paragraph 80 shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will in no way excuse the noncompliance. The information requested in this Compliance Order is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 et seq. Respondent shall submit the copies of any information, reports, and/or notices required by this Order to:

Donald MacLeod
Environmental Engineer
RCRA, EPCRA and Federal Programs Unit
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OES 05-4)
Boston, Massachusetts 02109-3912

(e) If Respondent fails to comply with the requirements of this Order within the time specified, Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461 note, Pub. L. 114-74, as well as 40 C.F.R. Part 19, provide for further enforcement action in which EPA may seek the imposition of additional penalties of up to \$57,391 for each day of continued noncompliance.

81. Upon receipt of a compliance order issued under RCRA Section 3008(a), 42 U.S.C. § 6928(b), 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), 42 U.S.C. § 6928(b), and 40 C.F.R. Part 22.

IX. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

82. As provided by Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), Respondent has a right to request a hearing on the issues raised in this Complaint. Any such hearing would be conducted in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22. **A request for a hearing on the violations alleged in this Complaint must be incorporated in a written Answer filed with the Regional Hearing Clerk within thirty (30) days of receipt of this Complaint.** 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.

83. Respondent's Answer must comply with 40 C.F.R. § 22.15 and must be filed with the Regional Hearing Clerk at the following address within thirty (30) days of receipt of the Complaint:

In the Matter of: Tasman Leather Group, LLC
Docket No. RCRA-01-2017-0054

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109-3912

To be entitled to a hearing, Respondent must include a request for a hearing in its Answer to this Complaint.

84. 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 e-mail, 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.

85. Respondent should send a copy of the Answer, as well as a copy of all other documents which it files in this action, to Kevin Pechulis, the attorney assigned to represent EPA and who is designated to receive service in this matter, at the following address:

Kevin Pechulis
Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OES 04-3)
Boston, Massachusetts 02109-3912
pechulis.kevin@epa.gov

86. 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 a hearing on such factual allegations.

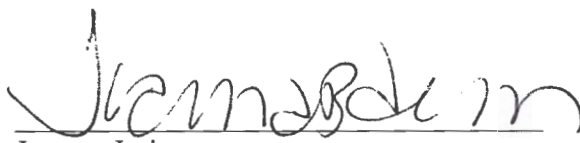
X. SETTLEMENT CONFERENCE

87. Whether or not a hearing is requested upon filing an answer, Respondent may confer informally with 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 issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region 1. 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.

88. 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 or Respondent's counsel should contact Kevin Pechulis, Enforcement Counsel, at (617) 918-1612 or pechulis.kevin@epa.gov.

XI. EFFECTIVE DATE

89. This Complaint and Compliance Order shall become effective immediately upon receipt by Respondent.

 Date: 9/26/17

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

Attachment 1
Explanation of Penalty Calculation
In the Matter of Tasman Leather Group, LLC
Hartland, Maine

Administrative Complaint
EPA Docket No. RCRA-01-2017-0054

The following discussion provides a justification for the proposed penalty against Tasman Leather Group, LLC (“Tasman”) for violations of certain requirements of the Resource Conservation and Recovery Act (RCRA), the Hazardous and Solid Waste Amendments of 1984 and the State of Maine Hazardous Waste Regulations. Tasman operates a facility located at 9 Main Street, Hartland, Maine (the “Facility”).

Gravity-based penalties and multiple or multi-day penalties were calculated in accordance with the RCRA Civil Penalty Policy, dated June 23, 2003, (“RCPP”), the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701 *et seq.*, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461 note, Pub. L. 114-74, as well as 40 C.F.R. Part 19.

The following RCRA violations were documented during an EPA Compliance Evaluation Inspection conducted at the Facility on May 3, 2016 (the “Inspection”):

Summary of Violations

1. Failure to notify and obtain a valid EPA identification number

At the time of the Inspection, Tasman failed to notify and obtain an identification number specific to the site of waste generation before generating hazardous waste at the Facility located at 9 Main Street, Hartland, Maine.

Penalty Assessment

(a) Potential for Harm – Major

The failure to notify of hazardous waste activities and obtain an identification number violates a central and fundamental requirement of the RCRA regulatory program as it circumvents the extensive RCRA management process that involves the identification and tracking of hazardous waste generation, treatment and disposal. Failure to notify of hazardous waste activities and obtain an identification number creates a major potential for harm to the regulatory program. The failure to notify the regulatory agency makes it more likely that a generator is not subject to inspection or other oversight, resulting in possible mismanagement of hazardous waste. The potential for harm is major.

USEPA

Penalty summary –Tasman Leather Group, LLC, Hartland, ME

(b) Extent of Deviation - Major

The failure to notify and obtain an identification number specific to the site of waste generation before generating hazardous waste substantially deviates from the regulatory requirement. The extent of deviation is major.

(c) Penalty Assessment:

EPA has determined that Tasman's violation of this requirement warrants a classification of Major/Major.

Matrix Cell Range (gravity-based penalty): \$40,779 - \$32,623

Penalty Amount Chosen - \$36,701 (The mid-point has been determined to be appropriate.)

TOTAL PENALTY AMOUNT: \$36,701

2. Failure to maintain a contingency plan

At the time of the Inspection, Tasman did not have a contingency plan. Tasman became subject to regulation as a large quantity generator of hazardous waste at the Facility in 2014. According to a June 24, 2016 letter sent to EPA by Pierce Atwood LLP concerning Respondent, and calculations based on Respondent's hazardous waste manifest records, Respondent changed its business practices in 2014 and became subject to regulation as a large quantity generator ("LQG") of hazardous wastes under the Maine Rules at that time, and operated as a LQG through the date of the Inspection. Tasman did not complete the preparation of, and maintain for the Facility, a hazardous waste contingency plan until after the Inspection in May 2016.

Penalty Assessment

(a) Potential for Harm - Major

The function of a contingency plan is to establish a framework for making management decisions during an emergency. The contingency plan must describe the actions facility personnel must take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste. This violation increased the potential that facility personnel would not effectively recognize, assess and respond to an incident in a manner that minimizes the potential impact to human health and the environment. This violation also increased the potential that facility personnel would not be able to communicate the potential risks to affected employees and the public. Failure to have a contingency plan represents a substantial potential risk to human health and the environment.

Having a contingency plan is a fundamental element of the RCRA Program. Without a contingency plan, the Facility avoided developing and maintaining a clear plan for emergency responders, employees and notification in the case of an emergency. This failure to have a contingency plan posed a substantial threat to the regulatory program. The potential for harm is major.

USEPA

Penalty summary –Tasman Leather Group, LLC, Hartland, ME

(b) Extent of Deviation – Major

Tasman failed to maintain a contingency plan for the Facility from 2014 until May 2016. As such, this represented a substantial deviation from the regulatory requirement. The extent of deviation is major.

(c) Penalty Assessment:

EPA has determined that Tasman’s violation of this requirement warrants a classification of Major/Major.

Matrix Cell Range (gravity-based penalty): \$40,779 - \$32,623

Penalty Amount Chosen - \$36,701 (The mid-point has been determined to be appropriate.)

TOTAL PENALTY AMOUNT: \$36,701

3. Failure of generator to submit an annual report

Tasman failed to submit an annual report for its calendar year 2015 hazardous waste activities at the Facility to the Maine Department of Environmental Protection (“Maine DEP”) by March 1, 2016. Rather, Tasman submitted its 2015 hazardous waste annual report after the Inspection on May 31, 2016.

Penalty Assessment

(a) Potential for Harm – Moderate

The purpose of an annual report is to identify facility activities during the previous calendar year, and to prepare and submit annual information on a generator’s progress towards meeting the hazardous waste reduction goals specified in the Maine Toxics Use Reduction Act. Failure to prepare and submit an annual report poses potential harm because the generator may not be adequately tracking the types and amounts of hazardous waste it generates and looking for opportunities to reduce its generation of hazardous waste.

Without an annual report, the Facility avoided regulatory oversight because regulators would not know about the types and quantities of hazardous waste generated at the Facility. Failure to provide an annual report posed significant harm to the regulatory program.

Because Tasman submitted hazardous waste manifests, some information regarding hazardous waste was prepared and submitted to the Maine DEP for the Facility. Accordingly, the potential for harm is moderate.

USEPA

Penalty summary –Tasman Leather Group, LLC, Hartland, ME

(b) Extent of Deviation – Major

At the time of the Inspection, Tasman had not submitted the 2015 Annual Report. As such, this represented a substantial deviation from the requirement. The extent of deviation is major.

(c) Penalty Assessment

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

Matrix Cell Range (gravity-based penalty): \$17,941 - \$13,049.

Penalty Amount: \$15,495 (The mid-point has been determined to be appropriate.)

TOTAL PENALTY AMOUNT: \$15,495

4. Failure to provide annual review of hazardous waste training to employees managing hazardous waste

Tasman failed to ensure that all employees with hazardous waste management responsibilities at the Facility had received an annual review of hazardous waste training in 2015. In 2015, the following personnel had hazardous waste management duties at the Facility but did not receive annual review training: Wayne Chasse (hazardous waste management, manifest signer, emergency coordinator), Mike Thompson (hazardous waste management and manifest signer), Harold Lovejoy (hazardous waste management and inspections), Allen Plourde (hazardous waste management), Russell Bishop (emergency coordinator), and Bob Braley (emergency coordinator).

Penalty Assessment

(a) Potential for Harm – Moderate

Employees who manage hazardous waste as part of their normal job duties must be properly trained and must receive initial and annual refresher training. The training of these personnel is an essential part of a proper hazardous waste management program. The failure to provide training is a serious violation because the knowledge of how to handle hazardous waste is developed and maintained through adequate training. Inadequate training increases the likelihood of mismanagement, release or worker exposure.

The failure to properly train employees poses regulatory harm because the regulatory agencies cannot be assured that employees are prepared to manage the hazardous waste at the Facility and to adequately respond to an emergency involving hazardous waste.

Since Tasman provided hazardous waste training in 2014 and had scheduled, and presented, training in 2016, the potential for harm is moderate.

USEPA

Penalty summary –Tasman Leather Group, LLC, Hartland, ME

(b) Extent of Deviation - Moderate

Tasman provided hazardous waste training to personnel in 2014 and 2016, but did not provide annual refresher training in 2015. This represented a significant deviation from the requirement. The extent of deviation is moderate.

(c) Penalty Assessment

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

- (1) Matrix Cell Range (gravity-based penalty): \$13,048 - \$8,156.
Penalty Amount: \$10,602 (The mid-point has been determined to be appropriate.)
- (2) Multiple/Multi-day Assessment

There were multiple violations of this requirement. Each of the six (6) Tasman employees with hazardous waste management responsibilities at the Facility in 2016 failed to receive annual refresher training. Multiple penalties are being sought for instances 2 through 6 of failure to train. In accordance with page 22 of the 2003 RCRA Civil Penalty Policy, the Region has chosen to apply the multi-day / multi-event matrix for each violation after the first, rather than assessing a full gravity based penalty because Tasman repeatedly violated the same requirement for each of six (6) employees.

Matrix Cell Range (Multi-day / Multi-event penalty): \$2,610-\$408
Mid-point multiple = $\$1,509 \times 5 = \$7,545$ (The mid-point has been determined to be appropriate.)
Penalty Amount \$7,545.

TOTAL PENALTY AMOUNT: \$18,147

5. Failure to conduct adequate hazardous waste determination

In December 2015, Tasman shipped eighty-three (83) containers of waste under a non-hazardous waste manifest to Vexor Technology, Inc. ("Vexor") in Medina, Ohio. Upon review of the wastes received, Vexor determined that one container of the waste shipped by Tasman could not be accepted because it was an ignitable hazardous waste. Vexor prepared a uniform hazardous waste manifest on behalf of Tasman and shipped the drum of ignitable hazardous waste to Tradebe Treatment and Recycling, LLC in East Chicago, Indiana on January 4, 2016. The U.S. DOT description of the waste on the hazardous waste manifest prepared on behalf of Tasman included "Waste Petroleum distillates," and hazardous waste code "D001." Accordingly, Tasman failed to conduct a hazardous waste determination for the waste contained in the drum sent by Vexor to Tradebe Treatment and Recycling, LLC on January 4, 2016.

Penalty Assessment

(a) Potential for Harm – Moderate

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 or disposal. The proper management of hazardous wastes from “cradle to grave” is essential to environmental and human health protection and begins with the identification of each hazardous waste stream generated by facility operations. The proper determination of solid wastes generated and/or stored on-site is essential to a generator’s waste management program. This failure to determine if wastes are hazardous and to determine the types of hazards associated with each waste stream stored on-site poses a risk of exposure to humans and/or environmental receptors due to the potential for improper handling, transit, storage, treatment and disposal of these wastes.

The failure to determine if wastes are hazardous and to determine the types of hazards associated with each waste stream stored on-site poses a substantial risk of exposure to humans and/or environmental receptors due to the potential for improper handling, storage, treatment and disposal of these wastes. Without hazardous waste identification, waste materials could be neglected and/or stored in uncontrolled areas where emergency responders, inspectors and facility personnel might not recognize associated hazards, increasing the likelihood for mismanagement, improper disposal, or release to the environment.

Because only one container of waste was mischaracterized, and it was ultimately shipped for proper disposal, the potential for harm to human health and/or the environment is moderate.

(b) Extent of Deviation – Minor

In December 2015, Tasman shipped 83 containers of waste for disposal. Because only one container of the 83 containers shipped was not properly characterized, and all of the containers stored in the Facility’s hazardous waste storage area at the time of the Inspection were properly characterized, the extent of deviation is minor.

(c) Penalty Assessment

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

Matrix Cell Range (gravity-based penalty): \$8,154 - \$4,893.

Penalty Amount: \$6,524 (The mid-point has been determined to be appropriate.)

TOTAL PENALTY AMOUNT: \$6,524

USEPA

Penalty summary –Tasman Leather Group, LLC, Hartland, ME

6. Failure to place a “No Smoking” sign conspicuously wherever there is a hazard from ignitable or reactive waste

At the time of the Inspection, Tasman failed to place a “No Smoking” sign conspicuously in the Facility’s hazardous waste storage area (“HWSA”) where there was a hazard from ignitable hazardous waste being stored. Ignitable hazardous wastes accumulating in the Facility’s hazardous waste storage area at the time of the Inspection included five (5) 55-gallon drums, each marked “Flammable – Toxic for Chrome” and “Waste Codes D001/D007.”

Penalty Assessment

- (a) Potential for Harm – Minor

Failure to post a “No Smoking” sign poses risk of harm to human health and/or the environment. At the time of the Inspection, Tasman had no “No Smoking” sign at the HWSA. There is no exemption for a facility with a no smoking environment. The fact that Tasman’s entire Facility is a no-smoking facility may not fully address the human and environmental safety concerns to prevent the exposure of ignitable wastes to “open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks, spontaneous ignition, and radiant heat.”

Because the Facility is a no smoking facility and there is no equipment or processes near the Facility’s hazardous waste storage area to allow for open flames, cutting and welding, hot surfaces, frictional heat, sparks, spontaneous ignition, or radiant heat, the potential for harm is minor.

- (b) Extent of Deviation - Moderate

At the time of the Inspection, Tasman had no “No Smoking” sign posted at the Facility’s HWSA. Because Tasman had a no smoking policy for the entire Facility, the extent of deviation is considered to be moderate.

- (c) Penalty Assessment

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

Matrix Cell Range (gravity-based penalty): \$2,445 - \$816.

Penalty Amount: \$1,630 (The mid-point has been determined to be appropriate).

TOTAL PENALTY AMOUNT: \$1,630

7. Storage of hazardous waste without a license

At the time of the Inspection, Tasman stored four (4) 55-gallon containers and one (1) 30-gallon container of hazardous waste in the Facility's hazardous waste storage area that had been stored for more than ninety (90) days. On four containers of hazardous waste (three (3) 55-gallon containers and one (1) 30-gallon container), Tasman marked the accumulation start date (i.e., "full date") as February 2, 2016 (i.e., each of these containers had been in storage for ninety-two (92) days). On one (1) 55-gallon container of hazardous waste, Tasman marked the accumulation start date (i.e., "full date") as January 17, 2016 (i.e., the container had been in storage for one hundred and six (106) days). Tasman's storage of hazardous waste in the hazardous waste storage area of the Facility for more than ninety (90) days without a license violated the Maine Rules.

Penalty Assessment**(a) Potential for Harm – Minor**

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.

The longer wastes are stored, the greater the likelihood of contamination/release or accidents due to leaks or spills. At the time of the Inspection, Tasman stored four (4) 55-gallon containers and one (1) 30-gallon container more than ninety (90) days. Three of the 55-gallon containers and the one (1) 30-gallon container were dated February 2, 2016 (92 days in storage). One 55-gallon container was dated January 17, 2016 (106 days in storage). Because the containers were in good condition and weekly inspections were completed, the potential for harm is mitigated.

Accordingly, the potential for harm is minor.

(b) Extent of Deviation - Moderate

Because four (4) containers were in storage for two (2) days greater than ninety and one container was stored for sixteen (16) days more than ninety, this represented a significant deviation from the requirements. Accordingly, the extent of deviation is moderate.

USEPA

Penalty summary –Tasman Leather Group, LLC, Hartland, ME

(c) Penalty Assessment

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

Matrix Cell Range (gravity-based penalty): \$2,445 - \$816.

Penalty Amount: \$1,630 (The mid-point has been determined to be appropriate.)

TOTAL PENALTY AMOUNT: \$1,630

8. Failure of a generator to store universal wastes in containers

At the time of the Inspection, Tasman stored nine (9) 8-foot banded waste fluorescent lamps on a shelf in the universal waste storage area of the Facility without containers or boxes or packing materials. Tasman also stored approximately twenty (20) boxes of containerized universal waste lamps in the universal waste storage area at the time of the Inspection. Tasman stored approximately eight (8) palletized cathode ray tubes (CRTs) in the universal waste storage area without containers or boxes or packing materials.

Penalty Assessment

(a) Potential for Harm – Minor

At the time of the Inspection, nine (9) 8-foot, banded, waste fluorescent lamps were being stored with no containers on a shelf in the universal waste storage area. Eight (8) palletized CRTs in the universal waste storage area were also being stored with no containers. Failure of a generator to store all universal waste in containers increases the likelihood of contamination or release due to breakage and potential exposure of personnel or inspectors. Also, the fact that the fluorescent lamps were stored on a shelf above the ground created an increased potential that the lamps would break and that mercury could be released. Because the universal waste storage area was in a locked, fenced-in area, the non-containerized universal waste lamps were banded, and the waste CRTs were stored on pallets and dollies, the potential for harm is mitigated. Accordingly, the potential for harm is minor.

(b) Extent of Deviation - Moderate

Tasman stored the CRTs on dollies and the nine (9) banded, universal waste lamps on a shelf in the universal waste storage area. This represents a significant deviation from the requirements. Accordingly, the extent of deviation is moderate.

(c) Penalty Assessment

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

Matrix Cell Range (gravity-based penalty): \$2,445 - \$816.

Penalty Amount: \$1,630 (The mid-point has been determined to be appropriate.)

9. Failure of a generator to store universal waste containers with adequate aisle space

At the time of the Inspection, Tasman stored approximately eight (8) CRTs in the universal waste storage area on pallets and dollies that were located directly against a table that held containers of universal waste lamps with no aisle space to be able to adequately inspect the containers of universal waste lamps or the CRTs and determine the accumulation start dates and container full dates.

Penalty Assessment

(a) Potential for Harm – Minor

Failure of a generator to store universal waste containers or collection containers with adequate aisle space obstructs movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to this area of the Facility in an emergency. Also, inadequate aisle space does not allow room for inspection. At the time of the Inspection, eight (8) CRTs in the universal waste storage area were being stored on pallets and dollies with no aisle space to adequately inspect the CRTs or the containers of universal waste lamps stored on the adjacent table.

Failure of a generator to store universal waste containers or collection containers with adequate aisle space increases the likelihood of impeded access to allow for inspection, and thus poses potential harm. Since approximately half of the universal waste (CRTs and universal waste lamps combined) being stored in the universal waste storage area were accessible with adequate aisle space, and the dollies with CRTs on them were potentially moveable, this mitigated the harm. Accordingly, the potential for harm is minor.

(b) Extent of Deviation – Moderate

Since the CRTs were on dollies, the aisle space could potentially be accommodated. This represented a significant deviation from the requirement. Accordingly, the extent of deviation is moderate.

(c) Penalty Assessment

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

Matrix Cell Range (gravity-based penalty): \$2,445 - \$816.

Penalty Amount: \$1,630 (The mid-point has been determined to be appropriate.)

USEPA

Penalty summary –Tasman Leather Group, LLC, Hartland, ME

PENALTY SUMMARY

| | |
|---|-----------------|
| 1. Failure to Notify and Obtain a Valid EPA Identification Number | \$ 36,701 |
| 2. Failure to Have a Contingency Plan | \$ 36,701 |
| 3. Failure of Generator to Submit an Annual Report | \$ 15,495 |
| 4. Failure to Provide Employees Annual Review of Hazardous Waste Training | \$ 18,147 |
| 5. Failure to Conduct Adequate Hazardous Waste Determination | \$ 6,524 |
| 6. Failure to Place a “No Smoking” Sign Where There Are Ignitable Wastes | \$ 1,630 |
| 7. Storage of Hazardous Waste Without a License | \$ 1,630 |
| 8. Failure to Store Universal Waste in Containers | \$ 1,630 |
| <u>9. Failure to Store Universal Waste Containers with Adequate Aisle Space</u> | <u>\$ 1,630</u> |
| Total Proposed Penalty | \$ 120,088 |

CERTIFICATE OF SERVICE

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

Original and One Copy by
Hand Delivery to:

Wanda I. Santiago
Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (ORC04-6)
Boston, MA 02109-3912

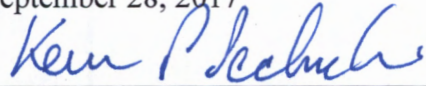
One Copy (with Part 22 Rules
enclosed) by Certified Mail
Return Receipt Requested to:

Norman Tasman, President
Tasman Leather Group, LLC
930 Geiger Street
Louisville, KY 40206

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

Kenneth F. Gray, Esq.
Pierce Atwood, LLP
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Date: September 28, 2017

Signed: 

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



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

BY HAND

September 29, 2017

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



Re: GVS North America, Inc.
Docket No. RCRA-01-2017-0053

Dear Ms. Santiago:

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

Very truly yours,

A handwritten signature in blue ink that reads "Kathleen E. Woodward".

Kathleen E. Woodward
Senior Enforcement Counsel

cc: Massimo Scagliarini, President, GVS North America, Inc.
John L. Carpenter, Registered Agent, GVS North America, Inc.

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

IN THE MATTER OF:)
)
GVS North America, Inc.)
63 Community Dr.)
Sanford, ME 04073)
)
EPA I.D. No. MED980914451)
)
Proceeding under Section 3008(a))
Resource Conservation and Recovery)
Act, 42 U.S.C. § 6928(a))
_____)

Docket No.
RCRA-01-2017-0053

**COMPLAINT
COMPLAINEE ORDER, AND
NOTICE OF OPPORTUNITY
FOR HEARING**



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 (hereafter, “RCRA”), 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22 (“Part 22”). Complainant is the Legal Enforcement Manager, Office of Environmental Stewardship, United States Environmental Protection Agency, Region 1 (“EPA” or “Region 1”).

2. Respondent, GVS North America, Inc. (“GVS” or “Respondent”), is hereby notified of Complainant’s determination that Respondent has violated Section 3002 of RCRA, 42 U.S.C. § 6922, Chapter 13 of Title 38 of the Maine Revised Statutes (“M.R.S.A.”) and the regulations promulgated thereunder at Chapter 850 *et seq.* (the “Maine Rules”). Complainant also provides notice of Respondent’s opportunity to request a hearing concerning these allegations.

II. NATURE OF ACTION

3. This is an action under RCRA, 42 U.S.C. §§ 6901 et seq., seeking civil penalties and ordering compliance with RCRA pursuant to Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928 (a) and (g), for violations of the federal and state hazardous waste regulations promulgated pursuant to RCRA.

4. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928 (a)(2), notice of commencement of this action has been given to the State of Maine.

III. STATUTORY AND REGULATORY FRAMEWORK

5. RCRA, enacted in 1976, was amended by, among other amendments, the Hazardous and Solid Waste Amendments of 1984 (“HSWA”). Subchapter III of RCRA establishes a comprehensive federal regulatory program for the management of hazardous waste. See 42 U.S.C. §§ 6921-6939e. Pursuant to Subchapter III of RCRA, EPA has promulgated regulations for the management of hazardous waste, which are codified at 40 C.F.R. Parts 260-271.

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

7. The State of Maine received final authorization to implement its hazardous waste management program on May 6, 1988, with an effective date of May 20, 1988. See 53 Fed. Reg. 16264 (May 6, 1988). The Maine regulations are codified at Chapters 850-860 of the Maine Rules.

8. Between November 1994 and August 1995, Maine submitted a draft program revision application for many of the rules promulgated by the EPA between July 1, 1984, and

June 30, 1990, and adopted by Maine in March 1994. Maine submitted its final application for these revisions on February 28, 1997, and received final authorization for the revisions on June 24, 1997, with an effective date of August 25, 1997 (62 Fed. Reg. 34007, June 24, 1997). On September 27, 2004, Maine submitted a final complete program revision application, seeking authorization for changes to its hazardous waste program that would allow it to meet EPA requirements. EPA granted Maine final authorization for the revisions on January 10, 2005, effective immediately (69 Fed. Reg. 64861-64865, November 9, 2004).

9. Pursuant to Sections 3008(a) and 3006(g) of RCRA, 42 U.S.C. §§ 6928(a) and 6926(g), EPA's Administrator may enforce the federally-approved Maine hazardous waste program 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. 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.

10. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides that upon finding that any person has violated or is violating any requirement of Subchapter III of RCRA, including violations in an authorized state, EPA may issue an order requiring compliance immediately or within a specified time and assessing a civil penalty for any past or current violation. Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928 (a) and (g), provide that any person who violates any order or requirement of Subchapter III 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 Improvements Act of 1996, 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 increased to \$37,500 per day for each violation which occurred after January 12, 2009 and on or before November 2, 2015. Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461 note, Pub. L. 114-74, as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA increased to \$95,284 per day for each violation that occurred after November 2, 2015, and is assessed on or after January 15, 2017.

IV. GENERAL ALLEGATIONS

11. Respondent, a Delaware corporation, is one of ten global subsidiaries held by GVS SpA, an Italian corporation.¹ GVS SpA employees 1,700 people globally, 130 of whom are employed at the Sanford, Maine manufacturing facility ('Facility').

12. GVS SpA's website states that the main business of its subsidiaries is the production and sale of filters for the medical, automotive, life sciences, safety appliance and commercial and industrial sectors. At the Facility, Respondent primarily manufactures filters for life sciences applications. A secondary manufacturing line at the Facility is for the production of throttle plates for Ford F-150 automobiles.

13. The Facility is contained within a single large warehouse building. Located within the building are offices, laboratory areas, manufacturing areas, maintenance areas, clean rooms and storage.

14. Respondent generates various hazardous wastes within the Facility including, but not limited to, wastes containing sodium hydroxide, sulfuric acid, methanol NMP (a solvent),

¹ Respondents' related subsidiaries are based in Argentina, Brazil, China, Japan, South Korea, Russia, Romania and the United Kingdom.

flammable solids, universal wastes, and chromium.

15. Within the Facility is a hazardous waste storage area (“HWSA”) which includes a designated universal waste storage area (“UWSA”).

16. At all times relevant to this Complaint, Respondent stored hazardous waste in other areas of the Facility including the Ink Room, Membrane Converting Room, Track Etch Room, Research and Development Laboratory, and Nitrocellulose Room.

17. At all times relevant to this Complaint, Respondent managed the Ink Room, Membrane Converting Room and Track Etch Room as Satellite Storage Areas (“SAAs”) pursuant to the Maine Standards for Generators of Hazardous Waste, Chapter 851, Section 8.C.

18. At all times relevant to this Complaint, Respondent stored nitrocellulose waste in 11 two-liter containers in a room adjacent to the HWSA behind a closed door (“Nitrocellulose Room”). The containers were marked “NO good.”

19. At all times relevant to this Complaint, in the Research and Development Laboratory, Respondent stored eight four-liter sized containers with the markings “WASTE (HPLC)” or “HPLC WASTE.”

20. At all times relevant to this Complaint, Respondent’s track-etch manufacturing process generated a byproduct of sodium hydroxide and water. Respondent neutralized this caustic wastewater in a tank with sulfuric acid and discharged it to the local sewer system. The average daily discharge from this operation was approximately 6,000 gallons.

21. Respondent is a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

22. At all times relevant to this Complaint, Respondent was an “owner” and/or “operator,” as defined in 40 C.F.R. § 260.10, of the Facility.

23. Respondent generates wastes that are “hazardous wastes” as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5); 40 C.F.R. § 261.3; 38 M.R.S.A. § 1303-C(15); and Chapter 850, Section 4.A.(3) of the Maine Rules.

24. At all times relevant to this Complaint, Respondent has been and is a “generator” of hazardous wastes, as that term is defined in 40 C.F.R. § 260.10 and Chapter 851, Section 3.C. of the Maine Rules.

25. On or about November 14, 1984, pursuant to Section 3010 of RCRA, Respondent submitted to EPA a Notice of Hazardous Waste Activity identifying itself as a conditionally exempt small quantity generator. Over the succeeding years through 2016, Respondent alternately identified itself as a small quantity generator (“SQG”) and a large quantity generator (“LQG”) of hazardous waste. As of January 9, 2016, Respondent has identified itself as a LQG.

26. As an owner and/or operator of a facility that is an LQG of hazardous waste, Respondent is subject to Maine state standards applicable to LQGs found at Chapters 850, 851, and 852 of the Maine Rules.

27. On June 13, 2016, authorized representatives of EPA Region 1 conducted a RCRA compliance evaluation inspection at the Facility (“Inspection”), pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.

28. Based on the Inspection and review of documents provided by Respondent, Complainant has identified the following violations at the Facility:

V. VIOLATIONS

Count 1 - Failure to Provide Training to Employees Managing Hazardous Waste

29. Complainant realleges and incorporates by reference Paragraphs 1 – 28.

30. Pursuant to Chapter 851, Section 8.B.(5) of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16, facility personnel with hazardous waste management responsibilities must successfully complete a training program that teaches them to perform their duties in a way that ensures the facility's compliance with hazardous waste management regulatory requirements. In relevant part, facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with RCRA requirements. The training program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment and emergency systems. Facility personnel must successfully complete the training program within six months after their employment to a facility, or to a new position at a facility, whichever is later. Facility personnel must take part in an annual review of the initial training. The facility owner/operator must maintain records that document that training has been given to, and completed by, relevant facility personnel.

31. At the time of the Inspection, Respondent did not have documentation to establish that RCRA training had been given to, and completed by, all employees at the Facility relevant

to their positions during all years that training was required. Specifically, the following employees of Respondent who were managing hazardous waste had not received adequate training:

(a) Dana Landeck: Mr. Landeck is the Environmental Health and Safety (“EHS”) Facility Coordinator and one of the Facility’s Emergency Coordinators, and is the instructor for the annual in-house hazardous waste training refresher. The Respondent was unable to provide any records for when he was most recently trained.

(b) Keith Lindquist: Mr. Lindquist is the Director of Facilities, Maintenance and EHS, and is one of the Facility’s Emergency Coordinators. The Respondent was unable to provide any records for when he was most recently trained.

(c) Gabe Lapointe: Mr. Lapointe is the Maintenance Coordinator and serves as one of the Facility’s Emergency Coordinators. At the time of the Inspection, Respondent was unable to provide records that Mr. Lapointe attended the Facility’s annual in-house annual hazardous waste training refresher in 2015 or 2016.

(d) Debbie English: Ms. English is the Manager of Biochemistry Applications, and runs the laboratory operations. She is responsible for the management of hazardous wastes generated in the laboratory. At the time of the Inspection, the Respondent was unable to provide records that Ms. English attended the in-house hazardous waste training refresher course in 2014, 2015 or 2016.

(e) Dale Larson: Mr. Larson is the Paper Conversion Operator and is responsible for performing satellite accumulation area inspections. At the time of the Inspection, the Respondent was unable to provide records that Mr. Larson attended the in-house hazardous waste training refresher course in 2013, 2014, or 2016.

32. By failing to ensure that all employees with hazardous waste management responsibilities were adequately trained in hazardous waste management, and maintaining records of such training, Respondent violated Chapter 851, Section 8.B.(5) of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16.

Count 2 - Failure to maintain a complete personnel training plan

33. Complainant realleges and incorporates by reference Paragraphs 1 – 32.

34. Pursuant to Chapter 851, Section 8.B.(5) of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16, a facility must have a personnel training plan that contains certain elements, including a written description of the introductory and annual update training given to each person having hazardous waste management duties, and a complete description of the hazardous waste management responsibilities for each position.

35. At the time of the Inspection, Respondent's personnel training plan was deficient in the following areas: (a) the plan did not include a written description of the introductory and annual update training to be given to each employee position having hazardous waste management duties; (b) the plan did not include the names and job titles of each employee with hazardous waste responsibilities; (c) the plan did not include a complete description of the hazardous waste management duties for each position; and (d) the plan did not contain a description of the type, amount and frequency of training needed for the position.

36. By failing to maintain an adequate facility personnel training plan, Respondent violated Chapter 851, Section 8.B.(5) of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16(d).

Count 3 – Failure to label containers with the words “Hazardous Waste”

37. Complainant realleges and incorporates by reference Paragraphs 1 - 36.

38. Pursuant to Chapter 851, Section 8.B.(3) of the Maine Rules, a generator may accumulate hazardous waste on the site of its generation for ninety (90) days or less without a license, provided among other things that each on-site container is labeled or marked clearly with the words, “Hazardous Waste.”

39. The 11 containers stored in the Nitrocellulose Room described in Paragraph 18, were not labeled with the words “Hazardous Waste.”

40. The eight containers stored in the Research and Development Laboratory described in Paragraph 19, were not labeled with the words “Hazardous Waste.”

41. Respondent’s failure to label or clearly mark containers of hazardous waste with the words, “Hazardous Waste,” constitutes a violation of Chapter 851, Section 8.B.(3) of the Maine Rules.

Count 4 – Failure to date containers of hazardous waste

42. Complainant realleges and incorporates by reference Paragraphs 1 - 41.

43. Pursuant to Chapter 851, Section 8.B.(3) of the Maine Rules, a generator may accumulate hazardous waste on the site of its generation for ninety (90) days or less without a license, provided that among other things, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

44. At the time of the Inspection, the 11 containers described in Paragraph 18 above were not marked with the date upon which the period of accumulation began.

45. At the time of the Inspection, the eight containers described in Paragraph 19 above were not marked with the date upon which the period of accumulation began.

46. Respondent's failure to clearly mark containers of hazardous waste at the Facility with the date upon which the period of accumulation began violated Chapter 851, Section 8.B.(3) of the Maine Rules.

Count 5 – Failure to have adequate aisle space in the HWSA

47. Complainant realleges and incorporates by reference Paragraphs 1 - 46.

48. Pursuant to Chapter 851, Section 13.C.(7) of the Maine Rules, all hazardous waste containers must be stored in a manner that allows access for inspection and for remedial action if any container is found to be rusting, bulging or leaking or waste is spilled or discharged. In any event, aisle space between rows of containers must be sufficient to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operation in any emergency, but in no event shall the aisle space be less than thirty-six (36) inches wide.

49. At the time of the Inspection, Respondent stored containers in the HWSA in a manner that did not allow the inspection team to examine every container in the HWSA due to lack of aisle space.

50. At least eight of the fourteen 55-gallon drums in the HWSA were not fully accessible due to insufficient aisle space.

51. Several of the drums were pinned between other drums and the wall.

52. Dana Landeck, the EHS Facility Coordinator and one of the Facility's Emergency Coordinators, stated that these drums contained "quench waste" which is hazardous due to the characteristic of "ignitability."

53. To the extent that there was any aisle space or storage in rows, the space between these containers was less than approximately six (6) inches wide.

54. Respondent's failure to store hazardous waste containers with aisle space between rows of containers sufficient to allow the unobstructed movement of personnel and equipment in any emergency, and in no event less than thirty-six (36) inches wide, violated Chapter 851, Section 13.C.(7) of the Maine Rules.

Count 6 - Failure to conduct weekly inspections of containers of hazardous waste

55. Complainant realleges and incorporates by reference Paragraphs 1 - 54.

56. Pursuant to Chapter 851, Section 13.D.(1) and (2) of the Maine Rules, a generator must conduct weekly inspections of all containers of hazardous waste and record the conclusions or results in a log book kept at the facility. The purpose of the inspections is to ensure that, among other things, all hazardous waste containers are stored in a manner that allows access for inspection and for remedial action if any container is found to be rusting, bulging or leaking or waste is spilled or discharged; that incompatible wastes are segregated; and that hazardous wastes have not accumulated on-site beyond the time limit of ninety days or less. The log book documenting the inspections must contain the name of the person conducting the inspection, the date and time of the inspection, and the conclusions or results of each inspection.

57. At the time of the Inspection, Respondent stored containers of hazardous waste in the HWSA and SAAs, among other areas of the Facility.

58. At the time of the Inspection there were no inspection records for the HWSA between April 1, 2016 and April 19, 2016.

59. At the time of the Inspection, there were no inspection records regarding the 11 containers stored in the Nitrocellulose Room.

60. At the time of the Inspection, there were no inspection records for the eight containers of waste labeled "WASTE (HPLC)" and "HPLC WASTE" stored in the Research and

Development Laboratory.

61. At the time of the Inspection there were no inspection records for some of the SAAs as follows:

- (a) S-pack Room Daily Nitrocellulose Membrane Waste: February 12–22, 2016;
- (b) Membrane Room Daily Nitrocellulose Membrane Waste: February 5– 22, 2016; and
- (c) Daily Nitrocellulose Membrane: April 12-25, 2016.

62. Respondent’s failure to conduct weekly inspections in the HWSA and certain SAAs and failure to record the conclusions or results of weekly inspections in a log book kept at the Facility, constitute violations of Chapter 851, Section 13.D. of the Maine Rules.

Count 7 - Failure to appropriately manage universal wastes

63. Complainant realleges and incorporates by reference Paragraphs 1 - 62.

64. Pursuant to the Maine Universal Waste Rules, Chapter 858, Section 7(F), containers of universal waste must be closed. Pursuant to the Maine Universal Waste Rules, Chapter 858, Section 7(L), containers of universal waste must be labeled with an accumulation date and the date the container becomes full.

65. At the time of the Inspection, in the universal waste storage area, the EPA inspection team noted multiple containers of cardboard boxes containing fluorescent light bulbs that were not closed. These boxes were stored on high shelving that prevented the inspectors from recording container specific information.

66. A large battery sat on the same shelving as the boxes of light bulbs. There was no accumulation start date recorded on the battery.

67. Respondent’s failure to store universal wastes in closed containers and label them

with an accumulation start date constitutes a violation of Chapter 858, Sections 7(F) and 7(L) of the Maine Rules.

Count 8 - Failure to Update Mutual Aid Agreements

68. Complainant realleges and incorporates by reference Paragraphs 1 - 67.

69. Under Chapter 851, Section 13.C.(7)(c)(ii) of the Maine Rules, which incorporates the requirements of 40 C.F.R. § 264.37, a generator must attempt to make arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, the properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible routes. A generator must also make arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases from the facility. Section 13.C.(7)(C)(ii) further requires that such agreements be in writing, on file with each party to the agreement and with the State of Maine Department of Environmental Protection, readily accessible to facility personnel, and reviewed and updated annually.

70. At the time of the Inspection, the Facility's Hazardous Waste Contingency Plan included a list of emergency responders including Sanford Fire and Rescue, Southern Maine Health Care, York County Local Emergency Planning Committee ("LEPC"), and Clean Harbors. At the time of the Inspection, the Contingency Plan contained a statement that these entities had agreed to assist GVS in the event of an emergency.

71. At the time of the Inspection, Respondent was unable to provide a 2015 certification of receipt of Respondent's request of the Sanford Fire and Rescue or Southern Maine Health Care to enter into a mutual aid agreement.

72. At the time of the Inspection, Respondent was unable to provide records of submittal of Respondent's request of the York County LEPC and Southern Maine Health Care for 2016 to enter into a mutual aid agreement.

73. By failing to satisfy the requirements regarding annual updates of mutual aid agreements, Respondent violated Chapter 851, Section 13.C.(7)(c)(ii) of the Maine Rules.

VI. PROPOSED PENALTY

74. 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 assess a 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.

75. By this Complaint, Complainant seeks to assess Respondent a total civil penalty of \$ 76,868. The calculation of the proposed penalty is explained in detail in Attachment 1 to this Complaint, and is summarized as follows:

| | |
|--|----------|
| 1. Failure to Adequately Train Employees | \$28,287 |
| 2. Failure to Maintain Training Program | \$12,192 |
| 3. Failure to Label Containers of Hazardous Waste | \$ 1,875 |
| 4. Failure to Date Containers of Hazardous Waste | \$ 1,630 |
| 5. Failure to have Adequate Aisle Space | \$10,602 |
| 6. Failure to Perform Weekly Inspections | \$21,158 |
| 7. Failure to Appropriately Manage Universal Waste | \$ 562 |
| 8. Failure to Update Mutual Aid Agreements | \$ 562 |

Total Proposed Penalty

\$76,868

76. Quick Resolution. Under Section 22.18(a) of EPA's Consolidated Rules of Practice, Respondent has the option of resolving this matter at any time by paying in full the penalty proposed in this Complaint. Payment of the penalty may be made by a bank, cashier's or certified check, payable to "The Treasurer, United States of America." The check should also note the docket number of this Complaint ("RCRA-01-2017-0053") and should be forwarded to:

U.S. EPA
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 a copy of the check should also be forwarded to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street, Suite 1100 (ORA 18-1)
Boston, Massachusetts 02114-2023

and to:

Kathleen E. Woodward
Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OES 04-2)
Boston, Massachusetts 02109-3912

VII. COMPLIANCE ORDER

77. Based on the foregoing findings, Respondent is hereby ordered to comply with the following requirements immediately upon receipt of this Compliance Order ("Order"): Respondent shall achieve and maintain compliance with all applicable requirements of RCRA and the Maine Rules. Specifically, upon receipt of this Order, Respondent shall comply with the

following requirements:

(a) Within sixty (60) days of receipt of this Order and in accordance with Section 8.B.(5) of Chapter 851, of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16, Respondent shall develop a training program to teach facility personnel hazardous waste management procedures relevant to the position in which they are employed (40 C.F.R. § 264.16(a)(2)), and ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems (40 C.F.R. § 264.16(a)(3)).

(b) Within ninety (90) days of receipt of this Order and in accordance with Section 8.B.(5) of Chapter 851, of the Maine Rules, which incorporates by reference 40 C.F.R. § 264.16, Respondent shall have properly trained all employees requiring hazardous waste training (40 C.F.R. § 264.16(a)(3)). The training program must be directed by a person trained in hazardous waste management procedures (40 C.F.R. § 264.16(a)(2)). Respondent shall maintain all required documents regarding training (40 C.F.R. § 264.16(d)).

(c) Immediately upon receipt of this Order and in accordance with Chapter 851, Section 8.B.(3) of the Maine Rules, Respondent shall ensure all hazardous waste containers at the Facility are properly labeled with the words “Hazardous Waste”.

(d) Immediately upon receipt of this Order and in accordance with Chapter 851, Section 8.B.(3) of the Maine Rules, Respondent shall ensure all hazardous waste containers at the Facility are properly labeled with the accumulation start date.

(e) Immediately upon receipt of this Order and in accordance with Chapter 851, Section 13.C.(7) of the Maine Rules, Respondent shall store all hazardous waste at the

Facility with appropriate aisle spacing.

(f) Immediately upon receipt of this Order and in accordance with Chapter 851, Section 13.D.(1) and (2) of the Maine Rules, Respondent shall conduct and document weekly hazardous waste inspections.

(g) Immediately upon receipt of this Order and in accordance with Chapter 851, Section 13.C.(ii) of the Maine Rules, Respondent shall comply with requirements regarding annual updates of mutual aid agreements.

78. Within ninety-five (95) days of receipt of this Order, Respondent shall submit to EPA written confirmation of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance with the requirements set forth in Paragraph 77. Any notice of noncompliance with the requirements of Paragraph 77 shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will in no way excuse the noncompliance. The information requested in this Compliance Order is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 et seq. Respondent shall submit the copies of any information, reports, and/or notices required by this Order to:

Christopher Smith
Environmental Scientist
Office of Site Remediation and Restoration
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OSRR 07-1)
Boston, Massachusetts 02109-3912

And

Kathleen E. Woodward
Senior Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OES 04-2)
Boston, Massachusetts 02109-3912

79. If Respondent fails to comply with the requirements of this Order within the time specified, Section 3008(c) of RCRA and the Debt Collection Improvement Act provide for further enforcement action in which EPA may seek the imposition of additional penalties of up to \$ 56,467 for each day of continued noncompliance.

80. 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.

VIII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

81. As provided by Section 3008(b) of RCRA, Respondent has a right to request a hearing on the issues raised in this Complaint. Any such hearing would be conducted in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22. **A request for a hearing on the violations alleged in this Complaint must be incorporated in a written Answer filed with the Regional Hearing Clerk within thirty (30) days of receipt of this Complaint.** 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.

82. Respondent's Answer must comply with 40 C.F.R. § 22.15 and must be filed with the Regional Hearing Clerk at the following address within thirty (30) days of receipt of the Complaint:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109-3912

To be entitled to a hearing, Respondent must include a request for a hearing in its Answer to this Complaint.

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 e-mail, 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.

84. Respondent should send a copy of the Answer, as well as a copy of all other documents which it files in this action, to Kathleen Woodward, the attorney assigned to represent EPA and who is designated to receive service in this matter, at:

Kathleen E. Woodward
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (OES 04-2)
Boston, Massachusetts 02109-3912
Woodward.Kathleen@epa.gov

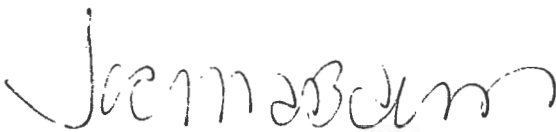
85. If Respondent fails to file a timely answer to the Complaint, Respondent may be found to be in default pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver

of Respondent's right to a hearing on such factual allegations. 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. 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 issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region 1. 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.

86. 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 or Respondent's counsel should contact Kathleen Woodward, Senior Enforcement Counsel, at (617) 918-1780 or Woodward.Kathleen@epa.gov.

X. EFFECTIVE DATE

87. This Complaint and Compliance Order shall become effective immediately upon receipt by Respondent.



Date: 9/29/17

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

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

_____))
In the Matter of:))
))
GVS North America, Inc.))
63 Community Drive))
Sanford, ME 04073-5809))
))
Respondent))
_____))

Docket No. RCRA-01-2017-0053

Certificate of Service

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

Original and One Copy
(Hand-Delivered):

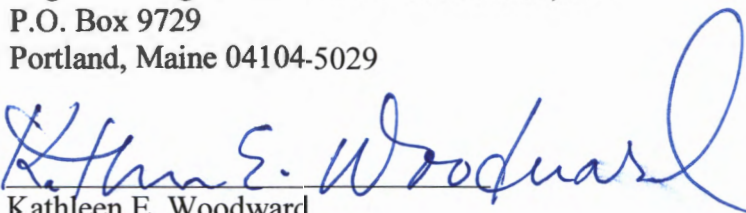
Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

Copy, Certified Mail,
Return Receipt Requested:

Massimo Scagliarini, President
GVS North America, Inc.
63 Community Dr.
Sanford, Maine 04073-5809

John L. Carpenter
Registered Agent for GVS North America, Inc.
P.O. Box 9729
Portland, Maine 04104-5029

Dated: September 29, 2017



Kathleen E. Woodward
Senior Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, Massachusetts 02109-3912

Attachment 1
Explanation of Penalty Calculation
In the Matter of GVS North America, Inc.
Sanford, ME

Administrative Complaint
EPA Docket No. RCRA-01-2017-0053

The following discussion provides justification for the proposed penalty against GVS North America, Inc. (GVS), for violations of certain requirements of the Resource Conservation and Recovery Act (RCRA), and the State of Maine Revised Statutes (MRSA), and the State of Maine Hazardous Waste Management Rules, Chapter 850 *et seq.* (the Maine Rules). GVS operates a facility at 63 Community Drive, Sanford, Maine.

Gravity-based penalties and multiple or multi-day penalties were calculated in accordance with the RCRA Civil Penalty Policy, dated June 23, 2003 (RCPP), and in accordance with the Civil Monetary Inflation Adjustment Rules (and revised penalty matrices for the RCPP), as most recently revised, effective January 15, 2017.

The penalty calculations are based upon alleged RCRA violations documented during an EPA Compliance Evaluation Inspection (CEI) conducted at GVS on June 13, 2016, and upon information provided by GVS as follow-up to the inspection

Summary of Violations

1. Failure to provide hazardous waste training to employees managing hazardous waste.

Provision(s) Violated – Chapter 851, Section 13.C.(7)(c)(ii) of the Maine Hazardous Waste Management Rules, which incorporates by reference 40 C.F.R. 264.37.

In a review of the training records after the on-site inspection, the following training issues were noted:

- GVS was unable to provide any recent training records for Dana Landeck (DL), the Environmental Health and Safety (EHS) Facility Coordinator, who also served as one of the Facility's Emergency Coordinators and the instructor for the Facility's annual in-house hazardous waste training refresher.
- GVS was unable to provide any recent training records for Keith Lindquist (KL), the Director of Facilities, Maintenance, and EHS, who also served as one of the Facility's Emergency Coordinators.
- With respect to the Maintenance Coordinator Gabe Lapointe (GL), who also serves as one of the Facility's Emergency Coordinators, GVS was unable to provide records that this employee took the annual in-house hazardous waste training refresher in 2015 or 2016 (as of the time of the inspection).

- With respect to the Manager of Biochemistry Applications, Debbie English (DE), who also runs the laboratory operations and is responsible for the management of hazardous wastes generated in the lab, GVS was unable to provide records that this employee attended the annual in-house hazardous waste training refresher course from 2014-2016 (as of the time of the inspection).
- With respect to the Paper Conversion Operator, Dale Larson (DLar) who performs satellite accumulation area (SAA) inspections, GVS was unable to provide records that this employee attended the annual in-house hazardous waste training refresher course in 2013, 2014, or 2016 (as of the time of the inspection).

Penalty Assessment

a. Potential for Harm – Moderate

Applicable regulations require employees who manage hazardous waste as part of their normal job duties to be properly trained. This training is an essential part of proper hazardous waste management. The failure to provide training is a serious violation. Without proper training, employees may not know how to handle hazardous waste safely and how to respond in an emergency. Improper handling of hazardous waste increases the likelihood of a release and worker exposure. Respondent's hazardous waste management practices were inadequate, as described above. The facility failed to provide adequate RCRA training to several employees with key hazardous waste responsibilities, including the emergency coordinators and in-house RCRA trainer. Though implemented inconsistently, GVS did maintain an annual training program for employees. The potential for harm is moderate.

b. Extent of Deviation – Moderate

As described above, multiple employees with key hazardous waste management responsibilities were not adequately trained at the time of the inspection. Though implemented inconsistently, GVS did attempt to maintain an annual training program for all employees. The extent of deviation is moderate.

c. Penalty Assessment

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

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

Penalty Amount: \$9,210 (the mid-point has been determined to be appropriate) multiplied by the inflation adjustment factor of 1.0487 = **\$9,659**

(2) Multi-day/Multi-event Assessment

Multi-day penalties are being assessed for the second through twelfth violation of this requirement. In accordance with Section A. 3. on page 22 of the RCRA Penalty Policy, EPA has chosen to treat multiple violations of RCRA as multi-day violations, because of the number and similarity of the violations, rather than assessing each hazardous waste training violation as an independent and non-continuous act. Individual training events missed by GVS have been estimated as:

- DL -three missed events;
- KL -three missed events;
- GL -one missed events
- DE -two missed events; and
- DL -two missed events.

The multi-day matrix cell range for a violation which poses a moderate potential for harm and a moderate extent of deviation is \$360 to \$2,230. It has been determined that the violations associated with this count warrant a per-day penalty amount of \$1,295.

Second through 12th violation (11): \$1,295 x penalty adjustment factor of 1.0487 = \$1,358 per violation.

Total: \$1,358 x 11 = **\$14,938**

(3) Adjustment to Penalty Amount for History of Noncompliance

The State of Maine Department of Environmental Protection (DEP) inspected GVS in 2013. Following the inspection, the DEP issued a Notice of Violation to GVS detailing multiple violations. During the 2016 EPA inspection, EPA observed violations for failure to provide training that were similar to those that the DEP observed in 2013.

Based on this history of non-compliance, the gravity component of the penalty for this violation is adjusted upwards by 15%.

| | |
|---|-----------------------|
| First violation: \$9,659 x .15 = | \$1,449 |
| Second through 12 th violation: 14,938 x .15 = | <u>\$2,241</u> |
| Total: | \$3,690 |

Total Gravity Component of Penalty:

| | |
|---|------------------------|
| First violation: | \$ 9,659 |
| Second through 12th violation: | \$ 14,938 |
| Adjustment for History of Non-compliance | <u>\$ 3,690</u> |
| Total penalty amount for these violations: | \$ 28,287 |

2. Failure to maintain a complete hazardous waste training plan.

Provision(s) Violated – Chapter 851, Section 8.B.(5) of the Maine Hazardous Waste Management Rules, which incorporates by reference 40 C.F.R. 264.16.

At the time of the inspection, the only training plan provided by the Facility was a section of the Contingency Plan entitled “Employee training programs.” This training plan did not include the following required training elements and information:

- Instruction which teaches contingency plan implementation including effective response to spills and emergencies;
- The names and job titles of each employee with hazardous waste responsibilities;
- A description of hazardous waste responsibilities for each position; and
- A description of the type, amount, and frequency of training needed for each position.

Penalty Assessment

a. Potential for Harm – Moderate

Applicable regulations require employees who manage hazardous waste as part of their normal job duties to be properly trained. This training is an essential part of hazardous waste management. To ensure this training is received by the employees who need it, a complete and comprehensive hazardous waste training plan must be maintained by the facility. At the time of the inspection, GVS did not maintain a training plan which appropriately identified the employees requiring hazardous waste training. The plan also lacked description of the type and frequency of training required for each employee with hazardous waste management duties. GVS failed to have a plan in place to ensure employees had the knowledge to handle hazardous waste safely and to respond to emergencies. The potential for harm is moderate.

b. Extent of Deviation – Moderate

While GVS maintained a short section in the facility’s Contingency Plan regarding hazardous waste training requirements, it lacked necessary details such as instruction on contingency plan implementation and the type and frequency of training necessary for each position. The extent of deviation is moderate.

c. Penalty Assessment

(1) Matrix Cell Range (gravity-based penalty): \$8,156 - \$13,048

Penalty Amount Chosen: \$10,602 (The mid-point has been determined to be appropriate.)

(2) Adjustment to Penalty Amount for History of Noncompliance

The DEP inspected GVS in 2013. Following the inspection, the DEP issued a Notice of Violation to GVS detailing multiple violations. During the 2016 EPA inspection, EPA observed violations for failure to maintain a complete hazardous waste training plan that were similar to those that the DEP observed in 2013.

Based on this history of non-compliance, the gravity component of the penalty for this violation is adjusted upwards by 15%.

First violation: $\$10,602 \times .15 = \$ 1,590$

| | |
|---|------------------|
| Total Gravity Component of Penalty | \$ 12,192 |
| Total penalty amount for these violations: | \$ 12,192 |

3. **Failure to label containers with the words “Hazardous Waste”**

Provision(s) Violated – Chapter 851, Section 8.B.(3) of the Maine Hazardous Waste Management Rules.

At the time of the inspection, in the “Nitrocellulose Room” (a secondary room inside the hazardous waste storage area (HWSA)), the inspectors observed 11 containers, each approximately two-liters in size, that were marked “NO good.” Several of the containers were marked with non-descript names such as “E400 Red” and “E560 Yellow.” The containers were not labeled with the words “Hazardous Waste.” Mr. Lindquist told the inspectors that these containers all contained nitrocellulose waste that he had not known were stored in the area.

Penalty Assessment

a. Potential for Harm – Minor

The failure to properly label hazardous waste containers creates the potential that the waste may be mismanaged. Without appropriate labeling, it is impossible to visually determine if containers hold hazardous waste. Due to the lack of labeling on the containers described above, GVS staff cannot easily determine whether container contents are waste, are hazardous and what potential hazards they pose. Additionally, by using abbreviations rather than full names, GVS has increased the likelihood that emergency responders may not fully recognize potentially dangerous constituents in these containers. Further, key personnel responsible for the management of hazardous waste at the Facility were not aware of the presence of the containers. This violation also poses to the RCRA regulatory program. It was not possible for an inspector to visually determine if the containers held hazardous wastes and/or what

the specific waste was. Due to the relatively small quantity of waste held in the containers described above, the potential for harm is minor.

b. Extent of Deviation – Moderate

While the quantity of waste in these containers was relatively small, none of the 11 containers was appropriately labeled. The extent of deviation is moderate.

c. Penalty Assessment

(1) Matrix Cell Range (gravity-based penalty): \$816 - \$2,446

Penalty Amount Chosen: \$1,630 (midpoint has been determined to be appropriate.)

(2) Adjustment to Penalty Amount for History of Noncompliance

The DEP inspected GVS in 2013. Following the inspection, the DEP issued a Notice of Violation to GVS detailing multiple violations. During the 2016 EPA inspection, EPA observed violations for failure to label containers with the words “Hazardous Waste” that were similar to those that the DEP observed in 2013.

Based on this history of non-compliance, the gravity component of the penalty for this violation is adjusted upwards by 15%.

First violation: $\$1,630 \times .15 = \$ 245$

Total Gravity Component of Penalty **\$ 1,875**

Total penalty amount for these violations: **\$ 1,875**

4. Failure to mark containers of hazardous waste with the accumulation date.

Provision(s) Violated – Chapter 851, Section 8.B.(3) of the Maine Hazardous Waste Management Rules.

At the time of the inspection, in the “Nitrocellulose Room” (a secondary room inside the HWSA), the inspectors observed 11 containers, each approximately two-liters in size, that were marked “NO good.” Per Mr. Lindquist, these containers all contained nitrocellulose waste that he had not known were stored in the area. The containers were not labeled with accumulation start dates.

Penalty Assessment

a. Potential for Harm – Minor

By labeling containers with the accumulation date, facilities can accurately determine how long hazardous wastes have been stored. The longer wastes are stored, the greater the likelihood of contamination/release or accidents due to leaks or spills. The failure to clearly mark hazardous waste containers with a beginning accumulation date makes it impossible for inspectors to determine how long waste has been stored, and prevents them from determining if the facility is operating within the time frame allowed for a non-permitted facility. Failure to label these containers with the accumulation start date increased the likelihood that containers were stored for long periods of time, thus increasing the potential for a release of hazardous waste. Due to the small quantity of waste, the potential for harm is minor.

b. Extent of Deviation – Moderate

While the quantity of waste in these containers was relatively small, a significant number of containers (11) were not appropriately dated. The extent of deviation is moderate.

c. Penalty Assessment

Matrix Cell Range (gravity-based penalty): \$816 - \$2,446

Penalty Amount Chosen: \$1,630 (The mid-point has been determined to be appropriate.)

Total penalty amount for these violations: \$1,630

5. Failure to maintain adequate aisle space in a hazardous waste storage area.

Provision(s) Violated – Chapter 851, Section 13.C.(7)(b) of the Maine Hazardous Waste Management Rules.

At the time of the inspection, the inspection team was unable to examine every container in the HWSA due to the lack of aisle space. At least eight of the fourteen 55-gallon drums in the storage area were not fully accessible as there was no aisle space between the containers. Several drums were pinned directly between adjacent drums and the wall of the HWSA. According to Dana Landeck, these drums contained “Quench Waste” which is hazardous for the characteristic of ignitibility.

Penalty Assessment

a. Potential for Harm – Moderate

Storage of hazardous wastes without adequate aisle space poses a significant risk to human health and the environment. These drums were stored so that conditions leading to a release from many of the containers may not have been detected and corrected. In addition, the timely and adequate access of response equipment to a leaking container would have been hampered. Given the volume of wastes stored and the variety of waste types present in the HWSA, the potential for harm is moderate.

b. Extent of Deviation – Moderate

Over half (eight of 14) of the 55-gallon drums in the HWSA did not have adequate aisle space. The extent of deviation is moderate.

c. Penalty Assessment

(1) Matrix Cell Range (gravity-based penalty): \$8,156 - \$13,048

Penalty Amount Chosen: \$10,602 (the mid-point has been determined to be appropriate.)

(2) Adjustment to Penalty Amount for History of Noncompliance

No adjustment is recommended.

Total Gravity Component of Penalty: \$ 10,602

Total penalty amount for this violation: \$ 10,602

6. Failure to perform weekly inspections of containers of hazardous waste.

Provision(s) Violated – Chapter 851, Section 13.D. of the Maine Hazardous Waste Management Rules, which incorporates by reference 40 C.F.R. 264.16.

At the time of the inspection, the following containers of hazardous waste were not inspected weekly:

In the “Nitrocellulose Room” (a secondary room inside the HWSA), the inspectors observed 11 containers, each approximately two-liters in size, that were marked “NO good.” Per Mr. Lindquist, these containers all contained nitrocellulose waste that he had not known were stored in the area. The containers were not inspected as part of the HWSA inspections.

In the Research and Development Laboratory, the inspection team observed two four-liter sized containers labeled “WASTE (HPLC)” and “HPLC WASTE” on one of the lab benches in room 131 (the “Blood Lab”). An additional six four-liter containers with the same labeling were observed beneath the lab bench. The inspection team asked Debbie English (Manager of Biochemistry Applications) if she was aware that this waste stream was being generated and if the area was managed as a SAA. She stated that she was aware of the waste stream, but that the area was not managed as a SAA. The wastes were not regularly inspected.

In addition, inspection inadequacies were noted for the following areas during the records review:

- Hazardous Waste Storage Area: No inspection records between 4/1/16 and 4/19/16 (two missed weeks).
- S-Pack Room Daily Nitrocellulose Membrane Waste: No inspection records between 2/12/16 and 2/22/16 (one missed week).
- Membrane Room Daily Nitrocellulose Membrane Waste: No inspection records between 2/5/16 and 2/22/16 (two missed weeks).
- Monitor Packout Daily Nitrocellulose membrane: No records between 4/12/16 and 4/25/16(one missed week).

Penalty Assessment

a. Potential for Harm – Moderate

Inspection programs are intended to ensure that containers of hazardous waste are properly managed. Conducting regularly scheduled inspections hazardous waste storage areas is critical to ensuring problems are identified and rectified in a timely manner. Failure to perform these inspections could result in deleterious conditions remaining undetected and uncorrected, resulting in significant threats to human health and the environment. GVS failed to perform required inspections in both the HWSA and multiple SAAs throughout the Facility. The potential for harm is moderate.

b. Extent of Deviation – Moderate

GVS did perform most regular HWSA inspections as required. However, the 11 containers of nitrocellulose, which should have been managed in the HWSA, were not a part of these inspections. GVS also missed multiple SAA inspections. The extent of deviation is moderate.

c. Penalty Assessment

(1) Matrix Cell Range (gravity-based penalty): \$8,156 - \$13,048

Penalty Amount Chosen: \$10,602 (the mid-point has been determined to be appropriate.)

(2) Multi-day/Multi-event Assessment

Multiple penalties are being assessed for the second through the eighth violation of this requirement. In accordance with Section A. 3. on page 22 of the Policy, EPA has chosen to treat multiple violations of RCRA as multi-day violations, because of the number and similarity of the violations, rather than assessing each failure to conduct inspections as an independent and non-continuous act. The total number of missed weekly inspections is eight.

The multi-day matrix cell range for a violation poses a moderate potential for harm and a moderate extent of deviation is \$407 to \$2,610. It has been determined that the violations associated with this count warrant a per-day penalty amount of \$1,508 (the mid-point has been determined to be appropriate). This value is appropriate based on the extent and nature of the violation.

| | |
|---|------------------|
| First violation | \$ 10,602 |
| Second through eighth violations (7)(\$1,508) = | <u>\$ 10,556</u> |
| Total Penalty | \$ 21,158 |

Total Penalty Amount for these violations: \$21,158

7. Failure to appropriately manage universal wastes.

Provision(s) Violated – Chapter 858, Section 7(F) and Chapter 858, Section 7(L) of the Maine Hazardous Waste Management Rules.

At the time of the inspection, in the universal waste storage area, the inspection team noted multiple cardboard containers of lightbulbs that were not kept closed. These boxes were stored on high shelving that prevented the inspectors from recording other container specific information. A large battery with no container also sat on this shelving. The battery did not have an accumulation start date.

Penalty Assessment

a. Potential for Harm – Minor

Storing universal wastes in closed, dated containers is critical to ensuring their safe management and disposal. GVS failed to store a limited amount of universal waste in this manner. The potential for harm is minor.

b. Extent of Deviation – Minor

GVS stored a limited amount of universal wastes in a manner that failed to meet the RCRA requirements. Other universal wastes were managed appropriately by the Facility. The extent of deviation is minor.

c. Penalty Assessment

(1) Matrix Cell Range (gravity-based penalty): \$163 - \$815

Penalty Amount Chosen: \$489 (the mid-point has been determined to be appropriate.)

(2) Adjustment to Penalty Amount for History of Noncompliance

The DEP inspected GVS in 2013. Following the inspection, the DEP issued a Notice of Violation to GVS detailing multiple violations. During the 2016 EPA inspection, EPA observed violations for failure to properly manage universal wastes that were similar to those that the DEP observed in 2013.

Based on this history of non-compliance, the gravity component of the penalty for this violation is adjusted upwards by 15%.

First violation: $\$489 \times .15 = \73

Total Gravity Component of Penalty: \$562

Total Penalty Amount for this violation: \$562

8. Failure to update mutual aid agreements.

Provision(s) Violated – Chapter 851, Section 13.C.(7)(c)(ii) of the Maine Hazardous Waste Management Rules, which incorporates by reference 40 C.F.R. 264.37.

A list of emergency responders that require annual mutual aid agreements in the Facility's hazardous waste contingency plan includes: Sanford Fire & Rescue, Southern Maine Health Care, York Country LEPC, and Clean Harbors. At the time of the inspection, the Facility was unable to provide a certification of receipt from Southern Maine Health Care and the Sanford Fire Department in 2015. The Facility was unable to provide records of submittal to the York Country LEPC and Southern Maine Medical Group for 2016.

Penalty Assessment

a. Potential for Harm – Minor

Informing local authorities of hazardous waste operations is critical to ensuring their ability to respond in the event of an emergency. Documentation that these agreements have been submitted and received must be maintained to keep an accurate record of who is capable of providing assistance if needed. GVS was unable to provide a certification of receipt from one local authority, and unable to provide

records of submittal to two additional authorities. However, GVS did perform most notifications and maintained records for those notifications as required. The potential for harm is minor.

b. Extent of Deviation – Minor

GVS failed to follow the mutual aid agreement requirements in a limited number of cases. GVS was unable to provide a certification of receipt from one local authority, and unable to provide records of submittal to two additional authorities. However, GVS did perform most notifications and maintained records for those notifications as required. The extent of deviation is minor.

c. Penalty Assessment

(1) Matrix Cell Range (gravity-based penalty): \$163 - \$815

Penalty Amount Chosen: \$489 (the mid-point has been determined to be appropriate.)

(2) Adjustment to Penalty Amount for History of Noncompliance

The DEP inspected GVS in 2013. Following the inspection, the DEP issued a Notice of Violation to GVS detailing multiple violations. During the 2016 EPA inspection, EPA observed violations of mutual aid agreement requirements similar to those that DEP observed in 2013.

Based on this history of non-compliance, the gravity component of the penalty for this violation is adjusted upwards by 15%.

First violation: $\$489 \times .15 = \73

Total Gravity Component of Penalty **\$562**

Total Penalty Amount for this violation: **\$562**

D. Penalty Summary

| Violation | Penalty Amount |
|--|-----------------------|
| 1. Failure to provide hazardous waste training to employees managing hazardous waste. | \$ 28,287.00 |
| 2. Failure to maintain a complete hazardous waste training plan. | \$ 12,192.00 |
| 3. Failure to label containers with the words "hazardous waste" and an adequate description of the contents. | \$ 1,875.00 |
| 4. Failure to mark containers of hazardous waste with the accumulation date. | \$ 1,630.00 |
| 5. Failure to maintain adequate aisle space in a hazardous waste storage area. | \$ 10,602.00 |
| 6. Failure to perform weekly inspections of containers of hazardous waste. | \$ 21,158.00 |
| 7. Failure to appropriately manage universal wastes. | \$ 562.00 |
| 8. Failure to update mutual aid agreements | \$ 562.00 |

TOTAL PENATLY AMOUNT: \$76,868.00