



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
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BOSTON, MA 02109-3912

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2011 SEP 30 P 4: 28

September 30, 2011

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HAND DELIVERY

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

Re: In the Matter of: Rhodes Technologies Inc., Docket No. RCRA-01-2011-0124

Dear Ms. Santiago,

Please accept for filing the original and one copy of a Complaint, Compliance Order, and Notice of Opportunity for Hearing ("Complaint") issued by the U.S. Environmental Protection Agency ("EPA"), Region 1, regarding federal and federally-authorized state hazardous waste regulatory violations alleged committed by Rhodes Technologies Inc. ("Rhodes") at its pharmaceutical chemical manufacturing facility in Coventry, Rhode Island.

Thank you for your attention to this matter.

Sincerely,

Steven J. Viggiani
Senior Enforcement Counsel
EPA Region 1

Attachments (original and one copy)

cc: Randy Shamblen, Rhodes Technologies Inc.
David Chopin, R.I. DEM

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

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EP 30 P 4: 29

In the Matter of:)

Rhodes Technologies Inc.)
498 Washington Street)
Coventry, Rhode Island 02816)

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

Proceeding under Section 3008(a))
of the Resource Conservation and)
Recovery Act, 42 U.S.C. § 6928(a))

Docket No. RCRA-01-2011-0124)

EPA ORC)
OFFICE OF)
HEARINGS)
CLERK)

COMPLAINT, COMPLIANCE ORDER
AND NOTICE OF OPPORTUNITY FOR HEARING

I. STATEMENT OF AUTHORITY

1. The U.S. Environmental Protection Agency ("EPA"), Region 1, issues this Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 United States Code ("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 ("Consolidated Rules of Practice"), 40 Code of Federal Regulations ("C.F.R.") Part 22.

2. This Complaint alleges that Rhodes Technologies Inc. ("Rhodes" or "Respondent") has violated Subtitle C of RCRA, Sections 3002 and 3004, 42 U.S.C. §§ 6922 and 6924, and federal and state hazardous waste regulations promulgated and authorized pursuant to RCRA.

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CLERK)

3. The Notice of Opportunity for Hearing section of this Complaint describes Respondent's option to file an Answer to this Complaint and to request a formal hearing.

4. Notice of commencement of this action has been given to the State of Rhode Island and Providence Plantations ("Rhode Island") pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

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

II. NATURE OF ACTION

6. This is a federal enforcement action under RCRA, 42 U.S.C. §§ 6901-6987, to obtain civil penalties and compliance. Specifically, Complainant seeks civil penalties pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), for Respondent's violations of regulations promulgated and authorized pursuant to RCRA. Complainant also seeks compliance pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to ensure that Respondent complies with RCRA and its implementing regulations.

III. RCRA STATUTORY AND REGULATORY FRAMEWORK

7. In 1976, Congress enacted RCRA, amending the Solid Waste Disposal Act, in order to regulate hazardous waste management. See RCRA Subtitle C, 42 U.S.C. § 6921, et seq. Subsequently, Congress has enacted various RCRA amendments, including the Hazardous and Solid Waste ("HSWA") Amendments of 1984. RCRA Subtitle C establishes a comprehensive federal regulatory program for the management of hazardous wastes. Pursuant to Subtitle C of

RCRA, EPA has promulgated regulations that set forth standards and requirements applicable to generators of hazardous waste and to owners and operators of facilities that treat, store or dispose of hazardous waste. These regulations are codified at 40 C.F.R. Parts 260 through 271.

8. 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 substantially equivalent to the federal program.

9. On January 30, 1986, EPA granted Rhode Island final authorization to administer its base hazardous waste program. See 51 Fed. Reg. 3780 (January 30, 1986). At various later times, EPA has authorized Rhode Island to administer additional hazardous waste regulations.

10. Rhode Island administers its hazardous waste program through the Rhode Island Department of Environmental Management ("DEM"). The Rhode Island regulations implementing the hazardous waste program, promulgated pursuant to the Rhode Island General Laws of 1956, as amended, are found at Rules 1.0 through 16.0 (formerly, Rules 1.00 through 16.00) of Rhode Island DEM, Rules and Regulations for Hazardous Waste Management ("R.I. Rules"). The R.I. Rules contain various EPA-authorized hazardous waste regulations, together with certain non-federally-authorized regulations. Many of the R.I. Rules incorporate federal hazardous waste regulations by reference.

11. The HSWA Amendments of 1984 enacted various new provisions in Section 3004 of RCRA, including Section 3004(n) of RCRA, 42 U.S.C. § 6921(n). Pursuant to Section 3004(n), EPA has published final rules to establish air emission standards for tanks, surface

impoundments, and containers in order to monitor and control air emissions from hazardous waste treatment, storage, and disposal facilities. These regulations are codified at 40 C.F.R. Part 265, Subparts BB and Subpart CC. EPA has not authorized Rhode Island to administer these Subpart BB and Subpart CC regulations.

12. Section 3006 of RCRA, 42 U.S.C. § 6926, as amended, provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA (Sections 3001-3023), 42 U.S.C. §§ 6921-6939e. 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. Pursuant to Sections 3008(a) and 3006(g) of RCRA, 42 U.S.C. §§ 6928(a) and 6926(g), EPA may enforce violations of any requirement of Subtitle C of RCRA, including the federally-authorized Rhode Island hazardous waste program and any federal regulations promulgated pursuant to HSWA for which Rhode Island has not received authorization, by issuing an order assessing a civil penalty, and/or by issuing an order requiring compliance immediately or within a specified time.

13. Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), authorizes EPA to commence a civil action to enforce the requirements of the federally-approved Rhode Island hazardous waste program. Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1), authorizes EPA to commence a civil action to enforce the requirements of Subparts BB and CC.

14. Sections 3008(a)(3) and 3008(g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and 6928(g), provide for the assessment of a civil penalty not to exceed \$25,000 per day of noncompliance for

each violation of the requirements of Subtitle C of RCRA. Pursuant to the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701, and EPA’s regulations implementing the DCIA, promulgated at 40 C.F.R. Part 19, the maximum civil penalty for violations of Subtitle C of RCRA occurring after January 12, 2009 has been raised to \$37,500 per day for each violation.

15. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), provides that any person who violates any requirement of a federal RCRA regulation, or any requirement of a federally-authorized state hazardous waste program, shall be liable to the United States for a civil penalty not to exceed \$25,000 per day for each violation. The DCIA and its implementing regulations have increased this statutory maximum RCRA penalty to \$27,500 per day for violations occurring between January 31, 1997 and March 15, 2004; \$32,500 per day for violations occurring between March 16, 2004 and January 12, 2009, and \$37,500 per day for violations occurring after January 12, 2009.

IV. GENERAL ALLEGATIONS

16. Rhodes is a Delaware corporation with its principal office and manufacturing facility (“Facility”) located at 498 Washington Street in Coventry, Rhode Island.

17. At its Facility, Rhodes manufactures various chemicals for the pharmaceutical industry.

18. Rhodes’s manufacturing processes generate solid wastes that are hazardous wastes, including large quantities of solvent-containing wastes that are ignitable, and various acidic wastes that are corrosive.

19. Rhodes is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, and R.I. Rule 3.0 (formerly Rule 3.00). Further, at all times relevant to this Complaint, Rhodes has been the “owner” and/or the “operator” of the Facility as defined in 40 C.F.R. § 260.10 and in R.I. Rule 3.0.

20. At all times relevant to this Complaint, Rhodes has generated and continues to generate wastes at the Facility that are “hazardous waste” as defined at Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), R.I. Rule 3.0, and 40 C.F.R. § 261.3.

21. In various hazardous waste notifications and reports submitted to Rhode Island DEM and/or EPA, Respondent has admitted that it is a “generator” of hazardous waste at its Facility as defined at 40 C.F.R. § 260.10 and R.I. Rule 3.0.

22. Accordingly, Rhodes is subject to the federally-authorized Rhode Island hazardous waste program’s requirements for generators set forth in R.I. Rule 5.0 (formerly Rule 5.00) et seq. Further, Rhodes is subject to the federal hazardous waste regulations set forth in 40 C.F.R. Part 265, Subparts BB and CC, as referenced by 40 C.F.R. § 262.34(a).

23. On September 17-18, 2009, two authorized representatives from EPA Region 1 (“EPA inspectors”) conducted an inspection (the “RCRA Inspection”) of the Facility to examine Rhodes’s compliance with federal and federally-authorized state hazardous waste regulations. Based on the RCRA Inspection, the review of documents and other information provided by

Rhodes, and the review of other documents and information, Complainant has determined that Respondent has violated RCRA and its implementing federal and federally-authorized state regulations.

V. SPECIFIC RCRA VIOLATIONS

1. Failure to Comply with Hazardous Waste Tank Integrity Standards

24. At the time of the RCRA Inspection, Rhodes had a total of eight tanks that were used to store wastes. These eight tanks (identified by Rhodes-assigned tank numbers), their size (in gallons), and the types of wastes stored within them, were as follows:

	<u>Tank No.</u>	<u>Size (gals)</u>	<u>Stored Wastes</u>
1.	T0102	8,000 gals	“Hazardous Waste Base Mother Liquor,” primarily isopropyl alcohol
2.	R7315	150 gals (approx)	Heptane-containing waste
3.	K7313	1,000 gals	Distillates containing heptane and isopropyl alcohol
4.	K7314	500 gals	Unusable liquids from Dronabinol manufacturing (phase cuts) that contain heptane and isopropyl alcohol
5.	R2307	300 gals	Distillates containing heptane
6.	R2304	500 gals	Mother liquor containing heptane
7.	R2603B	150 gals (approx)	Isopropyl alcohol
8.	R1204	1,000 gals (approx)	60% isopropyl alcohol, 40% heptane

25. At the time of the RCRA Inspection, the above-listed wastes collected from each of these eight tanks were being drummed and shipped off-site as hazardous waste.

26. Each of the above-listed wastes is a “hazardous waste” as defined at Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), R.I. Rule 3.0, and 40 C.F.R. § 261.3.

27. R.I. Rule 5.2 (formerly Rule 5.02) incorporates by reference 40 C.F.R. § 262.34, which in turn incorporates 40 C.F.R. Part 265, Subpart J–Tank Systems (“Subpart J”), set out at 40 C.F.R. §§ 265.190-.202. In order to comply with R.I. Rule 5.2, Rhodes must comply with all applicable requirements of Subpart J.

28. Subpart J applies to owners and operators of facilities that use tank systems for storing hazardous wastes. As alleged above, Rhodes uses eight tanks to store hazardous wastes at the Facility. Accordingly, Rhodes is subject to Subpart J as incorporated by reference through R.I. Rule 5.2.

29. Subpart J includes 40 C.F.R. § 265.191, which requires a written assessment certified by a professional engineer attesting to the integrity of any tank system that stores hazardous waste if the system does not meet the secondary containment requirements of 40 C.F.R. § 265.193. The written assessment must be kept on file at the facility. See 40 C.F.R. § 265.191(a) and (b).

30. At the time of the RCRA Inspection, none of the Facility’s eight hazardous waste tanks except for Tank No. T0102 had secondary containment. Accordingly, seven of the

Facility's eight hazardous waste tanks – Tank Nos. R7315, K7313, K7314, R2307, R2304, R2603B, and R1204 – required a written, certified tank integrity assessment.

31. At the time of the RCRA Inspection, Rhodes's compliance records contained no written tank integrity assessments for any of the Facility's hazardous waste tanks. Accordingly, Rhodes failed to obtain and keep on file written tank integrity assessments for seven of the Facility's hazardous waste tanks, in violation of Rhode Island Rule 5.2, which requires compliance with Subpart J.

32. Subpart J also includes 40 C.F.R. § 265.193, which requires that new and existing tank systems have secondary containment in order to prevent the release of hazardous waste into the environment. Secondary containment for tanks must include a liner, a vault, a double-walled tank, or an equivalent approved device, and must also include a leak detection system.

33. At the time of the RCRA Inspection, only Tank T0102 had the above-described secondary containment. Accordingly, Rhodes failed to provide secondary containment for seven of the Facility's hazardous waste tanks, in violation of Rhode Island Rule 5.2, which requires compliance with Subpart J.

34. Subpart J also includes 40 C.F.R. § 265.195, which requires daily inspections of the above-ground portions of tank systems, overfill/spill control systems, and secondary containment. See 40 C.F.R. § 265.195(b). Weekly inspections are permitted if leak detection equipment is used or leak detection workplace practices are established and documented in

writing. See 40 C.F.R. § 265.195(c). Inspections must be documented in facility operating record. See 40 C.F.R. § 265.195(g).

35. At the time of the RCRA inspection, Rhodes's compliance records showed that Rhodes had been conducting inspections only for Tank T0102. Accordingly, Rhodes failed to conduct required inspections for seven of the Facility's hazardous waste tanks, in violation of Rhode Island Rule 5.2, which requires compliance with Subpart J.

2. Failure to Comply with Air Emission Standards for Hazardous Waste Tanks

36. As a generator that routinely accumulates hazardous wastes for 90 days or less at its Facility, Rhodes is required to comply with the requirements set out in 40 C.F.R. Part 265, Subpart CC—Air Emission Standards for Tanks, Surface Impoundments and Containers (“Subpart CC”), as referenced by 40 C.F.R. § 264.34(a). The Subpart CC requirements are set out at 40 C.F.R. §§ 265.1080-.1091.

37. Subpart CC requires, among other things, that owners and operators of hazardous waste storage tanks using air emissions controls in accordance with Section 265.1085 of Subpart CC must prepare and maintain various records related to these controls, including tank identification numbers, Subpart CC inspections dates, and descriptions of any detected defects and corrective actions regarding them. See 40 C.F.R. §§ 265.1080(a) and 265.1090(b)(1).

38. The Facility's eight hazardous waste storage tanks are subject to the air pollutant control standards contained in 40 C.F.R. § 265.1085, and Rhodes is required to prepare and maintain the above-described records for the tanks.

39. At the time of the RCRA Inspection, Rhodes's compliance records contained no records of tank identification numbers, Subpart CC inspection dates, or descriptions of defects or corrective actions, for any of the Facility's eight hazardous waste tanks. Accordingly, Rhodes violated Subpart CC requirements at 40 C.F.R. § 265.1090(b)(1).

40. Subpart CC further requires that owners and operators of hazardous waste storage tanks must develop and implement a written plan and schedule to perform the Subpart CC inspections and monitoring required for the tanks. See 40 C.F.R. § 265.1089(b).

41. During the RCRA Inspection, the EPA inspectors reviewed Rhodes's RCRA compliance records and found that Rhodes had no written plan or schedule for performing Subpart CC inspections and monitoring for any of the Facility's eight hazardous waste storage tanks. Accordingly, Rhodes violated Subpart CC requirements at 40 C.F.R. § 265.1089(b).

3. Failure to Comply with Leak Detection and Repair Standards for Equipment Associated with Hazardous Waste Tanks

42. As a generator that routinely accumulates hazardous wastes for 90 days or less at its Facility, Rhodes is required to comply with the requirements set out in 40 C.F.R. Part 265, Subpart BB—Air Emissions Standards for Equipment Leaks (“Subpart BB”), as referenced by 40 C.F.R. § 264.34(a). The Subpart BB requirements are set out at 40 C.F.R. §§ 265.1050-1079.

43. Subpart BB requirements apply to equipment associated with hazardous waste storage tanks if the equipment contains or contacts hazardous wastes with organic concentrations of at least 10% by weight and the wastes are being stored for 90 days or less. The “equipment” subject to Subpart BB is defined at 40 C.F.R. § 264.1031 as including valves, pumps,

compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, and flanges and other connectors. See 40 C.F.R. § 264.1051.

44. Each of the wastes listed in Paragraph 24 above have an organic concentration of at least 10% by weight, and the wastes are stored for 90 days or less. Accordingly, Rhodes is subject to Subpart BB for the above-listed equipment associated with each of the Facility's eight hazardous waste storage tanks.

45. Subpart BB requires, among other things, that each piece of equipment to which Subpart BB applies must be marked in such a manner that it can be readily distinguished from other pieces of equipment. See 40 C.F.R. § 265.1050(c). Without such markings, facility personnel and emergency responders would not know whether particular pipes, valves or flanges carried hazardous wastes.

46. In a letter dated July 23, 2009 from an environmental consulting firm to Rhodes, the firm offered to prepare a written program outlining Subpart BB monitoring requirements and leak detection and repair standards for Tank T0102. The letter also stated that it was the firm's understanding that Rhodes personnel would identify all equipment associated with Tank T0102 as being in Subpart BB service and would establish inspection procedures and schedules for the tank's compliance with 40 C.F.R. Part 265, Subpart CC. During the RCRA Inspection on September 17-18, 2009, Facility personnel informed the EPA inspectors that Rhodes had not accepted the consulting firm's offer regarding a Subpart BB compliance program.

47. At the time of the RCRA Inspection, certain equipment associated with Tank

T0102 was not marked as being in Subpart BB service. In particular, associated equipment that included pipes, flanges, pumps and valves coming out from the bottom of Tank T0102 was not marked in Subpart BB service. (Associated equipment coming out from the top of Tank T0102 was marked.) A Facility representative confirmed that equipment coming out from the bottom of Tank T0102 was not marked for Subpart BB service. Further, no equipment associated with the remaining seven hazardous waste storage tanks – Tanks R7315, K7313, K7314, R2307, R2304, R2603B, and R1204 – was marked as being in Subpart BB service. Accordingly, Rhodes violated Subpart BB requirements at 40 C.F.R. § 265.1050(c).

48. Subpart BB also requires owners and operators to create, for each piece of Subpart BB equipment, an equipment identification number. This identification number, together with the approximate location and type of equipment, the percent-by-weight total organics in the hazardous waste stream at the equipment, the hazardous waste state (gas/vapor or liquid), and method of compliance with Subpart BB, must be recorded in the facility operating log. See 40 C.F.R. §§ 265.1064(b).

49. At the time of the RCRA Inspection, Rhodes's RCRA compliance records showed that Rhodes had not recorded any of the above-listed information required by 40 C.F.R. § 265.1064(b). Accordingly, Rhodes violated Subpart BB requirements at 40 C.F.R. § 265.1064(b).

4. Failure to Conduct Hazardous Waste Determinations

50. R.I. Rule 5.8 (formerly Rule 5.08) requires generators of solid wastes to determine if their wastes are hazardous wastes pursuant to 40 C.F.R. § 262.11 and R.I. Rule 3.0. Forty C.F.R. § 262.11 requires persons generating waste to determine if it is hazardous using various criteria and procedures.

51. At the time of the RCRA Inspection, Rhodes failed to conduct an adequate hazardous waste determination regarding the Facility's palladium catalyst waste. On the fourth floor of the Facility's Building No. 7, there was a 55-gallon drum that according to Facility personnel was being used to collect and store spent palladium catalyst from an adjacent palladium catalyst charging station. Facility personnel also stated that filters from three filter units associated with the charging station, and personal protective equipment used during charging operations, were collected and stored in this 55-gallon drum. This drum was marked as non-regulated waste.

52. In addition, on the second floor of Building No. 7, there was another 55-gallon drum labeled as containing palladium catalyst waste. This drum was marked as non-regulated waste.

53. Further, at the rear of the Facility's Hazardous Waste Storage Area, there were two 55-gallon drums marked as non-regulated waste consisting of palladium and carbon debris. These drums contained palladium catalyst waste. There was also another 55-gallon drum marked

as non-regulated spent activated carbon. According to Facility personnel, this drum also contained palladium catalyst waste.

54. The Material Safety Data Sheet (“MSDS”) for palladium catalyst states that “[a]fter use, all catalyst which contains absorbed hydrogen may ignite when dried in air, especially in the presence of organic materials.” As such, the Facility’s palladium catalyst waste was a hazardous waste because it was ignitable. See 40 C.F.R. § 262.21(a)(2). Because Rhodes improperly determined that palladium catalyst was a non-regulated waste, Rhodes violated R.I. Rule 5.8, which requires that hazardous waste determinations be made in accordance with 40 C.F.R. § 262.11.

55. Separately, at the time of the RCRA Inspection, Rhodes failed to determine whether tank cleaning solution wastes containing 5% acetic acid were a hazardous waste. Rhodes regularly uses acetic acid solutions to clean tanks and equipment from various processes. At the time of the RCRA Inspection, the resulting cleaning solution wastes were stored in Tank No. 0112, and then shipped off-site as non-hazardous waste.

56. During use, the cleaning solution comes into contact with listed and flammable solvents (such as methylene chloride, and isopropyl alcohol) as well as corrosive liquids (acid and alkali liquids such as sodium hydroxide and hydrochloric acid). As a result, the cleaning solution wastes could be hazardous. At the time of the RCRA Inspection, Rhodes had no records of analysis to demonstrate knowledge of the pH or any characteristics of this waste stream. Accordingly, Rhodes failed to conduct a hazardous waste determination regarding this waste

stream, and thus violated R.I. Rule 5.8, which requires that hazardous waste determinations be made in accordance with 40 C.F.R. § 262.11.

5. Failure to Have an Adequate Contingency Plan

57. R.I. Rule 5.2 incorporates by reference 40 C.F.R. § 262.34, which in turn incorporates 40 C.F.R. Part 265, Subpart D—Contingency Plan and Emergency Procedures (“Subpart D”), set out at 40 C.F.R. §§ 265.50-.56.

58. Pursuant to Subpart D, the owner or operator of a hazardous waste facility must maintain a contingency plan. The plan “must be designed to minimize hazards to human health or to the environment from fires, explosions, spills or any other unplanned sudden or non-sudden release of hazardous wastes,” and the plan “must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste ... which could threaten human health or the environment.” See 40 C.F.R. § 265.51.

59. The contingency plan must, among other things, (a) describe arrangements agreed to by local police departments, fire departments, hospitals, and local emergency response teams to coordinate emergency services; (b) contain an up-to-date list of the names, addresses and phone numbers of all the facility’s emergency coordinators; and (c) include the location of each piece of emergency equipment at the facility. See 40 C.F.R. §§ 265.52(c), (d) and (e).

60. At the time of the RCRA Inspection, Rhodes’s contingency plan failed to comply with various requirements set out in Subpart D, including the requirements listed in Paragraph 59 above. Specifically, Rhodes’s emergency contingency plan contained no information on

contacting any police or fire departments, or any other entity outside of the Facility, in the event of an emergency. Further, the plan listed an emergency coordinator for the Facility who was no longer employed there. Finally, the plan contained a description of emergency equipment in a trailer but did not provide the trailer's location at the Facility. Accordingly, Rhodes violated R.I. Rule 5.2, which incorporates by reference the contingency plan requirements of Subpart D.

6. Failure to Segregate Incompatible Wastes

61. R.I. Rule 5.2 incorporates by reference 40 C.F.R. § 262.34, which in turn incorporates 40 C.F.R. Part 265, Subpart I—Use and Management of Containers (“Subpart I”), set out at 40 C.F.R. §§ 265.170-.178. In order to comply with R.I. Rule 5.2, Rhodes must comply with all applicable requirements of Subpart I.

62. Pursuant to Subpart I, Rhodes must ensure that a storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers is segregated from the other materials or is protected from them by means of a dike, berm, wall or other device. See 40 C.F.R. § 265.177.

63. At the time of the RCRA Inspection, there were containers of incompatible hazardous wastes being stored adjacent to each other in the Facility's Hazardous Waste Storage Area (“HWS Area”) without any means of segregation or protection. On the left side of the HWS Area, there were nineteen 55-gallon drums of hazardous waste that were each labeled as follows: D002 – Hydrochloric Acid <1% and Isopropyl Alcohol <1%. Accordingly, each of these 55-gallon drums contained acidic hazardous wastes.

64. On the same side of the HWS Area, there were many containers and drums storing hazardous wastes that were incompatible with the above-described acid wastes. Specifically, there were three 5-gallon containers that were each labeled as follows: Hazardous waste, D002, Project N Stage2 - Production Lab, sodium bisulfate, alkaloid 0-1%, alkaloid salt 0-1%, ammonium hydroxide, sodium hydroxide, sodium bisulfate, 5% acetic acid, sodium chloride. These containers held alkaline hazardous wastes that were incompatible with the acidic wastes stored in the nineteen adjacent 55-gallon drums. Alkaline and acidic wastes can generate heat and cause violent reactions if they come into contact with each other.

65. In this same area, there was one 55-gallon drum labeled as follows: Hazardous Waste, 99% acetone, D001. The acetone in this drum was incompatible with hydrochloric acid in the nineteen adjacent 55-gallon drums. Acetone and hydrochloric acid can generate heat if they come into contact with each other.

66. In this same area, there was one 55-gallon drum labeled as follows: Hazardous Waste, caustic scrubber SC7941 liquid, EPA hazard toxic, EPA Waste # F002, <2% sodium hydroxide, <1% methanol, <1% isopropyl alcohol, <1% heptane, 8/21/09. In addition, there were four 55-gallon drums that were each labeled as follows: Hazardous Waste EPA Waste # F002, methylene chloride 1%, sodium hydroxide 2%, methanol, isopropyl alcohol, heptane. All five of these drums held chlorinated solvent (methylene chloride) waste. Chlorinated solvents and acids can generate heat and toxic gases if they come into contact with each other.

67. Rhodes stored various alkaline, acetone, and chlorinated solvent hazardous waste containers adjacent to acidic hazardous waste containers. Further, Rhodes stored these hazardous waste containers within a single containment area where leaks or spills from the containers could migrate into the same drains and sumps. Accordingly, Rhodes failed to segregate incompatible hazardous waste containers and violated R.I. Rule 5.2, which incorporates the requirements of Subpart I.

VI. RCRA COMPLIANCE ORDER

68. Based on the foregoing findings, Respondent is hereby ordered to comply with the requirements set out below in this Compliance Order within sixty (60) days of receipt of this Complaint, unless otherwise provided below.

69. With regard to hazardous waste tank integrity standards, Respondent shall obtain a written assessment certified by a professional engineer attesting to the integrity of any tank system that stores hazardous waste at the Facility; shall provide secondary containment for all hazardous waste tanks, shall conduct inspections for all hazardous waste tanks; and shall otherwise comply with all applicable requirements of Subpart J.

70. With regard to hazardous waste tank air emission standards, Respondent shall establish and maintain all required records for hazardous waste tanks subject to air emission controls, including tank identification numbers, inspection records, and descriptions of detected defects and corrective actions; shall develop and implement a written plan and schedule to

perform all required inspections and monitoring; and shall otherwise comply with all applicable requirements of Subpart CC.

71. With regard to leak detection and repair standards for equipment associated with hazardous waste tanks, Respondent shall mark each piece of equipment in Subpart BB service; shall establish an identification number for each such piece of equipment; shall record this identification number, together with various other information, in the facility operating log; and shall otherwise comply with all applicable requirements of Subpart BB.

72. Immediately on receipt of this Complaint, Respondent shall conduct a hazardous waste determination regarding its palladium catalyst wastes and regarding its tank cleaning solution wastes containing 5% acetic acid, in accordance with R.I. Rule 5.8 and 40 C.F.R. § 262.11.

73. Immediately on receipt of this Complaint, Respondent shall review and revise its contingency plan so that the plan describes arrangements agreed to by local police and fire departments, hospitals, and other emergency responders to coordinate emergency services; contains an up-to-date list of the Facility's emergency coordinators; includes the location of each piece of emergency equipment at the Facility; and otherwise complies with all applicable requirements of Subpart D.

74. Immediately on receipt of this Complaint, Respondent shall segregate all incompatible hazardous waste containers stored in the Facility's Hazardous Waste Storage Area

in accordance with the requirements of 40 C.F.R. § 265.177, and shall otherwise comply with all applicable requirements of Subpart I.

75. Within sixty-five (65) days of receipt of this Complaint, Respondent shall submit to Complainant written confirmation of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance with the requirements set forth in Paragraphs 69 through 74 above. Any notice of noncompliance required under this Paragraph 75 shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will in no way excuse the noncompliance.

76. Respondent shall submit the above-required notice and information to:

Richard Piligian
Environmental Scientist
U.S. Environmental Protection Agency, Region 1
Mail Code OES05-1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

77. If Respondent fails to comply with the requirements of this Complaint within the time specified, Section 3008(c) of RCRA provides for further enforcement action in which EPA may seek the imposition of additional penalties of up to \$37,500 for each day of continued noncompliance.

VII. PROPOSED PENALTY

78. The civil penalty proposed below has been determined in accordance with Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). In determining the amount of any RCRA penalty to be assessed, Section 3008(a) requires EPA to take into account the seriousness of the violation and

any good faith efforts to comply with applicable requirements. To develop the proposed penalty for the violations cited in this Complaint, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's RCRA Civil Penalty Policy, dated June 2003 ("Penalty Policy"). A copy of the Penalty Policy is enclosed with this Complaint. The Penalty Policy provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors identified above to particular cases.

79. Based on the nature, circumstances, extent, and gravity of the above-cited violations, a RCRA civil penalty in the amount of \$ 251,439 is hereby proposed to be assessed against Respondent. Attachment I to this Complaint explains the reasoning for this penalty. The penalties proposed to be assessed for each count pled in Section V above are as follows:

<u>COUNT</u>	<u>PROPOSED PENALTY</u>
1. Failure to Comply with Hazardous Waste Tank Integrity Standards	\$ 85,695
2. Failure to Comply with Hazardous Waste Tank Air Emission Standards	\$ 63,557
3. Failure to Comply with Leak Detection and Repair Standards for Equipment Associated with Hazardous Waste Tanks	\$ 49,237
4. Failure to Conduct Hazardous Waste Determinations	\$ 18,950
5. Failure to Have an Adequate Emergency Contingency Plan	\$ 9,210
6. Failure to Segregate Incompatible Wastes	\$ 24,790
Total Proposed Penalty	\$ 251,439

VIII. QUICK RESOLUTION

80. Under Section 22.18(a) of the Consolidated Rules of Practice, Respondent has the option of resolving the penalty portion of this Complaint at any time by paying in full the proposed penalty amount. 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 note the docket number of this Complaint (EPA Docket No. RCRA-01-2011-0124) and should be forwarded to:

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

In addition, at the time of payment, notice of payment of the penalty and a copy of the check should also be forwarded to:

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

Steven J. Viggiani
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Mail Code OES04-3
5 Post Office Square, Suite 100
Boston, MA 02109-3912

IX. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

81. As provided by Section 3008(b) of RCRA, , 42 U.S.C. § 6928(b), and in accordance with 40 C.F.R. § 22.15 of the Consolidated Rules of Practice, Respondent has the right to request a hearing to contest the issues raised by this Complaint. Any such hearing will be conducted in accordance with the Consolidated Rules of Practice, a copy of which is provided with this Complaint. Respondent's request for a hearing must be incorporated into a written Answer filed by Respondent with the Regional Hearing Clerk at the address provided below **within thirty (30) days of receipt of this Complaint.**

82. Respondent's Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge. See 40 C.F.R. § 22.15(b). Where Respondent has no knowledge of a particular factual allegation and so states, the allegation will be deemed denied. Id. Any failure of Respondent to admit, deny, or explain any material fact contained in the Complaint constitutes an admission of that allegation. See 40 C.F.R. § 22.15(d).

83. 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. Such default will constitute, for purposes of this penalty and compliance action, an admission of all the facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. See 40 C.F.R. § 22.17(a).

X. INFORMAL SETTLEMENT CONFERENCE

84. Whether or not Respondent files an Answer requesting a hearing, Respondent may confer informally with Complainant concerning the alleged violations, the amount of the penalty, and/or the possibility of settlement. An informal settlement conference would provide Respondent with an opportunity to provide new information regarding the alleged violations or other issues relevant to this matter. Complainant has the authority to adjust penalties, where appropriate, to reflect any settlement reached through informal settlement conferences. The terms of such a settlement would be embodied in a Consent Agreement and Final Order signed by both parties.

85. 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 a default. To request an informal settlement conference, Respondent or its representative should contact Steven J. Viggiani, Senior Enforcement Counsel, at (617) 918-1729 or at viggiani.steven@epa.gov.

SO ISSUED:



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

9/30/11
Date

Attachment I
Explanation of the RCRA Penalty
In the Matter of Rhodes Technologies Inc.
EPA Docket No. RCRA-01-2011-0124

The following is an explanation of the reasoning behind the penalty proposed in the Complaint against Respondent, Rhodes Technologies Inc (“Rhodes”). Based on the particular facts and circumstances of this case, a penalty has been calculated for Rhodes’s alleged violations in accordance with Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA’s RCRA Civil Penalty Policy (“Policy”), dated June 2003, and the Debt Collection Improvement Act of 1996 and its implementing regulations. Where appropriate, the proposed penalty includes an amount for a multi-day/multi-event assessment in accordance with the RCRA Civil Penalty Policy.

1. **Failure to Comply with Hazardous Waste Tank Integrity Regulations**

Description: The provisions of Rhode Island Rule 5.02 require generators to manage hazardous wastes stored in tanks for less than ninety days in accordance with 40 C.F.R. Part 265, Subpart J–Tank Systems (“Subpart J”). At the time of EPA’s RCRA Inspection, there were eight hazardous waste storage tanks at the Facility. As alleged in the Complaint, Rhodes violated Subpart J requirements for written tank integrity assessments, secondary containment, and daily inspections with regard to seven of these eight hazardous waste tanks.

Potential for Harm - Major: Subpart J’s tank integrity assessments are essential to ensuring the tank’s structural stability and compatibility with its stored hazardous wastes. Such assessments help prevent tank leaks, ruptures, or failures. In addition, Rhodes failed to have adequate secondary containment systems for these tanks, which would provide a back-up level of physical protection to prevent tank leaks or spills from being released into the environment. Rhodes also failed to conduct daily inspections of these tanks. Rhodes’s violations resulted in a substantial risk of harm to human health and the environment. The potential for harm is considered to be major.

Extent of Deviation - Major: Seven of the Facility’s eight hazardous waste tanks were in violation of numerous Subpart J requirements. As a general matter, it appeared that Rhodes had no Subpart J compliance program in place for any of these seven tanks. The extent of deviation from regulatory requirements is considered to be major.

Penalty Assessment: EPA has determined that Rhodes’s Subpart J violations warrant a classification as Major/Major. The Policy’s matrix cell range for such violations is \$28,330 - \$37,500. Due to the seriousness of the violations, EPA has determined that the appropriate penalty amount is **\$37,500**.

Multiple/Multi-Day Assessment: Multiple penalties are being assessed for the violations associated with six of the seven violating hazardous waste tanks. In accordance with Section A.3. of the Policy, EPA has chosen to treat these multiple violations of RCRA as multi-day violations (rather than as separate additional violations) because of the number and similarity of the violations. For violations classified as Major/Major, the Policy's matrix cell range for multi-day penalties is \$1,420 to \$7,090. Due to the seriousness of the violations, EPA has determined that the appropriate per-day penalty rate is \$7,090. The total additional penalty is \$7,090 x 6, which is **\$42,540**.

Economic Benefit Adjustment: There is an upward adjustment to recoup Rhodes's economic benefit from delaying the costs of obtaining written tank integrity assessments and modifying the Facility to provide for secondary containment. The economic benefit, calculated in accordance with EPA's BEN model, is **\$5,655**.

Total Penalty Amount: \$37,500 + \$42,540 + \$5,655 = **\$85,695**

2. **Failure to Comply with Air Emission Standards for Hazardous Waste Tanks**

Description: As alleged in the Complaint, Rhodes is required to comply with the requirements set out in 40 C.F.R. Part 265, Subpart CC—Air Emissions Standards for Tanks, Surface Impoundments and Containers (“Subpart CC”). All eight of Rhodes's hazardous waste storage tanks were subject to Subpart CC, and Rhodes violated numerous Subpart CC requirements for all of them. Rhodes's violations included the failure to prepare and maintain tank identification numbers, records of Subpart CC inspections dates, and descriptions of detected defects and corrective actions. Rhodes also failed to develop and implement a written plan and schedule for performing required tank inspections and monitoring.

Potential for Harm - Major: The Subpart CC regulations are designed to reduce organic emissions and their associated risks to human health and the environment. Tanks containing hazardous wastes with high volatile organic compound (“VOC”) concentrations have the potential to cause air pollution if tank openings are not properly maintained and monitored. By violating numerous Subpart CC recordkeeping requirements, Rhodes undermined RARA's air emissions control program for its tanks, since without such records EPA inspectors were unable to assess compliance with other Subpart CC requirements at the Facility. Consequently, the violations are considered to pose substantial harm for the regulatory program. The potential for harm is considered to be major.

Extent of Deviation - Major: Rhodes's Subpart CC violations represent a substantial deviation from regulatory requirements. The Rhodes Facility contained eight hazardous waste tanks with a combined storage capacity of over 11,000 gallons. None of these eight tanks were in compliance with Subpart CC requirements cited in the Complaint. As a general matter, it appeared that Rhodes had no Subpart CC compliance program in place at the Facility for any of its tanks. The extent of deviation from regulatory requirements is considered to be major.

Penalty Assessment: EPA has determined that Rhodes's Subpart CC violations warrant a classification as Major/Major. The Policy's matrix cell range for such violations is \$28,330 - \$37,500. EPA has determined that the appropriate penalty amount is **\$32,915** (mid-point).

Multiple/Multi-Day Assessment: Multiple penalties are being assessed for the violations associated with seven of the eight violating hazardous waste tanks. In accordance with Section A.3. of the Policy, EPA has chosen to treat these multiple violations of RCRA as multi-day violations (rather than as separate additional violations) because of the number and similarity of the violations. For violations classified as Major/Major, the Policy's matrix cell range for multi-day penalties is \$1,420 to \$7,090. EPA has determined that the appropriate per-day penalty rate is \$4,255 (mid-point). The total additional penalty is $\$4,255 \times 7$, which is **\$29,785**.

Adjustment for Economic Benefit: There is an upward adjustment to recoup Rhodes's economic benefit from delaying the costs of developing and implementing a written Subpart CC compliance plan. The economic benefit, calculated in accordance with EPA's BEN model, is **\$857**.

Total Penalty Amount: $\$32,915 + \$29,785 + \$857 = \mathbf{\$63,557}$

3. **Failure to Comply with Leak Detection and Repair Standards for Equipment Associated with Hazardous Waste Storage Tanks**

Description: As alleged in the Complaint, Rhodes is required to comply with the requirements set out in 40 C.F.R. Part 265, Subpart BB—Air Emissions Standards for Equipment Leaks (“Subpart BB”). Each of Rhodes's eight hazardous waste tanks contained wastes with VOC concentrations of at least 10% by weight, so all the tanks' “associated equipment” (pipes, pumps, valves, etc.) that contained or came into contact with the high-VOC waste was subject to Subpart BB. Rhodes violated Subpart BB by failing to mark any of this equipment (with some exceptions at Tank T0102) as being in Subpart

BB service. Rhodes also failed to record various Subpart BB compliance information in the Facility's operating log.

Potential for Harm - Major: The Subpart BB regulations are designed to reduce potential air emissions from equipment such as pipes and pumps that carry or come into contact with high-VOC content wastes from hazardous waste storage tanks. In this way, Subpart BB and Subpart CC (discussed above) are complimentary – Subpart CC addresses air emissions from the tanks themselves, while Subpart BB addresses emissions from equipment associated with the tanks. Like the tanks, this equipment has the potential to leak and cause air pollution if the equipment is not properly maintained and monitored. By violating numerous Subpart BB requirements, Rhodes undermined RCRA's air emissions control program for such equipment: unmarked equipment could not be properly inspected, and missing compliance records made independent compliance verification difficult or impossible. The violations are considered to pose substantial harm to the environment and the regulatory program. The potential for harm is considered to be major.

Extent of Deviation - Moderate: At the time of the inspection, Rhodes was storing hazardous waste in eight tanks whose combined storage capacity was over 11,000 gallons. Each of these tanks had numerous pieces of associated equipment that were subject to Subpart BB requirements. Some equipment associated with the largest tank was marked as being in Subpart BB service, but no equipment for any of the other tanks was so marked. Subpart BB compliance information was missing for all the equipment. As a general matter, it appeared that Rhodes had only a small part of a Subpart BB compliance program in place. The extent of deviation from regulatory requirements is considered to be moderate.

Penalty Assessment: EPA has determined that Rhodes's Subpart BB violations warrant a classification as Major/Moderate. The Policy's matrix cell range for such violations is \$21,250 - \$28,330. EPA has determined that the appropriate penalty amount is **\$24,790** (mid-point).

Multiple/Multi-Day Assessment: Multiple penalties are being assessed for the violations associated with seven of the eight violating hazardous waste tanks. In accordance with Section A.3. of the Policy, EPA has chosen to treat these multiple violations of RCRA as multi-day violations (rather than as separate additional violations) because of the number and similarity of the violations. For violations classified as Major/Moderate, the Policy's matrix cell range for multi-day penalties is \$1,070 to \$5,670. EPA has determined that the appropriate per-day penalty rate is \$3,370 (mid-point). The total additional penalty is \$3,370 x 7, which is **\$23,590**.

Adjustment for Economic Benefit: There is an upward adjustment to recoup Rhodes's economic benefit from delaying the costs of establishing and maintaining Subpart BB compliance records. The economic benefit, calculated in accordance with EPA's BEN model, is \$857.

Total Penalty Amount: $\$24,790 + \$23,590 + \$857 = \$49,237$

4. **Failure to Conduct Adequate Hazardous Waste Determinations**

Description: As alleged in the Complaint, Rhodes failed to conduct adequate hazardous waste determinations for a palladium catalyst waste stream, and for a tank cleaning solution waste stream containing 5% acetic acid.

Potential for Harm - Major: Rhodes's failure to conduct adequate hazardous waste determinations created substantial potential risks at the Facility. Unidentified or misidentified wastes could be stored in uncontrolled areas where emergency responders and facility personnel might not recognize the wastes' associated hazards, increasing the likelihood for mismanagement, improper disposal, release or other events such as a fire or explosion. (Rhodes's palladium catalyst waste could ignite if dried, while the tank cleaning solution waste could contain flammable solvents or corrosive liquids.) The failure to conduct proper hazardous waste determinations also hampered EPA's inspectors: without correct determinations of all hazardous waste streams, the inspectors could not determine whether all the Facility's hazardous wastes were being properly managed in accordance with federal and state requirements. The violations posed a substantial risk of harm to human health, the environment, and the regulatory program. The potential for harm is considered to be major.

Extent of Deviation - Minor: At the time of the EPA Inspection, Rhodes had failed to make an adequate hazardous waste determination for only two of the Facility's many waste streams. The extent of deviation is considered to be minor.

Penalty Assessment: EPA has determined that Rhodes's hazardous waste determination violations warrant a classification as Major/Minor. The Policy's matrix cell range for such violations is \$15,580 - \$21,250. EPA has determined that the appropriate penalty amount is \$18,415 (mid-point).

Adjustment for Economic Benefit: There is an upward adjustment to recoup Rhodes's economic benefit from delaying the costs of conducting adequate hazardous waste determinations for two waste streams. The economic benefit, calculated in accordance with EPA's BEN model, is \$535.

Total Penalty Amount: \$18,415 + \$535 = **\$18,950**

5. Failure to Have an Adequate Contingency Plan

Description: As alleged in the Complaint, Rhodes was required to maintain a facility contingency plan designed to minimize health and environmental hazards from fires, explosions, spills or other unplanned releases of hazardous wastes. Rhodes's contingency plan was inadequate and lacked many required elements. Among other things, the plan contained no information on contacting any police or fire departments (or any other entity outside of the Facility) in the event of an emergency, listed an emergency coordinator no longer employed at the Facility, and failed to identify the location of stockpiled emergency equipment.

Potential for Harm – Moderate: Rhodes's failure to have a complete and comprehensive contingency plan caused significant potential harm to human health and the environment, especially considering the number of wastes and the hazards posed by them at the Rhodes Facility. A spill or release, fire or explosion involving such materials could be life-threatening. Rhodes's violations increased the risk that such an emergency would not be properly coordinated with facility personnel and first responders, and that emergency equipment could not be readily located or deployed. The violations posed a significant risk of harm to human health and the environment. The potential for harm is considered to be moderate.

Extent of Deviation - Moderate: Although Rhodes did not have an adequate contingency plan, the plan did contain some required elements. The extent of deviation from regulatory requirements is considered to be moderate.

Penalty Assessment: EPA has determined that Rhodes's contingency plan violations warrant a classification as Moderate/Moderate. The Policy's matrix cell range for such violations is \$7,090 - \$11,330. EPA has determined that the appropriate penalty amount is **\$9,210** (mid-point).

Total Penalty Amount: **\$9,210**

6. Failure to Segregate Incompatible Wastes

Description: As alleged in the Complaint, Rhodes was required to keep incompatible hazardous waste containers segregated or protected from each other by a dike, berm or other barrier. At the Facility's hazardous waste storage area, Rhodes stored various alkaline, acetone, and chlorinated solvent hazardous waste containers adjacent to incompatible acidic hazardous waste containers. Further, Rhodes stored these incompatible hazardous waste containers within a single containment area where leaks or spills could migrate into the same drains and sumps.

Potential for Harm - Major: Storage of incompatible hazardous wastes poses a substantial risk to human health and the environment. If the incompatible wastes in Rhodes's hazardous waste storage area were released and mixed together, the reaction could include the generation of heat, fire and other violent chemical reactions. Since many other hazardous wastes were also stored in this same area, potentially hundreds of hazardous waste containers could become involved in a fire. The violations posed a substantial risk of harm to human health and the environment. The potential for harm is considered to be major.

Extent of Deviation - Moderate: The storage of incompatible wastes involved a significant number of containers observed in the Facility's hazardous waste storage area. The extent of deviation is considered to be moderate.

Penalty Assessment: EPA has determined that Rhodes's Subpart CC violations warrant a classification as Major/Moderate. The Policy's matrix cell range for such violations is \$21,250 - \$28,330. EPA has determined that the appropriate penalty amount is **\$24,790** (mid-point).

Total Penalty Amount: \$24,790

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)	
)	
Rhodes Technologies Inc.)	COMPLAINT, COMPLIANCE
498 Washington Street)	ORDER, AND NOTICE OF
Coventry, Rhode Island 02816)	OPPORTUNITY FOR HEARING
)	
Proceeding under Section 3008(a))	Docket No. RCRA-01-2011-0124
of the Resource Conservation and)	
Recovery Act, 42 U.S.C. § 6928(a))	

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2011, I provided the original and one copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing to the Regional Hearing Clerk via hand delivery, and arranged for a copy to be sent to Respondent Rhodes Technologies Inc. via certified mail, return receipt requested, at the addresses set out below:

Original and one copy,
via hand-delivery:

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

Copy, via certified mail,
return receipt requested:

Randy Shamblen
Rhodes Technologies Inc.
498 Washington Street
Coventry, Rhode Island 02816

Dated: 9/30/11



Steven J. Viggiani
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1