



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100  
Boston, MA 02109-3912

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September 27, 2013

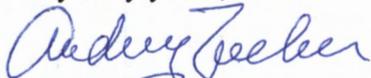
Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 1 (ORA 18-1)  
5 Post Office Square  
Boston, Massachusetts 02140

Re: United Abrasives, Inc..  
Docket No. RCRA-01-2013-0072

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,

  
Audrey Zucker, Esq.

cc: Sandra Fredrickson

Enclosure

Docket No. RCRA-01-2013-0072

CERTIFICATE OF SERVICE

I hereby certify that on 9/27/13, the original and one copy of the Complaint in the Matter of United Abrasives, Inc., Docket No. RCRA-01-2013-0072, were hand-delivered to the Regional Hearing Clerk and a copy was sent to Respondent, as set forth below:

Original and one copy  
by hand delivery to:

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

Copies by certified mail to:

Sandra Fredrickson, General Counsel  
United Abrasives, Inc.  
185 Boston Post Road  
North Windham, CT 06226

Dated:

9/27/13



Audrey Zucker, Esq.  
U.S. Environmental Protection Agency  
Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED  
2013 SEP 27 A 11: 25  
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REGIONAL HEARING CLERK

IN THE MATTER OF: )  
)  
United Abrasives, Inc. )  
185 Boston Post Road )  
North Windham, CT 06256 )  
)  
Respondent. )  
)  
Proceeding under Section 3008(a) )  
Resource Conservation and Recovery )  
Act, 42 U.S.C. § 6928(a) )  
\_\_\_\_\_ )

Docket No.  
RCRA-01-2013-0072

**COMPLAINT,  
COMPLIANCE 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, United Abrasives, Inc., is hereby notified of Complainant’s determination that Respondent has violated Sections 3002, 3004, 3010, and 3014 of RCRA, 42 U.S.C. §§ 6922, 6924, 6930, and 6935, Chapter 22a of the Connecticut General Statutes

("Chapter 22a"), and the Connecticut Hazardous Waste Management Regulations promulgated thereunder, codified at the Regulations of the Connecticut State Agencies ("RCSA") Sections 22a-449(c)-100 through 110; 22a-449(c)-113 and 22a-449(c)-119. 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 Connecticut.

## **III. STATUTORY AND REGULATOR 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 managements 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. On April 21, 1982 and June 10, 1983, EPA granted the State of Connecticut interim authorization under Section 3006 of RCRA to carry out certain portions of the RCRA hazardous waste management program in Connecticut. This interim authorization lapsed on January 31, 1986. Effective December 31, 1990, EPA granted Connecticut final authorization to administer its hazardous waste program in lieu of the federal government's base RCRA program, including the regulation of mixed waste. 55 Fed. Reg. 51,707 (December 17, 1990). Effective September 28, 2004, EPA granted Connecticut final authorization to administer updates to its hazardous waste program, 69 Fed. Reg. 57842 (September 28, 2004), to meet federal requirements through January 1, 2001.

8. The authority for the Connecticut hazardous waste program is set out at Chapter 22a of the Connecticut General Statutes, with implementing regulations promulgated as the Hazardous Waste Management Regulations, Sections 22a-449(c)-100 through 110, 22a-449(c)-113 and 22a-449(c)-119, effective September 28, 2004.

9. Pursuant to Sections 3006(g) and 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6926(g) and 6928(a) and (g), EPA may enforce both the federally approved Connecticut hazardous waste program and the federal regulations promulgated pursuant to HSWA by issuing orders requiring compliance immediately or within a specified time for violations of any requirement of Subtitle C of RCRA (RCRA Sections 3001-3023), 42 U.S.C. §§ 6921-6939e. The State of Connecticut is not authorized to implement certain hazardous waste regulations promulgated pursuant to HSWA which are therefore enforceable only by EPA. 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 provides that upon finding that any person has violated or is violating any requirement of Subchapter C of RCRA, including violations in an authorized state, EPA may issue an order requiring compliance immediately or within a specified time and assess a civil penalty for any past or current violation. Sections 3008(a) and (g) of RCRA provide that any person who violates any order or requirement of Subchapter C of RCRA shall be liable to the United States for a civil penalty in an amount of up to \$25,000 per day for each violation. Pursuant to the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 *et seq.*, as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA is up to \$32,500 per day per violation for violations that occurred after March 15, 2004 and before January 13, 2009. Violations that occur on or after January 13, 2009 are subject to penalties up to \$37,500 per day per violation.

11. Pursuant to Section 3002 of RCRA, 42 U.S.C. § 6922, EPA promulgated rules pertaining to generators of hazardous waste and pertaining to the management of universal wastes. Regulations pertaining to generators of hazardous waste in general are set forth at 40 C.F.R. Part 262 and have been adopted by the State of Connecticut at RCSA Section 22a-449(c)-102. Regulations pertaining to the management of universal wastes are set forth at 40 C.F.R. Part 273.

12. Pursuant to Section 3014 of RCRA, 42 U.S.C. § 6935, EPA promulgated rules pertaining to the management of used oil. These regulations are set forth at 40 C.F.R. Part 279

and have been adopted by the State of Connecticut at RCSA Section 22a-449(c)-119.

13. Pursuant to Section 3004 of RCRA, 42 U.S.C. § 6924, EPA promulgated rules pertaining to land disposal restrictions (“LDR”). These regulations are set forth at 40 C.F.R. Part 268.

#### **IV. GENERAL ALLEGATIONS**

14. Respondent is a New York corporation that owns and operates a facility located at 185 Boston Post Road, North Windham, Connecticut. At this facility, Respondent manufactures, among other things, various types of bonded abrasives, such as grinding wheels, cutting wheels, and cup wheels, as well as a variety of sanding sheets, belts, rolls, flap discs, fiber and pressure-sensitive adhesive discs.

15. Respondent is a “person,” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, and RCSA Section 22a-449(c)-100(c)(22).

16. Respondent’s facility in North Windham, CT is located on a 26-acre parcel of land, which includes a 500,000 square foot manufacturing building. Respondent has operated at this location since 1984, and currently employs a total of about 175 people who work in three separate shifts.

17. The facility and manufacturing building includes, among other areas: (a) the R & D Warehouse, where wastes are stored in the east end and along the south wall; (b) the Shipping Warehouse, which is divided into five separate bays that are separated by concrete slabs, and where wastes are stored in an area that Respondent refers to as the “Forgerini” area; (c) the Tool Crib, which includes a 275-gallon tank that supplies heating oil to twenty heating oil

burners located inside the facility; (d) the Machine Shop, where, among other things, aerosols are used; (e) the Mix Room, where various abrasive powders are mixed with liquids, dry phenolic resins and other substances, and then molded into various products; (f) a Cold Warehouse, which is a refrigerated warehouse; (g) a quality assurance/quality control laboratory ("QA/QC" Lab), where Respondent mixes resins that are used in its manufacturing processes; (h) an Oven Area, which includes 35 electric ovens that are used to cure Respondent's manufactured products; and (i) a Solvent Storage Room, where acetone and alcohol are distributed to the facility from drums that are located in this room.

18. At all times relevant to this Complaint, Respondent's manufacturing plant in North Windham, CT was a "facility," as defined in 40 C.F.R. § 260.10 and RCSA Section 22a-449(c)-100(c)(15).

19. At all times relevant to this Complaint, Respondent was an "owner" and/or "operator" of its North Windham, CT facility, as defined in 40 C.F.R. § 260.10.

20. At all times relevant to this Complaint, Respondent generated "solid wastes," as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), 40 C.F.R. §§ 260.10 and 261.2, and RCSA Section 22a-449(c)-100(b)(2).

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

22. On August 13 – 15, 2012, authorized representatives of EPA Region 1 conducted a RCRA compliance evaluation inspection of Respondent's facility ("Inspection"), pursuant to

Section 3007 of RCRA, 42 U.S.C. § 6927.

23. Based on the Inspection and other information contained in EPA's files, Complainant has identified the following violations at Respondent's facility:

#### **V. VIOLATIONS**

##### **Count 1 - Failure to Notify of Hazardous Waste Activity and to Obtain a Proper EPA Identification Number**

24. Complainant realleges and incorporates by reference Paragraphs 1 - 23.

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

26. Pursuant to RCRA Section 22a-449(c)-102(a)(1), a generator must comply with, among other requirements, 40 C.F.R. § 262.12. In addition, a generator that accumulates more than 1,000 kilograms (kg) of hazardous waste on-site at one time is classified as a large quantity generator under RCRA Section 22a-449(c)-102(a)(1).

27. Pursuant to 40 C.F.R. § 262.12(a), a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number. Pursuant to 40 C.F.R. § 262.12(b), a generator may obtain an EPA identification number from EPA.

28. At the time of the Inspection, EPA inspectors observed the following containers, which Respondent's employees stated contained wastes, in the following locations within Respondent's facility in North Windham, CT:

In the "Forgerini" Area of the Shipping Warehouse

- a. one blue 55-gallon drum labeled "Wilcut Alcohol" (i.e., ethanol and methanol) and "liquid resin";
- b. two 55-gallon drums, both labeled "Used Alcohol";
- c. one 55-gallon drum labeled "Used Acetone";
- d. two 5-gallon plastic buckets labeled "Used Ronci Dip Machine Fluid," with the words "naptha, isopropanol and N-propyl alcohol – Flammable" written on the tops of both containers;
- e. two approximately 1-gallon cans labeled "phenolic resin in solvent";
- f. one 5-gallon container labeled "N-propyl alcohol";
- g. one seven to eight-gallon container with a label in a language other than English (which appeared to state that benzene, toluene and xylene were among its contents);
- h. one 5-gallon container labeled "sodium hydroxide";
- i. one 5-gallon container labeled "ship shape resin cleaner";
- j. one 5-gallon container labeled "corrosive, alkaline liquid material (organosilane ester)";
- k. one small box containing four one-pint cans each labeled "Devcon FL-10 Primer" (which contains isopropanol, methyl isobutyl ketone, phenolic resin, toluene and ethanol; and has a flash point of 55°F), with a "use by" date of 10/29/2009;
- l. one 55-gallon drum labeled "Waste Oil-based Paint."

In the Tool Crib

In the corner of the Tool Crib, there was a 55-gallon drum with an open bung.

Respondent's employee stated that this drum contained waste fuel oil. There was an acetone product label on the side of the drum.

In the QA/QC Lab

In a cabinet under the lab sink, there was a 5-gallon container that contained, according to Respondent's employee, a mixture of acetone and alcohol.

In the Solvent Storage Room

In the Solvent Storage Room, there was (a) one 55-gallon drum labeled “used alcohol, flammable liquid” and (b) one 55-gallon drum labeled “used acetone, flammable liquid.”

29. Based on the labels on the containers, and the statements of Respondent’s employees regarding the contents of the drums, all of the containers listed in Paragraph 28 above, contained hazardous waste. In addition, based on the size of the containers, the volume of hazardous waste accumulated on-site as listed in Paragraph 28 above, was over 1,750 kg. Because this volume exceeded 1,000 kg, Respondent was, at all times relevant to this Complaint, a large quantity generator.

30. Since at least the date of the Inspection until the date of filing this Complaint, Respondent failed to notify EPA or the Connecticut Department of Energy & Environmental Protection (“CT DEEP”) of its hazardous waste activity.

31. Since at least the date of the Inspection until the date of filing this Complaint, Respondent stored, disposed of, or offered for transportation, hazardous waste without having received an EPA identification number. Instead, based on a review of Respondent’s manifest records, Respondent had been improperly using either identification number CVS 024248900, for off-site shipments to Safety Kleen, or identification number CTCRW9999999, for off-site shipments to The Environmental Quality Company (“EQ”). The identification number used by Respondent for shipments to Safety Kleen is a number reserved for Conditionally Exempt Small Quantity Generators (“CESQGs”) in Connecticut, and was improperly used by Respondent, a large quantity generator. The identification number used by Respondent for shipments to EQ is

not a valid number, and was improperly used by Respondent.

32. Respondent's failure to file a notification of its hazardous waste activity and to obtain an EPA identification number since at least the date of the Inspection until the date of filing of this Complaint violates Sections 3002 and 3010 of RCRA and RCRA Section 22a-449(c)-102(a)(1) (which incorporates by reference 40 C.F.R. § 262.12).

**Count 2 - Failure to Maintain Adequate Hazardous Training Documentation and Failure to Provide Adequate Training for Each Employee Managing Hazardous Waste**

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

34. Pursuant to RCRA Section 22a-449(c)102(a)(2)(K), a generator must comply with, among other things, 40 C.F.R. § 265.16.

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

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

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

38. Pursuant to 40 C.F.R. § 265.16(c), employees who manage hazardous wastes

must also take part in an annual review of the training (i.e., "annual RCRA training").

39. Pursuant to 40 C.F.R. § 265.16(d), the owner or operator of a facility must maintain the following documents and records at the facility: (1) the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) a written job description for each position at the facility related to hazardous waste management; and (3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management. In addition, the owner or operator of a facility must maintain records that document that the training or job experience required under 40 C.F.R. §§ 265.16(a), (b), and (c) has been given to, and completed by, facility personnel.

40. At the time of the Inspection, two of Respondent's employees that manage hazardous waste stated to EPA inspectors that they had not received any training in hazardous waste management procedures.

41. At the time of the Inspection, Respondent failed to provide documentation to establish that it maintained a current listing of job titles for each position at the facility related to hazardous waste management, and the name of the employees filling each job; that it maintained a current written job description for each position at the facility related to hazardous waste management; and that it maintained a written description of the type and amount of both introductory and continuing training that was to be given to each person required to have training.

42. Respondent provided no documentation showing that anyone at the facility

received any hazardous waste training. Training would be required for those individuals with hazardous waste responsibilities, including the signing of manifests. The following personnel of Respondent signed manifests that were reviewed by EPA inspectors:

Sandra Fredrickson  
Frank Silvestri  
Robert Rose  
Edward Fabrizio  
Bill Howlen  
Steven Coletti  
Michael Callahan  
Forest Vititoe  
Jim Couture

43. Respondent's failure to implement a training program directed by a person trained in hazardous waste management procedures, and to maintain adequate hazardous waste personnel and training documentation, violates 3002 of RCRA and RCRA Section 22a-449(c)-102(a)(2)(K) (which incorporates by reference 40 C.F.R. § 265.16).

**Count 3 - Failure to Develop a Hazardous Waste Inspection Program and to Conduct and Document Weekly Inspections of Hazardous Waste Containers**

44. Complainant realleges and incorporates by reference Paragraphs 1 - 43.

45. Pursuant to RCRA Section 22a-449(c)-102(b)(2), a generator must comply with, among other requirements, 40 C.F.R. § 265.15 for all hazardous waste storage areas.

46. Pursuant to 40 C.F.R. § 265.15(a), an owner or operator must inspect its facility for malfunctions, deterioration, operator errors and discharges which may be causing or may lead to a release of hazardous waste constituents to the environment or a threat to human health. Pursuant to 40 C.F.R. § 265.15(b), an owner or operator must develop and follow a written schedule for inspections, the inspection schedule must be kept at the facility, and the

inspection schedule must identify the types of problems looked at and the frequency of the inspections for each item. Pursuant to 40 C.F.R. § 265.15(c), an owner or operator must remedy any deterioration or malfunction which is discovered during an inspection. Pursuant to 40 C.F.R. § 265.15(d), an owner or operator must record inspections in a log or summary and keep the inspection records for at least three years from the date of the inspection.

47. At the time of the Inspection, Respondents maintained two hazardous waste storage areas (“HWSAs”) that required inspection: one located in the “Forgerini” area of the Shipping Warehouse and one located in the Solvent Storage Room. Respondent’s personnel stated to EPA inspectors that Respondent did not perform inspections of these two HWSAs. At the time of the Inspection, Respondent had no records documenting any inspections or any inspection schedule.

48. Respondent’s failure to conduct inspections, develop and follow a written inspection schedule or record any inspections violates Section 3002 of RCRA and RCRA Section 22a-449(c)-102(b)(2) (which incorporates by reference 40 C.F.R. § 265.15).

**Count 4 – Failure to Maintain an Adequate Contingency Plan**

49. Complainant realleges and incorporates by reference Paragraphs 1 - 48.

50. Pursuant to RCRA Section 22a-449(c)-102(a)(1), a generator must comply with 40 C.F.R. § 262.34(a)(4).

51. Pursuant to 40 C.F.R. § 262.34(a)(4), a generator must comply with, among other requirements, the provisions of 40 C.F.R. Part 265, Subpart D.

52. Pursuant to 40 C.F.R. § 265.51(a), an owner or operator must have a contingency

plan for his facility. The plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil or surface water. Pursuant to 40 C.F.R. § 265.52(b), the contingency plan must describe the actions facility personnel must take to comply with 40 C.F.R. §§ 265.51 and 265.56 (requirements for emergency procedures) in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil or surface water at the facility. Pursuant to 40 C.F.R. § 265.52(b), if the owner or operator already has a Spill Prevention, Control, and Countermeasures ("SPCC") Plan or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of 40 C.F.R. Part 265, Subpart D. Pursuant to 40 C.F.R. § 265.52(c), the contingency plan must describe arrangements agreed to by local police and fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services. Pursuant to 40 C.F.R. § 265.52(d), the contingency plan must list names, addresses, and office and home phone numbers of all persons qualified to act as emergency coordinator and the list must be kept up to date. If more than one person is listed, one must be named a primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. Pursuant to 40 C.F.R. § 265.52(e), the contingency plan must: include a list of all emergency equipment at the facility; be kept up to date; and include the location and a physical description of each item of equipment on that list, and a brief outline of its capabilities. Pursuant to 40 C.F.R. § 265.52(f), the contingency plan must include an evacuation plan for facility personnel. The plan must describe signal(s) to be

used to begin an evacuation, evacuation routes, and alternate evacuation routes.

53. At the time of the Inspection, Respondent did not have an adequate contingency plan for its facility. Respondent's employees provided EPA Region 1 with an emergency action plan for the facility that was over ten years old, and, among other things, did not reflect major layout changes and additions to the facility buildings, changes in personnel, a designation of primary or alternate emergency coordinators, a list of emergency equipment, or arrangements with local emergency response providers to coordinate emergency services.

54. Respondent's failure to maintain an adequate contingency plan violates Section 3002 of RCRA and RCMA Section 22a-449(c)-102(a)(1) (which incorporates by reference 40 C.F.R. § 262.34(a)(4), which references 40 C.F.R. Part 265, Subpart D).

**Count 5 – Failure to Properly Determine if a Waste is a Hazardous Waste**

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

56. Pursuant to RCMA Section 22a-449(c)-102(a)(1), a generator must comply with, among other requirements, 40 C.F.R. § 262.11. Pursuant to RCMA 22a-449(c)-119(a)(1), a generator must comply with, among other requirements, 40 C.F.R. Part 279 (except as otherwise provided in RCMA 22a-449(c)-119(a)(1)).

57. Pursuant to 40 C.F.R. § 262.11, a person who generates a solid waste must determine if that waste is hazardous.

58. Pursuant to 40 C.F.R. Part 279, a generator of used oil must manage this waste stream as provided in these regulations, unless the used oil is shown not to exceed any of the allowable levels of constituents provided in 40 C.F.R. § 279.11, Table 1.

59. At the time of the Inspection, Respondent had not determined whether or not the following solid wastes were hazardous or had not identified all of the hazardous constituents or hazardous waste characteristics in the following solid wastes:

(A) Aerosols

At the time of the Inspection, there were numerous aerosol cans, including aerosol cans containing chlorinated and fluorinated solvents, flammable products, and heavy metals, throughout the facility, including, but not limited to, the R & D Warehouse and the Machine Shop. These aerosol products contained chemical various constituents, as stated on aerosol can labels, such as 1,1,1 - trichloroethane, 1,1,1,2 - tetrafluoroethane, dichlorofluoroethane, pentane, butane, propane, acetone, xylene, mineral spirits, toluene, ethyl benzene, n-butyl acetate, trimethylbenzene, liquid petroleum gas and barium sulfate. Respondent did not have any documentation of a waste determination, or disposal manifests, for this waste stream.

(B) Solvents

Respondent's manufacturing process uses materials that contain heavy metals. At the time of the Inspection, solvents were in use at the facility for a variety of cleaning operations. Respondent provided hazardous waste manifests reporting that it had sent waste solvent off-site for disposal as a D001 hazardous waste. However, Respondent had no documentation of any analysis of this waste stream to determine whether solvents were cross contaminated with any heavy metals.

(A) Oils

At the time of the Inspection, Respondent generated oil in several processes performed at

the facility. Respondent collected and managed its used oil. However, Respondent had no documentation of any analysis of the used oil waste stream to determine whether the oils were cross contaminated, hazardous, or below the used oil specification levels found in 40 C.F.R. § 279, Table 1. By definition in Connecticut, Respondent's used oil is classified as off-specification and must adhere to 40 C.F.R. Part 279 standards.

60. Respondent's failure to determine whether or not the wastes described in Paragraph 59 were hazardous and to identify all of the hazardous constituents in these wastes violates Sections 3002 and 3014 of RCRA, RCSA Section 22a-449(c)-102(c) (which incorporates by reference 40 C.F.R. § 262.11).

**Count 6 – Failure to Provide Adequate Secondary Containment for Containers of Hazardous Waste**

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

62. Pursuant to RCSA Sections 22a-449(c)-102(a)(2)(E), a generator must comply with, among other requirements, 40 C.F.R. § 264.175.

63. Pursuant to 40 C.F.R. § 264.175, all container storage areas must have a containment system with a base free of cracks and gaps and sufficiently impervious to contain leaks, spills and accumulated precipitation until the collected material is detected and removed. The containment system must have sufficient capacity to contain 10% of the volume of the containers or the volume of the largest container, whichever is larger.

64. At the time of the Inspection, in the "Forgerini" area of the Shipping Warehouse, Respondent failed to provide secondary containment for hazardous waste containers labeled as follows:

- a. two approximately 1-gallon cans labeled "phenolic resin in solvent";
- b. one 5-gallon container labeled "N-propyl alcohol";
- c. one seven to eight-gallon container with a label in a language other than English (which appeared to state that benzene, toluene and xylene were among its contents);
- d. one 5-gallon container labeled "sodium hydroxide";
- e. one 5-gallon container labeled "ship shape resin cleaner";
- f. one 5-gallon container labeled "corrosive, alkaline liquid material (organosilane ester)";
- g. one small box containing four one-pint cans each labeled "Devcon FL-10 Primer" (which contains isopropanol, methyl isobutyl ketone, phenolic resin, toluene and ethanol; and has a flash point of 55°F), with a "use by" date of 10/29/2009;
- h. one 55-gallon drum labeled "Waste Oil-based Paint," with an opppen funnel in the top bung.

The concrete floor in the "Forgerini" area of the Shipping Warehouse was made up of slab sections with gaps between each slab.

65. Respondent's failure to have a containment system that was designed and operated in accordance with 40 C.F.R. § 264.175 for the wastes listed in Paragraph 64 violates Section 3002 of RCRA and RCSA Section 221-449(c)-102(c) (which incorporates by reference 40 C.F.R. § 262.175).

**Count 7 – Failure to Label or Mark Containers Holding Hazardous Waste with the Words "Hazardous Waste," and with Other Words That Identify the Contents of the Containers**

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

67. Pursuant to RCSA Section 22a-449(c)-102(a)(2), a generator must comply with, among other requirements, 40 C.F.R. § 262.34(a)(3), as modified by RCSA Section 22a-449(c)-102(a)(2)(J), and 40 C.F.R. § 262.34(c)(1)(ii), as modified by RCSA Section 22a-449(c)-102(a)(2)(N).

68. Pursuant to 40 C.F.R. § 262.34(a)(3), as modified by RCSA Section 22a-449(c)-

102(a)(2)(J), a generator may accumulate hazardous waste on-site for 90-days or less without a permit provided, among other requirements, the generator marks each container with the words "Hazardous Waste." Each container shall also be marked with other words that identify the contents of such container, such as "flammable", "acid", "alkaline", "cyanide", "reactive", "explosive", "halogenated solvent" or the chemical name.

69. Pursuant to 40 C.F.R. § 262.34(c)(1)(ii), as modified by RCRA Section 22a-449(c)-102(a)(2)(N), a generator may accumulate up to 55 gallons of hazardous waste in containers at or near any point of generation where waste initially accumulates provided the generator marks the containers with the words "Hazardous Waste." Each container shall also be marked with other words that identify the contents of such container such as "flammable", "acid", "alkaline", "cyanide", "reactive", "explosive", "halogenated solvent" or the chemical name.

70. At the time of the Inspection, Respondent failed to mark the following hazardous waste containers with the words "Hazardous Waste":

In the "Forgerini" Area of the Shipping Warehouse

- a. one blue 55-gallon drum labeled "Wilcut Alcohol" (i.e., ethanol and methanol) and "liquid resin";
- b. two 55-gallon drums, both labeled "Used Alcohol";
- c. one 55-gallon drum labeled "Used Acetone";
- d. two 5-gallon plastic buckets labeled "Used Ronci Dip Machine Fluid," with the words "naptha, isopropanol and N-propyl alcohol – Flammable" written on the tops of both containers;
- e. two approximately 1-gallon cans labeled "phenolic resin in solvent";
- f. one 5-gallon container labeled "N-propyl alcohol";
- g. one seven to eight-gallon container with a label in a language other than English (which appeared to state that benzene, toluene and xylene were among its contents);
- h. one 5-gallon container labeled "sodium hydroxide";
- i. one 5-gallon container labeled "ship shape resin cleaner";
- j. one 5-gallon container labeled "corrosive, alkaline liquid material (organosilane ester)";

- k. one small box containing four one-pint cans each labeled "Devcon FL-10 Primer" (which contains isopropanol, methyl isobutyl ketone, phenolic resin, toluene and ethanol; and has a flash point of 55°F), with a "use by" date of 10/29/2009;
- l. one 55-gallon drum labeled "Waste Oil-based Paint."

#### In the Tool Crib

In the corner of the Tool Crib, there was a drum with an open bung. Respondent's employee stated that this drum contained waste fuel oil. There was an acetone product label on the side of the drum.

#### In the QA/QC Lab

In a cabinet under the lab sink, there was an unlabeled 5-gallon container with secondary containment. According to Respondent's employee, Respondent tests resin mixes in containers in the QA/QC Lab. When the tests are completed, Respondent rinses the containers used in the testing process with acetone and alcohol, and places the waste liquid from the rinsing process into the unlabeled 5-gallon container. Periodically, Respondent empties this 5-gallon container into a drum located in the HWSA in the Forgerini Area that is labeled resin and alcohol.

#### In the Solvent Storage Room

In the Solvent Storage Room, there was one 55-gallon drum labeled "used alcohol, flammable liquid" and one 55-gallon drum labeled "used acetone, flammable liquid."

71. Respondent's failure to label each of the containers described in Paragraph 70 with the words "Hazardous Waste" violates Section 3002 of RCRA and RCMA Section 22a-449(c) 102(a)(2) (which incorporates 40 C.F.R. § 262.34(a)(3), as modified by RCMA Section 22a-449(c)-102(a)(2)(J), and 40 C.F.R. § 262.34(c)(1)(ii), as modified by RCMA Section 22a-449(c)-102(a)(2)(N)).

**Count 8 – Failure to Properly Mark or Label Hazardous Waste Containers with the Beginning Accumulation Date**

72. Complainant realleges and incorporates by reference Paragraphs 1 - 71.

73. Pursuant to RCRA Section 22a-449(c)-102(a)(1), a generator must comply with, among other requirements, 40 C.F.R. § 262.34(a)(2).

74. Pursuant to 40 C.F.R. § 262.34(a)(2), a generator may accumulate hazardous waste on-site for 90-days or less without a permit provided, among other requirements, the generator clearly marks each hazardous waste container with the date accumulation begins.

75. At the time of the Inspection, Respondents failed to mark the following hazardous waste containers with the start date of accumulation:

**In the “Forgerini” Area**

- a. one blue 55-gallon drum labeled “Wilcut Alcohol” (i.e., ethanol and methanol) and “liquid resin”;
- b. two 55-gallon drums, both labeled “Used Alcohol”;
- c. one 55-gallon drum labeled “Used Acetone”;
- d. two approximately 1-gallon cans labeled “phenolic resin in solvent”;
- e. one 5-gallon container labeled “N-propyl alcohol”;
- f. one seven to eight-gallon container with a label in a language other than English (which appeared to state that benzene, toluene and xylene were among its contents);
- g. one 5-gallon container labeled “sodium hydroxide”;
- h. one 5-gallon container labeled “ship shape resin cleaner”;
- i. one 5-gallon container labeled “corrosive, alkaline liquid material (organosilane ester)”;
- j. one small box containing four one-pint cans each labeled “Devcon FL-10 Primer” (which contains isopropanol, methyl isobutyl ketone, phenolic resin, toluene and ethanol; and has a flash point of 55°F), with a “use by” date of 10/29/2009; one 55-gallon drum labeled “Waste Oil-based Paint.”

In the Solvent Storage Room

In the Solvent Storage Room, there was one 55-gallon drum labeled "used alcohol, flammable liquid" and one 55-gallon drum labeled "used acetone, flammable liquid."

76. Respondent's failure to mark the hazardous waste containers described in Paragraph 75 with the start date of accumulation violates Section 3002 of RCRA and RCSEA Section 22a-449(c)-102(a)(1) (which incorporates by reference 40 C.F.R. § 262.34(a)(2)).

**Count 9-- Failure to Store Containers of Ignitable Hazardous Waste in a Manner That Prevents Accidental Ignition or Reaction of the Waste.**

77. Complainant realleges and incorporates by reference Paragraphs 1 - 76.

78. Pursuant to RCSEA Sections 22a-449(c)-102(a)(2)(K), a generator must comply with, among other requirements, 40 C.F.R. § 262.34(a)(4) and 40 C.F.R. § 265.17.

79. Pursuant to 40 C.F.R. § 265.17, an owner or operator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive hazardous waste at the facility. This waste must be separated and protected from sources of ignition including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical or mechanical), spontaneous reaction and radiant heat. In addition, "No Smoking" signs shall be conspicuously placed wherever there is a potential or actual hazard from ignitable or reactive waste.

80. At the time of the Inspection, Respondent held the following ignitable wastes in containers that were left open: (a) In the "Forgerini" area, there was one 55-gallon drum that was labeled "Waste Oil-based Paint," with an open funnel in the open top bung of this container; (b) In the Solvent Storage Room, there was one 55-gallon waste drum labeled "used alcohol,

flammable liquid,” which was an open drum with a plastic funnel in the bung, and one 55-gallon waste drum labeled “used acetone, flammable liquid,” which was an open drum with a plastic funnel in the bung; and (c) In the Tool Crib, there was one 55-gallon drum in the corner of the room, containing waste fuel oil with an open bung. None of the above-described containers were grounded. In addition, none of the areas of the facility where these containers were located had “No Smoking” signs.

81. Respondent’s failure to take precautions to prevent ignition or reaction of ignitable waste by holding such waste in open containers, without proper grounding, and without “No Smoking” signs, violates Section 3002 of RCRA and RCRA Section 22(a)-449(c)-102(a)(2)(K) (which incorporates by reference 40 C.F.R. §§ 262.34(a)(4) and 265.17).

**Count 10 -- Failure to Properly Manage Universal Wastes**

82. Complainant realleges and incorporates by reference Paragraphs 1 - 81.

83. Pursuant to RCRA Sections 22a-449(c)-113(a), a generator must comply with, among other requirements, 40 C.F.R. Part 273, 22a-449(c)-113(b), and 22a-449(c)-113(c).

84. Pursuant to 40 C.F.R. § 273.13(d), a small quantity handler (SQH) of universal waste (UW) must manage lamps in a way that prevents releases of any UW or component of a UW to the environment as follows: a SQH must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers must remain closed. A SQH of UW must immediately clean up and place in a container any lamp that is broken and must place in a container any lamps that show evidence of breakage, leakage or damage.

85. Pursuant to 40 C.F.R. § 273.15(c), a SQH of UW who accumulates UW must be able to demonstrate the length of time that the UW has been accumulated.

86. Pursuant to 40 C.F.R. § 273.17, a SQH of UW must immediately contain all releases of UW and other residues from UW.

87. Pursuant to 40 C.F.R. § 273.18, a SQH of UW is prohibited from sending or taking UW to a place other than another UW handler, a destination facility, or a foreign destination.

88. Pursuant to 22a-449(c)-113(b), used electronics exhibiting a characteristic found in 40 C.F.R. Part 261, Subpart C are subject to 22a-449(c)-113(a) (Standards for UW Management) and 22a-449(c)-113(c) (Standards for SQH of Used Electronics).

89. At the time of the Inspection, the following universal wastes were stored in the east end of the R & D Warehouse: There were three boxes of universal waste bulbs. Two were open, and undated. One of these was a four foot box with some longer bulbs sticking out of the top. This box also had several broken bulbs inside the box. The third box was undated. There were broken bulbs on the floor in this area. There were also approximately five electronic ballasts on the floor that were not containerized, labeled, or dated. Seven cathode ray tubes ("CRTs") were stacked in this location; they were not containerized, labeled, or dated. In addition, there was a large box, approximately three quarters full of electronic universal wastes. This box was unlabeled and undated.

90. At the time of the Inspection, the following universal wastes were stored in the HWSA in the "Forgerini" Area, in the lower portion of Bay 5: There were two boxes of lamps;

one was closed and one was opened. The words "waste lamps" was written on the side of each of the two boxes. The box that was closed had "keep closed 8/14/12, D.V." written on it. The box that was opened was undated. There was also a box of waste electronic ballasts that was marked with the date "2012." In addition, there were seven electronic ballasts lying directly on a pallet, and not contained in a box.

91. At the time of the Inspection, Respondent failed to produce any documentation of shipping records concerning off-site shipments of UW. According to Respondent's employee, Respondent disposes of electronic wastes at the local Department of Public Works and places these wastes in the town's collection area.

92. Respondent's failure to properly manage UW, including, but not limited to, by leaving UW in open containers, by failing to demonstrate the length of time that the UW was accumulated, by leaving broken bulbs on the floor, and by disposing of UW at facility that was not a UW handler, violates Section 3002 of RCRA and RCMA Sections 22a-449(c)-113(a) (which incorporates by reference 40 C.F.R. Part 273), 22a-449(c)-113(b), and 22a-449(c)-113(c).

**Count 11 – Failure to send land disposal restrictions notifications with off-site shipments of hazardous wastes**

93. Complainant realleges and incorporates by reference Paragraphs 1 - 92.

94. Pursuant to RCMA Sections 22a-449(c)-108(a), a generator must comply with, among other requirements, 40 C.F.R. Part 268 (Land Disposal Restrictions or LDRs).

95. Pursuant to 40 C.F.R. § 268.7(a), in order to ensure that hazardous wastes are appropriately treated before disposal in a landfill, generators must determine if their hazardous wastes are subject to the LDRs, and if so whether the treatment standards have been met for

those wastes. Where treatment standards have not been met, the generator must submit a form to the treatment/storage/disposal facility (TSDF) to which the generator is sending the hazardous wastes along with the hazardous waste. Generators may send an initial one-time notice to the TSDF that the waste does not meet the appropriate treatment standards. If the waste changes or the TSDF changes, the notice has to be resent to document the changes. The generator shall retain copies of each LDR notification and certification it sends in their files at the location the waste is generated.

96. At the time of the Inspection, EPA inspectors reviewed Respondent's manifest and LDR packages for the years 2009, 2010, 2011 and 2012. One of the transporters/TSDFs that Respondent used during this period was Safety Kleen. EPA inspectors reviewed documentation concerning thirty (30) shipments to Safety Kleen from the period 2009 - 2012. The nature of the waste reported on the manifests did change during that time period. None of the shipments included any LDR notification or certification. There was no documentation of any one-time certification in Respondent's files.

97. Respondent's failure to send land disposal restriction notifications with off-site shipments of hazardous waste violates Section 3004 of RCRA and RCRA Section 22a-449(c)-108(a) (which incorporates by reference 40 C.F.R. Part 268).

**Count 12 -- Failure to correctly use a manifest**

98. Complainant realleges and incorporates by reference Paragraphs 1 - 97.

99. Pursuant to RCRA Sections 22a-449(c)-102(a), a generator must comply with, among other requirements, 40 C.F.R. §§ 262.20 through 262.27, and 262.42.

100. Pursuant to 40 C.F.R. Part 262.23, there is a prescribed process for preparing and using hazardous waste manifests.

101. As described in Paragraph 31 above, Respondent shipped waste off-site using a manifest that included an incorrect identification number.

102. Respondent also failed to maintain legible copies of the following five manifests:

- a. Manifest # 00270597SKS, 4/15/12 was not completely legible. The facility signature could not be read.
- b. Manifest # 00264613SKS, 5/28/10 was not legible. The only legible pieces of information on the manifest were the manifest number and the date.
- c. Manifest #000326539CEX did not have a legible date.
- d. Manifest #002117839SKS did not have a legible date.
- e. Manifest #00206857SKS did not have a legible date.

103. Respondent failed to maintain legible copies and return copies for the following two manifests: #003626998FLE and #004269340FLE.

104. Respondent failed to obtain return copies of manifests from the disposal facility, and failed to file exception reports for the following fifteen manifests, five of which also contained an illegible date:

- a. Manifest #002712725SKS, 12/8/11.
- b. Manifest #004331242FLE, 10/7/11.
- c. Manifest #003647053FLE, 1/6/11.
- d. Manifest #004288536FLE, 2/8/11.
- e. Manifest #000326539CEX, unreadable date.
- f. Manifest #000305779CEX, 12/8/09.
- g. Manifest #002097092SKS, 8/24/09.
- h. Manifest #002068573SKS, unreadable date.
- i. Manifest #002117839SKS, unreadable date.
- j. Manifest #002750597SKS, 4/5/12.
- k. Manifest #002777841SKS, 2/6/12.
- l. Manifest #003626998FLE, unreadable date.
- m. Manifest #004269340FLE, unreadable date.

- n. Manifest #008231767FLE, 2/9/11
- o. Manifest #008231768FLE, 2/9/11

105. Respondent's failure to correctly use manifests, including by using an incorrect identification number, failing to maintain legible manifests, failing to obtain return copies, and failing to file exception reports, violates Section 3002 of RCRA and RCMA Section 22a-449(c)-102(a) (which incorporates by reference 40 C.F.R. §§ 262.20 - 262.27 and 262.42).

#### VI. PROPOSED PENALTY

106. 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.

107. By this Complaint, Complainant seeks to assess Respondent a total civil penalty of \$284,699. The calculation of the proposed penalty is explained in detail in Attachment 1 to this Complaint, and is summarized as follows:

|   |           |
|---|-----------|
| 1. Notification of Hazardous Waste Activity   | \$ 32,915 |
| 2. Hazardous Waste Training and Documentation | \$ 37,500 |
| 3. Inspections                                | \$ 65,830 |
| 4. Emergency Preparedness                     | \$ 24,790 |
| 5. Hazardous Waste Determination              | \$ 26,999 |
| 6. Secondary Containment                      | \$ 9,210  |
| 7. Mark as "Hazardous Waste"                  | \$ 13,455 |

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|   |                  |
|---|------------------|
| 8. Mark with Accumulation Date              | \$ 13,455        |
| 9. Ignitable Hazardous Waste                | \$ 9,210         |
| 10. Management of Universal Wastes          | \$ 32,915        |
| 11. Land Disposal Restriction Notifications | \$ 9,210         |
| 12. <u>Incorrect Manifests</u>              | \$ 9,210         |
| <b>Total Proposed Penalty</b>               | <b>\$284,699</b> |

Quick Resolution

108. 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-01-2013-0072") 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:

Audrey Zucker, Esq.  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100 (OES 04-2)  
Boston, Massachusetts 02109-3912

## **VII. COMPLIANCE ORDER**

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

109. Respondent shall achieve and maintain compliance with all applicable requirements of RCRA and RCSA. Specifically, upon receipt of this Order, Respondent shall comply with the following requirements:

a. Immediately upon receipt of this Order and in accordance with Section 3010 of RCRA and RCSA Section 22a-449(c)-102(a), Respondent shall submit notification of its hazardous waste activity to the Connecticut Department of Energy & Environmental Protection ("CT DEEP") and obtain an EPA identification number, and shall not offer waste for shipment for disposal without such an ID number. See 40 C.F.R. § 262.12.

b. Within sixty (60) days of receipt of this Order and in accordance with RCSA Section 22a-449(c)-102(K), Respondent shall develop and implement a training program directed by a person trained in hazardous waste management procedure, and maintain adequate hazardous waste personnel and training documentation. See 40 C.F.R. § 265.16.

c. Within thirty (30) days of receipt of this Order and in accordance with RCSA Section 22a-449(c)-102(b)(2), Respondent shall develop and follow a written plan for inspections. Respondent shall inspect hazardous waste storage areas at least weekly, looking for leaks in the containers and for deterioration of the containers and the containment system. Respondent shall also inspect its facility at least weekly for malfunctions and deterioration, operator errors, and discharges which may be causing or may lead to the release of hazardous waste constituents to

the environment or a threat to human health. In addition, Respondent shall record inspections in an inspection log or summary and must keep these records for at least three years from the time of the inspection. See 40 C.F.R. § 265.15.

d. Within forty-five (45) days of receipt of this Order and in accordance with RCSA Section 22a-449(c)-102(a), Respondent shall develop and implement a contingency plan. As part of this plan, Respondent shall designate at least one person qualified to act as emergency coordinator for the facility. In addition, among other requirements, Respondent's contingency plan shall include an evacuation plan and a list of all emergency equipment at the facility. See 40 C.F.R. §§ 265.51 and 265.52.

e. Within sixty (60) days of receipt of this Order and in accordance with RCSA Section 22a-449(c)-102(a)(1), Respondent shall make hazardous waste determinations with respect to all solid wastes. See 40 C.F.R. § 262.11.

f. Within thirty (30) days of receipt of this Order and in accordance with RCSA Section 22a-449(c)-102(a)(2)(E), Respondent must ensure that its container storage areas have a containment system that is designed and operated in accordance with 40 C.F.R. § 264.175(b). See 40 C.F.R. § 264.175.

g. Immediately upon receipt of this Order and in accordance with RCSA Section 22a-449(c)-101(a)(2), Respondent shall label or mark all hazardous waste containers clearly with the words "Hazardous Waste" and with other words that identify the contents of the container, such as "flammable," "acid," "halogenated solvent," or the chemical name. See 40 C.F.R. §§ 262.34(a)(3), as modified by RCSA Section 22a-449(c)-102(a)(2)(N).

h. Immediately upon receipt of this Order and in accordance with RCRA Section 22a-449(c)-102(a)(1), Respondent shall mark all hazardous waste containers clearly with the accumulation start date. See 40 C.F.R. § 262.34(a)(2).

i. Immediately upon receipt of this Order and in accordance with RCRA Section 22a-449(c)-102(a)(2)(K), Respondent shall take precautions to prevent accidental ignition or reaction of ignitable or reactive hazardous waste at the facility. See 40 C.F.R. §§ 262.34(a)(4) and 265.17.

j. Immediately upon receipt of this Order and in accordance with RCRA Section 22a-449(c)-113(a), Respondent shall manage UW in a way that prevents releases of any UW or component of a UW to the environment. See 40 C.F.R. Part 273.

k. Immediately upon receipt of this Order and in accordance with RCRA Section 22a-449(c)-108(a), Respondent shall send land disposal restriction notifications with off-site shipments of hazardous waste. See 40 C.F.R. § 268.7(a).

l. Immediately upon receipt of this Order and in accordance with RCRA Section 22a-449(c)-102(a), Respondent shall correctly use and maintain copies of manifests. See 40 C.F.R. § 262.23.

110. Within seventy (70) 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 109. Any notice of noncompliance with the requirements of Paragraph 109 shall state the reasons for the noncompliance and when compliance is expected. Notice of noncompliance will in no way

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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:

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

111. If Respondent fails to comply with the requirements of this Order within the time specified, Section 3008(c) of RCRA and the DCIA provide 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.

112. 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**

113. 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**

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**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.

114. 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.

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

Audrey Zucker, Esq.  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100 (OES 04-2)  
Boston, Massachusetts 02109-3912

116. 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.

#### **IX. SETTLEMENT CONFERENCE**

117. 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.

118. 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 Audrey Zucker, Esq., at (617) 918-1788 or [zucker.audrey@epa.gov](mailto:zucker.audrey@epa.gov).

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**X. EFFECTIVE DATE**

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



Date: 9/26/13

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

**Attachment 1**  
**Explanation of Penalty Calculation**  
**In the Matter of United Abrasives, Inc.**  
**North Windham, CT**

**Administrative Complaint**  
**EPA Docket No. RCRA-01-2013-0072**

The following discussion provides a justification for the proposed penalty against United Abrasives, Inc. ("United") for violations of certain requirements of the Resource Conservation and Recovery Act (RCRA), the Hazardous and Solid Waste Amendments of 1984 ("HSWA") and the State of Connecticut Hazardous Waste Management Regulations. Respondent operates a facility at 185 Boston Post Road, North Windham, CT.

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.*, as well as 40 C.F.R. Part 19.

The following RCRA violations were documented during an EPA Compliance Evaluation Inspection ("CEI") conducted at United's facility on August 13 through 15, 2012:

**SUMMARY OF VIOLATIONS**

**1. Failure to Notify of Hazardous Waste Activities and Failure to Obtain a Proper EPA Identification Number.**

Since at least the time of the inspection until the date of filing of the Complaint, United failed to notify EPA or CT DEEP of its hazardous waste activity, and failed to obtain a proper EPA identification number. United had drums of hazardous waste in the "Forgerini" area within its Shipping Warehouse, within the Tool Crib, within its laboratory, and within the Solvent Storage Room. The wastes included waste acetone, waste fuel oil, and used alcohol, with a total volume over 1750 kg. United's manifests for off-site shipments of hazardous waste did not include valid EPA identification numbers.

**Penalty Assessment**

(a) Potential for Harm – Major

Justification - Failure to notify of hazardous waste activities and obtain an identification number violates a 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

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disposal. Failure to notify of hazardous waste activities and obtain an identification number creates a major potential for harm to the regulatory program. Due to the fact that numerous violations were identified at this facility, there was a substantial risk of harm posed to human health and the environment. The potential for harm is major.

(b) Extent of Deviation - Major

Justification - United did not make an effort to contact CTDEEP or EPA to obtain a valid identification number and notify of operations at this facility. The extent of deviation is major.

(c) Penalty Assessment<sup>1</sup>

EPA has determined that United's violation of these requirements warrants a classification of Major/Major.

(1) Matrix Cell Range<sup>2</sup> (gravity-based penalty) \$28,330 - \$37,500.

**Penalty Amount: \$32,915** (mid-point)

(2) Multiple/Multi-day Assessment

No multiple/multi-day penalties are being assessed.

**TOTAL PENALTY AMOUNT: \$32,915**

2. **Failure to Maintain Adequate Hazardous Waste Training Documentation and Failure to Provide Adequate Training for Each Employee Managing Hazardous Waste.**

At the time of the inspection, United did not have a training program that was directed by a person trained in hazardous waste management procedures, and that includes instruction which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed. United failed to maintain a current

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<sup>1</sup>When determining the gravity-based penalty of a violation in accordance with the Policy, EPA considers two factors: the violation's potential for harm and its extent of deviation from the requirements.

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

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listing of job titles for each position at the facility related to hazardous waste management, and the name of the employees filling each job. The facility failed to maintain a current written job description for each position at the facility related to hazardous waste management. United failed to maintain a written description of the type and amount of both introductory and continuing training that will be given to each person required to have training.

The EPA inspection team asked for RCRA training records for the previous three years (2009 through 2011). United could not produce any records of any hazardous waste training. The facility did not have any training plans that document who needs RCRA training, what job descriptions need training or the amount or type of training needed. There was no documentation that anyone at the facility received any training on the facility's Emergency Action Plan.

#### **Penalty Assessment**

(a) **Potential for Harm – Major**

Justification - The failure to develop and maintain a complete training program makes it more likely that employees with hazardous waste management responsibilities will not be properly trained, thereby creating a substantial potential for mismanagement of hazardous waste and for a release of, or exposure to hazardous waste. This violation created substantial regulatory harm in that there is no way for EPA inspectors to ensure that United has fully evaluated the degree to which employees are responsible for the management of hazardous wastes generated at the facility and the training that they should receive to accomplish these duties. Without this information, EPA inspectors are not able to fully evaluate the facility's training program to determine that employees are adequately trained to handle hazardous waste and respond appropriately in the event of an incident at the facility.

In addition, 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 proper hazardous waste management. The failure to provide training is a serious violation because only through proper training does the knowledge of how to handle hazardous waste safely get developed. Improper handling of hazardous wastes increases the likelihood of release and worker exposure to hazardous wastes. The potential for harm is thus major.

(b) **Extent of Deviation – Major**

Justification - United did not have any hazardous waste training program and had not trained anyone at the facility in hazardous waste management standards. The extent of deviation is major.

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### (c) Penalty Assessment

EPA has determined that United's violation of these requirements warrants a classification of Major/Major.

(1) Matrix Cell Range (gravity-based penalty) \$28,330 - \$37,500.

**Penalty Amount: \$32,915** (mid-point)

(2) Multiple/Multi-day Assessment

No multiple/multi-day penalties are being assessed.

(3) Adjustment for Economic Benefit (BEN)

The economic benefit estimate calculated by using the 1997 EPA manual "Estimating Costs for the Economic Benefit of RCRA Noncompliance" and EPA's BEN model is \$14,920. The BEN calculations are included as Attachment 1 of this document.

**TOTAL PENALTY AMOUNT: \$37,500**

This penalty is equal to the statutory maximum. The breakdown is \$14,920 for economic benefit and \$22,580 for the gravity component.

### 3. Failure to Develop an Inspection Program and to Conduct and Document Weekly Inspections of Hazardous Waste Containers.

The facility did not have an inspection plan or schedule. There were two hazardous waste storage areas present that required inspection. The less-than-90 day storage areas ("HWSA"s) were located in the "Forgerini" area of the Shipping Warehouse and in the solvent storage room. United personnel stated that inspections were not conducted for either of the two HWSA and that there was no inspection plan/schedule.

#### **Penalty Assessment**

(a) Potential for Harm – Major

Justification - The facility operated at least two less-than-90-day storage areas at which no inspections were being performed.

Weekly inspections of all hazardous waste storage areas is an important measure to ensure problems, such as open containers storing highly flammable and volatile organic compounds (VOCs), leaking containers and/or other deterioration, are promptly identified and remediated. Lack of weekly inspections could result in deleterious conditions remaining undetected and uncorrected, leading to substantial threats to human health and the environment. By not conducting any

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inspections of these areas substantial risks could have been overlooked. This violation also poses a substantial harm to the regulatory program which is supposed to be self-implementing. The potential for harm is major.

(b) Extent of Deviation - Major

Justification - There were no inspections being conducted at any of the less-than-90-day container storage areas and there was no inspection plan or schedule. The extent of deviation is major.

(c) Penalty Assessment

EPA has determined that United's violation of these requirements warrants a classification of Major/Major.

(1) Matrix Cell Range (gravity-based penalty) \$28,330 - \$37,500.

**Penalty Amount: \$32,915** (mid-point)

(2) Multiple/Multi-day Assessment

Penalties are being sought for the two HWSAs where this violation occurred. Inspections were not conducted for either hazardous waste storage area in 2009, 2010 and 2011. Failure to inspect each HWSA is considered a separate violation. Each instance is assessed the same gravity-based penalty. This is appropriate based on the extent and nature of the violation.

Matrix range: \$28,330 - \$37,500

Instance 2 is assessed at \$32,915

Penalty = (\$32,915 x 1) = **\$32,915**

**TOTAL PENALTY AMOUNT: \$65,830**

**4. Failure to Maintain an Adequate Contingency Plan.**

United did not have a Hazardous Waste Contingency Plan, as required by regulation, although it did have an old (2001) Emergency Action Plan (EAP) that was inadequate.

**Penalty Assessment**

(a) Potential for Harm – Major

Justification - The primary function of a contingency plan is to establish a framework for making management decisions during a waste chemical emergency. As such, 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. Specifically, the plan is designed to

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prevent and to minimize hazards to public health, safety, or welfare of the environment from fires, explosions, spills or other unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to air, soil, surface water, or ground water. In addition, a contingency plan is to have a clear outline of the lines of communication among facility personnel and describe the actions facility personnel shall take in response to potential or actual fires, explosions, or any other sudden or non-sudden releases of hazardous waste or hazardous waste constituents to the environment.

Failure to have a complete and comprehensive contingency plan represents a significant potential for harm to human health and the environment, especially considering the hazards posed by the wastes at the United facility. A spill or release, fire or explosion involving such materials could be life threatening. This violation increased the potential that facility personnel would not effectively recognize, assess and respond to a potential incident in a manner that optimally minimizes the impact to human health and the environment. This violation also increased the possibility that facility personnel would not be able to communicate the potential risks to effected employees and public. The potential for harm is major.

(b) Extent of Deviation – Moderate

Justification - Although United did not have an adequate contingency plan, they did have an EAP which did contain a few of the required portions of a contingency plan. The extent of deviation is moderate.

(c) Penalty Assessment

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

(1) Matrix Cell Range (gravity-based penalty) \$21,250 - \$28,330.

**Penalty Amount: \$24,790** (mid-point)

(2) Multiple/Multi-day Assessment

Multiple penalties are not being sought.

**TOTAL PENALTY AMOUNT: \$24,790**

**5. Failure to Properly Determine if a Waste is a Hazardous Waste.**

The following waste groups represent the waste streams without appropriate determinations at the time of inspection: 1) Aerosols; 2) Solvents; and 3) Oils.

**Penalty Assessment**

(a) Potential for Harm – Major

Justification - Regulatory Harm - Conducting a proper hazardous waste determination is the foundation of the RCRA Program. Failure to conduct a waste determination has a substantial adverse affect on the regulatory program because waste may be improperly managed or disposed and people working with the materials may not be aware of the hazards associated with them. Without hazardous waste identification, such wastes could be stored in uncontrolled areas where emergency responders and facility personnel might not recognize associated hazards, increasing the likelihood for mismanagement, improper disposal, release or other events (such a fire or explosion). The failure to conduct proper hazardous waste determinations also poses a substantial threat to the regulatory program since it was not possible for EPA inspectors to determine whether the solid wastes generated and/or stored on-site were hazardous, or whether additional precautions were required to properly manage these wastes prior to off-site shipment or disposal (i.e., due to ignitability, reactivity or incompatibility). The harm to the regulatory program is magnified because wastes that are incorrectly determined to be non-hazardous completely drop out of RCRA regulation and oversight.

Environmental Harm - 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.

The potential for harm is major.

(b) Extent of Deviation – Minor

Justification - The waste streams identified above had not undergone complete and adequate waste determinations at the time of the EPA inspection. The United waste management program has not been performing adequate waste determinations nor has required documentation associated with waste determinations been retained on-site for these wastes. In addition, numerous subsequent violations flow from the failure to conduct waste determinations. These violations include; failure to properly label, failure to place accumulation dates, failure to have containers in good condition, failure to keep containers closed, failure to provide secondary containment, failure to conduct inspections, failure to place warning signs, storage without a permit, failure to meet subpart CC standards for volatile wastes and failure to have communication devices at storage areas. All of the individual penalties for these violations for the wastes listed above are being compressed into this single count. United had failed to

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adequately make a proper determination with respect to three waste streams. Because a relatively small amount of waste was involved in this count, the extent of deviation is minor.

(c) **Penalty Assessment**

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

(1) Matrix Cell Range (gravity-based penalty) \$15,580 - \$21,250.

**Penalty Amount: \$18,415** (mid-point)

(2) Multiple/Multi-day Assessment

No multiple/multiday penalties are being assessed.

(3) Economic Benefit

The economic benefit estimate calculated by using the 1997 EPA manual "Estimating Costs for the Economic Benefit of RCRA Noncompliance" and EPA's BEN model is **\$8,584**. The BEN calculations are included as Attachment 1 of this document.

**TOTAL PENALTY AMOUNT: \$26,999**

**6. Failure to Provide Adequate Secondary Containment for Containers of Hazardous Waste.**

Respondent's employees identified a storage location within the Shipping Warehouse as the "Forgerini" area. They described this area as a location for the storage of wastes. The concrete floor in the area was made up of slab sections with gaps between each slab. Some containers stored in this area had secondary containment. However, United failed to have secondary containment for nine containers of hazardous wastes, including one 55-gallon drum that was labeled "Waste Oil-based Paint".

**Penalty Assessment**

(a) **Potential for Harm – Moderate**

Justification - Failure to have an impervious surface at the site of hazardous waste container storage poses a significant risk to human health and the environment. The impervious surface would prevent the immediate migration of hazardous wastes that have leaked or spilled thus allowing appropriate spill response activities to clean up the release. Because there was a medium amount of waste in this area, the potential for harm is moderate.

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- (b) Extent of Deviation - Moderate

Justification - This deficiency was found at the main designated hazardous waste storage area located within the Shipping Warehouse. The extent of deviation is moderate due to the volume of waste in this area.

- (c) Penalty Assessment:

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

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

**Penalty Amount: \$9,210.** (Mid-point)

- (2) Multiple/Multi-day Assessment

Multiple penalties are not being sought. EPA has chosen to address this violation on a facility-wide basis.

**TOTAL PENALTY AMOUNT: \$9,210**

7. **Failure to Label or Mark HWSA and Satellite Accumulation Area (SAA) containers Holding Hazardous Waste with the Words "Hazardous Waste" and Other Words That Identify the Contents Such as "Flammable", "Acid", "Alkaline", "Cyanide", "Reactive", "Explosive" "Halogenated Solvent" or the Chemical Name.**

The inspection team discovered a waste storage area in an area named by United personnel as the "Forgerini" area. According to United personnel, the containers stored in this area were wastes and were separate from products stored nearby. Fourteen containers in this area of hazardous waste were not labeled appropriately, including five 55-gallon drums. Within the Tool Crib, there was one drum that was not appropriately labeled. According to Respondent's employee, this drum contained waste fuel oil. Within the QA/QC Lab there was an unlabeled 5-gallon container of hazardous waste. Within the Solvent Storage Room, there were two 55-gallon drums of hazardous waste that were not appropriately labeled.

### **Penalty Assessment**

- (a) Potential for Harm – Moderate

Justification – The potential for harm to human health or the environment is significant because without proper labeling it is impossible to visually determine if these containers hold hazardous wastes. All of the containers included in this count were identified by facility personnel as containing waste. Therefore, there was a significant likelihood that these hazardous wastes could have been improperly handled since they were not labeled as hazardous waste. These

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containers could have been improperly handled since they were not identified as hazardous wastes. This violation also poses a significant harm 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. The potential for harm is moderate because there was some identifying information on the containers.

(b) Extent of Deviation – Major

Justification – None of the containers of hazardous waste at the facility were properly marked or labeled at any of the locations inspected that contained hazardous wastes. These containers were not marked with hazardous waste labels. Therefore, the extent of deviation is major because none of the containers were labeled with the words “hazardous waste.”

(c) Penalty Assessment

EPA has determined that Untied’s violation of these requirements warrants a classification of Moderate/Major.

(1) Matrix Cell Range (gravity-based penalty) \$11,330 - \$15,580.

**Penalty Amount: \$13,455** (mid-point)

(2) Multiple/Multi-day Assessment

Multiple penalties are not being sought.

**TOTAL PENALTY AMOUNT: \$13,455**

**8. Failure to Properly Mark or Label Hazardous Waste Containers with the Beginning Accumulation Date.**

The inspection team discovered a waste storage area in an area named by United personnel as the “Forgerini” area. According to United personnel, the containers stored in this area were wastes and separate from products stored nearby. In this area, where were thirteen containers of hazardous wastes that were not marked with the beginning accumulation date. In the Solvent Storage Room, there were two 55-gallon drums of hazardous waste that were not marked with the beginning accumulation date.

**Penalty Assessment**

(a) Potential for Harm – Moderate

Justification - The potential for harm to human health or the environment is significant because without dating containers of hazardous waste, it is impossible to visually determine if such containers have accumulated on-site for the legal

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time limit of ninety days or less. 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, which makes it difficult to determine if the facility is operating within the time frame allowed for a non-permitted facility. The potential for harm is moderate.

(b) Extent of Deviation – Major

Justification – None of the containers of hazardous waste at the facility were properly marked or labeled with an accumulation date. Therefore, the extent of deviation is major.

(c) Penalty Assessment

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

(1) Matrix Cell Range (gravity-based penalty) \$11,330 - \$15,580.

**Penalty Amount: \$13,455** (mid-point)

(2) Multiple/Multi-day Assessment

Multiple penalties are not being sought.

**TOTAL PENALTY AMOUNT: \$13,455**

9. **Failure to Store Containers of Ignitable Hazardous Waste in a Manner That Prevents Accidental Ignition or Reaction of the Waste.**

At the time of the inspection, there were four 55-gallon drums of ignitable hazardous waste at the facility in open drums, including one open drum in the "Forgerini" area, two open drums in the Solvent Storage Room, and one open drum in the Tool Crib. These containers were also not grounded. None of the areas where these drums were located had "No Smoking" signs.

**Penalty Assessment**

(a) Potential for Harm – Moderate

Justification - The failure to store ignitable wastes in a manner that prevents accidental ignition poses a significant threat to human health and the environment. A fire or explosion involving United's ignitable waste could quickly escalate to involve other wastes and/or products. In addition, failure to post, at minimum, a

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“No Smoking” sign at the HWSA only exacerbates the danger of the improper storage methods observed. The potential for harm is moderate due to the amount of waste stored in these areas.

(b) Extent of Deviation – Moderate

Justification - United failed to undertake many of the regulatory requirements for storage of ignitable wastes. The extent of deviation is moderate.

(c) Penalty Assessment:

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

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

**Penalty Amount: \$9,210.** (Mid-point)

(2) Multiple/Multi-day Assessment

Multiple penalties are not being sought.

**TOTAL PENALTY AMOUNT: \$9,210**

10. **Failure to Properly Manage Universal Wastes.**

At the time of the inspection, there were improperly managed universal wastes stored in the R & D warehouse, including universal waste bulbs, electronic ballasts, and cathode ray tubes. According to Respondent’s employee, electronic wastes were brought to the local DPW and placed in the town’s collection area. There were also improperly managed universal wastes stored in the HWSA at the “Forgerini” area, including waste lamps and waste electronic ballasts. There was no documentation of UW ever having been shipped off-site.

**Penalty Assessment**

(a) Potential for Harm – Major

Justification - The potential for harm to human health or the environment is substantial because without properly containerizing universal wastes, they can be damaged releasing hazardous constituents to the environment. Broken bulbs, which result in the release of mercury within the facility, were observed during the inspection. Without proper labeling and dating containers of universal waste, it is impossible to visually determine if containers hold universal waste and have accumulated on-site for less than one year. By labeling containers with an accumulation date, facilities can accurately determine how long wastes have been stored. Without this information, it is more likely that wastes will be stored for

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impermissible lengths of time. The longer wastes are stored, the greater the likelihood of contamination/release, or adverse exposure due to breakage, leaks or spills. United did not clean-up breakage of universal wastes. United did not train any employees on the handling or management of universal wastes. United did not send electronic universal wastes to a proper destination facility. Therefore, the potential for harm is major.

(b) Extent of Deviation – Major

Justification – United did not comply with most universal wastes regulations. The extent of deviation is major.

(c) Penalty Assessment

EPA has determined that United's violation of these requirements warrants a classification of Major/Major.

(1) Matrix Cell Range (gravity-based penalty) \$28,330 - \$37,500.

**Penalty Amount: \$32,915** (mid-point)

(2) Multiple/Multi-day Assessment

Multiple penalties are not being sought.

**TOTAL PENALTY AMOUNT: \$32,915**

11. **Failure to send land disposal restrictions notifications with off-site shipments of hazardous wastes.**

At the time of the inspection, EPA reviewed manifest and LDR notifications for 2009, 2010, 2011 and 2012. One of the transporters/TSDF that United used was Safety Kleen. EPA reviewed thirty (30) shipments to Safety Kleen from that period. The nature of the waste did change during that time period. None of the shipments included any LDR notification or certification. There was no documentation of any one-time certification in their files.

In addition to Safety Kleen, United sent wastes to EQ. United had records of eight manifests to EQ in Detroit, MI in 2011 and three manifests (all 1/11/10) in 2010. These shipments had LDR records where needed. The facility had no other records of hazardous waste or non-hazardous waste shipments prior to 1/11/10. These shipments to EQ included hazardous and non-hazardous waste streams. RCRA regulated streams included waste paint related material (liquid), corrosive alkalis, chlorinated solvents, ignitable liquids, ignitable alcohol and resin waste. Non-hazardous waste streams included oily grain, glycol, oils, PCBs, asbestos, and various non-hazardous liquids.

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(a) Potential for Harm – Moderate

Justification - There is a significant potential that the waste could be land disposed without being treated to the proper levels when the LDR Notifications are not sent for subject waste streams. These notifications are necessary to ensure that hazardous wastes are appropriately treated before disposal in a landfill. This represents a significant potential for harm to the RCRA program and to the environment. Therefore, the potential for harm is moderate.

(b) Extent of Deviation – Moderate

Justification – Most of the waste shipments requiring an LDR Notice did not have one present. The extent of deviation is moderate.

(c) Penalty Assessment

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

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

**Penalty Amount: \$9,210.** (Mid-point)

(2) Multiple/Multi-day Assessment

Multiple penalties are not being sought.

**TOTAL PENALTY AMOUNT: \$9,210**

**12. Failure to correctly use a manifest.**

In addition to United's use of incorrect identification numbers as discussed above, it did not maintain legible copies of five of its manifests. In addition, United failed to maintain legible copies and return copies for two manifests. Finally, United failed to obtain return copies and failed to file exception reports for fifteen manifests, five of which also contained an illegible date.

**Penalty Assessment**

(a) Potential for Harm – Moderate

Justification -The manifest is one of the cornerstones of the cradle to grave system of RCRA. Failure to supervise the shipment of wastes from the facility and confirm that wastes properly reached their destination represents a significant potential for harm to the RCRA program and the environment. Therefore, the potential for harm is moderate.

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(b) Extent of Deviation – Moderate

Justification - This violation was noted for approximately half of the waste shipments reviewed. The extent of deviation is moderate.

(c) Penalty Assessment:

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

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

**Penalty Amount: \$9,210.** (Mid-point)

(2) Multiple/Multi-day Assessment

Multiple penalties are not being sought.

**TOTAL PENALTY AMOUNT: \$9,210**

**PENALTY SUMMARY**

|   |                   |
|---|-------------------|
| 1. Notification of Hazardous Waste Activity   | \$ 32,915         |
| 2. Hazardous Waste Training and Documentation | \$ 37,500         |
| 3. Inspections                                | \$ 65,830         |
| 4. Emergency Preparedness                     | \$ 24,790         |
| 5. Hazardous Waste Determination              | \$ 26,999         |
| 6. Secondary Containment                      | \$ 9,210          |
| 7. Mark as "Hazardous Waste"                  | \$ 13,455         |
| 8. Mark with Accumulation Date                | \$ 13,455         |
| 9. Ignitable Hazardous Waste                  | \$ 9,210          |
| 10. Management of Universal Wastes            | \$ 32,915         |
| 11. Land Disposal Restriction Notifications   | \$ 9,210          |
| 12. <u>Incorrect Manifests</u>                | \$ 9,210          |
| <b>Total Proposed Penalty</b>                 | <b>\$ 284,699</b> |