



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



Electropac Company, Inc.
252 Willow Street
Manchester, NH 03103-6294

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 02-026

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Electropac Company, Inc., pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 6 Hazen Drive, Concord, NH.
2. Electropac Company, Inc. ("Electropac") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on January 11, 1977. Electropac has a mailing address of 252 Willow Street, Manchester, New Hampshire 03103-6294.

III. BACKGROUND

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Electropac is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on October 29, 1980. EPA Identification Number NHD040244428 was assigned to Electropac's site located at 252 Willow Street in Manchester, NH.

4. On November 19 & 20, 2001, DES personnel inspected Electropac for compliance with RSA 147-A and its implementing regulations, the Hazardous Waste Rules. As a result of violations of the Hazardous Waste Rules observed during this inspection, DES issued Letter of Deficiency No. WMD 02-21 ("LOD") to Electropac on August 29, 2002. Based on the violations observed during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Specifically, as stated in the LOD, Electropac failed to conduct adequate waste determinations on eight (8) waste streams, as required by Env-Wm 502.01 ("Violation 1"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$12,000.
2. Specifically, as stated in the LOD, Electropac failed to repair the "Strip/Etch/Strip Line" spill collection tray which resulted in human exposure to hazardous waste (*i.e.*, spent etchant leaking to the floor), as required by Env-Wm 506.01(b)(4) ("Violation 2"). Env-C 612.06(a) authorizes a fine of \$2,000 per event if resulting in a release of hazardous waste or a substantial threat to human health or the environment, for a potential fine of \$2,000.
3. Specifically, as stated in the LOD, Electropac failed to close eight (8) 55-gallon containers, one (1) cubic yard container, and two (2) uncontained hazardous wastes, as required by Env-Wm 507.01(a)(3) ("Violation 3"). Env-C 612.06(c)(1) authorizes a fine of \$400 for each container that is 55-gallons or greater, for a potential fine of \$4,400.
4. Specifically, as stated in the LOD, Electropac failed to ship one (1) container of hazardous waste off-site within 90-days of the date when accumulation first began, except as provided in Env-Wm 508.02, Env-Wm 508.03, and Env-Wm 509.03, as required by Env-Wm 507.02(a) ("Violation 4"). Env-C 612.06(j) authorizes a fine of \$500 for each container not shipped within 90 days, for a potential fine of \$500.
5. Specifically, as stated in the LOD, Electropac failed to mark one (1) 55-gallon container with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 5"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater, for a potential fine of \$250.
6. Specifically, as stated in the LOD, Electropac failed to mark eight (8) 55-gallon hazardous waste containers and one (1) cubic yard hazardous waste container with the words "Hazardous Waste", words to identify contents of the container and the EPA or state waste number, as required by Env-Wm 507.03(a)(1)b., c., and d. ("Violation 6"). Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater, for a potential fine of \$5,400.
7. Specifically, as stated in the LOD, Electropac failed to conduct and document inspections of the two hazardous waste storage areas from January 1, 1998 until November 19, 2002 as required by Env-Wm 509.02(a)(1) ("Violation 7"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area per week, for the three years that the company is required to keep records that would equal \$156,000 per hazardous waste storage area, for a potential fine of \$312,000.

8. Specifically, as stated in the LOD, Electropac failed to perform annual hazardous waste training for the following employees with hazardous waste management duties, as required by Env-Wm 509.02(a)(2): from 1992-2002 for one (1) person (Primary Emergency Coordinator); in 1998-2002 for one (1) person (Wastewater Treatment Operator); and no initial training for three (3) personnel (two (2) hazardous waste management personnel and one (1) Secondary Emergency Coordinator) (“Violation 8”). Env-C 612.07(b) authorizes a fine of \$1,750 per individual not trained for initial training and \$1,000 per individual not trained for annual updates, for a potential fine of \$21,250.

9. Specifically, as stated in the LOD, Electropac failed to post “No Smoking” signs where ignitable hazardous waste containers are stored (*i.e.*, Hazardous Waste Storage area “C”), as required by Env-Wm 509.02(a)(3) (“Violation 9”). Env-C 612.07(c) authorizes a fine of \$2,000 for a potential fine of \$2,000.

10. Specifically, as stated in the LOD, Electropac failed to post complete emergency postings at the nearest telephone to two (2) hazardous waste storage areas, as required by Env-Wm 509.02(b) (“Violation 10”). Env-C 612.07(h) authorizes a fine of \$1,000 per area, for a potential fine of \$2,000.

11. Specifically, as stated in the LOD, Electropac failed to label one (1) satellite storage container of hazardous waste with the words “Hazardous Waste” and words to identify the contents of the container, as required by Env-Wm 509.03(g) (“Violation 11”). Env-C 612.07(j) authorizes a fine of \$1,000 per area, for a potential fine of \$1,000.

12. Specifically, as stated in the LOD, Electropac failed to ensure the one (1) 55-gallon container of broken universal waste lamps was closed, except when universal waste is being added to or removed from the container, as required by Env-Wm 1102.03(c)(1) (“Violation 12”). Pursuant to Env-C 610, which references Env-Wm 1102.03(c)(1), the Division proposes a fine of \$300 for each container that is 55-gallons or greater, for a potential fine of \$300.

13. Specifically, as stated in the LOD, Electropac failed to store one (1) 55-gallon container of broken universal waste lamps in containers free of defects, design characteristics, or damage that could result in leakage, spillage, or other environmental releases, as required by Env-Wm 1102.03(c)(3) (“Violation 13”). Pursuant to Env-C 610, which references Env-Wm 1102.03(c)(3), the Division proposes a fine of \$700 for each container that is 55-gallons or greater, for a potential fine of \$700.

14. Specifically, as stated in the LOD, Electropac failed obtain a permit for the intentional crush or dismantling of universal waste lamps, as required by Env-Wm 1112.03(b) (“Violation 14”). Pursuant to Env-C 610, which references Env-Wm 1102.03(b), the Division proposes a fine of \$1,000 per each storage or treatment unit, for a potential fine of \$1,000.

15. Specifically, as stated in the LOD, Electropac failed to label/mark one (1) 55-gallon container of broken universal waste lamps with any of the following markings: “Universal Waste – Lamps(s)”, “Waste Lamp(s)”, or “Used Lamp(s)”, as required by Env-Wm 1112.04 (“Violation 15”). Pursuant to Env-C 610, which references Env-Wm 1102.04, the Division proposes a fine of \$100 for each container that is 55-gallons or, for a potential fine of \$100.

V. PAYMENT, WAIVER OF HEARING

1. DES agrees to waive fines associated with violations 3-6, 9-12, and 15, because they are not Class I violations.

2. Electropac agrees to pay \$46,500 as itemized below, upon execution of this Agreement by Electropac.

a. Violation 1 is a Class I violation. DES has determined that due to Electropac's high level of cooperation in providing information and its effort to correct the violation, that a 20% reduction should be applied. DES is thus seeking a fine of \$7,200.

b. Violation 2 is a Class I violation, and so DES is seeking the full \$2,000.

c. Violation 7 is a Class I violation. Electropac failed to conduct inspections of the hazardous waste storage areas from January 1, 1998 until November 19, 2001. For settlement purposes the potential penalty was reduced to one (1) hazardous waste storage area for six (6) months (*i.e.*, twenty-four (24) inspections at \$1,000 each for a potential penalty of \$24,000). DES has determined that due to Electropac's high level of cooperation in providing information and its effort to correct the violation, that an additional 10% reduction should be applied. DES is thus seeking a fine of \$21,600.

d. Violation 8 is a Class I violation. DES has determined that due to Electropac's high level of cooperation in providing information and its effort to correct the violation, that a 10% reduction should be applied. DES is thus seeking a fine of \$19,125.

e. Violation 13 is a Class I violation, and so DES is seeking the full \$700.

f. Violation 14 is a Class I violation. DES has determined that due to Electropac's high level of cooperation in providing information, its effort to correct the violation, and the fact that this was a one time unintentional violation that a 30% reduction should be applied. DES is thus seeking a fine of \$700.

g. In view of the corrective actions undertaken by Electropac and in order to settle this matter, DES has determined that an additional penalty reduction of \$4,825 should be applied.

3. Payment under Section V. Paragraph 2 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be delivered to:

DES Legal Unit
Attn: Michael Sclafani
PO Box 95
Concord, NH 03302-0095

4. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of

the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

5. By executing this Agreement, Electropac waives its right to a hearing on or any appeal of the administrative fines identified in Section IV. Paragraphs 1 through 15, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

6. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Electropac, and the Director of the Waste Management Division, and the Commissioner of DES.

7. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

ELECTROPAC COMPANY, INC.

COPY

Raymond Boissoneau, President
Duly Authorized

11/18/02
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY

Philip J. O'Brien, Ph.D., P.G.
Director
Waste Management Division

11/20/02
Date

COPY

George Dana Bisbee, Acting Commissioner

11/21/02
Date