



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3503 FAX (603) 271-2867



July 7, 2003

Hendrix Wire & Cable Inc.  
Attn: Thomas Brennan, President  
33 Old Wilton Road  
Milford, NH 03055

Re: Docket No. AF 03-009 - Administrative Fine by Consent Agreement

Dear Mr. Brennan:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in this matter executed by Philip J. O'Brien, Ph.D., Director, Waste Management Division, and accepted by Commissioner Michael P. Nolin on July 7, 2003. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

  
Michael Schlar  
Legal Assistant

cc: Philip J. O'Brien, Ph.D., Director, Waste Management Division  
Gretchen Rule, DES Legal Unit  
Susan Weiss Alexant, Hearings and Rules Attorney  
Mark R. Harbaugh, DES Legal Unit  
Linda Birmingham DES HW



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



Hendrix Wire & Cable, Inc.  
53 Old Wilton Road  
Milford, New Hampshire 03055

ADMINISTRATIVE FINE  
BY CONSENT

No. AF 03-009

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Hendrix Wire & Cable, 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. Hendrix Wire & Cable, Inc. ("Hendrix") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on May 13, 1996. Hendrix has a mailing address of 53 Old Wilton Road, Milford, NH.

**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. Hendrix is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on July 25, 1980. EPA Identification

Number NHD001079334 was assigned to Hendrix's site located at 53 Old Wilton Road, Milford, NH.

4. On January 24, 2003, DES personnel inspected Hendrix for compliance with RSA 147-A and its implementing regulations, the Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Letter of Deficiency No. WMD 03-08 ("LOD") to Hendrix on April 22, 2003. 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, Hendrix failed to obtain a permit for the operation of a wastewater evaporation unit, which is a hazardous waste facility because it generates and accumulates a wastewater treatment sludge that is a hazardous waste, as required by RSA 147-A:4, I/Env-Wm 353.04 ("Violation 1"). Env-C 612.03(a) authorizes a fine of \$2,000 per treatment or storage unit, for a potential fine of \$2,000.

*Hendrix submitted a copy of their limited permit for the evaporation unit dated February 2, 1999. The permit expires on February 2, 2004. Based on this information Hendrix was not in violation of this rule and DES has amended the LOD to remove this violation.*

2. Specifically, as stated in the LOD, Hendrix failed to conduct a waste determination on three (3) 5-gallon containers of waste solids generated from the Ultrasonic Washer, as required by Env-Wm 502.01 ("Violation 2"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$1,500.

3. Specifically, as stated in the LOD, Hendrix failed to close one (1) cubic yard box of oily debris and one (1) 55-gallon container of cyclohexane, methyl isobutyl ketone in the Main Hazardous Waste Storage Area; one (1) 55-gallon container of NH01 used oil in the Molded Products Area; and one (1) 55-gallon container of NH01 used oil in the Room Adjacent to the Compressor, 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 \$1,600.

4. Specifically, as stated in the LOD, Hendrix failed to mark (1) cubic yard box of NH01 oily debris, one (1) 55-gallon container of NH01 oil, one (1) 55-gallon container of cyclohexane, methyl isobutyl ketone, one (1) 55-gallon container of xylene, methyl ethyl ketone, and one (1) 55-gallon container of crushed fluorescent lamps in the Main Hazardous Waste Storage Area; three (3) 55-gallon containers of NH01 used oil observed in the Molded Products Area; and three (3) 55-gallon containers of NH01 used oil and two (2) 55-gallon containers of hazardous waste paint in the Maintenance Area, with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 4"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater, for a potential fine of \$3,250.

5. Specifically, as stated in the LOD, Hendrix failed to mark three (3) 55-gallon containers of NH01 used hydraulic oil in the Molded Product Area; three (3) 55-gallon containers of NH01 used hydraulic oil and two (2) 55-gallon containers of waste paint in the Maintenance Area, 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 5"). Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater, for a potential fine of \$4,800.
6. Specifically, as stated in the LOD, Hendrix failed to have one (1) 55-gallon container of cyclohexane, methyl isobutyl ketone and one (1) 55-gallon container of sodium hydroxide in the Main Hazardous Waste Storage Area with labels that were not hidden by a wall or other containers as required by Env-Wm 507.03(a)(2) ("Violation 6"). Env-C 612.06(m) authorizes a fine of \$100 per container whose label is not visible, for a potential fine of \$200.
7. Specifically, as stated in the LOD, Hendrix failed to perform hazardous waste training for the following employees with hazardous waste management duties, as required by Env-Wm 509.02(a)(2): three (3) years of annual training for primary emergency coordinator Thomas Herlihy; four (4) years of annual training for hazardous waste handler/secondary emergency coordinator David Stevens; no initial training and four (4) years of annual training for one (1) employee Robin Rogers who signs hazardous waste manifests; and no initial training and one (1) year of annual training for secondary emergency coordinator Carl Richter ("Violation 7"). 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 \$15,500 (*i.e.*, two (2) initial training; twelve (12) annual updates).
8. Specifically, as stated in the LOD, Hendrix failed to have an alarm/communication system capable of providing immediate emergency instruction (voice or signal) to facility personnel within 100 feet of the Main Hazardous Waste Storage Area, as required by Env-Wm 509.02(a)(4) ("Violation 8"). Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area, for a potential fine of \$1,250.
9. Specifically, as stated in the LOD, Hendrix failed to maintain adequate aisle space for three (3) containers of hazardous waste located in the Main Hazardous Waste Storage Area, as required by Env-Wm 509.02(a)(4) ("Violation 9"). Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area, for a potential fine of \$1,250.
10. Specifically, as stated in the LOD, Hendrix failed to have a contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 10"). Env-C 612.07(e) authorizes a fine of \$2,000, for a potential fine of \$2,000.
11. Specifically, as stated in the LOD, Hendrix failed to post complete emergency postings at the nearest telephone to the Main Hazardous Waste Storage Area, as required by Env-Wm 509.02(b) ("Violation 11"). Env-C 612.07(h) authorizes a fine of \$1,000 per area, for a potential fine of \$1,000.

12. Specifically, as stated in the LOD, Hendrix failed to move one (1) 55-gallon container of NH01 used compressor oil generated and stored in the Room Adjacent to the Compressor; three (3) 55-gallon containers of NH01 used hydraulic oil generated and stored in the Molded Products Area; and three (3) 55-gallon containers of NH01 used hydraulic oil and two (2) 55-gallon containers of hazardous waste paint generated and stored in the Maintenance Area, from satellite storage areas to the Main Hazardous Waste Storage Area within three (3) days of reaching the accumulation limit as required by Env-Wm 509.03(i)(2) ("Violation 12"). Env-C 612.07(j) authorizes a fine of \$1,000 per area, for a potential fine of \$3,000.

13. Specifically, as stated in the LOD, Hendrix failed to forward two (2) hazardous waste manifests (Manifest No. NHH0046157 and Manifest No. VT1035057), with signatures, to DES within five (5) days of shipment, as required by Env-Wm 510.02(d) ("Violation 13"). Pursuant to Env-C 610, which references Env-Wm 510.02(d), DES proposes a fine of \$500 per manifest, for a potential fine of \$1,000.

14. Specifically, as stated in the LOD, Hendrix failed to conduct a used oil determination on four (4) used oil waste streams including: used hydraulic oil, used gear oil, used compressor oil, and used lubrication oil, as required by Env-Wm 807.06(b)(7) ("Violation 14"). Env-C 612.10(c) which references Env-Wm 807.06(b)(4), modified in August 2000 to Env-Wm 807.06(b)(7), authorizes a fine of \$750 per determination not made, for a potential fine of \$3,000.

15. Specifically, as stated in the LOD, Hendrix failed to manage universal waste batteries and CRTs (*i.e.*, accumulate no longer than one year) as required by Env-Wm 1102.04 ("Violation 15"). Pursuant to Env-C 610, which references Env-Wm 1102.04, DES proposes a fine of \$100, for a potential fine of \$100.

16. Specifically, as stated in the LOD, Hendrix failed obtain a permit for the intentional crushing or dismantling of universal waste lamps, as required by Env-Wm 1112.03(b) ("Violation 16"). Pursuant to Env-C 610, which references Env-Wm 1102.03(b), DES proposes a fine of \$1,000 per each storage or treatment unit, for a potential fine of \$1,000.

#### **V. PAYMENT, WAIVER OF HEARING**

1. DES agrees to waive fines associated with Violations 3, 4, 6, 8-9, and 11-15 because they are not Class I violations.
2. Violation 2 is a Class I violation. However, Hendrix documented that this waste stream was analyzed and determined to be non-hazardous. DES is thus not seeking a fine for this violation.
3. Hendrix agrees to pay \$19,815 as itemized below for Violations 5, 7, 10, and 16, which are Class I violations, upon execution of this Agreement by Hendrix.

- a. Violation 5 is a Class I violation. DES has determined that due to Hendrix'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 \$3,840.
- b. Violation 7 is a Class I violation. Hendrix provided information that one (1) employee Robin Rogers who signs hazardous waste manifests, did receive initial training. DES is thus seeking a penalty for failing to perform one (1) initial training and thirteen (13) annual updates for a proposed penalty of \$14,750. DES has determined that due to Hendrix'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 \$13,275.
- c. Violation 10 is a Class I violation, and DES is seeking the full \$2,000.
- d. Violation 16 is a Class I violation. DES has determined that due to Hendrix'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.

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

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

5. 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.

6. By executing this Agreement, Hendrix waives its right to a hearing on or any appeal of the administrative fines identified in Section IV. Paragraphs 1 through 16, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

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

8. 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.

HENDRIX WIRE & CABLE, INC.

**COPY**  
*Thomas Brennan*

By: Thomas Brennan, President  
Duly Authorized

6/23/2003  
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

**COPY**  
*Kenneth W. MacInnes for PJO*

Philip J. O'Brien, Ph.D., P.E.  
Director

Waste Management Division

7/2/03  
Date

**COPY**  
*Michael P. Nolan*  
**COPY**

Michael P. Nolan, Commissioner

07 07 03  
Date