



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




PLEASE NOTE: Effective September 1, 2003, the street address is 29 Hazen Drive.  
January 16, 2004

Kollsman, Inc.  
Attn: Roger Sutherland, President  
220 Daniel Webster Highway  
Merrimack, NH 03054

Re: Docket No. AF 03-034 - Administrative Fine by Consent Agreement

Dear Mr. Sutherland:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in this matter executed by Anthony P. Giunta, P.G., Waste Management Division Director, and accepted by Commissioner Michael P. Nolin on January 16, 2004. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,  
  
Michael Sclafani,  
Legal Assistant

cc: Anthony P. Giunta, P.G., 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 HWC  
DES Public Information Officer



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

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Kollsman, Inc.  
220 Daniel Webster Highway  
Merrimack, New Hampshire 03054

ADMINISTRATIVE FINE  
BY CONSENT

No. AF 03-034

### I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Kollsman, 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 29 Hazen Drive, Concord, NH.
2. Kollsman, Inc. ("Kollsman") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on December 28, 1995. Kollsman has a mailing address of 220 Daniel Webster Highway, Merrimack, 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 of DES 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. Kollsman is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on August 18, 1980. EPA Identification Number NHD064441132 was assigned to Kollsman's site located at 220 Daniel Webster Highway, Merrimack, NH.
4. On June 12, 2003, DES personnel inspected Kollsman 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 03-16 ("LOD") to Kollsman on August 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, Kollsman failed to mark the "Lab Pack" located on shelves in the Main Storage Area (*i.e.*, 153 containers placed in 21 totes and 52 containers not in totes), with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 1"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater (*i.e.*, lab pack containers considered one container greater than 55-gallons).
2. Specifically, as stated in the LOD, Kollsman failed to mark the "Lab Pack" located on shelves in the Main Storage Area (*i.e.*, 153 containers placed in 21 totes, and 52 containers not in totes), and one (1) container of hazardous waste batteries, 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 2"). Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater and \$300 for each container that is less than 55-gallons, for a potential fine of \$900.
3. Specifically, as stated in the LOD, Kollsman failed to conduct and document weekly inspections of the hazardous waste storage area for 27 weeks over the past three (3) years, as required by Env-Wm 509.02(a)(1) ("Violation 3"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area, for a potential fine of \$27,000.
4. Specifically, as stated in the LOD, Kollsman 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 Slosek; two (2) years of annual training for secondary emergency coordinator Walter Belushko; three (3) years of annual training for primary emergency coordinator Leland Craig; and one (1) year of annual training for Daniel Crete who conducts inspections of the main hazardous waste storage area ("Violation 4"). Env-C 612.07(b) authorizes a fine of \$1,000 per individual not trained for annual updates, for a potential fine of \$9,000.
5. Specifically, as stated in the LOD, Kollsman failed to have an adequate contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 5"). Env-C 612.07(e) authorizes a fine of \$2,000.
6. Specifically, as stated in the LOD, Kollsman failed to post a complete emergency posting at the nearest telephone to the Main Hazardous Waste Storage Area, as required by Env-Wm 509.02(b) ("Violation 6"). Env-C 612.07(h) authorizes a fine of \$1,000 per area.
7. Specifically, as stated in the LOD, Kollsman was managing one (1) 55-gallon container of hazardous waste "Acetonitrile/Methanol/Water" located in the Main Storage Area as a satellite storage container; however, the location failed to meet the definition of a satellite storage area (*i.e.*, at or near the point of generation), as required by Env-Wm 509.03 ("Violation 7"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area.
8. Specifically, as stated in the LOD, Kollsman failed to provide hazardous waste training for satellite storage operators, with hazardous waste duties at thirty-four (34) satellite storage areas, as required by Env-Wm 509.03(b) ("Violation 8"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area, for a potential fine of \$34,000.

9. Specifically, as stated in the LOD, Kollsman failed to close two (2) 55-gallon satellite storage containers of hazardous waste "oil/speedi-dry/filters" located in the Machine Shop, as required by Env-Wm 509.03(d) ("Violation 9"). The potential fine for this violation is included in the fine sought in Paragraph 8 because the violation occurred in one of the same satellite storage areas.

10. Specifically, as stated in the LOD, Kollsman failed to document the inspections of satellite storage areas for five (5) months over the past three years, as required by Env-Wm 509.03(h) ("Violation 10"). The potential fine for this violation is included in the fine sought in Paragraph 8 because the violation occurred in the same satellite storage areas.

11. Specifically, as stated in the LOD, Kollsman failed to have on file copies of four (4) hazardous waste manifests certified by the designated facility (*i.e.*, Manifest No. M17405156, Manifest No. M18120162, Manifest No. NHG0018583, and Manifest No. NHH0043359) for three (3) years from the date of signature by the generator, as required by Env-Wm 512.01(a)(1) ("Violation 11"). Env-C 612.08(a) authorizes a fine of \$300 per type of record.

12. Specifically, as stated in the LOD, Kollsman failed to close seventeen (17) containers of universal waste lamps located in the Main Storage Area, except to add or remove universal waste, as required by Env-Wm 1112.03(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, for a potential fine of \$5,100.

#### V. PAYMENT, WAIVER OF HEARING

1. DES agrees to waive fines associated with Violations 3, and 5 through 12, because they are not Class I violations.
2. Kollsman agrees to pay \$7,000 as itemized below for Violations 1, 2, and 4, which are Class I violations, upon execution of this Agreement by Kollsman.
  - a. Violation 1 is a Class I violation. DES has determined that due to the fact that this was a one-time unintentional violation that a 20% reduction should be applied. DES is thus seeking a fine of \$200.
  - b. Violation 2 is a Class I violation. DES has determined that due to the fact that this was a one-time unintentional violation that a 20% reduction should be applied. DES is thus seeking a fine of \$720.
  - c. Violation 4 is a Class I violation. Kollsman provided information that one (1) employee Walter Belusko did not work at the Merrimack facility until March 2001. DES is thus seeking a penalty for failing to perform eight (8) annual updates for a proposed penalty of \$8,000. DES has determined due to the fact that two (2) emergency coordinators, Walter Belusko and Leland Craig, had hazardous waste training that was current at the time of the inspection, that the fine for their four (4) annual trainings be reduced by 10% for a total proposed penalty of \$7,600 (*i.e.*, four (4) annual updates at \$900 and four (4) annual updates at \$1,000). DES has further determined due to Kollsman'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 \$6,080.

3. Payment under Section V. Paragraph 2 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

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, Kollsman waives its right to a hearing on or any appeal of the administrative fines identified in this Agreement, 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 Kollsman, 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.

~~KOLLSMAN, INC.~~

~~COPY~~  
*Roger Sutherland*

By: Roger Sutherland, President  
Duly Authorized

12/29/03

Date

~~DEPARTMENT OF ENVIRONMENTAL SERVICES~~

~~COPY~~  
*Anthony P. Giunta*

Anthony P. Giunta, P.G.

Director

Waste Management Division

11/15/04

Date

~~COPY~~  
*Michael P. Nolin*

Michael P. Nolin, Commissioner

1/16/04

Date