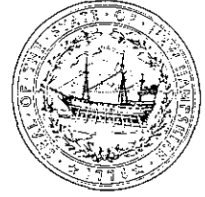




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner


October 20, 2004

Mr. Tim Dining, President
Greenerd Press & Machine Co., Inc.
41 Crown Street
Nashua, NH 03061

Re: Docket No. AF 04-091 – Greenerd Press & Machine Co., Inc.

Dear Mr. Dining:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Waste Management Division Director, and accepted by Commissioner Michael P. Nolin on October 20, 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, DES Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
Linda Birmingham, DES WMD
DES Public Information Officer



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Greenerd Press & Machine Co., Inc.
41 Crown Street
Nashua, NH 03061

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 04-091

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Greenerd Press & Machine Co., 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 ("Division"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive, Concord, NH.
2. Greenerd Press & Machine Co., Inc. ("Greenerd Press") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on October 10, 1962. Greenerd Press has a mailing address of 41 Crown Street, Nashua, NH.

III. BACKGROUND

1. Pursuant to RSA 147-A, the Department of Environmental Services ("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 offense for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 610 and Env-C 612 to establish fines for such violations.
3. Greenerd Press is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on November 16, 1989. EPA Identification Number NHD001079805 was assigned to Greenerd Press's site located at 41 Crown Street, Nashua, NH.
4. On July 1, 2003, Division personnel inspected Greenerd Press for compliance with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, the Division issued Administrative Order No. WMD 03-27 ("Order") to Greenerd Press on October 17, 2003. Based

on the violations observed during the inspection listed above, the Division believes that an administrative fine is appropriate in this case for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Specifically, the Order cited Greenerd Press for failing to notify DES in writing of the change in ownership within 30 days of the effective date of the change (*i.e.*, Greenerd Press did not notify DES of the change in ownership of the Facility which occurred on May 29, 2001), as required by Env-Wm 504.02(e) ("Violation 1"). Env-C 612.08(e), which references Env-Wm 504.02(c) modified in August 2000 to Env-Wm 504.02(e), authorizes a fine of \$500.
2. Specifically, the Order cited Greenerd Press for failing to close two (2) 55-gallon containers of hazardous waste in the Assembly/Paint Area, as required by Env-Wm 507.01(a)(3) ("Violation 2"). 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 \$800.
3. Specifically, the Order cited Greenerd Press for failing to mark six (6) 55-gallon containers of hazardous waste in the Assembly/Paint Area and four (4) 30-gallon containers of hazardous waste in the Machine Shop with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 3"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is greater than 55-gallons and \$125 for each container that is less than 55 gallons, for a potential fine of \$2,000.
4. Specifically, the Order cited Greenerd Press for failing to mark five (5) 55-gallon containers of hazardous waste in the Assembly/Paint Area and four (4) 30-gallon containers of hazardous waste in the Machine Shop with the words "hazardous waste," words that identify the 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 4"). 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 \$4,200.
5. Specifically, the Order cited Greenerd Press for failing to have one (1) 55-gallon container of hazardous waste parts washer fluid in the Assembly/Paint Area with a label that was visible (*i.e.*, label not hidden by a wall or other containers), as required by Env-Wm 507.03(a)(2) ("Violation 5"). Env-C 612.06(m) authorizes a fine of \$100 per container whose label is not visible.
6. Specifically, the Order cited Greenerd Press for failing to conduct inspections of the two (2) hazardous waste storage areas (*i.e.*, the Assembly/Paint Area and Machine Shop) for three (3) years, as required by Env-Wm 509.02(a)(1) ("Violation 6"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area per week, for a potential fine of \$312,000. For settlement purposes only, the Division is seeking a fine for failing to conduct inspections at one (1) hazardous waste storage area for twenty-five (25) weeks for a penalty of \$25,000 (*i.e.*, twenty-five (25) inspections at \$1,000 each).
7. Specifically, the Order cited Greenerd Press for failing to conduct initial hazardous waste training for six (6) employees with hazardous waste management duties, as required by Env-Wm

509.02(a)(2) ("Violation 7"). Env-C 612.07(b) authorizes a fine of \$1,750 per individual not trained for initial training, for a potential fine of \$10,500.

8. Specifically, the Order cited Greenerd Press for failing to have spill control equipment near the Machine Shop, 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.

9. Specifically, the Order cited Greenerd Press for failing to maintain adequate aisle space around one (1) 55-gallon container of hazardous waste parts washer fluid in the Assembly/Paint 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.

10. Specifically, the Order cited Greenerd Press for failing to maintain an up-to-date 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.

11. Specifically, the Order cited Greenerd Press for failing to post emergency postings at the nearest telephones to the Machine Shop and the Assembly/Paint 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 \$2,000.

12. Specifically, the Order cited Greenerd Press for managing one (1) 55-gallon container of hazardous waste grinding sludge as a satellite storage container when the storage area (*i.e.*, Machine Shop) 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 12"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area. The potential fine for this violation is included in the fine sought in Paragraph 13 because the violation occurred in one of the same satellite storage areas.

13. Specifically, the Order cited Greenerd Press for failing to provide hazardous waste training for ten (10) satellite storage operators, with hazardous waste duties at two (2) satellite storage areas in the Assembly/Paint Area and Machine Shop, as required by Env-Wm 509.03(b) ("Violation 13"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area, for a potential fine of \$2,000.

14. Specifically, the Order cited Greenerd Press for failing to close one (1) 55-gallon satellite storage container of hazardous waste grinding sludge in the Machine Shop and one (1) 55-gallon satellite storage container of hazardous waste used hydraulic oil in the Assembly/Paint Area, as required by Env-Wm 509.03(d) ("Violation 14"). The potential fine for this violation is included in the fine sought in Paragraph 13 because the violation occurred in the same satellite storage areas.

15. Specifically, the Order cited Greenerd Press for failing to mark one (1) 55-gallon satellite storage container of hazardous waste grinding sludge in the Machine Shop and one (1) 55-gallon satellite storage container of hazardous used hydraulic oil in the Assembly/Paint Area with the words "hazardous waste", and words that identify the contents of the container, as required by

Env-Wm 509.03(g) ("Violation 15"). The potential fine for this violation is included in the fine sought in Paragraph 13 because the violation occurred in the same satellite storage areas.

16. Specifically, the Order cited Greenerd Press for failing to conduct inspections of satellite storage areas that have accumulated greater than 10 gallons of hazardous waste at least monthly for leaks and for deterioration caused by corrosion or other factors, as required by Env-Wm 509.03(h) ("Violation 16"). The potential fine for this violation is included in the fine sought in Paragraph 13 because the violation occurred in the same satellite storage areas.

17. Specifically, the Order cited Greenerd Press for failing to forward three (3) copies of hazardous waste manifests, with signatures (*i.e.*, MAM559736, MAM183380, and NHH0051248), to DES within five (5) days, as required by Env-Wm 510.02(d) ("Violation 17"). Pursuant to Env-C 610, the Division is proposing, a fine of \$500 per shipment, for a potential fine of \$1,500.

18. Specifically, the Order cited Greenerd Press for failing to retain copies of two (2) hazardous waste manifests certified by the designated facility (*i.e.*, MAM183380, and NHH0051248) for three (3) years from the date of signature by the generator, as required by Env-Wm 512.01(a)(1) ("Violation 19"). Env-C 612.08(a) authorizes a fine of \$300 per type of record.

19. Specifically, the Order cited Greenerd Press for failing to conduct an adequate used oil determination for the used hydraulic oil waste stream, as required by Env-Wm 807.06(b)(7) ("Violation 19"). 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.

V. PAYMENT, WAIVER OF HEARING

1. The Division agrees to waive fines associated with Violations 1, 5, 8 through 10, 12, 14, 17, and 19 because they are not Class I violations.
2. For purposes of settlement, the Division agrees to the following:
 - a. Violation 2 is a Class I violation. DES has determined due to Greenerd Press's high level of cooperation and its effort to correct the violation that a 20% reduction should be applied. DES is thus seeking a fine of \$640.
 - b. Violation 3 is a Class I violation. DES has determined due to Greenerd Press's high level of cooperation and its effort to correct the violation that a 20% reduction should be applied. DES is thus seeking a fine of \$1,600.
 - c. Violation 4 is a Class I violation. DES has determined due to Greenerd Press's high level of cooperation and its effort to correct the violation that a 20% reduction should be applied. DES is thus seeking a fine of \$3,360.

- d. Violation 6 is a Class I violation. DES has determined based on information provided that inspections were conducted but documents were lost, that a 50% reduction should be applied. DES is thus seeking a fine of \$12,500.
 - e. Violation 7 is a Class I violation. Greenerd Press provided information that one (1) employee Manny Alfonso, only has satellite duties and that Robert Pagano and Carl Jean, do not handle hazardous waste as part of their duties. DES is thus seeking a penalty of \$5,250 for failing to conduct initial hazardous waste training for three (3) employees. DES has further determined due to Greenerd Press'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 \$4,200.
 - f. Violation 11 is a Class I violation. DES has determined due to Greenerd Press's high level of cooperation and its effort to correct the violation that a 20% reduction should be applied. DES is thus seeking a fine of \$1,600.
 - g. DES has determined that violation 13 should be classified as a Class II violation because nine (9) of the satellite operators handle waste oil which was determined to be non-hazardous.
 - h. DES has determined that violation 15 should be classified as a Class II because the waste oil was determined to be non-hazardous.
 - i. DES has determined that violation 16 should be classified as a Class II violation because the waste oil was determined to be non-hazardous.
 - j. Violation 18 is a Class I violation. DES has determined based on information submitted by Greenerd Press that they were not in violation of this rule and DES will not be seeking a fine.
3. DES will reduce the revised \$23,900 penalty by an additional 20% due to other circumstances for a final revised penalty in the amount of \$19,120. DES further agrees to suspend an additional \$14,120 contingent on Greenerd Press committing no violations of statutes or rules implemented by DES for a period of two (2) years from the effective date of this Agreement. If Greenerd Press is found to have violated this condition, regardless of when the determination is made, a pro-rated portion of the suspended fine shall be immediately due and payable without opportunity for hearing, in addition to any penalty that may be imposed for the new violation(s).
4. Upon compliance by Greenerd Press with the conditions specified in Section V. Paragraph 3, DES will waive the associated fine amount.
5. Greenerd Press agrees to pay \$5,000 upon execution of this agreement by Greenerd Press.
6. Payment under Section V. Paragraph 5 and any fines that become due pursuant to 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

7. 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.
8. By executing this Agreement, Greenerd Press 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.
9. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Greenerd Press, and the Director of the Waste Management Division, and the Commissioner of DES.
10. 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.

GREENERD PRESS & MACHINE, CO., INC.

T.B. Dining
By: Tim Dining, President
Duly Authorized

10/15/04
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

Anthony P. Giunta
Anthony P. Giunta, P.G., Director
Waste Management Division

10/20/04
Date

Michael P. Nolin
Michael P. Nolin, Commissioner

10 20 04
Date