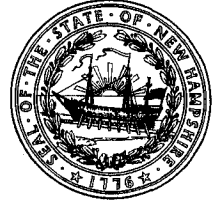




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner


June 29, 2005

Barry Needleman, Esq.
McLane, Graf, Raulerson & Middleton
15 North Main Street
Concord, NH 03301-4945

Re: Docket No. AF 05-034 Administrative Fine by Consent Agreement

Dear Attorney Needleman:

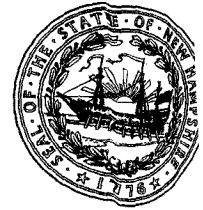
Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Waste Management Division Director, and accepted by Commissioner Michael P. Nolin on June 28, 2005. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

Michael P. Sclafani,
Legal Assistant

cc: Michael J. Walls, DES Assistant Commissioner
Anthony P. Giunta, P.G., Director, DES Waste Management Division
Jennifer J. Patterson, NH DOJ
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
John Duclos, DES WMD
Linda Birmingham, DES WMD



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Trelleborg Sealing Solutions, US, Inc.
366 Route 108
Somersworth, NH 03878

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 05-034

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Trelleborg Sealing Solutions, US, 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. Trelleborg Sealing Solutions, US, Inc. ("Trelleborg") is a Delaware corporation that registered with the New Hampshire Secretary of State's Office on February 10, 2003. Trelleborg has a mailing address of 366 Route 108, Somersworth, NH.

III. BACKGROUND

1. Pursuant to RSA 147-A, the Department of Environmental Services 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 612 to establish the schedule of fines for such violations.
3. Trelleborg (formerly Palmer-Chenard) is a hazardous waste generator that initially notified the United States Environmental Protection Agency ("EPA") of its activities through DES on December 24, 1988. EPA Identification Number NHD982750515 was assigned to Trelleborg's site located at 366 Route 108, Somersworth, NH (the "Facility"). Trelleborg filed a subsequent notification form on April 13, 2004, changing the Facility's name from Palmer-Chenard to Trelleborg.

4. On April 5, 2004, a letter was submitted to DES on behalf of Trelleborg from the law firm of McLane, Graf, Raulerson & Middleton ("McLane"). The letter voluntarily disclosed that Trelleborg may have improperly managed hazardous waste (*i.e.*, lead containing scrap rubber) by disposing of it as a solid waste at the Turnkey Landfill in Rochester, NH.
5. On April 15, 2004, DES personnel inspected Trelleborg 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, DES issued a Notice of Findings ("NOF") on July 29, 2004.
6. On October 12, 2004, as a result of the April 15, 2004 inspection, DES issued a Notice of Past Violation ("NPV") to Trelleborg. The deficiencies summarized in the NPV related only to Trelleborg's hazardous waste management program documented at the time of the inspection and are not a part of this Agreement.
7. On December 21, 2004, Attorney Barry Needleman submitted a letter to DES on behalf of Trelleborg regarding the economic benefit that Trelleborg derived from disposing of the lead containing scrap rubber as solid waste. The letter provided information that the total cost for the disposal of 37.78 tons of lead containing scrap rubber from 1997 through March 15, 2004 was \$2,965.73. Trelleborg calculated the disposal costs would have been \$87,069.30 for the 37.78 tons of lead containing scrap rubber, if Trelleborg had disposed of the waste as hazardous, which is a difference of \$84,103.57. The letter also provided the information that the hazardous waste costs were based on 50.37 shipments at a cost of \$1,728.48/shipment.
8. Based on the information provided by Attorney Barry Needleman, on behalf of Trelleborg regarding the improperly managed hazardous waste, DES believes that an administrative fine is appropriate in this case for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Trelleborg failed to obtain a permit for the disposal of hazardous waste (*i.e.*, lead containing scrap rubber) at the Turnkey Landfill in Rochester, NH, as required by RSA 147-A:4, I, ("Violation 1"). Env-C 612.03(b) authorizes a fine of \$2,000 per disposal event, for a potential fine of \$100,740 (*i.e.*, 50.37 shipments at \$2,000 each).
2. Trelleborg failed to conduct an adequate waste determination on the lead containing scrap rubber, as required by Env-Wm 502.01 ("Violation 2"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination.

V. PAYMENT, WAIVER OF HEARING

1. Trelleborg agrees to pay \$102,240 as itemized below for Violations 1 and 2, which are Class I violations, upon execution of this Agreement by Trelleborg:

- a. \$100,740 for Violation 1;
 - b. \$1,500 for Violation 2.
2. Payment under Section V. Paragraph 1 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

3. 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.
4. By executing this Agreement, Trelleborg 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.
5. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Trelleborg, and the Director of the Waste Management Division, and the Commissioner of DES.
6. 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.
7. The parties have entered into this Agreement to avoid the time and costs of litigation. Except as described in this paragraph, this Agreement shall not constitute, be construed as, or operate as: (i) an admission or evidence of liability by Trelleborg; (ii) an admission by Trelleborg or evidence that it violated any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of any defense Trelleborg might raise in any third party proceeding.
8. Trelleborg shall not challenge the validity of the violations alleged herein in the context of any future proceeding by DES assessing the compliance history of Trelleborg and alleging violations of the New Hampshire Code of Administrative Rules or statutes, or in any proceeding before DES to enforce this Agreement. Other than this enforcement action, DES shall pursue no further administrative action against Trelleborg relative to the allegations contained herein.

WHEREFORE, the parties voluntarily accept the terms of this Agreement.

TRELLEBORG SEALING SOLUTIONS, US, Inc.

COPY
By: [Signature]
Duly Authorized

5/23/05

Date

5/16/05

[Signature] Secretary
DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY
[Signature]

6/20/05

Date

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

COPY
[Signature]
Michael P. Nolin, Commissioner

06 28 05

Date