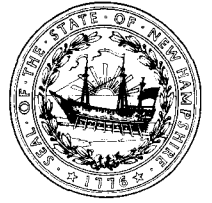




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

December 29, 2008

Alicia M. Thomas
Clean Harbors Environmental Services Inc
PO Box 9149
Norwell, MA 02061-9149

Re: Docket No. AF 07-023 – Settlement Agreement

Dear Ms. Thomas:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY

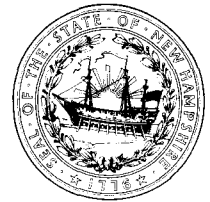
Jane Murray
Executive Secretary
DES Legal Unit

ec: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
PIC Office, DES
Linda Birmingham, DES

cc: DES Legal Unit



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

Clean Harbors Environmental Services, Inc.
P.O. Box 9149
Norwell, MA 02061-9149

**ADMINISTRATIVE FINE
NO. AF 07-023**

RE: Clean Harbors Environmental Services, Inc.
Keene Household Hazardous Waste Facility
55 Old Summit Road
Keene, New Hampshire
EPA ID No. NHD510000623

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division (“Division”) and Clean Harbors Environmental Services, Inc. (“Clean Harbors”), parties to the above-captioned matter, and request the Commissioner to accept the following proposed settlement in this matter. In support of this motion, the parties state as follows:

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 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. Clean Harbors is a full quantity hazardous waste generator that notified the United States Environmental Protection Agency (“EPA”) of its activities through DES on May 1, 1998. Clean Harbors operates the Keene Household Hazardous Waste Facility located at 55 Old Summit Road, Keene, New Hampshire. EPA Identification Number NHD510000623 was assigned to Clean Harbors’ site located at 55 Old Summit Road, Keene, New Hampshire.
4. On August 27, 2007 the Division issued Notice of Proposed Fine No. AF 07-023 (the “Notice”) to Clean Harbors seeking fines totaling \$83,000 for violations of RSA 147-A and its implementing regulations, NH CODE ADMIN. RULES Env-Wm 100-1100 (the “Hazardous Waste Rules”).
5. Specifically, the Notice cited Clean Harbors for violating RSA 147-A:5, III by failing to have a New Hampshire Certified Hazardous Waste Coordinator, currently certified (i.e., April 13, 2005 to July 11, 2006) by DES (Violation 1). Pursuant to Env-C 610, the Division sought a fine of \$1,000.
6. The Notice cited Clean Harbors for violating Env-Wm 502.01 by failing to conduct an adequate waste determination, on the household waste pesticides (Violation 2). Pursuant to Env-C

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2867 • TDD Access: Relay NH 1-800-735-2964

612.05(a), the Division sought a fine of \$1,500 per determination not made.

7. The Notice cited Clean Harbors for violating Env-Wm 509.02(a)(1) by failing to document inspections of the hazardous waste storage area, for a total of fifty-one (51) weeks over a 1-year time period (Violation 3). Pursuant to Env-C 612.07(a), the Division sought a fine of \$1,000 per inspection per area, for a total of \$51,000.

8. The Notice cited Clean Harbors for violating Env-Wm 509.02(a)(2) by failing to maintain a personnel training program and provide hazardous waste training for employees with hazardous waste management duties (Violation 4). Pursuant to Env-C 612.07(b), the Division sought a fine of \$1,750 per individual not trained for initial training and \$1,000 per individual not trained for annual updates, for a total of \$12,500.

9. The Notice cited Clean Harbors for violating Env-Wm 509.02(a)(3), which references 40 CFR § 265.17 by failing to post "No Smoking" signs, near ignitable waste stored in the hazardous waste storage area (Violation 5). Pursuant to Env-C 612.07(c), the Division sought a fine of \$2,000.

10. The Notice cited Clean Harbors for violating Env-Wm 509.02(a)(4) by failing to have, within 100 feet of the Hazardous Waste Storage Area, an internal/external communication system capable of providing immediate contact with facility personnel and local authorities (e.g., fire department) (Violation 6). Pursuant to Env-C 612.07(d), the Division sought a fine of \$1,250 per requirement not met per storage area.

11. The Notice cited Clean Harbors for violating Env-Wm 509.02(a)(5) by failing to maintain a complete contingency plan on-site (Violation 7). Pursuant to Env-C 612.07(e), the Division sought a fine of \$2,000.

12. The Notice cited Clean Harbors for violating Env-Wm 509.02(b) by failing to post adequate emergency information at the nearest telephone to the hazardous waste storage area (Violation 8). Pursuant to Env-C 612.07(h), the Division sought a fine of \$1,000 per area.

13. The Notice cited Clean Harbors for violating Env-Wm 509.02(c) by failing to provide security measures at the outdoor storage area (Violation 9). Pursuant to Env-C 612.07(i), the Division sought a fine of \$1,750 per area.

14. The Notice cited Clean Harbors for violating Env-Wm 510.02(d) by failing to forward, five (5) hazardous waste manifests with signatures, to DES within five (5) days of shipment (Violation 10). Pursuant to Env-C 610, the Division sought a fine of \$500 per manifest, for a total of \$2,500.

15. Finally, the Notice cited Clean Harbors for violating Env-Wm 510.03(a) by failing to use the correct EPA ID number on thirteen (13) hazardous waste manifests (Violation 11). Pursuant to Env-C 612.04(b), the Division sought a fine of \$500 per shipment, for a total of \$6,500.

16. In order to settle this matter, the Division and Clean Harbors have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.

17. The Division agrees that due to other circumstances that a 20% reduction, in the amount of \$600, should be applied to the fines proposed for Violations 1 and 5.
18. Clean Harbors agrees to pay the full fine, as proposed, associated with Violation 2.
19. The Division stipulates that Clean Harbors provided information pertaining to Violation 3 showing that the hazardous waste storage area is closed from November to the last week in March. Based on this information, the Division agrees that the proposed fine for this violation should be reduced from \$51,000 to \$16,000.
20. The Division stipulates that Clean Harbors provided information pertaining to Violation 4 showing that training was conducted for employees with hazardous waste duties. The Division agrees that no fine should be sought, as there was no violation.
21. The Division agrees due to a good faith effort to comply that a 20% reduction, in the amount of \$250, should be applied to the fine proposed for Violation 6.
22. The Division agrees not to seek fines associated with Violations 7 and 8 because they are not Class I violations.
23. The Division agrees due to other circumstances and a good faith effort to comply that a 30% reduction in the amount of \$525, should be applied to the fine proposed for Violation 9.
24. The Division stipulates that Clean Harbors provided information pertaining to Violation 10 showing that the five (5) manifests were from two shipment dates. Based on this information, the Division agrees to reduce the proposed fine for this violation from \$2,500 to \$1,000.
25. The Division stipulates that Clean Harbors provided information pertaining to Violation 11 showing that only two manifests were within the previous three (3) year time period from the date of the inspection. Based on this information, the Division agrees to reduce the proposed fine for this violation from \$6,500 to \$1,000.
26. Clean Harbors agrees to pay the remaining proposed fines in the amount of \$24,125 upon execution of this Agreement by an authorized representative of Clean Harbors.
27. Payment pursuant to the preceding paragraph shall be paid by certified check made payable to "Treasurer, State of New Hampshire" and mailed to:

NH DES, Legal Unit
Attn: Legal Assistant
P.O. Box 95
Concord, NH 03302-0095
28. 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.

29. By executing this Agreement, Clean Harbors waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.


30. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Clean Harbors, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

31. 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.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,
Clean Harbors Environmental Services, Inc.

12/5/08
Date

COPY

By: William F. Connors
Senior Vice President, Compliance
Duly Authorized

DES, Waste Management Division

12/22/08
Date

COPY

Michael J. Wimsatt, P.G., Director

This Motion to Accept Settlement agreement is granted this 24th day of Dec., 2008.

COPY

fs Thomas S. Burack, Commissioner
Department of Environmental Services