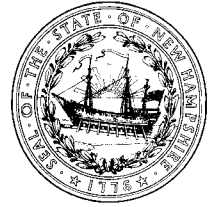




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

General Electric Company  
3135 Easton Turnpike  
Fairfield, CT 06828

RE: General Electric Company  
130 Main St.  
Somersworth, NH 03878  
EPA ID No. NHD001091073

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 07-043**

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and General Electric Company pursuant to RSA 147-A and NH Code Admin. Rules Env-C 601. 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 principal office at 29 Hazen Drive, Concord, New Hampshire.
2. General Electric Company ("GE") is a foreign Corporation registered to do business in New Hampshire. GE's headquarters are located at 12 Corporate Woods Blvd., 3<sup>rd</sup> Floor, Albany, New York. GE's Somersworth, New Hampshire facility has a mailing address of 130 Main Street, Somersworth, NH 03878.

**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 NH Code Admin. Rules 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 NH Code Admin. Rules Env-C 612 to establish the schedule of fines for such violations.

3. GE is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on August 13, 1980. EPA Identification Number NHD001091073 was assigned to GE's site located at 130 Main Street in Somersworth, New Hampshire.
4. On March 22, 2007, Division personnel inspected GE 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 a Notice of Past Violation ("NPV") to GE on May 17, 2007. 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. GE failed to conduct an adequate hazardous waste determination on waste "lab pack" material stored in the main hazardous waste storage area, as required by Env-Wm 502.01 ("Violation 1"). For this violation, Env-C 612.05(a) authorizes a fine of \$1,500 per determination.
2. GE failed to ship off-site one (1) 55-gallon container marked "waste paint related materials" with an accumulation date of 10/23/2006 (160 days of accumulation time) and one (1) 30-gallon container marked "Waste Trichloroethylene" with an accumulation date of 10/11/2006 (172 days of accumulation time) stored in the main hazardous waste storage area, within 90 days of the date when accumulation first began, as required by Env-Wm 507.02(a) ("Violation 2"). For this violation, Env-C 612.06(j), which references Env-Wm 507.02(a)(3), modified in August 2000 to Env-Wm 507.02(a), authorizes a fine of \$500 for each container not shipped within 90 days of the start date of accumulation, for a potential fine of \$1,000.
3. GE failed to mark one (1) 55-gallon container of "hazardous waste paint and thinner," stored in the main hazardous waste storage area with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 3"). For this violation, Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater.
4. GE failed to document inspections of the hazardous waste storage area for a total of ten (10) of the 52 weeks during the previous year, as required by Env-Wm 509.02(a)(1) ("Violation 4"). For this violation, Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area per week. For settlement purposes only, the Division will consider only the time period of seventeen (17) weeks prior to the date of the inspection. GE failed to document inspections for ten (10) of the seventeen (17) weeks immediately prior to the inspection, for a potential fine of \$10,000.
5. GE failed to provide hazardous waste training for the following employees with hazardous waste management duties, as required by Env-Wm 509.02(a)(2): one (1) year of annual training each for Rick Tibbets and Brian Glidden. For this violation, Env-C 612.07(b) authorizes a fine of \$1,000 per individual not trained for annual updates, for a potential fine of \$2,000.

6. GE failed to maintain a complete contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 6"). For this violation, Env-C 612.07(e) authorizes a fine of \$2,000.
7. GE failed to mark six (6) universal waste thermometers observed in the main hazardous waste storage area with any of the following markings: "Universal Waste – Mercury-Containing Device," "Waste Mercury-Containing Device," or "Used Mercury-Containing Device," as required by Env-Wm 1102.03 and Env-Wm 1111.04 ("Violation 7"). For this violation, pursuant to Env-C 610, a fine of \$10/thermometer has been calculated by the Division, for a potential fine of \$60.
8. GE failed to store the six (6) universal thermometers in containers that meet the requirement of Env-Wm 1102.03(c) and Env-Wm 1111.03(a) ("Violation 8"). For this violation, pursuant to Env-C 610 a fine of \$25/thermometer has been calculated by the Division, for a potential fine of \$150.

#### V. PAYMENT, WAIVER OF HEARING


1. For purposes of settlement of this action, the Division agrees to waive fines associated with Violations 1, 3 and 5 through 8 because they are not Class I violations.
2. DES asserts that the following fines are appropriate for Violations 2 and 4, which are Class I violations.
  - a. Violation 2 is a Class I violation. DES has determined that due to GE's high level of cooperation in providing information, its effort to correct the violation, and good faith effort to comply, that a 45% reduction should be applied (*i.e.*, (25%) cooperation and (20%) good faith effort to comply). DES is thus seeking a fine of \$550.
  - b. Violation 4 is a Class I violation. DES has determined that due to GE's high level of cooperation in providing information, its effort to correct the violation, and good faith effort to comply that a 45% reduction be applied (*i.e.*, (25%) cooperation and (20%) good faith effort to comply). DES is thus seeking a fine of \$5,500.
3. GE agrees to pay \$6,050 upon execution of this Agreement by an authorized representative of GE.
4. Payment under Section V. Paragraph 3 shall be paid by certified or corporate check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit  
Attn: 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, GE 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.
7. The effective date of this Agreement will be the date on which it is signed by an authorized representative of GE, 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.

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

**GENERAL ELECTRIC COMPANY**

  
By: Mike Tremblay, Plant Manager  
Duly Authorized

1-14-08  
Date

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

  
Michael J. Wimsatt, P.G., Director  
Waste Management Division

5/29/08  
Date

  
Thomas S. Burack, Commissioner

5/29/08  
Date

cc: RCRA/DB/AF  
John J. Duclos, Administrator, HWCB-WMD  
Linda R. Birmingham, HWCB-WMD  
Legal Unit, DES  
Richard Head, NH DOJ-OAG  
Public Information Coordinator, DES  
Wayne Phillips, Hazardous Waste Coordinator, General Electric Company, 130 Main St.,  
Somersworth, NH 03878  
Cynthia Knipe, Environmental Health and Safety Manager, General Electric Company, 130 Main St.,  
Somersworth, NH 03878  
Steve Richards, General Manager, General Electric Company, 130 Main St., Somersworth, NH 03878  
Dave West, Environmental Lead, General Manager, General Electric Company, 130 Main St.,  
Somersworth, NH 03878