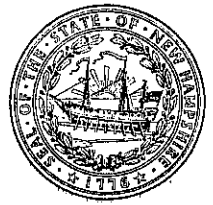




The State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 20, 2009

Mona Khalil  
Teleflex Medical Incorporated  
155 S Limerick Rd  
Limerick PA 19468

Re: Docket No. AF 09-065 - Administrative Fine by Consent Agreement

Dear Ms. Khalil:

Enclosed for your records is a copy of the fully executed and accepted Administrative Fine by Consent Agreement in the above-captioned matter. We are in receipt of your payment in full.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter. This letter does not provide relief against any existing or future violations.

Sincerely,

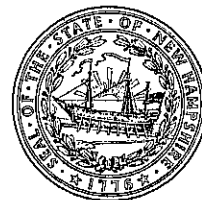
Jane Murray  
Executive Secretary  
DES Legal Unit

cc: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau Head, NH DOJ  
DES Public Information Officer  
Nashua City Council

cc: DES Legal Unit



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



**Thomas S. Burack, Commissioner**

Teleflex Medical Incorporated  
155 South Limerick Road  
Limerick, PA 19468

Re: 50 Plantation Drive, Jaffrey, NH  
EPA ID No. NHD037706082

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 09-065**

### **I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division and Teleflex Medical Incorporated pursuant to RSA 147-A. This Administrative Fine by Consent 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, New Hampshire.
2. Teleflex Medical Incorporated ("Teleflex Medical") is a corporation registered to do business in New Hampshire having a principal office address of 155 South Limerick Road, Limerick, PA 19468.

### **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 NH CODE ADMIN. RULES Env-Hw 100-1100 [was 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 610 and Env-C 612 to establish fines for such violations.
3. Teleflex Medical is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on May 9, 1990. Teleflex Medical extrudes, molds and assembles plastic devices used in the medical field. EPA Identification Number NHD037706082 was assigned to Teleflex Medical's site located at 50 Plantation Drive in Jaffrey, New Hampshire (the "Facility").

DES Web site: [www.des.nh.gov](http://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

4. On March 13, 2008, DES personnel inspected the Facility 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 Letter of Deficiency No. WMD 08-011 to Teleflex Medical on April 10, 2008. 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. Teleflex Medical failed to conduct adequate hazardous waste determinations, as required by Env-Hw 502.01 [was Env-Wm 502.01], for the waste isopar; waste polytetrafluoroethylene ("PTFE") with isopar; waste ink resins in cans; and waste solvent generated in the devices area ("Violation 1"). For these violations, Env-C 612.05(a) authorizes a fine of \$1,500 per determination not made, for a potential fine of \$6,000.

2. Teleflex Medical failed to mark, as required by Env-Hw 507.03(a)(1)a. [was Env-Wm 507.03(a)(1)a.], the following containers of hazardous waste located in the Maintenance Hazardous Waste Storage Area ("HWSA") and the Outdoor Hazardous Waste Storage Area ("HWSA #2") with the beginning accumulation date when they are first used to store hazardous waste:

- a. One (1) 20-gallon container marked "Hazardous Waste, Gunk Super Radiator Flush";
- b. One (1) 20-gallon container marked "Hazardous Waste, Ink Resin In Cans, D001/D026";
- c. One (1) 55-gallon container marked "Hazardous Waste, Lubricating Oil, NH01/MA01";
- d. One (1) 5-gallon container marked "Hazardous Waste, Methanol, D001/F003"; and
- e. Three (3) 55-gallon containers marked "Hazardous Waste, Alcohol and Etch, D001"

("Violation 2"). For these violations, 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 \$1,375.

3. Teleflex Medical failed to mark, as required by Env-Hw 507.03(a)(1) c. and d. [was Env-Wm 507.03(a)(1) c. and d.], the one (1) 20-gallon container marked "Hazardous Waste, Gunk Super Radiator Flush," located in the HWSA, with words describing the contents and the EPA or state waste number ("Violation 3"). For this violation, Env-C 612.06(l) authorizes a fine of \$300 for each container that is less than 55-gallons.

4. Teleflex Medical failed to document inspections of the HWSA and HWSA #2, as required by Env-Hw 509.02(a)(1) [was Env-Wm 509.02(a)(1)], for a total of 36 out of the 104 inspections required during the last year. In addition Teleflex Medical's Hazardous Waste Inspection

Checklist (the "Checklist") revealed that the date and time of the inspection, as well as the inspector's name was not included on the Checklist ("Violation 4"). For this violation, Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area, for a potential fine of \$36,000. For settlement purposes only, DES will consider only the time period of seventeen (17) weeks prior to the date of the inspection. Teleflex Medical failed to document a total of 26 out of the 34 required inspections of the HWSA and the HWSA #2 immediately prior to the inspection (*i.e.*, thirteen (13) weekly inspections out of the seventeen (17) weeks for each of the two (2) HWSAs) for a potential fine of \$26,000.

5. Teleflex Medical failed to maintain a personnel training program and provide hazardous waste training for the following employee with hazardous waste duties, as required by Env-Hw 509.02(a)(2) [was Env-Wm 509.02(a)(2)]: two (2) years of annual training for hazardous waste handler Joseph Willis ("Violation 5"). 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 \$2,000.

6. Teleflex Medical failed to provide hazardous waste training, as required by Env-Hw 509.03(b) [was Env-Wm 509.03(b)], for eight (8) satellite storage operators with hazardous waste duties and, at six (6) satellite storage areas ("Violation 6"). For these violations, Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area, for a potential fine of \$6,000.

7. Teleflex Medical failed to maintain, as required by Env-Hw 509.02(a)(4) [was Env-Wm 509.02(a)(4)], adequate aisle space for three (3) 55-gallon containers marked "Hazardous Waste, Alcohol and Etch, D001", as well as one (1) 5-gallon container marked "Hazardous Waste, Methanol" ("Violation 7"). For this violation, Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area.

8. Teleflex Medical failed to maintain a complete contingency plan on-site, as required by Env-Hw 509.02(a)(5) [was Env-Wm 509.02(a)(5)] ("Violation 8"). For this violation, Env-C 612.07(e) authorizes a fine of \$2,000.

9. Teleflex Medical failed to post, as required by Env-Hw 509.02(b) [was Env-Wm 509.02(b)], a complete emergency posting at the nearest telephone to the HWSA ("Violation 9"). For this violation, Env-C 612.07(h) authorizes a fine of \$1,000 per area.

10. Teleflex Medical failed to provide security measures, as required by Env-Hw 509.02(c)(2) [was Env-Wm 509.02(c)(2)], at the HWSA #2 (*i.e.*, the door was not locked) ("Violation 10"). For this violation, Env-C 612.07(i) authorizes a fine of \$1,750 per area.

11. Teleflex Medical failed to manage, as required by Env-Hw 509.03 [was Env-Wm 509.03], one (1) 55-gallon satellite storage container of hazardous waste "Isopar" located in the Preform Mix Area, "at or near the point of generation" ("Violation 11"). For this violation, Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area.

12. Teleflex Medical failed to close, as required by Env-Hw 509.03(d) and Env-Hw 507.01(a)(3) [was Env-Wm 509.03(d) and Env-Wm 507.01(a)(3)], one (1) 5-gallon container marked "Waste Solvent" located in the Devices Area; one (1) 55-gallon containers marked

"Hazardous Waste Rags with IPA, D001" located in the Paste Preform Room; one (1) 55-gallon container marked "Hazardous Waste Isopar" located in the Preform Mix Area; one (1) 5-gallon container marked "Waste Isopar" located in the Preform Mix Area; and one (1) unmarked 55-gallon container located in the Vertical Extrusion/Paste Etch Area ("Violation 12"). For this violation, Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area, for a potential fine of \$4,000.

13. Teleflex Medical failed to mark, as required by Env-Hw 509.03(g) [was Env-Wm 509.03(g)], one (1) 5-gallon container marked "Waste Solvent" located in the Devices Area; one (1) 5-gallon container marked "Waste Isopar" located in the Preform Mix Area; two (2) yellow 20-gallon flip cans marked "Fluoroetch ad Alcohol" located in the Vertical Extrusion/Paste Etch Area; and two (2) yellow 20-gallon container marked "Fluoroetch ad Alcohol" located in the Bench Room, with the words "Hazardous Waste." In addition, Teleflex Medical failed to mark one (1) 5-gallon container located in the Vertical Extrusion/Paste Etch Area; and one (1) 55-gallon container located in the Vertical Extrusion/Paste Etch Area with the words "Hazardous Waste" and words identifying the contents ("Violation 13"). For this violation, Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area, for a potential fine of \$4,000.

14. Teleflex Medical failed to forward, as required by Env-Hw 510.02(d)(2)b. [was Env-Wm 510.02(d)(2)b.], the following hazardous waste manifests, with signatures, to DES within five (5) days of shipment:

- (a) Manifest 000877111FLE dated March 5, 2007;
- (b) Manifest 000880086FLE dated April 16, 2007;
- (c) Manifest 000915378FLE dated May 14, 2007;
- (d) Manifest 00091933FLE dated June 11, 2007;
- (e) Manifest 001018611FLE dated June 16, 2007;
- (f) Manifest 000920274FLE dated July 9, 2007;
- (g) Manifest 00916779FLE dated September 10, 2007;
- (h) Manifest 000543333FLE dated October 19, 2007;
- (i) Manifest 001814647FLE dated November 19, 2007;
- (j) Manifest 001816639FLE dated December 12, 2007;
- (k) Manifest 001816942FLE dated January 7, 2008; and
- (l) Manifest 001817662FLE dated February 4, 2008,

("Violation 14"). DES has determined this violation to be a minor deviation from the requirements and a minor potential for harm, for which Env-C 610 specifies a fine of between \$100 and \$1,000. DES proposes a fine of \$500 per manifest for a potential fine of \$6,000.

15. Teleflex Medical failed to have on file, as required by Env-Hw 512.01(a)(1) [was Env-Wm 512.01(a)(1)], copies of two (2) hazardous waste manifests (i.e., Manifest MAU190721 dated March 13, 2006; and Manifest 000915378FLE dated May 14, 2007) for three (3) years from the date of signature by the generator ("Violation 15"). For these violations, Env-C 612.08(a) authorizes a fine of \$300 per type of record.

16. Teleflex Medical failed to mark, as required by Env-Hw 1102.03 and Env-Hw 1112.04 [was Env-Wm 1102.03 and Env-Wm 1112.04], five (5) containers of universal waste lamps located in the HWSA and HWSA #2 with any of the following markings: "Universal Waste – Lamps(s)," "Waste Lamp(s)," or "Used Lamp(s)" ("Violation 16"). DES has determined these violations to be a minor deviation from the requirements and a minor potential for harm, for which Env-C 610 specifies a fine of between \$100 and \$1,000. DES proposes a fine of \$250.

17. Teleflex Medical failed to close, as required by Env-Hw 1102.03(c)(1) [was Env-Wm 1102.03(c)(1)], two (2) containers of universal waste lamps located in the HWSA and HWSA #2 ("Violation 17"). DES has determined these violations to be a minor deviation from the requirements and a minor potential for harm, for which Env-C 610 specifies a fine of between \$100 and \$1,000. DES proposes a fine of \$100.

## **V. PAYMENT, WAIVER OF HEARING**

1. For purposes of settlement of this action, DES agrees not to pursue fines associated with Violations 3, 4, 9, 11, 12, 14, 16, and 17 because they are not Class I violations.

2. DES asserts that the following fines are appropriate for Violations 1, 2, 5 through 8, 10, 13 and 15 which are Class I violations.

a. Violation 1 is a Class I violation. No fine is being sought because the PTFE was analyzed and determined to be non-hazardous and of the three (3) waste streams listed in Violation 1, only the waste PTFE is a Class I violation.

b. Violation 2 is a Class I violation. DES has determined due to Teleflex Medical'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 \$1,100.

c. Violation 5 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$2,000

d. Violation 6 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$6,000

e. Violation 7 is a Class I violation. DES has determined due to Teleflex Medical'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 \$1,000.

f. Violation 8 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$2,000

g. Violation 10 is a Class I violation. DES has determined due to Teleflex Medical'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 \$1,400.

h. Violation 13 is a Class I violation. No fine is being sought for Violation 13 because the four (4) satellite areas are included in fine sought for Violations 6.

i. Violation 15 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$300.

3. Teleflex Medical agrees to pay a total fine of \$13,800 upon execution of this Administrative Fine by Consent by an authorized representative of Teleflex Medical.

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.

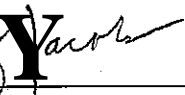
6. By executing this Administrative Fine by Consent, Teleflex Medical waives its right to a hearing on or any appeal of the administrative fines identified herein, and agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction.

7. The effective date of this Administrative Fine by Consent will be the date on which it is signed by an authorized representative of Teleflex Medical, the Director of the Waste Management Division, and the Commissioner of DES.


8. No failure by DES to enforce any provision of this Administrative Fine by Consent 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.

**Teleflex Medical Incorporated**

**COPY**   
By: ~~R. Ernest Weaver, President~~ C. Jeffrey Jacobs Date: January 12, 2010  
Duly Authorized [Vice President & Treasurer]

**Department of Environmental Services**

**COPY**   
Michael J. Wimsatt, P.G., Director Date: 1/19/10  
Waste Management Division

**COPY**   
Thomas S. Burack, Commissioner Date: Jan. 20, 2010  
 Asst. Comm.

cc: DES Legal Unit  
RCRA/DB/AF

ec: Public Information Officer, DES PIP Office  
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau  
Nashua City Council