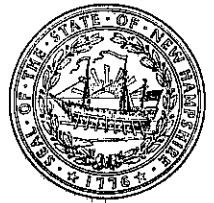




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

March 24, 2010

Lynda Donovan
Burndy, LLC
34 Bern Dibner Road
Lincoln, NH 03251

Re: Docket No. AF 10-004 - Administrative Fine by Consent Agreement

Dear Ms. Donovan:

Enclosed for your records is a copy of the fully executed and accepted Administrative Fine by Consent Agreement in the above mentioned matter. We are in receipt of your payment pursuant to Section V, Paragraphs 2 through 4 of the agreement.

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,

COPY
Jane Murray

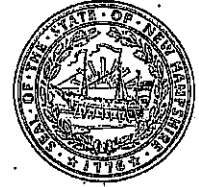
Jane Murray
Executive Secretary
DES Legal Unit

cc: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau Head, NH DOJ
DES Public Information Officer
Lincoln Select Board
Robert Bishop, DES

cc: DES Legal Unit



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

Burndy, LLC
34 Bern Dibner Road
Lincoln, NH 03251

Re: EPA ID No. NHD073990418

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 10-004

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Burndy, LLC 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. Burndy, LLC ("Burndy") is a limited liability company registered to do business in New Hampshire having a local business and mailing address of 34 Bern Dibner Road, Lincoln, NH 03251.

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 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. Burndy is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on August 14, 1980. Burndy is a manufacturer of electrical connectors which are sold to electrical utility and electrical contractor markets. EPA Identification Number NHD073990418 is assigned to Burndy's site located at 34 Dibner Road in Lincoln, New Hampshire (the "Facility").

4. On December 12, 2007, 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 08-006 to Burndy (formerly FCI USA, Inc.) on February 21, 2008, as amended on August 21, 2008. Based on the violations observed during the inspection, DES believes that an administrative fine is appropriate in this case for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Burndy failed to conduct an adequate hazardous waste determination, as required by Env-Hw 502.01 [was Env-Wm 502.01], on the oil skimmed from wastewater treatment, alkaline wash water, and hydraulic and cutting oils ("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 \$4,500.

2. Burndy failed to use a uniform hazardous waste manifest, as required by Env-Hw 510.01 [was Env-Wm 510.01], for nine (9) shipments of its F006/F019 wastewater treatment sludge (i.e., the oil skimmed from the wastewater treatment unit) ("Violation 2"). For this violation, Env-C 612.04(a) authorizes a fine of \$2,000 for each shipment, for a potential fine of \$18,000.

3. Burndy failed to use the correct EPA hazardous waste code (F006/F019), as required by Env-Hw 510.03(a) [was Env-Wm 510.03(a)], on seven (7) hazardous waste manifests (i.e., CTF1011428; CTF1013458; CTF0801635; CTF1051127; CTF1177690; CTF1177928; and CTF1258794) ("Violation 3"). For these violations, Env-C 612.04(b) authorizes a fine of \$500 per shipment, for a potential fine of \$3,500.

4. Burndy failed to deliver, as required by Env-Hw 511.01(b) [was Env-Wm 511.01(b)], the F006/F019 hazardous waste to a facility that was permitted for F006/F019 hazardous waste ("Violation 4"). The oil skimmed from the wastewater treatment unit was delivered to United Oil Recovery, Inc. and Zecco, Inc. on sixteen (16) separate occasions. United Oil Recovery, Inc. and Zecco, Inc. are not permitted to handle F006/F019 hazardous waste. For these violations, Env-C 612.04(d) authorizes a fine of \$2,000 per load delivered to an unauthorized facility, for a potential fine of \$32,000. For settlement purposes, DES has determined that the base fine for this violation be revised to \$18,700 based on information submitted by Burndy.

V. PAYMENT, WAIVER OF HEARING

1. DES asserts that the following fines are appropriate for Violations 1 through 4 which are Class I violations:

a. Violation 1 is a Class I violation. The hazardous waste determinations for the alkaline wash water, and hydraulic and cutting oils were determined to be adequate. DES is thus seeking a penalty for failing to conduct one (1) hazardous waste determination (i.e., oil skimmed from wastewater treatment unit). In addition, DES has determined due to Burndy's high level of cooperation in providing information and its effort to correct the violation and other circumstances that a 45% reduction should be applied (i.e., cooperation (25%) and other circumstances (20%)). DES is thus seeking a fine of \$825 for Violation 1;

- b. For settlement purposes only, DES will not seek fines for Violations 2 and 3; and
- c. Violation 4 is a Class I violation. DES has determined due to Burndy's high level of cooperation in providing information and its effort to correct the violation and other circumstances that a 45% reduction should be applied (i.e., cooperation (25%) and other circumstances (20%)) to the gravity portion of the penalty (i.e., \$13,660 (gravity) X .55 + \$5,040 (economic benefit) = \$12,553. DES is thus seeking a fine of \$12,553 for Violation 4.
2. Of the total administrative fine for the Class I violations as described in this Administrative Fine by Consent in the amount of \$13,378, Burndy agrees to pay \$9,209 upon execution of this Administrative Fine by Consent by an authorized representative of Burndy.
3. Burndy may receive credit of up to the remaining amount of the fine due, \$4,169, by undertaking the Supplemental Environmental Project ("SEP") described as follows: Burndy shall expend at least \$8,338 in capital equipment costs for an inline wash system. The inline wash system is a rotary drum operation that uses soap and water. The unit is designed to remove burrs and oils prior to performing other manufacturing processes. Oily parts are washed with the solution in a tank equipped with an oil/water separator which draws floating oil out of the process solution and effectively separates the oil from the water. The wash system is a completely self-contained system. No process solution or rinse solution is released to the wastewater treatment system. The SEP will serve as a valuable tool to help Burndy limit the amount of oil in the wastewater treatment system and improve compliance. The SEP shall be credited at a 2:1 ratio (i.e., for every two dollars spent on the SEP up to \$8,338, one dollar is credited towards payment of the remaining fine amount of \$4,169. The SEP is not otherwise required by any local, state, or federal statute, regulation, order, consent decree, permit or other agreement.
4. On June 23, 2008, the inline wash system was implemented at the Facility. Burndy shall certify to DES, upon execution of this Administrative Fine by Consent, that at least \$8,338 in capital equipment costs were incurred. Burndy shall submit with this certification, copies of purchase orders and receipts or cancelled checks. If the final cost for capital equipment did not reach the \$8,338 commitment, then any remainder of the amount due, \$4,169, not paid through SEP credits will be paid to the State of New Hampshire Hazardous Waste Cleanup Fund upon execution of this Administrative Fine by Consent by an authorized representative of Burndy.
5. Payment under paragraph "V.2," shall be paid by certified 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.
6. Any payments that become due under paragraphs "V.3" and/or "V.4" shall be paid by certified check made payable to "**State of New Hampshire Hazardous Waste Cleanup Fund**" and shall be mailed to: DES Legal Unit, Attn: 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 Administrative Fine by Consent, Burndy 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.

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

10. 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.

Burndy, LLC

COPY
By: Reginald Phelps, Plant Manager
Duly Authorized

3/19/2010
Date

Department of Environmental Services

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

3/19/10
Date

COPY
Thomas S. Burack, Commissioner

3/23/10
Date

cc: DES Legal Unit
RCRA/DB/AF

cc: Public Information Officer, DES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Lincoln Select Board