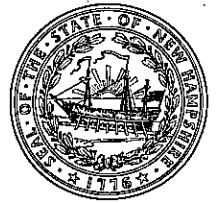




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

August 18, 2010

Watts Regulator Co.
Russell A. Nadeau, Director of NH Operations
815 Chestnut Street
North Andover, MA 01845

Re: Docket No. AF 10-050 - Administrative Fine by Consent Agreement

Dear Mr. Nadeau:

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 in full pursuant to Section V, Paragraph 3 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,

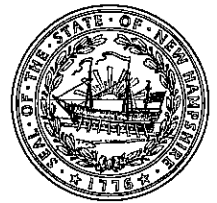
COPY
Jane Murray
Jane Murray
Executive Secretary
DES Legal Unit

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

cc: DES Legal Unit
Russell A. Nadeau, PO Box 6431, Franklin, NH 03235



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

Watts Regulator Co.
815 Chestnut Street
North Andover, MA 01845

Re: 585 South Main Street
Franklin, NH 03235
EPA ID# NHD05837960

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 10-050

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Watts Regulator Co. 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 in Concord, New Hampshire.
2. Watts Regulator Co. ("Watts Regulator") is a corporation registered to do business in New Hampshire having a mailing address of 815 Chestnut Street, North Andover, MA 01845.

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-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 612 to establish the schedule of fines for such violations.
3. Watts Regulator is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on October 13, 1981. Watts Regulator, doing business as Webster Valve Company, manufactures and sells bronze and brass pressure valves, regulators and other related products. EPA Identification Number NHD058537960 was assigned to the Watts Regulator Co. site located at 583 South Main Street in Franklin, New Hampshire (the "Facility").

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

4. On August 12, 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 08-118 to Webster Valve on October 6, 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. Watts Regulator failed to conduct or document inspections of the wastewater treatment evaporation unit, as required by Env-Hw 304.04 (g) [was Env-Wm 353.04 (g)], permitted by DES under Limited Permit # DES-HW-LP-06-16, during 13 of the previous 52 weeks. In addition, Watts Regulator failed to document the time of the inspection on the inspection logs ("Violation 1"). 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 for this violation.
2. Watts Regulator failed to conduct an adequate hazardous waste determination, as required by Env-Hw 502.01 [was Env-Wm 502.01], for the lab pack chemicals stored in the 90-day Storage Area, and the paint booth filters generated from the facility's three (3) spray painting booths ("Violation 2"). For these violations, Env-C 612.05(a) authorizes a fine of \$1,500 per determination not made, for a potential fine of \$3,000.
3. Watts Regulator failed to close, as required by Env-Hw 507.01(a)(3) [was Env-Wm 507.01(a)(3)], one (1) 18-ton roll-off container of hazardous waste "Foundry Sand and Debris" stored outside in the Foundry 90-day Storage Area ("Violation 3"). For these violations, Env-C 612.06(c)(1) authorizes a fine of \$400 for each container that is 55-gallons or greater.
4. Watts Regulator failed to cover, as required by Env-Hw 507.01(e) [was Env-Wm 507.01(d)], the one (1) 18-ton roll-off container of hazardous waste "Foundry Sand and Debris" stored outside ("Violation 4"). For this violation, Env-C 612.06(f) authorizes a fine of \$300 per container.
5. Watts Regulator failed to mark, as required by Env-Hw 507.03(a)(1)a. [was Env-Wm 507.03(a)(1)a.], three (3) 270-gallon totes and two (2) cubic yard boxes in the 90-day Storage Area with the beginning accumulation date ("Violation 5"). For these violations, Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater, for a potential fine of \$1,250.
6. Watts Regulator failed to have a label that was visible, as required by Env-Hw 507.03(a)(2) [was Env-Wm 507.03(a)(2)], on one (1) 55-gallon satellite container of hazardous waste stored in the Screw Machining Centrifuge satellite storage (*i.e.*, label not hidden by a wall or other containers) ("Violation 6"). For this violation, Env-C 612.06(m) authorizes a fine of \$100 per container whose label is not visible.
7. Watts Regulator failed to document weekly inspections of the two (2) 90-day hazardous waste storage areas, as required by Env-Hw 509.02(a)(1) [was Env-Wm 509.02(a)(1)], for a total of sixteen (16) out of the 104 required inspections during the previous year ("Violation 7"). For this violation, Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area. For settlement

purposes only, DES will consider only the time period of seventeen (17) weeks prior to the date of the inspection for each of the 90-day storage areas. Watts Regulator failed to document inspections of the two (2) 90-day hazardous waste storage area for eight (8) of the thirty-four (34) required weekly inspections immediately prior to the inspection, for a potential fine of \$8,000.

8. Watts Regulator failed to maintain a personnel training program and provide hazardous waste training for the following employees with hazardous waste duties, as required by Env-Hw 509.02(a)(2) [was Env-Wm 509.02(a)(2)]: five (5) years of no annual training for Emergency Coordinator John Purple; no initial training for Emergency Coordinator Wayne MacDonald; three (3) years of no annual training for Hazardous Waste Handler Leo Gilbert and four (4) years of no annual training for Hazardous Waste Handler Donnie Cross ("Violation 8"). For these violations, Env-C 612.07(b) authorizes a fine of \$1,750 per individual not trained for initial training and \$1,000 per individual not trained for annual updates, for a potential fine of \$13,750.

9. Watts Regulator 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 9"). For this violation, Env-C 612.07(e) authorizes a fine of \$2,000.

10. Watts Regulator failed to post a complete emergency posting, as required by Env-Hw 509.02(b) [was Env-Wm 509.02(b)], at the nearest telephones to the two (2) 90-day storage areas ("Violation 10"). For these violations, Env-C 612.07(h) authorizes a fine of \$1,000 per area, for a potential fine of \$2,000.

11. Watts Regulator failed to provide, as required by Env-Hw 509.02(c) [was Env-Wm 509.02(c)], security measures for the one (1) 18-ton roll-off container of hazardous waste "Foundry Sand and Debris" that was stored outside ("Violation 11"). For this violation, Env-C 612.07(i) authorizes a fine of \$1,750 per area.

12. Watts Regulator failed to keep closed, 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) box of lead contaminated floor mats located in the 90-day satellite storage area and one (1) 55-gallon container of mineral spirits located in the Screw Machining Area ("Violation 12"). For these violations, Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area, for a potential fine of \$2,000.

13. Watts Regulator failed to mark, as required by Env-Hw 509.03(g) [was Env-Wm 509.03(g)], one (1) box of lead contaminated floor mats located in the 90-day satellite storage area and two (2) Thermal Actuators located in the Department 97/Power satellite storage area with the words "hazardous waste" and words that identified the contents of the container ("Violation 13"). For these violations, Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area, for a potential fine of \$2,000.

14. Watts Regulator failed to maintain, as required by Env-Hw 512.01(a)(1) [was Env-Wm 512.01(a)(1)], a copy of manifest number 000812066JJK, dated September 11, 2006 certified by the designated facility, for three (3) years from the date of signature by the generator, ("Violation 14"). For this violation, Env-C 612.08(a) authorizes a fine of \$300 per type of record.

15. Watts Regulator failed to close, as required by Env-Hw 1102.03 [was Env-Wm 1102.03], seven (7) 4-foot and four (4) 8-foot containers of universal waste fluorescent lamps ("Violation 15"). DES has determined this violation to be a minor deviation from the requirements and a minor potential for harm, for which Env-C 610.06 specifies a fine of between \$100 and \$1,000. DES proposes a fine of \$165 for this violation.

V. PAYMENT, WAIVER OF HEARING

1. For purposes of settlement of this action, DES agrees not to seek fines associated with Violations 1, 4, 6, 7, 9, 10, 12, 13 and 15 because they are not Class I violations.

2. DES asserts that the following fines are appropriate for Violations 2, 3, 5, 8, 11, and 14 which are Class I violations.

a. DES will not seek a fine for Violation 2 because Watts Regulator documented that the paint booth filters were analyzed and determined to be non-hazardous and the hazardous waste determination for the lab pack chemicals is a Class II violation;

b. Violation 3 is a Class I violation. DES has determined due to Watts Regulator'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 \$320 for Violation 3;

c. Violation 5 is a Class I violation. DES has determined due to Watts Regulator'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 for Violation 5;

d. Violation 8 is a Class I violation. DES has determined due to Watts Regulator's good faith effort to comply that a 20% reduction should be applied to the gravity portion of the penalty (*i.e.*, \$6,350 (gravity) X .80 + \$7,400 (economic benefit)). DES is thus seeking a fine of \$12,480 for Violation 8;

e. Violation 11 is a Class I violation. DES has determined due to Watts Regulator's good faith effort to comply that a 20% reduction should be applied. DES is thus seeking a fine of \$1,400 for Violation 11; and

f. DES is seeking a fine of \$300 for Violation 14.

3. Watts Regulator agrees to pay a total fine of \$15,500 upon execution of this Administrative Fine by Consent by an authorized representative of Watts Regulator.

4. Payment made pursuant to the preceding paragraph shall be paid by certified check made payable to "Treasurer, State of New Hampshire" and 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. The parties have entered into this Agreement to avoid the time and cost of litigation. By executing this Agreement, Watts Regulator 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. Other than this enforcement action or any action that may be necessary to enforce this Agreement, DES shall pursue no further administrative action against Watts Regulator relative to the allegations contained herein. In any proceeding to enforce this Agreement, Watts Regulator agrees not to challenge the validity of any provision of this Agreement.

7. In any future proceeding by DES seeking administrative fines based on alleged violations of RSA 147-A and/or the Hazardous Waste Rules, Watts Regulator agrees that it will not seek a reduction in the fine based on Env-C 601.10(c). This Agreement shall not constitute, be construed as, or operate as: (i) an admission or evidence of liability by Watts Regulator; (ii) an admission by Watts Regulator or evidence that it violated any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of any defense Watts Regulator might raise in any third party proceeding.

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

9. 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.

Watts Regulator Co.

~~COPY~~
By Russell A. Nadeau, Director of NH Operations
Duly Authorized

7/15/2010
Date

Department of Environmental Services

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

8/2/10
Date

for Michael **COPY**, *Ass't. Comm.* 7/12/10
Thomas S. Burack, Commissioner Date

cc: DES Legal Unit
Russell A. Nadeau, P.O. Box 6431, Franklin, NH 03235
RCRA/DB/AF

ec: Public Information Officer, DES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Linda R. Birmingham, HWMB-WMD
Franklin City Council