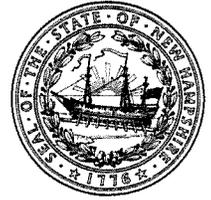




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

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

Re: Lakes Region Household Hazardous
Product Facility – Wolfeboro, NH
EPA ID #NHD510184351

**ADMINISTRATIVE FINE
BY CONSENT**

NO. AF 15-003

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Clean Harbors Environmental Services, Inc., 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. Clean Harbors Environmental Services, Inc. (“Clean Harbors”) is a corporation registered to do business in New Hampshire having a mailing address of P.O. Box 9149, Norwell, MA 02061.

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 (the “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.
3. Clean Harbors is a hazardous waste generator that notified the United States Environmental Protection Agency (“EPA”) of its activities in Wolfeboro, New Hampshire through DES on April 16, 2004. EPA Identification Number NHD510184351 was assigned to the Lakes Region Household Hazardous Product Facility, located at 404 Beach Pond Road in Wolfeboro, New Hampshire (the “Facility”). Clean Harbors operates the Facility as a household hazardous waste collection facility.

4. On July 19, 2013, DES personnel conducted an inspection of the Facility. The purpose of the inspection was to determine compliance with RSA 147-A and the Hazardous Waste Rules by Clean Harbors at the Facility.

5. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES sent a Notice of Past Violation, dated October 11, 2013, to Clean Harbors and to the Facility. 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. Clean Harbors violated Env-Hw 504.02(d), and Env-Hw 504.02(b)(7), by failing to notify DES of a change in hazardous waste generator status (from a Full Quantity Generator to a Large Quantity Generator) at the Facility ("Violation 1"). For settlement purposes only, DES is not proposing a fine for this violation.

2. Clean Harbors violated Env-Hw 509.02(a)(2), by failing to maintain an adequate training program and failing to provide annual reviews of hazardous waste training to Adam Tasker and David Ford as Alternate Emergency Coordinators for the Facility ("Violation 2"). For settlement purposes only, DES is not proposing a fine for this violation.

3. Clean Harbors violated Env-Hw 509.02(a)(4), by failing to familiarize local authorities (local police and hospital) with the layout of the Facility, and the properties of the hazardous waste handled at the Facility and associated hazards ("Violation 3"). For settlement purposes only, DES is not proposing a fine for this violation.

4. Clean Harbors violated Env-Hw 509.02(a)(5), by failing to include the emergency coordinator's home and office address in the emergency contingency plan for the Facility ("Violation 4"). For settlement purposes only, DES is not proposing a fine for this violation.

5. Clean Harbors violated Env-Hw 510.02(d)(2)b., by failing to submit signed copies of the following twelve (12) hazardous waste manifests to DES within 5 days of the shipment from the Facility ("Violation 5"):

- a. Manifest #000586535FLE dated 6/15/13;
- b. Manifest #006586764FLE dated 5/18/13;
- c. Manifest #005594585FLE dated 9/15/12;
- d. Manifest #005595267FLE dated 8/8/12;
- e. Manifest #005655824FLE dated 7/21/12;
- f. Manifest #004723871FLE dated 6/18/11;
- g. Manifest #004723869FLE dated 6/18/11;
- h. Manifest #004720234FLE dated 5/21/11;
- i. Manifest #003428119FLE dated 10/16/10;
- j. Manifest #003430525FLE dated 9/18/10;

- k. Manifest #003431204FLE dated 8/21/10; and,
- l. Manifest #003432531FLE dated 7/17/10.

Pursuant to RSA 147-A:17-a, DES proposes a fine of \$100 per manifest, for a potential fine of \$1,200 for this violation.

6. Clean Harbors violated Env-Hw 512.02(h) by certifying and submitting the following four inaccurate quarterly reports for the Facility to DES (“Violation 6”):

- a. Quarter 3 - 2012, signed 10/30/12, missing manifest #005594585FLE dated 9/15/12; manifest #005595267FLE dated 8/8/12; and manifest #005655824FLE dated 7/21/12;
- b. Quarter 2 - 2011, signed 12/5/12, missing manifest #004723871FLE dated 6/18/11; manifest #004723869FLE dated 6/18/11; and manifest #004720234FLE dated 5/21/11;
- c. Quarter 4 - 2010, signed 1/26/11, missing manifest #003428119FLE dated 10/16/10; and,
- d. Quarter 3 - 2010, signed 12/5/12, missing manifest #003430525FLE dated 9/18/10; manifest #003431204FLE dated 8/21/10; and manifest #003432531FLE dated 7/17/10.

Pursuant to RSA 147-A:17-a, DES proposes a fine of \$2,000 per quarterly report, for a potential fine of \$8,000 for this violation.

7. Clean Harbors violated Env-Hw 512.02(i), by failing to submit two quarterly reports for the Facility to DES within 30 days of receipt (“Violation 7”). For settlement purposes only, DES is not proposing a fine for this violation.

V. PAYMENT, WAIVER OF HEARING

1. For purposes of settlement of this action, DES agrees not to pursue fines associated with Violations 1 through 4 and 7 because they are not Class I violations.

2. DES asserts that the following fines are appropriate for Violations 5 and 6:

- a. Violation 5 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$1,200 for Violation 5; and,
- b. Violation 6 is a Class I violation. DES has determined that the following reduction should be applied to the penalty for Violation 6:
 - i. A 20% reduction based on the cooperation of Clean Harbors in correcting the violation. Clean Harbors immediately corrected the violation and has instituted additional recordkeeping procedures to ensure that accurate quarterly reports and hazardous waste manifests are submitted within the time frames required in the Hazardous Waste Rules.

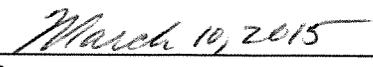
DES thus will seek a penalty of \$6,400 ($\$8,000$ (base penalty) \times .80 (20% reduction)) for Violation 6.

3. Clean Harbors agrees to pay a total fine in the amount of \$7,600 upon execution of this Administrative Fine by Consent by an authorized representative of Clean Harbors.
4. Payment due and payable pursuant to the preceding paragraph shall be paid by certified or corporate check made payable to "Treasurer, State of New Hampshire" and mailed to: **DES Legal Unit, Attn: Compliance Attorney, P.O. 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, Clean Harbors 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 Clean Harbors relative to the allegations contained herein. In any proceeding to enforce this Agreement, Clean Harbors 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 Env-Hw 100-1100, Clean Harbors 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 Clean Harbors; (ii) an admission by Clean Harbors or evidence that it violated any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of any defense Clean Harbors 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 Clean Harbors, 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.

Clean Harbors Environment Services, Inc.


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


Date

Department of Environmental Services

~~COPY~~

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

Date 3/16/15

~~COPY~~

Thomas S. Burack, Commissioner

Date 3/18/15

cc: DES Legal Unit
RCRA/DB/AF

ec: Public Information Officer, DES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Robert Bishop, Enforcement Manager, HWMB/DES
Sarah Silk, Site Coordinator, Lakes Region Household Hazardous Product Facility
Wolfeboro Select Board