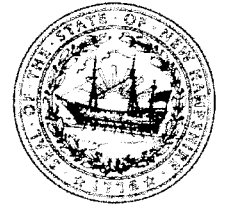


The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

Pharmerica Institutional Pharmacy Services, LLC
c/o Tax Department
1901 Campus Place
Louisville, KY 40299

Re: 38 Locke Road #3, Concord, NH
EPA ID #NHD510216930

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 18-015

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Pharmerica Institutional Pharmacy Services, LLC in accordance with RSA 147-A:17-a. This Administrative Fine by Consent is effective upon signature by the parties.

II. PARTIES

1. The Department of Environmental Services, Waste Management Division 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. Pharmerica Institutional Pharmacy Services, LLC (“PharMerica”) is a limited liability company registered to do business in New Hampshire with a mailing address of c/o Tax Department, 1901 Campus Place, Louisville, KY 40299.

III. BACKGROUND

1. RSA 147-A authorizes the New Hampshire Department of Environmental Services (“DES”) to regulate the management and disposal of hazardous waste. The Commissioner of DES has adopted NH CODE ADMIN RULES Env-Hw 100-1200 (the “Hazardous Waste Rules”) to implement this program in accordance with RSA 147-A:3.
2. RSA 147-A:17-a authorizes the Commissioner of DES to impose fines of up to \$2,000 per offense for violations of RSA 147-A, or rules adopted in accordance with RSA 147-A:3.
3. PharMerica is a hazardous waste generator that notified the United States Environmental Protection Agency (“EPA”) of its activities as a Full Quantity Generator through DES on April 7, 2015. EPA assigned Identification No. NHD510216930 to PharMerica’s site located at 38 Locke Road #3 in Concord, New Hampshire (the “Facility”).
4. On July 2, 2015, DES personnel inspected the Facility for compliance with RSA 147-A and the Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued a Report of Hazardous Waste Inspection to PharMerica dated

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

May 5, 2016; and a Notice of Findings dated June 7, 2016. Based on the violations observed during the inspection, and information provided to DES by PharMerica after the inspection, DES believes that administrative fines are appropriate for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. PharMerica has violated Env-Hw 502.01 by failing to conduct an adequate hazardous waste determination for waste pharmaceuticals generated before April 7, 2015 at the Facility ("Violation 1"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$2,000 for this violation.
2. PharMerica has violated Env-Hw 504.01 by failing to notify DES prior to conducting hazardous waste activities at the Facility ("Violation 2"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$2,000 for this violation.
3. PharMerica has violated Env-Hw 507.01(a)(3) [now Env-Hw 507.02(a)(3)] by failing to place hazardous waste in containers that are closed at all times except to add or remove waste at the Facility ("Violation 3"). For settlement purposes only, DES does not propose a fine for these violations.
4. PharMerica has violated violated Env-Hw 507.03(a)(1) [now Env-Hw 509.02(d)] by failing to mark five 55-gallon hazardous waste containers in the Hazardous Waste Storage Area ("HWSA") at the Facility with the beginning accumulation date, with the words "Hazardous Waste", with the contents of the container, and with the EPA or state waste number ("Violation 4"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$250 per container for a total proposed fine of \$1,250 for these violations.
5. PharMerica has violated Env-Hw 509.02(a)(1) by failing to conduct any weekly inspections of the HWSA of the Facility in the 52 weeks prior to the inspection ("Violation 5"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$350 per inspection not conducted for a total proposed fine of \$18,200 for these violations.
6. PharMerica has violated Env-Hw 509.02(a)(2) by failing to maintain a written hazardous waste training program at the Facility ("Violation 6"). For settlement purposes only, DES does not propose a fine for this violation.
7. PharMerica has violated Env-Hw 509.02(a)(3) by failing to post a "No Smoking" sign in an area used to store ignitable hazardous wastes at the Facility ("Violation 7"). For settlement purposes only, DES does not propose a fine for this violation.
8. PharMerica has violated Env-Hw 509.02(a)(5) by failing to maintain a complete Contingency Plan for the Facility ("Violation 8"). For settlement purposes only, DES does not propose a fine for this violation.
9. PharMerica has violated Env-Hw 509.02(b) by failing to post emergency response information at the nearest telephone to the HWSA in the Facility ("Violation 9"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$1,000 for this violation.
10. PharMerica has violated Env-Hw 509.03(g) [now Env-Hw 509.03(f)] by failing to mark one 55-gallon satellite storage container of hazardous waste in located in the Returns Area of the Facility with the words "Hazardous Waste" and words that identify the contents of the container

("Violation 10"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$200 for this violation.


11. PharMerica has violated Env-Hw 509.03(h) [now Env-Hw 509.03(g)] by failing to conduct monthly inspections of satellite containers that have accumulated greater than ten gallons of hazardous waste at the Facility ("Violation 11"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$250 for this violation.


V. PAYMENT, WAIVER OF HEARING

1. For settlement purposes, DES agrees not to pursue fines associated with Violations 3, 6, 7, and 8 because they are not Class I violations.
2. PharMerica agrees to pay the proposed fines in the total amount of \$24,900 for Violations 1, 2, 4, 5, and 9 through 11, which are Class I violations, upon execution of this Administrative Fine by Consent by an authorized representative of PharMerica.
3. Payment shall be paid by certified 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.
4. If any payment is made by check or money order that is returned due to insufficient funds, per 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.
5. By executing this Administrative Fine by Consent, PharMerica waives its right to a hearing on or any appeal of the administrative fines identified in this Administrative Fine by Consent, and agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction.
6. The effective date of this Administrative Fine by Consent will be the date on which it is signed by an authorized representative of PharMerica, the Director of the Waste Management Division, and the Commissioner of DES.
7. 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.

Pharmerica Institutional Pharmacy Services, LLC


By: Stephen A. Lariviere,
Chief Compliance Officer
Duly Authorized


Date

Department of Environmental Services

~~COPY~~

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

4/24/18

Date

~~COPY~~

Robert R. Scott, Commissioner

4-25-18

Date

cc: DES Legal Unit
RCRA/DB/AF

ec: Public Information Officer, DES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
E. Molly Stark, HWMB/WMD/DES
Concord City Manager