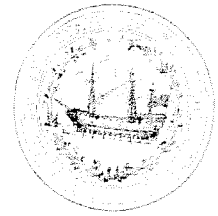


The State of New Hampshire  
**Department of Environmental Services**

**Robert R. Scott, Commissioner**



Nelson Analytical, LLC  
490 E. Industrial Park Drive  
Manchester, NH 03109

Re: Aquarian Analytical  
153 West Road, Canterbury, NH  
EPA ID #NHD500011929

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 19-021**

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Nelson Analytical, 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. Nelson Analytical, LLC ("Aquarian Analytical") is a New Hampshire limited liability company doing business in Canterbury, New Hampshire under a trade name, having a mailing address of 490 E. Industrial Park Drive, Manchester, NH 03109.

**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. Aquarian Analytical is a New Hampshire Full Quantity Generator of hazardous waste that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on July 6, 2015. EPA assigned Identification No. NHD500011929 to Aquarian Analytical's site located at 153 West Road in Canterbury, New Hampshire (the "Facility").
4. On July 26, 2017, 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 Letter of Deficiency No. WMD 17-190 to Aquarian Analytical

[www.des.nh.gov](http://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

on September 26, 2017. Based on the violations observed during the inspection, and information provided to DES after the inspection, DES believes that administrative fines are appropriate for the Class I violations.

#### IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Aquarian Analytical has violated Env-Hw 502.01 by failing to conduct adequate hazardous waste determinations on expired calibration standards generated at the Facility ("Violation 1"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. For settlement purposes only, DES does not propose a fine for these violations.
2. Aquarian Analytical has violated Env-Hw 507.02(a) [now Env-Hw 507.03(a)] by failing to ship from the Facility one 15-gallon container of hazardous waste within 90 days of the date when accumulation of the waste began without first obtaining a storage permit ("Violation 2"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. For settlement purposes only, DES does not propose a fine for this violation.
3. Aquarian Analytical has violated Env-Hw 507.03(a)(1)a. and d. [now Env-Hw 509.02(d)(1) and (4)] by failing to mark four containers of hazardous waste at the Facility with either or both of: the beginning accumulation date, and the EPA or state waste number ("Violation 3"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. For settlement purposes only, DES does not propose a fine for these violations.
4. Aquarian Analytical has violated Env-Hw 509.02(a)(1) by failing document 24 out of the required 52 weekly inspections of the hazardous waste main accumulation area at the Facility ("Violation 4"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$350 for each of the 24 weekly inspections not conducted, for a total fine of \$8,400 for these violations.
5. Aquarian Analytical has violated 509.02(a)(2) by failing to provide annual hazardous waste training to one employee at the Facility with hazardous waste duties in 2013 and 2014 ("Violation 5"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. For settlement purposes only, DES does not propose a fine for these violations.
6. Aquarian Analytical has violated Env-Hw 509.02(a)(4) by failing to supply adequate water for fire protection to the hazardous waste main accumulation area at the Facility ("Violation 6"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. For settlement purposes only, DES does not propose a fine for this violation.
7. Aquarian Analytical has violated Env-Hw 509.02(a)(5) by failing to maintain a complete Contingency Plan at the Facility ("Violation 7"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. For settlement purposes only, DES does not propose a fine for this violation.
8. Aquarian Analytical has violated Env-Hw-509.02(b) by failing to post a complete list of emergency steps and information at the nearest telephone to the hazardous waste storage area at the Facility ("Violation 8"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. For settlement purposes only, DES does not propose a fine for these violations.
9. Aquarian has violated Env-Hw 512.01(a)(1) by failing to maintain at the Facility, for three years from the date of the generator's signature, a copy of two hazardous waste manifests certified

by the designated facility ("Violation 9"). RSA 147-A:17-a authorizes a fine of up to \$2,000 per violation. DES proposes a fine of \$1,500 for these violations.

#### V. PAYMENT, WAIVER OF HEARING

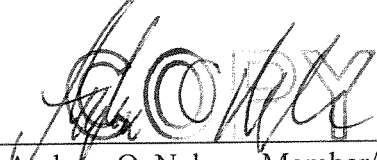
1. For settlement purposes, DES agrees not to pursue fines associated with Violations 1 through 3, and 5 through 8 because they are not Class I violations.
2. For settlement purposes, DES will apply a 20% reduction to the proposed fines for Violations 4 and 9, which are Class I violations, based on Aquarian Analytical's cooperation in correcting violations and providing information during and after the inspection of the Facility. For settlement purposes, DES will apply an additional 10% reduction to the gravity portion of the Class I violations for other circumstances because this was Aquarian Analytical's first inspection. DES calculates a total revised penalty of \$6,930 for the Class I violations. [ $\$9,900(\text{gravity penalty}) \times .70$  (20% reduction for cooperation, plus 10% reduction for other circumstances)= \$6,930]
3. Aquarian Analytical agrees to pay the revised proposed fine in the total amount of \$6,930, for the Class I Violations, as follows:
  - a. Aquarian Analytical may receive credit of up to \$300 of the amount of the fine due and payable by undertaking the Supplemental Environmental Project ("SEP") described as follows: Aquarian Analytical shall have one employee (Andrew Nelson or substitute with management duties) trained and certified through the DES Hazardous Waste Coordinator Certification program. The Aquarian Analytical employee must attend the training and pass the test for certification within six-months of the date of this Administrative Fine by Consent ("Agreement");
  - b. The SEP identified in this Agreement shall be credited at a 1:1 ratio, up to a maximum amount of \$300. The SEP must be completed within six months following the execution of this Agreement. The SEP is not otherwise required by any local, state, or federal statute, regulation, order, consent decree, permit or other agreement;
  - c. If the final cost of any SEP undertaken does not reach the \$300 SEP commitment, then any difference will become immediately due and payable to DES by the same method described in the following paragraph; and
  - d. Aquarian Analytical agrees to pay the remaining portion of the fine in the amount of \$6,630 upon execution of this Agreement by an authorized representative of Aquarian Analytical.
4. Payment shall be paid by certified or corporate check made payable to *Treasurer, State of New Hampshire* and mailed to:

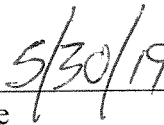
DES Legal Unit  
Attn: Compliance Attorney  
P.O. Box 95  
Concord, NH 03302-0095
5. If any payment is made by check or money order that is returned due to insufficient funds, per RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever 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.

6. By executing this Agreement, Aquarian Analytical 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.
7. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Nelson Analytical, LLC, the Director of the Waste Management Division, and the Commissioner of DES.
8. No failure by DES to enforce any provision of this Agreement 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.

**Nelson Analytical, LLC**

  
By: Andrew O. Nelson, Member/Manager  
Duly Authorized

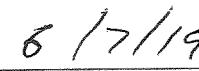
  
Date

**Department of Environmental Services**

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

  
Date

  
Robert R. Scott, Commissioner

  
Date

cc: DES Legal Unit  
RCRA/DB/AF

ec: Public Information Officer, DES PIP Office  
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau  
Salem Select Board & Health Officer  
E. Molly Stark, P.G., HWMB/WMD/DES