



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

To: Board of Environmental Protection
From: Andrew Slusarski, Michael Hudson, Hazardous Waste Enforcement Unit, Bureau of Remediation and Waste Management (BRWM)
Date: May 20, 2010
RE: Administrative Consent Agreement - Advanced Power Technologies, LLC, Westbrook, Maine

Statutory and Regulatory Reference: The Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq., specifies certain requirements for the management, storage, treatment and disposal of hazardous waste.

Location: Advanced Power Technologies, LLC, Westbrook, Maine

Description: Advanced Power Technologies, LLC has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The hazardous waste violations were identified during an inspection conducted at Advanced Power Technologies, LLC on June 16, 2009. The violations identified include the following: 1) failure to mark containers of universal waste lamps, 2) failure to mark containers of universal waste with the date received, 3) failure to file a subsequent notification to update the site's U.S. EPA identification number, 4) failure to maintain employee universal waste training records, 5) failure to store universal waste containers with adequate aisle space, 6) failure to use a manifest or Universal Bill of Lading to document shipments of universal wastes and 7) failure to submit to the Department quarterly universal waste reports. About five months prior to the inspection, Advanced Power Technologies, LLC had acquired the business inventory, equipment and customers of Conlite, Inc., doing business as Conservation Lighting Inc., and also retained some of Conlite's employees. The violations cited above were similar to violations for which Conlite had been cited and penalized for in two administrative consent agreements, one in 2002 and another 2005.

To resolve these violations, Advanced Power Technologies, LLC has completed the following: a) on January 11, 2010 submitted a written response to the Department indicating corrective actions undertaken, or planned to address the violations, b) on April 1, 2010 provided the 4 delinquent quarterly reports, and c) on April 1, 2010 provided universal waste personnel training records.

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PRESQUE ISLE 1235 CENTRAL DRIVE, SKYWAY PARK PRESQUE ISLE, MAINE 04769-2094 (207) 764-0477 FAX: (207) 760-3143

In addition, Advanced Power Technologies, LLC has agreed to pay to the Maine Hazardous Waste Fund a penalty of Four Thousand Five Hundred Dollars (\$4,500.00) as specified in the Agreement.

The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste, and for the inspection or supervision of hazardous waste handlers and related hazardous waste activities. Pursuant to statute, all fees, penalties, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

Advanced Power Technologies, LLC has agreed to pay the above penalty which was based upon the type of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and any economic benefit realized. In this specific case no economic benefit was realized as a result of the violations. The violations warranted a monetary penalty, because Advanced Power Technologies, LLC is a registered universal waste consolidator, should have been familiar with the applicable regulations, and failed to manage and document universal hazardous wastes in accordance with Maine's Hazardous Waste Management Rules. In addition, some management employees may have had knowledge of Conlite's prior violations. A mitigating factor considered in the penalty included Advanced Power Technologies, LLC taking actions to achieve compliance as described above and its cooperation in resolving the violations.

Department Recommendation:

The Department recommends that the Board accept the Consent Agreement as part of its Consent Agenda to resolve the issues addressed.

Staff Contact persons:

Andrew Slusarski, Michael Hudson, Hazardous Waste Enforcement Unit, BRWM

Estimated time of presentation: No presentation; Consent agenda item



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JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

ADVANCED POWER TECHNOLOGIES, LLC) ADMINISTRATIVE CONSENT
84D WARREN AVENUE, WESTBROOK) AGREEMENT
CUMBERLAND COUNTY, MAINE) (38 M.R.S.A. § 347-A)
HAZARDOUS WASTE ACTIVITIES)

This Agreement, by and among Advanced Power Technologies, LLC, the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

- 1. Advanced Power Technologies, LLC is a Florida limited liability company authorized to conduct business in Maine as an electrical contractor and operates a lighting and electrical service business with its principal location at 1500 Powerline Road, Pompano Beach, Florida. Advanced Power Technologies, LLC conducts business in Maine at 84D Warren Avenue, Westbrook, Maine. Devin Grandis is the President and CEO of Advanced Power Technologies, LLC.
2. The violations described herein occurred at 84D Warren Avenue, Westbrook, Maine.
3. Advanced Power Technologies, LLC is a generator and consolidator of hazardous waste including, but not limited to, hazardous universal waste mercury-containing lamps. As a result, Advanced Power Technologies, LLC is subject to Maine's Hazardous Waste, Septage and Solid Waste Management Act ("Act") 38 M.R.S.A. §§ 1301 through 1319-Y and the Department's Hazardous Waste Management Rules 06-096 CMR ("Rules"), Chapters 850 through 857. In addition, on May 1, 2001, Conlite, Inc. doing business as Conservation Lighting, Inc. notified the U.S. Environmental Protection Agency ("U.S. EPA") of its regulated waste activity and was assigned the U.S. EPA hazardous waste generator identification number MER000500439 for the site referenced in paragraph 2 above. On or about January 19, 2009, Advanced Power Technologies, LLC acquired the business inventory, equipment and customers of Conlite, Inc. On January 5, 2010, Advanced Power Technologies, LLC filed a subsequent notification to operate under the U.S. EPA generator identification number MER000500439 issued for the site. The site specific U.S. EPA hazardous waste generator identification number remains the same for Advanced Power Technologies, LLC.
4. On June 16, 2009, Department staff conducted an inspection of Advanced Power Technologies, LLC at the location described in Paragraph 2 of this Agreement to assess

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compliance with the hazardous waste management standards of the Act and Rules. The inspection revealed the following violations:

- A. Advanced Power Technologies, LLC failed to mark containers of universal waste lamps with the type of universal waste or the words "Waste Lamps" in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii) which references 06-096 CMR 850 (3)(A)(13)(e)(xxiii)(e).

Specifically, one pallet with approximately eighteen (18) boxes of lamps that were represented by Advanced Power Technologies, LLC personnel to have been consolidated from generators over the preceding several weeks were unmarked.

Additionally, approximately seventy (70) cartons of universal waste lamps leaning against the wall in the warehouse were not marked in accordance with the Rules. These lamps were represented to have been consolidated by Conlite and were stored at this location prior to, as well as subsequent to the acquisition of Conlite by Advanced Power Technologies, LLC. At the time of the inspection, Advanced Power Technologies, LLC had custody and control of these lamps.

- B. Advanced Power Technologies, LLC failed to mark each container with the date the universal waste is received at the facility, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(iv).

Specifically, the pallet with approximately eighteen (18) boxes of lamps and the approximately seventy (70) cartons of universal waste lamps leaning against the wall in the warehouse referenced in paragraph 4(A) above were not marked appropriately with the date received.

- C. Advanced Power Technologies, LLC failed to file a Subsequent Notification (U.S. EPA form #8700-12) to update the site's U.S. EPA identification number for regulated hazardous waste activity, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(iii).

Specifically, U.S. EPA identification number MER000500439 was issued to this site in 2001 for Conlite, Inc. doing business as Conservation Lighting, Inc. On or about January 19, 2009, Advanced Power Technologies, LLC acquired the business inventory, equipment and customers of Conlite, Inc. Advanced Power Technologies, LLC had not previously notified the Department and had not filed a Subsequent Notification as required for change of ownership. The Department did not receive a Subsequent Notification for the U.S. EPA identification number until January 6, 2010, more than one year after the ownership changes.

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HAZARDOUS WASTE ACTIVITY)	

- D. Advanced Power Technologies, LLC failed to maintain complete employee training records for those employees who handle or have responsibility for managing universal waste, including the name of the person receiving training, the date of training and information covered during training, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii) which references 06-096 CMR 850 (3)(A)(13)(e)(ix).

Specifically, records received after the inspection on July 17, 2009 documented employee names and training dates on computer spreadsheets of Conlite, Inc. employees but do not document any training for Advanced Power Technologies, LLC employees hired after Advanced Power Technologies, LLC's acquisition of Conlite, Inc. Additionally, the records received do not document the information covered in the training.

- E. Advanced Power Technologies, LLC failed to store universal waste containers and boxes with adequate aisle space to be able to inspect the containers and determine accumulation start dates and container full dates, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii) which references 06-096 CMR 850 (3)(A)(13)(e)(xiv).

Specifically, approximately seventy (70) cartons of universal waste lamps were stored in the warehouse leaning against the wall approximately seven (7) rows deep and did not have adequate aisle space and could not be fully inspected.

- F. Advanced Power Technologies, LLC failed to use a manifest or Maine Recyclable Material Uniform Bill of Lading (UBOL) to document the shipment of universal waste, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii) which references 06-096 CMR 850 (3)(A)(13)(e)(iii).

Specifically, a shipment of 37,412 lamps on February 24, 2009 was not documented by the required shipping papers. An after-the-fact UBOL was provided to the Department by Advanced Power Technologies, LLC on September 16, 2009.

Additionally, the pallet with approximately eighteen (18) boxes of lamps referenced in paragraph 4(A) above, was not documented by the required shipping papers. These lamps were consolidated from several generator locations and required either a manifest or UBOL to document the transportation of these universal hazardous wastes.

- G. Advanced Power Technologies, LLC failed to submit to the Department the quarterly universal waste report from the consolidation facility in accordance with the provisions of the Rules 06-096 CMR 857 (13)(C)(2) for wastes transported

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and received using a log in lieu of a manifest or UBOL, in violation of the Rules 06-096 CMR 850 (3)(A)(13)(g)(ii) which references 06-096 CMR 850 (3)(A)(13)(e)(xx)(b).

Specifically, the Department has not received any quarterly reports from Advanced Power Technologies for wastes transported and received using a log in lieu of a manifest or UBOL. Four (4) quarterly reports for calendar year 2009 were overdue, until received on April 1, 2010, including 1st Quarter due on April 30, 2009, 2nd Quarter due on July 31, 2009, 3rd Quarter due on October 31, 2009 and the 4th Quarter due on January 31, 2010.

5. On October 6, 2009, the Department issued a Notice of Violation (NOV) to Advanced Power Technologies, LLC for the activities described in Paragraph 4 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). In the NOV, the Department requested that Advanced Power Technologies, LLC perform corrective actions and respond to the Department in writing within thirty (30) days describing the corrective actions undertaken to address each of the violations cited. Specific corrective actions requested by the Department include, but are not limited to, a) comply with the Rules, b) mark each container of universal waste with the date the waste is received at the facility, c) ensure that no universal waste is accepted for transportation unless it is properly labeled and in closed, sealed containers, d) mark or label containers of universal waste with the type of universal waste or the words "Waste Lamps," e) store universal waste with adequate aisle space to be able to inspect the containers, f) contain and transfer all releases of waste and residues resulting from broken universal waste, g) maintain an inventory system that identifies the date and log or Uniform Bill of Lading number for all universal waste received, and the date and manifest (or UBOL) number for the shipment of containers, h) ensure all universal waste is shipped to an approved facility within one year of receipt and i) within thirty (30) days of receipt of this Notice, respond to the Department in writing documenting corrective actions taken to address each of the above cited violations to gain compliance and to ensure that the violations do not recur.
6. The Department granted Advanced Power Technologies, LLC three consecutive extensions for the written response to the NOV extending the deadline from November 6, 2009 to November 13, 2009, to December 1, 2009 and then to December 31, 2009. A written response was not received by December 31, 2009. On December 31, 2009, Department staff contacted Advance Power Technologies, LLC corporate office in Pompano Beach, FL regarding the incomplete status of the required written response. On January 11, 2010, Advanced Power Technologies, LLC submitted to the Department a written response to the NOV, indicating the corrective actions undertaken, or planned to address the violations. On April 1, 2010, Advanced Power Technologies, LLC provided the 4 quarterly reports for 2009 and universal waste personnel training records.

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7. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection (“Board”), which is part of the Department.
8. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
9. To resolve the violations referenced in Paragraph 4 of this Agreement, Advanced Power Technologies, LLC agrees to:

Immediately upon Advanced Power Technologies, LLC's signature of this Agreement, pay to the *Treasurer, State of Maine c/o Hazardous Waste Fund*, a civil monetary penalty in the amount of Four Thousand Five Hundred dollars (\$4,500.00).
10. The Department and Office of the Attorney General grant a release of their causes of action against Advanced Power Technologies, LLC for the specific violations listed in Paragraph 4 of this Agreement on the condition that all actions listed in Paragraph 9 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement. This Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions if the Department determines that such action is necessary to protect public health, safety, or the environment. This limited release shall not become effective until all requirements of this Agreement are satisfied.
11. Non-compliance with this Agreement voids the release set forth in Paragraph 10 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
12. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.
13. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, successors, and assigns.

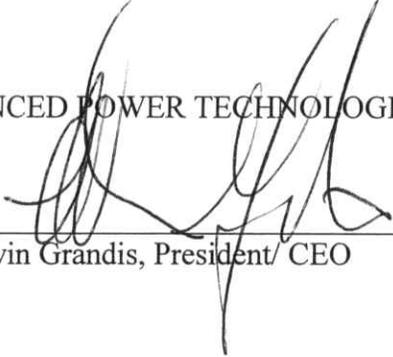
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ADMINISTRATIVE CONSENT
AGREEMENT
(38 M.R.S.A. § 347-A)

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of six (6) pages:

ADVANCED POWER TECHNOLOGIES, LLC

BY: 
Devin Grandis, President/ CEO

DATE: 4/16/10

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
Susan M. Lessard, Chair

DATE: _____

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____
Peter LaFond, Assistant Attorney General

DATE: _____