



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: June 17, 2010  
RE: Administrative Consent Agreement -  
Environ Services, Inc., Gorham, Maine

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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: Environ Services, Inc., Gorham, Maine

Description: Environ Services, Inc. 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 Environ Services, Inc. on June 4, 2009. The violations identified include the following: 1) failure to store universal waste in containers that are closed and structurally sound, 2) failure to pack lamps in containers or boxes adequate to prevent breakage, 3) failure to pack CRT's in containers or use packing materials to prevent breakage, 4) failure to store universal waste containers with adequate aisle space, 5) failure to limit stacking of boxes of lamps to five feet in height, 6) failure to limit the stacking of CRT's to five feet in height, 7) failure to mark containers of universal waste with the date received at the facility, 8) failure to mark containers with the type of universal waste stored inside, 9) failure to ship universal waste within 365 days of arrival at the facility, 10) failure to submit to the Department quarterly universal waste reports, 11) failure to maintain copies of Universal Bills of Lading (UBOL's) to document shipments of universal wastes, 12) failure to provide UBOL tracking numbers used to ship universal waste from the consolidator on Certificates of Recycling, and 13) failure to maintain an inventory system that identifies the date and UBOL number for each universal waste container (or group of containers) that is received at the facility and shipped from the facility.

To resolve these violations, Environ Services, Inc. has submitted a written response to the Department on October 30, 2010 indicating corrective actions undertaken, or planned to address the violations. In addition, Environ Services, Inc. has agreed to pay to the Maine

AUGUSTA

17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

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

Hazardous Waste Fund a penalty of Five Thousand Six Hundred Fifty Dollars (\$5,650.00) 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 or 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.

Environ Services, Inc. has agreed to pay the above penalty which was based upon the type of violations involved, the amount and type of waste involved, the relative extent of deviation from the requirements, and any economic benefit realized. In this specific case, it was the company's second hazardous waste inspection and involved several repeat violations. A mitigating factor considered in the penalty included Environ Services, Inc.'s taking actions to achieve compliance as described above. The number of violations warranted a monetary penalty due to the failure of the company to manage and document universal hazardous wastes appropriately, in accordance with Maine's Hazardous Waste Management Rules. A higher monetary penalty was originally issued in the proposed consent agreement. However, Environ Services, Inc. claimed that it did not have the ability to pay the higher proposed penalty and submitted five (5) years of corporate income tax returns to substantiate its claim. Subsequently, the Department conducted an analysis of Environ Services, Inc.'s tax returns and concluded that it could not afford the higher penalty, but could afford to pay a penalty of \$5,650.00.

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



STATE OF MAINE
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JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

ENVIRON SERVICES, INC. ) ADMINISTRATIVE CONSENT
18 GORHAM INDUSTRIAL PARKWAY, GORHAM ) AGREEMENT
CUMBERLAND COUNTY, MAINE ) (38 M.R.S.A. § 347-A)
HAZARDOUS WASTE ACTIVITIES )

This Agreement, by and among Environ Services, Inc., 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. Environ Services, Inc. is a Maine corporation authorized to conduct business in Maine that operates a waste recycling business with its principal location at 18 Gorham Industrial Parkway, Gorham, Maine. Ron A. Smalley, Jr. is the President of Environ Services, Inc.
2. The violations described herein occurred at 18 Gorham Industrial Parkway in Gorham, Maine.
3. Environ Services, Inc. is a consolidation facility of universal hazardous waste including, but not limited to, universal hazardous waste mercury-containing lamps, PCB-containing ballasts, lead-acid batteries, heavy metal-containing batteries and cathode ray tubes ("CRT's"). As a result, Environ Services, Inc. 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 October 6, 2006, Environ Services, Inc. notified the U.S. Environmental Protection Agency ("US EPA") of its regulated waste activity and was assigned the US EPA hazardous waste generator identification number MER000503144.
4. On November 6, 2007, Environ Services, Inc. was inspected for compliance with Maine's Hazardous Waste Management Rules and was subsequently issued a Notice of Violation on February 25, 2008 for hazardous waste violations documented during the November 6, 2007 inspection.
5. On June 4, 2009, Department staff conducted an inspection of Environ Services, Inc. at the location described in Paragraph 1 of this Agreement to assess compliance with the hazardous waste management standards of the Act and Rules. The inspection revealed the following violations:

AUGUSTA 17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017 (207) 287-7688 FAX: (207) 287-7826 RAY BLDG., HOSPITAL ST.
BANGOR 106 HOGAN ROAD BANGOR, MAINE 04401 (207) 941-4570 FAX: (207) 941-4584
PORTLAND 312 CANCO ROAD PORTLAND, MAINE 04103 (207) 822-6300 FAX: (207) 822-6303
PRESQUE ISLE 1235 CENTRAL DRIVE, SKYWAY PARK PRESQUE ISLE, MAINE 04769-2094 (207) 764-0477 FAX: (207) 760-3143

IN THE MATTER OF:

ENVIRON SERVICES, INC. )  
18 GORHAM INDUSTRIAL PARKWAY, GORHAM )  
CUMBERLAND COUNTY, MAINE )  
HAZARDOUS WASTE ACTIVITY )

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

- A. Environ Services, Inc. failed to store all universal waste in containers including containers that are closed and structurally sound, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(vi) and (g)(ii).

Specifically, hundreds of waste mercury-containing lamps, CRT's, batteries and ballasts were observed and photographed during the inspection that were not in containers at all (i.e. lamps were observed bound together with tape), or that were stored in open containers, or in damaged cardboard containers, which were not structurally sound or compatible to prevent or minimize breakage or releases.

- B. Environ Services, Inc. failed to pack lamps in containers or boxes with packing materials adequate to prevent breakage during storage, handling and transportation, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xxiii)(a) and (g)(ii).

Specifically, hundreds of universal waste mercury-containing lamps were observed at the facility taped together (no container or packing material), in a cart (no container or packing material), or in open cardboard boxes with no packing material.

- C. Environ Services, Inc. failed to pack CRT's in containers or another acceptable method which uses packing materials to prevent breakage, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xxii)(a).

Specifically, more than twelve (12) CRT's were observed loose on the floor. At least five (5) pallets of CRT's were shrink-wrapped with no packing material between units.

- D. Environ Services, Inc. failed to store universal waste containers and boxes with adequate aisle space to be able to inspect the containers and determine the accumulation start dates and the container full dates, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xiv) and (g)(ii).

Specifically, containers and boxes of universal waste lamps, CRT's and ballasts stored in the warehouse area did not have adequate aisle space. This is a repeat violation similar to that documented during an inspection conducted November 6, 2007 and cited in a Notice of Violation dated February 25, 2008.

- E. Environ Services, Inc. failed to limit stacking of boxes of lamps to five feet in height, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xxiii)(c) and (g)(ii).

Specifically, boxes of lamps stacked in the warehouse exceeded five feet in height.

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HAZARDOUS WASTE ACTIVITY	)	

- F. Environ Services, Inc. failed to limit stacking of containers or boxes of CRT's to five feet in height, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xxii)(c) and (g)(ii).

Specifically, at least five (5) pallets of shrink-wrapped CRT's were observed to be greater than five feet in height.

- G. Environ Services, Inc. failed to mark containers with the date the universal wastes were received at the facility, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(g)(iv).

Specifically, containers observed during the inspection were not marked with the date the universal wastes were received at the facility. At least eighteen (18) containers were observed unmarked during the inspection. Due to the inaccessibility of containers observed, it was not possible to get an accurate count of all of the containers that were unmarked. This is a repeat violation similar to that documented during an inspection conducted November 6, 2007 and cited in a Notice of Violation dated February 25, 2008.

- H. Environ Services, Inc. failed to mark containers with the type of universal waste stored inside, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xxii)(e), (3)(A)(13)(e)(xxiii)(e) and (3)(A)(13)(e)(xxvii)(c).

Specifically, boxes of waste lamps were not marked "Waste Lamps", pallets of waste CRT's were not marked "Waste Cathode Ray Tube" and drums of waste ballasts were not marked "Waste PCB Ballasts". This is a repeat violation similar to that documented during an inspection conducted November 6, 2007 and cited in a Notice of Violation dated February 25, 2008.

- I. Environ Services, Inc. failed to ship universal wastes within 365 days of arrival at the facility, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(g)(i).

Specifically, containers of waste lamps were observed with dates that exceeded one year including February 12, 2008, May 12, 2008 and May 22, 2008.

- J. Environ Services, Inc. failed to submit to the Department quarterly universal waste reports, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xx)(b) and 06-096 CMR 857, (13)(C)(2).

Specifically, no quarterly universal waste reports have been received by the Department since the 2007 inspection including the quarterly report for the 4th quarter of 2007, all four quarterly reports for 2008, and the quarterly report for the 1st quarter of 2009. This is a repeat violation similar to that documented during an inspection conducted November 6, 2007 and cited in a Notice of Violation dated February 25, 2008.

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- K. Environ Services, Inc. failed to maintain copies of Uniform Bills of Lading ("UBOLs") in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xix)(c).

Specifically, the UBOL copies submitted to the Department on July 17, 2009 in response to the Department's request for the past three (3) years of these documents, did not include two (2) facility copies ("Recycling Facility Copy" with all signatures) for shipments on May 21, 2008 (MER 021043) and December 15, 2008 (MER 023124). This is a repeat violation similar to that documented during an inspection conducted November 6, 2007 and cited in a Notice of Violation dated February 25, 2008.

- L. Environ Services, Inc. failed to provide a tracking number (manifest or UBOL) used to ship the universal waste from the consolidator on Certificates of Recycling, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(e)(xix)(d).

Specifically, the Certificates of Recycling copies submitted to the Department on July 17, 2009 in response to the Department's request for the past three (3) years of these documents, did not include tracking numbers for universal waste shipments. Additionally, Environ Services, Inc. has no records documenting CRT recycling. In the records submitted to the Department, all documentation of recycled CRTs reference Plan-It Transfer and Recycling (an affiliated company) and not Environ Services, Inc.

- M. Environ Services, Inc. failed to maintain an inventory system on-site that identifies the date and manifest (or UBOL) number for each universal waste container or group of containers that is received at the facility and the date and manifest (or UBOL) number for each waste container or group of containers that is shipped from the facility, in violation of the Rules, 06-096 CMR 850, (3)(A)(13)(g)(v).

Specifically, records provided of wastes "received" and "shipped" and records provided on July 17, 2009 including Universal Waste Log forms do not contain the number of the manifest (or UBOL) that is used to receive the universal wastes or ship the universal wastes. This is a repeat violation similar to that documented during an inspection conducted November 6, 2007 and cited in a Notice of Violation dated February 25, 2008.

6. On September 30, 2009, the Department issued a Notice of Violation (NOV) to Environ Services, Inc. for the activities described in Paragraph 5 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). In the NOV, the Department requested that Environ Services, Inc. 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

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not limited to, the following: comply with 38 M.R.S.A. §§ 1301 through 1319-Y and all applicable standards of the Rules, 06-096 CMR 850 through 857, pertaining to generators of hazardous waste, comply with all requirements for a universal waste consolidation facility and respond in writing documenting corrective actions taken to address each citation.

7. On October 30, 2009, Environ Services, Inc. submitted to the Department a written response to the NOV, indicating the corrective actions planned to address the violations.
8. 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.
9. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
10. To resolve the violations referenced in Paragraph 5 of this Agreement, Environ Services, Inc. agrees to:
  - A. Henceforth, comply with 38 M.R.S.A. §§ 1301 through 1319-Y and all applicable standards of the Rules, 06-096 CMR 850 through 857, pertaining to universal waste consolidation facilities and generators of hazardous waste;
  - B. Pay to the Treasurer, State of Maine, c/o Hazardous Waste Fund, a civil monetary penalty of Five Thousand Six Hundred Fifty dollars (\$5,650.00) in four (4) payments. The first payment shall be in the amount of One Thousand Four Hundred Twelve dollars and fifty cents (\$1,412.50) and is due upon Environ Services’ signature of this Agreement. Three (3) additional payments shall be in the amount of One Thousand Four Hundred Twelve dollars and fifty cents (\$1412.50) and shall be due on or before the first day of each month for the three (3) consecutive months subsequent to the first payment. In the event of any default in the above payment schedule, including failure to make payment within seven (7) days of the due date, a late fee of one hundred dollars (\$100) per week calculated from the due date of the missed payment shall be added to the balance due and shall accrue weekly until any missed payment(s) and late fee(s) are paid in full. In addition, if any payment is more than seven (7) days late, the full outstanding balance of the unpaid penalty is immediately due and payable upon demand by the Department.
11. The Department and Office of the Attorney General grant a release of their causes of action against Environ Services, Inc. for the specific violations listed in Paragraph 5 of this Agreement on the express condition that all actions listed in Paragraph 10 of this Agreement are completed in accordance with the terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters,

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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.

- 12. Non-compliance with this Agreement voids the release set forth in Paragraph 11 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.
- 13. 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.
- 14. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, successors, and assigns.

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

ENVIRON SERVICES, INC.

BY: Roland A. Smalley, Jr.  
Roland A. Smalley, Jr., President

DATE: 5-17-10

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
Susan M. Lessard, Chair

DATE: \_\_\_\_\_

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_  
Peter LaFond, Assistant Attorney General

DATE: \_\_\_\_\_