



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Douglas J. Hansen
Director

March 28, 2022

Colleen Costello, Senior Manager Transportation Compliance
Clean Harbors Environmental Services, Inc.
P.O. Box 9149
Norwell, MA 02061-9149

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7003 2260 0003 2358 7837

RE: Notice of Violation No. 2201008
MAD039322250

Dear Ms. Costello:

Enclosed is a **NOTICE OF VIOLATION and ORDER TO COMPLY (NOV/OC)** Number 2201008, based on findings documented by the Division of Waste Management and Radiation Control inspectors regarding improperly manifesting hazardous waste.

You have 30 days from the date of the attached NOV to contest it in the manner and within the time period prescribed by R305-7-303 Utah Administrative Code (UAC).

If you have any questions, please call Kari Lundeen at (801) 536-0253.

Sincerely,

Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

DJH/KAL/wa

(Over)

Enclosure: Notice of Violation and Order to Comply No. 2201008

c: Jeff Coombs, Health Officer, Tooele County Health Department
Bryan Slade, Environmental Health Director, Tooele County Health Department
Annette Maxwell, U.S. EPA, Region VIII (ENF-R)
William Simmons, Facility General Manager III, Clean Harbors Aragonite/Clive Incinerations (Email)
Shane Whitney, General Manager, Clean Harbors Grassy Mountain (Email)
Tyson Hone, Senior Environmental Compliance Manager, Clean Harbors Aragonite (Email)
Kim Shelley, Executive Director, Utah Department of Environmental Quality
Stevie Norcross, Asst. Director, Division of Waste Management and Radiation Control, UDEQ
Adam Wingate, Division of Waste Management and Radiation Control, UDEQ

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In the Matter of: : **NOTICE OF VIOLATION and**
: **ORDER TO COMPLY**

CLEAN HARBORS ENVIRONMENTAL : **No. 2201008**
SERVICES, INC. :
MAD039322250

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This **NOTICE OF VIOLATION and ORDER TO COMPLY (NOV/OC)** is issued by the Director of the Division of Waste Management and Radiation Control (Director) pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.* The Director has authority to issue such NOTICES and ORDERS in accordance with Utah Code § 19-6-112.

FINDINGS

1. Clean Harbors Environmental Services, Inc. (CHES) is incorporated in the state of Massachusetts and registered to conduct business in the State of Utah. CHES is the owner and operator of the Clean Harbors Environmental Services facility.
2. CT Corporation System, 1108 East South Union Avenue, Midvale, Utah, 84047 is the Registered Agent for CHES.
3. CHES is a "person" as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act and the Utah Administrative Code (UAC) (the Rules).
4. CHES notified as a transporter of Hazardous Waste on November 5, 2019.
5. CHES transports listed and characteristic hazardous waste as defined by R315-261 UAC.
6. Pursuant to Utah Code § 19-6-109, on June 2, June 29, and December 1, 2021, authorized representatives of the Director conducted Hazardous Waste inspections at Clean Harbors Aragonite, LLC (CHA) and identified manifesting discrepancies between CHA, Clean Harbors Clive (CHC), CHES, and Clean Harbors Grassy Mountain (CHGM).
7. CHGM also submitted an unmanifested waste report to the Division on August 11, 2021, and a self-report of non-compliance on October 27, 2021.
8. Pursuant to Utah Code § 19-6-109, authorized representatives of the Director conducted a review of documents related to transportation of certain hazardous waste, including the August 11, 2021, unmanifested waste report, the October 27, 2021 self-report of non-compliance, and manifests and waste profiles between October 27, 2021, and December 30, 2021.
9. R315-263-10(c)(2) UAC requires a transporter to comply with R315-262 UAC (Hazardous Waste Generator Requirements) if they mix hazardous wastes of different DOT shipping descriptions by placing them into a single container.

- a. On May 11, 2021, CHES mixed wastes of different DOT shipping descriptions when they collected hazardous waste from Martinez Refining Company LLC (MRC) in a tanker truck that contained waste residue from another facility.
 - 1) On May 11, 2021, CHES collected a load of hazardous waste in a tanker truck from Martinez Refinery in Martinez, California. Martinez Refining Company LLC (MRC) signed manifest 021822860JJK as the generator and identified CHA as the designated facility in Box 8.
 - (a) In Box 9a of Uniform Hazardous Waste Manifest Number 021822860JJK, the DOT description states: NA3082, HAZARDOUS WASTE, LIQUID, N.O.S. (CHROMIUM, SELENIUM), 9, PG III. Waste Codes D007, D010, and 727 (California Waste Code).
 - (b) The Clean Harbors Profile number was CH1003425. The waste is described on the Waste Material Profile Sheet (WMPS):
 1. WMPS Section B. Waste Description: "Diethanolamine (DEA) Reclaim Waste, Process Generating Waste: Residuals from DEA Reclamation."
 2. WMPS Section D. Composition: "Chromium 0 - 5 PPM, Diethanolamine 35 - 45%, Heat Stable Salts 0 - 10%, Selenium 0 - 300 ppm, Water 55 - 65%."
 3. WMPS Section E. Constituents: "13 mg/L TCLP Chromium, 180 mg/L TCLP Selenium."
 4. WMPS Section F. Regulatory Status: The regulatory status includes a statement that the material is a USEPA hazardous waste (D007, D010) and that the waste is subject to land disposal restrictions.
 - 2) CHES transported the waste to CHA. CHA signed manifest 021822860JJK on May 12, 2021. CHA assigned the waste "drum" number 94834220 in WinWeb.
 - 3) On June 1, 2021, CHA attempted to reject the waste back to MRC, the generator on manifest number 015190984FLE, because the material was too viscous to remove from the tanker.
 - 4) CHA determined that the CHES tanker contained material that had not been cleaned out before CHES picked up the waste from MRC. The mixed hazardous waste in the CHES tanker is hereinafter referenced as "CHES-MRC waste." MRC refused to accept the rejected CHES-MRC waste because they did not believe they were at fault. MRC, Clean Harbors Customer Services, the original transportation company, and CHA agreed to reject the tanker to CHC where the CHES-MRC waste would then be removed and the tanker cleaned.
 - 5) On June 1, 2021, CHES transported the CHES-MRC waste to CHC on a newly created manifest number 015190984FLE, that identified CHA as the generator and MRC as the designated facility. Line 14 of manifest number 015190984FLE shows profile number CH1003425, with notes "RTG from 021822860JJK." It also references CHA drum number 94834220.
10. R315-262-11 UAC requires that a person who generates a solid waste, as defined in Section R315-261-2 UAC, shall make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable regulations.
 - a. CHES failed to properly characterize the CHES-MRC waste.

- b. CHES created profile number CH2185608 on May 24, 2021, for the CHES-MRC waste. Profile CH2185608 did not include any information from Martinez profile number CH1003425 encompassing the mixture of hazardous waste. On the WMPS, CHES described the waste as:
 - 1) WMPS Section B. Waste Description: “Waste Description: Emulsion Liquid, ” “Process Generating Waste: Cleaning of emulsion tanks.”
 - 2) WMPS Section D. Composition: “Chemical - emulsified asphalt liquids 100 [*sic*] - 100%, Rinse Water - 1 - 25%.”
 - 3) WMPS Section E. Constituents: In answer to the question “Are these values based on testing or knowledge?” CHES checked the knowledge box. In the RCRA Regulated Metals section, CHES checked Waste Codes D004 through D011 as “not applicable.”
 - 4) WMPS Section F: Regulatory Status: CHES checked “No” in answer to whether the material was a USEPA Hazardous Waste and indicated that it was not subject to LDR.
 - 5) WMPS Section G: DOT/TDG Information/Proper Shipping Name: CHES listed “Non-RCRA Hazardous Waste, Liquids, (emulsion liquid) as the shipping name.
11. R315-263-20(c)-(d) UAC requires the transporter to ensure that the manifest accompanies the hazardous waste, and that the transporter provide a copy of the manifest to the designated facility.
 - a. On June 1, 2021, CHES signed hazardous waste manifest 015190984FLE and transported it to CHC. Angela Krish, a receiving coordinator at CHC, signed manifest number 015190984FLE also on June 1, 2021. LaDell Bishop from CHES crossed out Ms. Krish’s name and signed the document on June 1, 2021. CHGM, the actual disposal facility, never received a copy of the original manifest.
12. Utah Code §19-6-113 (3) (c) states that no person shall knowingly omit material information or make any false material statement or representation in any application, label, manifest, record, report, permit, operation plan, or other document filed, maintained, or used for purposes of compliance with this part or RCRA or any rules or regulations made under this part or RCRA.
 - a. CHES knowingly manifested the 90 drums of waste as non-hazardous when in fact the drums were hazardous waste.
 - 1) On June 1, 2021, CHES signed hazardous waste manifest 015190984FLE and transported the tanker truck to CHC. CHES cleaned out the tanker, placed the CHES-MRC waste in 90 drums, and shipped the waste to CHGM on two separate non-hazardous waste manifests.
 - 2) CHES used profile number CH2185608 for the CHES-MRC waste cleaned out of the tanker. CHES failed to include on profile CH2185608 any information from profile number CH1003425.
 - (a) CHES signed as the generator on the first shipment of 80 drums to CHGM on June 14, 2021, using Non-Hazardous Waste Manifest number NH6628648-02.
 - (b) The waste is described as “non-RCRA Hazardous Waste, Liquids, Emulsion Liquid,” profile CH2185608 is listed.
 - (c) No reference was made to profile CH1003425.

- (d) Uniform Hazardous Waste Manifest number 015190984FLE was not included with the waste shipment, nor was the manifest referenced.
- 3) CHES signed as the generator on the second shipment of 10 drums to CHGM on June 22, 2021, using Non-Hazardous Waste Manifest number NH6628648-03.
- (a) The waste is described as “non-RCRA Hazardous Waste, Liquids, Emulsion Liquid,” profile CH2185608 is listed.
- (b) No reference to profile CH1003425 was made.
- (c) Manifest number 015190984FLE was not included with the waste shipment, nor was the manifest referenced.
13. Utah Code §19-6-113 (3) (d) states that no person shall knowingly transport or cause to be transported without a manifest any hazardous waste identified or listed under this part and required by rules or regulations made under this part or RCRA to be accompanied by a manifest.
- a. On June 14, 2021, CHES transported hazardous waste from CHC to CHGM on non-hazardous manifest number NH6628648-02.
- b. On June 22, 2021, CHES transported hazardous waste from CHC to CHGM on non-hazardous manifest number NH6628648-03.
14. CHGM disposed of the hazardous waste without treating it to meet LDR requirements.
15. Utah Code §19-6-113 (4) (b) (i) states that any person who knowingly violates any of the provisions of Subsection (3)(c) or (d) is guilty of a felony.

DETERMINATION OF VIOLATIONS

In accordance with Utah Code § 19-6-101, *et seq.*, and based on the foregoing FINDINGS, CHES has violated provisions of the Rules, and the Act applicable to its facility. Specifically, CHES has violated the following:

1. R315-263-10(c)(2) and R315-262-11 UAC for failing to make an accurate waste determination after mixing wastes in the same container. (*See findings 9 and 10*)
2. R315-263-20(c) - (d) UAC for failing to ensure that the manifest accompanied the hazardous waste and failing to provide a copy of the manifest to the designated facility. (*See finding 11*)
3. Utah Code §19-6-113 (3) (c) for omitting material information when developing a new waste profile. (*See finding 12*)
4. Utah Code §19-6-113 (3) (c) for omitting material information when preparing a manifest. (*See finding 12*)
5. Utah Code: §19-6-113 (3) (d) for transporting hazardous waste on non-hazardous waste manifests. (*See finding 13*)

ORDER TO COMPLY

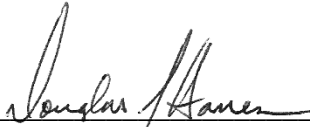
1. Within 30 days of the effective date of this NOV/OC, CHES shall submit a description of corrective actions that have been performed to prevent reoccurrence of the violations listed above.

OPPORTUNITY FOR HEARING

This NOTICE OF VIOLATION is effective immediately and shall become final unless CHES administratively contests it. Failure to contest this NOTICE OF VIOLATION in the manner and within the time period prescribed by Utah Admin. Code R305-7-303 constitutes a waiver of any right of administrative contest, reconsideration, review, or judicial appeal.

Utah Code Section 19-6-113(2) provides that violation of any order, plan, rule, or other requirement issued or adopted under Title 19, Ch. 6, Pt. 1 may be subject to a civil penalty of up to \$13,000 per day for each day of violation.

Dated this 28th day of March, 2022

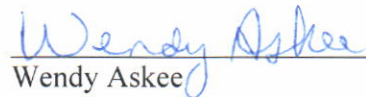
By:  _____
Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing **NOTICE OF VIOLATION and ORDER TO COMPLY (NOV/OC)** on the 28th day of March, 2022 by US Certified Mail, Return Receipt Requested, to:

Colleen Costello, Senior Manager Transportation Compliance
Clean Harbors Environmental Services, Inc.
P.O. Box 9149
Norwell, MA 02061-9149

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7003 2260 0003 2358 7837


Wendy Askee

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Colleen Costello
 Senior Manager Transportation Compliance
 Clean Harbors Environmental Services, Inc.
 P.O. Box 9149
 Norwell, MA 02061-9149



9590 9402 6090 0125 6270 55

2. Article Number (Transfer from service label)

7003 2260 0003 2358 7837

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

AWS USPS
 for J. Mayer

 Agent Addressee

B. Received by (Printed Name)

J. Mayer

C. Date of Delivery

070422

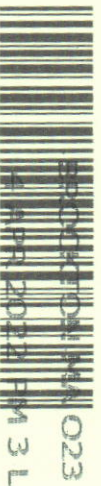
D. Is delivery address different from item 1? YesES, enter delivery address below: No

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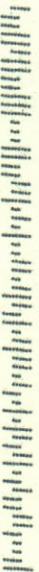
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Division of Waste Management and Radiati
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