



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
Ty L. Howard
Director

March 26, 2021

William Simmons, General Manager
Clean Harbors Aragonite, LLC
P.O. Box 1339
Grantsville, UT 84029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7005 0390 0000 7508 6798

RE: Notice of Violation No. 2102003
UTD 981 552 177

Dear Mr. Simmons:

Enclosed is a **NOTICE OF VIOLATION (NOV)** Number **2102003**, based on findings documented by Division of Waste Management and Radiation Control inspectors during a compliance inspection on September 9 through October 1, 2020.

You are hereby requested to submit to this office on or before April 26, 2021, written verification that the violations documented in the NOV have been corrected. Please include a description of the corrective actions implemented to ensure that these violations do not recur. Your response to this request will not constitute an administrative contest to the attached NOV.

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 of the Utah Administrative Code.

If you have any questions, please call Rick Page at (801) 536-0230.

Sincerely,

Ty L. Howard, Director
Division of Waste Management and Radiation Control

(Over)

TLH/RAP/ar

Enclosure: Notice of Violation Number 2102003

c: Jeff Coombs, EHS, Health Officer, Tooele County Health Department
Bryan Slade, Environmental Health Director, Tooele County Health Department
Annette Maxwell, U.S. EPA, Region VIII, ENF-R
Connie Nakahara, Assistant Attorney General, Office of Utah Attorney General (Email)
Deborah Ng, Division of Waste Management and Radiation Control, UDEQ
Adam Wingate, Division of Waste Management and Radiation Control, UDEQ
Boyd Swenson, Division of Waste Management and Radiation Control, UDEQ

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In the Matter of:	:	NOTICE OF VIOLATION
	:	
Clean Harbors Aragonite, LLC	:	No. 2102003
UTD 981 552 177	:	

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This **NOTICE OF VIOLATION** 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 in accordance with Utah Code § 19-6-112.

FINDINGS

1. Clean Harbors Aragonite, LLC (CHA) is a Limited Liability Company incorporated in the state of Delaware and registered to do business in the State of Utah, and is a subsidiary of Clean Harbors Environmental Services, Inc., a corporation incorporated in the state of Massachusetts and registered to do business in the State of Utah.
2. The Aragonite facility is a commercial hazardous waste incinerator, transfer station, and storage facility located in Tooele County, Utah. CHA operates the Aragonite facility under the provisions of a State-issued Hazardous Waste Part B Permit (the Permit).
3. CHA is a "person" as defined in Utah Code §19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Administrative Code (UAC) (the Rules) and the Permit issued to CHA as owner and operator of the Aragonite facility.
4. On March 30, 1990, the Director issued the Permit to CHA to operate a hazardous waste treatment and storage facility. The Director renewed and reissued the Permit, effective September 28, 2012.
5. CHA generates, treats, and stores listed and characteristic hazardous waste as defined by R315-261 UAC at the Aragonite facility.
6. Pursuant to Utah Code § 19-6-109, authorized representatives of the Director conducted a hazardous waste inspection at the Aragonite facility from September 9 through October 1, 2020 (the FY2020 inspection) and documented the following findings. In addition, CHA self-reported several non-compliance issues during the 2020 fiscal year (October 1, 2019, through September 30, 2020) (FY2020).
7. Condition 2.D of the Permit requires CHA to comply with the waste analysis procedures specified in the Waste Analysis Plan (WAP) in Attachment 1 of the Permit. Section 3.0 of the WAP requires that CHA categorize each waste according to the waste categories in Table 2 of the WAP.
 - 7.01. On September 23, 2020, CHA notified the Director (DSHW-2020-013923) that on September 21, 2020, the facility discovered that it had used improper Waste Analysis Plan characterization codes for several containers of APHIS waste.

8. Condition 2.G of the Permit requires CHA to comply with the personnel training procedures in Attachment 4 of the Permit. Section 2.0 of Attachment 4 of the Permit requires that the required training occur within six months of the date of hire.
 - 8.01. During the FY2019 inspection, the inspector(s) documented the following. Six months after the date of hire for Stephanie Perez was October 8, 2019. Course SS2000 (Permit Training) was not completed until January 20, 2020.
9. Condition 2.K of the Permit requires that CHA comply with the manifest requirements of R315-264-71 and R315-264-72 UAC. R315-264-71(a)(1) UAC requires that CHA sign the manifest to certify that the hazardous waste covered by the manifest was received. R315-264-72(c) UAC requires that upon discovering significant discrepancies, CHA shall attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the Director a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. R315-264-72(f) UAC specifies that for rejected wastes that are sent back to the generator, CHA is required to prepare a new manifest in accordance with R315-262-20(a) UAC. R315-262-20(a)(1) UAC requires that a generator who offers for transport a rejected hazardous waste load, shall prepare a manifest. R315-262-23 UAC requires the generator to sign the manifest, obtain the signature of the initial transporter, retain one copy, and send the other copies with the transporter. R315-264-76(a) UAC specifies that if CHA accepts any hazardous waste from an off-site source without an accompanying manifest, then CHA shall prepare and submit an unmanifested waste report to the Director within 15 days after receiving the waste.
 - 9.01. On December 12, 2019, CHA notified the Director (DSHW-2019-017344) that on December 6, 2019, the facility discovered that it had not reported two instances of unresolved manifest discrepancies within 15 days of receiving the waste.
 - 9.02. On January 10, 2020, CHA notified the Director (DSHW-2020-000465) that on January 7, 2020, the facility discovered that it did not report an unresolved manifest discrepancy within 15 days of receiving the waste.
 - 9.03. On July 21, 2020, CHA notified the Director (DSHW-2020-010467) that on July 20, 2020, the facility discovered that it had not reported an unresolved manifest discrepancy within 15 days of receiving the waste.
 - 9.04. During the FY2020 inspection, the inspector(s) documented the following. Manifest 014567867FLE indicated that drum 89469858 was being rejected back to the generator. It was shipped off site, but it did not go back to the generator. Instead, it was repacked by Clean Harbors Field Services at the Clive facility and returned to Aragonite that same day. A new manifest was not created to return the drum to Aragonite; it was shipped back with the reject manifest (014567867FLE). That manifest was not signed by CHA as the receiving facility.
 - 9.05. During the FY2020 inspection, the inspector(s) documented the following. CHA rejected drum 89510366 back to the generator on October 12, 2020. A manifest was not prepared and shipped with the drum. It was placed on the wrong truck and ended up at the Clean Harbors San Jose facility without a manifest.
 - 9.06. During the FY2020 inspection, the inspector(s) documented the following. Drum 89510366 was shipped back to the Aragonite facility from the Clean Harbors San Jose facility. It was

not shipped with a manifest. CHA accepted this waste on December 2, 2020. CHA later created manifest 014150039FLE to show the tracking of this shipment. CHA did not submit an unmanifested waste report to the Director.

- 9.07. During the FY2020 inspection, the inspector(s) documented the following: Drum 85771762 was shipped from Aragonite to Kinsbursky Brothers in California on manifest 014567637FLE. Kinsbursky Brothers rejected the drum and sent it back to Aragonite on manifest 020123811JJK. CHA did not sign manifest 020123811JJK acknowledging that it received the drum.
10. Condition 3.B.6 of the Permit requires CHA to comply with the provisions specified in Attachment 8 of the Permit (Waste Storage, Processing, and Tracking). Section 1.2 of Attachment 8 of the Permit specifies the requirements for rejected wastes. It specifies that rejected wastes not remain on-site for longer than 60 days unless an extension has been granted by the Director. It also requires that if CHA decides to accept a container of waste that was initially rejected, these containers will be identified in the waste tracking system such that they are captured by the Drum Reject Report.
 - 10.01. On April 3, 2020, CHA notified the Director (DSHW-2020-005327) that on March 27, 2020, the facility discovered that it had failed to ship four rejected waste containers off site or make a determination to process them within 60 days, and no extension had been given by the Director.
 - 10.02. On May 19, 2020, CHA notified the Director (DSHW-2020-007603) that on May 14, 2020, the facility discovered that it had failed to ship a rejected waste container off site within 60 days, and no extension had been given by the Director.
 - 10.03. During the FY2020 inspection, the inspector(s) documented the following. Four containers of waste (84352960, 84352961, 85123528, and 83134721) that were initially rejected, were later accepted, and processed at the facility. They were not on the Drum Reject Report in waste tracking.
11. Condition 3.C.4. of the Permit specifies that cyanide bearing waste be stored in buildings 68, 69-North, and 69-South, but may also be stored on the breezeway for up to ten days as part of the process for staging feed to the incinerator.
 - 11.01. During the FY2020 inspection, the inspector(s) documented the following. Two drums of cyanide waste (88718538 and 88718539) were stored on the breezeway for longer than ten days (19 days).
12. Condition 3.D.15. of the Permit requires that containers be stacked neatly, wrapped, or both, to provide stability and in a manner that will not cause them to fall or leak.
 - 12.01. During the FY2020 inspection, the inspector(s) documented the following. A pallet of shrink-wrapped electronics was stacked on top of a tote in row F of Building E3. The pallet was not all the way on the rigid frame of the tote, causing it to tip.
13. Condition 3.D.22 of the Permit requires that CHA store infectious waste at or below 40 degrees Fahrenheit if it is onsite longer than seven days.

- 13.01. On October 24, 2019, CHA notified the Director (DSHW-2019-013784) that on October 16, 2019, the facility discovered that between September 25, 2019 and October 16, 2019, it had containers of infectious waste that had been on site longer than 7 days that had not been placed into refrigerated storage.
- 13.02. On April 3, 2020, CHA notified the Director (DSHW-2020-005328) that on March 30, 2020, the facility discovered that it did not store an infectious waste container that was on site longer than 7 days in storage that was at or below 40 degrees Fahrenheit.
- 13.03. On August 18, 2020, CHA notified the Director (DSHW-2020-011981) that on August 14, 2020, the facility discovered that a mobile storage rack of 27 sharps containers had not been processed or placed into refrigerated storage within 7 days of arriving at the facility.
14. Condition 3.D.23. of the Permit requires that infectious waste be incinerated as soon as possible, but not to exceed 60 days after collection from the generator.
 - 14.01. During the FY2020 inspection, the inspector(s) documented the following. At least eight containers of infectious wastes (89469858, 85186030, 81694917, 84352960, 84352961, 84604915, 84604916, and 89510366) were not incinerated within 60 days after collection from the generator.
15. Condition 4.B.5. of the Permit requires that CHA maintain the tank systems and ancillary equipment in good repair. Condition 4.D.14. of the Permit requires CHA to prevent spills and overflows from the tanks. Condition 4.D.17. of the Permit specifies that if a secondary containment area contains any material, it will be emptied within 24 hours of discovering the contents.
 - 15.01. During the FY2020 inspection, the inspector(s) documented the following: There was a small stream of water on the floor of the bulk solids tunnel leading toward a small pool of water on the floor under the north stairs. It was coming from the first two gaps between the I-beams under the northwest corner of T-404BWest. The gap between the I-beams under the far southwest section of T-403A was wet but not running down into the tunnel. This same area under the bulk solids tanks has been wet or had liquid running in it during each of the past three annual inspections. There were a lot of salts built up where water had accumulated under the tank and had run down the wall in that area.
16. Condition 4.D.21 of the Permit specifies that the concentration of oxygen in the hydrocarbon vent system be maintained below 5%. It further specifies that if the oxygen concentration exceeds 5%, corrective action will immediately be taken to reduce the oxygen concentration to below 5%, and the cause of the elevated oxygen concentration, and the corrective actions taken, shall be noted in the operating record.
 - 16.01. During the FY2020 inspection, the inspector(s) documented the following: There was no *System Trouble Report* or other documentation outlining the cause of the elevated oxygen concentration, and the corrective actions taken, for the oxygen excursion that occurred on January 1, 2020.
17. Condition 5.A.6 of the Permit requires that CHA comply with the provisions specified in the Fume Management Plan, Attachment 14 of the Permit. Section 2.1 of Attachment 14 of the Permit specifies that the flow of combustion air will be maintained above 12,000 acfm when the vacuum pump and dilution air fan are operating.

- 17.01. During the FY2020 inspection, the inspector(s) documented the following. There were three instances noted (January 23, 2020, April 14, 2020, and May 18, 2020) where dilution air fan was operating, and the combustion air flow was less than 12,000 acfm.
18. R315-268-3(c) UAC of the Rules prohibits the combustion of wastes with the codes listed in Appendix XI of Rule R315-268 UAC. Appendix XI of R315-268 UAC includes the waste codes D008 (toxicity characteristic for lead) and D009 (toxicity characteristic for mercury).
- 18.01. On November 4, 2019, CHA notified the Director (DSHW-2019-014902) that on October 28, 2019, the facility discovered that on April 13, 2019, container 78428206, containing lead acid batteries, was inadvertently incinerated. It carried the D008 waste code.
- 18.02. On November 25, 2019, CHA notified the Director (DSHW-2019-016245) that on November 16, 2019, the facility discovered that container 83096922, containing mercury chloride and no organics, had been inadvertently incinerated. It carried the D009 waste code.

DETERMINATION OF VIOLATIONS

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


1. Condition 2.D of the Permit by using improper WAP characterization codes for several containers of APHIS waste (see Finding 7).
2. Condition 2.G of the Permit by failing to complete the required training within six months of the date of hire for Stephanie Perez (see Finding 8).
3. Condition 2.K of the Permit, R315-264-71, R315-264-72, and R315-264-76 of the Rules by failing to sign the manifest to certify that the hazardous waste covered by the manifest was received; by failing to submit to the Director a letter describing the discrepancy and attempts to reconcile it within 15 days after receiving the waste; by offering for transport a rejected hazardous waste without preparing a manifest, signing the manifest, obtaining the signature of the initial transporter, retaining one copy, and sending the other copies with the transporter; and by failing to prepare and submit an unmanifested waste report to the Director within 15 days after receiving the waste (see Finding 9).
4. Condition 3.B.6 and Attachment 8 of the Permit by holding rejected wastes on-site for longer than 60 days; and by failing to identify containers that are accepted after initially being rejected on the Drum Reject Report in the waste tracking system (see Finding 10).
5. Condition 3.C.4. of the Permit by storing cyanide bearing waste on the breezeway for longer than ten days (see Finding 11).
6. Condition 3.D.15. of the Permit by stacking containers in an unstable manner (see Finding 12).
7. Condition 3.D.22 of the Permit by failing to store infectious waste at or below 40 degrees Fahrenheit when it was onsite longer than seven days (see Finding 13).
8. Condition 3.D.23. of the Permit by failing to incinerate infectious waste within 60 days after collection from the generator (see Finding 14).
9. Condition 4.B.5., Condition 4.D.14., and Condition 4.D.17. of the Permit by failing to maintain the bulk solids tank systems and ancillary equipment in good repair; by failing to prevent spills and overflows from the bulk solids tanks; and by failing to empty the secondary containment area under the bulk solids tanks within 24 hours of discovering the contents (see Finding 15).
10. Condition 4.D.21 of the Permit by failing to immediately take corrective action to reduce the oxygen concentration to below 5% in the hydrocarbon vent system; and by failing to document the cause of the elevated oxygen concentration and the corrective actions taken (see Finding 16).
11. Condition 5.A.6 of the Permit by failing to maintain the flow of combustion air above 12,000 acfm when the vacuum pump and dilution air fan were operating (see Finding 17).
12. R315-268-3(c) UAC and Appendix XI of R315-268 of the Rules by incinerating prohibited wastes with the waste code of D008, toxicity characteristic for lead; and by incinerating prohibited wastes with the waste code of D009, toxicity characteristic for mercury (see Finding 18).

OPPORTUNITY FOR HEARING

This NOTICE OF VIOLATION is effective immediately and shall become final unless CHA administratively contests it. Failure to contest this NOTICE OF VIOLATION in the manner and within the time period prescribed by Utah Administrative 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 26th day of March 2021.

By:  _____
Ty L. Howard, 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 on the 26th day of March 2021 by US Certified Mail, Return Receipt Requested, to:

William Simmons, General Manager
Clean Harbors Aragonite, LLC
P.O. Box 1339
Grantsville, UT, 84029

Alma Rosas March 26, 2021

[Track Another Package +](#)

Tracking Number: 70050390000075086798

[Remove X](#)

Your item has been delivered to an agent for final delivery in SALT LAKE CITY, UT 84114 on May 5, 2021 at 9:20 am.

Delivered to Agent for Final Delivery

May 5, 2021 at 9:20 am
SALT LAKE CITY, UT 84114

Feedback

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Tracking History



May 5, 2021, 9:20 am

Delivered to Agent for Final Delivery
SALT LAKE CITY, UT 84114

Your item has been delivered to an agent for final delivery in SALT LAKE CITY, UT 84114 on May 5, 2021 at 9:20 am.

May 5, 2021, 6:23 am

Arrived at Post Office
SALT LAKE CITY, UT 84199

May 4, 2021

In Transit to Next Facility

May 3, 2021, 9:33 am

Departed USPS Facility

84198

April 23, 2021, 10:51 am

Unclaimed/Being Returned to Sender

GRANTSVILLE, UT 84029

Reminder to Schedule Redelivery of your item

March 29, 2021, 9:15 am

Available for Pickup

GRANTSVILLE, UT 84029

March 29, 2021, 6:45 am

Arrived at Post Office

GRANTSVILLE, UT 84029

March 27, 2021, 3:27 pm

Arrived at USPS Facility

84198

Feedback

Product Information



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