



SENT VIA ELECTRONIC MAIL

March 6, 2018

Mr. Jeffrey Davis
Stericycle, Inc.
6375 NW 84th Avenue
Miami, FL 33166

Re: Notice of Alleged Violation / Notice of Enforcement Conference
SC14-02T
Lexington County, South Carolina

Dear Mr. Davis:

Please find enclosed a Notice of Alleged Violation/Notice of Enforcement Conference. This informal conference will provide representatives of Stericycle, Inc. with the opportunity to disprove the alleged violations noted in the NOAV and to present any extenuating information to the South Carolina Department of Health and Environmental Control (Department) that may mitigate the gravity of the violations noted therein.

Also enclosed is a document entitled *An Overview of the Administrative Enforcement Process*. This document is designed to provide general information about the civil enforcement process.

Please feel free to contact me at your convenience should you have any questions or concerns either by phone at (803) 898-0490 or by email at caswellh@dhec.sc.gov.

Respectfully,

Lorria H. Caswell
Enforcement Section
Division of Compliance and Enforcement
Bureau of Land and Waste Management

cc: Kimberly Noonan, Infectious Waste, SCDHEC (via electronic mail)
Etta R. Williams Linen, Esquire, Office of General Counsel, SCDHEC (via electronic mail)

**STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: STERICYCLE, INC.
SC14-02T
LEXINGTON COUNTY**

NOTICE OF ALLEGED VIOLATION/NOTICE OF ENFORCEMENT CONFERENCE

STERICYCLE, INC. (STERICYCLE) IS HEREBY NOTIFIED that an enforcement conference has been scheduled for Thursday, March 22, 2018 at 11:00 am in the offices of the Bureau of Land and Waste Management, Room 1380, Sims Aycock Building, 2600 Bull Street, Columbia, South Carolina. Representatives of Stericycle can be present at this conference to discuss the alleged violations of the South Carolina Infectious Waste Management Regulations, S.C. Code Ann. Regs. 61-105 (Supp. 2012) (SCIWMR), promulgated pursuant to the South Carolina Infectious Waste Management Act, S.C. Code Ann. §44-93-30 (2002) cited herein.

Representatives of Stericycle may be accompanied at the conference by legal and/or technical counsel. The possibility of a Consent Order may be discussed.

This Notice is based upon the following findings of the South Carolina Department of Health and Environmental Control (Department):

1. Stericycle has been registered in South Carolina as a transporter of infectious waste since January 1, 1997. Stericycle also operates an infectious waste transfer facility located at 200 Alta Vista Court, Lexington, South Carolina and a treatment facility located at 200 Foster Brothers Drive, West Columbia, South Carolina.
2. On December 8, 2017, the Department received a complaint alleging that Greenville Women's transported infectious waste to the Quick Trip gas station located at 1509 Grove Road, Greenville, South Carolina on June 21, 2017, October 4, 2017, and October 18, 2017, and that the waste was transferred to Stericycle, a registered South Carolina infectious waste transporter.
3. The Department investigated the complaint to determine Stericycle's compliance with the South Carolina Infectious Waste Management Regulations, S.C. Code Ann. Regs. 61-105 (Supp. 2012) (SCIWMR), promulgated pursuant to the South Carolina Infectious Waste Management Act, S.C. Code Ann. §44-93-30 (2002). During the investigation, the Department discovered and documented violations of the SCIWMR. These violations are stated in the following paragraphs of this section.
4. The Department performed a thorough review of the information and documentation provided for the complaint against Stericycle, and found the following:
 - a. On June 21, 2017, a representative of Greenville Women's transported infectious waste from Greenville Women's to the Quick Trip gas station in an unlabeled, black Toyota Tacoma pickup truck, license plate number MEX793. The representative of Greenville Women's

removed a biohazard marked box from the passenger seat of the vehicle, and the Stericycle driver accepted the waste for transportation and loaded it onto the transport vehicle. According to Manifest MDCA00H0WE, dated June 21, 2017, Stericycle picked up and transported infectious waste generated by Greenville Women's for treatment and disposal. The information provided was obtained from a complainant, who wishes to remain anonymous, and who provided pictures, written documentation and a video to the Department;

- b. On October 4, 2017, a representative of Greenville Women's transported infectious waste from Greenville Women's to the Quick Trip gas station in an unlabeled, blue Jeep Grand Cherokee SUV. The representative of Greenville Women's removed a biohazard marked box from the back of the vehicle, and the Stericycle driver accepted the waste for transportation and loaded it onto the transport vehicle number C6131035. According to Manifest MDCA00HHL8, dated October 4, 2017, Stericycle picked up and transported infectious waste generated by Greenville Women's for treatment and disposal. The information provided was obtained from a complainant, who wishes to remain anonymous, and who provided pictures, written documentation and a video to the Department;
- c. On October 18, 2018, a representative of Greenville Women's transported infectious waste from Greenville Women's to the Quick Trip gas station in an unlabeled, black Toyota Tacoma pick-up truck, license plate number MEX793. The representative of Greenville Women's removed a biohazard marked box from the passenger seat of the vehicle, and the Stericycle driver accepted the waste for transportation and loaded it onto the transport vehicle. According to Manifest MDCA00HJYV, dated October 18, 2017, Stericycle picked up and transported infectious waste generated by Greenville Women's for treatment and disposal. The information provided was obtained from a complainant, who wishes to remain anonymous, and who provided pictures, written documentation and a video to the Department; and,
- d. On January 10 and January 31, 2018, a representative of Greenville Women's transported infectious waste from Greenville Women's to the Quick Trip gas station, and the Stericycle driver accepted the waste for transportation and loaded it onto the transport vehicle. According to Manifests MDCA00HXFD, dated January 10, 2018 and MDCA00I0S4, dated January 31, 2018, Stericycle picked up and transported infectious waste generated by Greenville Women's for treatment and disposal. The information provided was obtained from a complainant, who wishes to remain anonymous, and who provided written documentation to the Department.

- 5. Stericycle transferred infectious waste from Greenville Women's transport vehicle to the Stericycle transport vehicle at the Quick Trip gas station, which is not a designated (permitted) transfer facility (location).
- 6. Stericycle did not comply with Section C.4 of its infectious waste management plan which states: "Package transfer will be conducted at permitted transfer facilities."
- 7. Manifests MDCA00H5BK, dated July 19, 2017; MDCA00H6BF, dated July 26, 2017; and, MDCAA00H7GK, dated August 2, 2017 did not include the total number of containers and the total weight in the totals box for each of these manifests.


From the above findings, the Department alleges that Stericycle has violated South Carolina Infectious Waste Management Regulations, S.C. Code Ann. Regs. 61-105 (Supp. 2012) promulgated pursuant to the South Carolina Infectious Waste Management Act, S.C. Code Ann. §44-93-30 (2002) as follows:

1. §44-93-140, in that Stericycle, after the promulgation of regulations, transported and stored infectious wastes in this State without complying with the procedures described in such regulations;
2. R.61-105.N(3)(a), in that Stericycle, as a transporter of infectious waste, failed to ensure that infectious waste is only transferred from one vehicle to another at a designated transfer facility;
3. R.61-105.N.7(b), in that Stericycle, as a transporter of infectious waste, failed to adhere to the Department approved infectious waste management plan;
4. R.61-105.P(1)(c), in that Stericycle, as a transporter of infectious waste, accepted infectious waste that was not accompanied by a properly completed manifest, as required in Section R; and,
5. R.61-105.R(1), in that Stericycle, as a transporter of infectious waste, accepted shipments of infectious waste that are not to be transported within South Carolina unless accompanied by an infectious waste manifests completed according to the instructions for the Department approved form, in that the "Totals Line" on the manifests did not include the total number of containers and the total weight or volume.

STERICYCLE IS FURTHER NOTIFIED that failure to attend the scheduled enforcement conference may result in the issuance of an Administrative Order without your consent. Such an Order may contain the above findings and may impose monetary penalties.

This Notice is made pursuant to South Carolina Infectious Waste Management Act §44-93-130, which authorizes the Department to issue Orders and assess monetary penalties.

March 6, 2018


Lorria H. Caswell
Enforcement Section
Division of Compliance and Enforcement
Bureau of Land and Waste Management

South Carolina Department of Health & Environmental Control
Office of Environmental Quality Control
January 2010

An Overview of the Administrative Enforcement Process

This document is provided as guidance and should not be relied upon as legal advice.

Introduction

This information sheet has been prepared to help you better understand the SC Department of Health and Environmental Control's (Department) enforcement process. Since you received a Notice of Alleged Violation/Notice of Enforcement Conference (NOAV/NOEC), we want you to adequately prepare to meet with staff to resolve this matter of regulatory concern. It is the Department's foremost goal to assist you in maintaining full compliance. Enforcement is one tool to help ensure that obligations to safeguard the environment through strict adherence to regulations and environmental permit requirements, terms, and conditions are fulfilled. The following are answers to questions most frequently asked by people involved in this process.

What is a Notice of Alleged Violation/Notice of Enforcement Conference (NOAV/NOEC)?

The NOAV/NOEC is the first step in the administrative enforcement process. When it is discovered that an environmental law or regulation may have been violated, a NOAV/NOEC may be issued. The notice outlines the Office of Environmental Quality Control's (EQC) findings, identifies the law, regulation, or permit requirement EQC believes was violated, and invites the responsible party (Respondent) to attend an enforcement conference. The Respondent may accept EQC's findings and elect not to attend a conference, in which case an order is drafted, if appropriate, for the Respondent's review and signature.

Why is an enforcement action necessary?

There are different factors considered by EQC staff when deciding to initiate an enforcement action. Most fall within the following: 1) the specific type of alleged violation identified may require EQC to take a formal enforcement action, 2) the alleged violation is serious or a threat to public health or the environment,

or 3) the alleged violation has not been corrected within a reasonable period of time.

What is an enforcement conference and what can I do to prepare for it?

The enforcement conference is a voluntary, informal meeting between EQC staff and the Respondent. The NOAV/NOEC you received contains all of the known issues of regulatory concern and provides the basis for discussion. It is important to be fully prepared to present any information that will enable staff to make a fair and sound decision concerning the allegations. You should also be prepared to report any corrective action(s) taken or planned.

Who should I bring to the conference and who from EQC will be present?

People who are most familiar with the issues and who have decision-making authority on behalf of the Respondent should plan to attend. You may have legal and/or technical representation, if you choose. An enforcement project manager, regional staff, technical support, and other compliance personnel involved with the matter will represent the Department. A staff attorney representing EQC is generally not in attendance. However, if you choose to have legal counsel present, you are asked to notify the Department at least five days prior to the conference and the Department may decide to have agency legal counsel attend. Also, if the Department determines it is necessary for legal counsel to be present you will be notified at least five days prior to the conference. The enforcement conference is closed to the public and media per a DHEC Board approved policy.

What can I expect to happen at the enforcement conference and what may result?

As the Respondent, you can expect a fair evaluation of the circumstances surrounding the issues of concern. Staff will ask questions and determine a reasonable response based upon consideration of the facts. After the conference, staff will review the information gathered and decide on one of four possible outcomes: 1) the Department determines that the event is not a violation and is dismissed; 2) the Department determines the violation is properly alleged, but there is justification to resolve the matter without the issuance of an order; 3) the Department determines the violation is properly alleged, and you are given the opportunity to resolve the issue by entering into a Consent Order with the Department; or 4) the Department determines the violation is properly alleged and an Administrative (unilateral) Order is issued.

What is a consent order?

A Consent Order is a legally binding, enforceable document, with terms and conditions agreed upon by you and the Department. In signing a Consent Order, you waive your right to an administrative appeal, but the additional time and costs associated with an administrative hearing and other potential court-related costs are avoided.

What is the purpose of a civil penalty; how is the penalty amount determined; and who gets the money?

Civil penalties are issued for the violation of federal and state environmentally laws. The decision to assess penalty depends upon the type of violation alleged and other factors. Among other factors, civil penalties are intended to deter future noncompliance and eliminate any economic incentive for noncompliance. The penalty is calculated in accordance with the Department's Uniform Enforcement Policy. The amount of the civil penalty is designed to reflect the frequency, duration, and severity of the violation(s). Some other factors may be considered, such as compliance history, degree of negligence or willfulness, and economic benefit gained through noncompliance. The money collected is either sent to the State's General Fund, or a portion to the county in which the violation occurred, or otherwise dispersed as required by state law.

If I have corrected the noted violations, why would a civil penalty still be assessed?

To promote fairness and consistency within the administrative enforcement process, civil penalties are typically assessed for certain violations. However, if you demonstrate good faith efforts to promptly correct the alleged violation, staff will favorably consider these actions when calculating any penalty. Other factors that may affect the penalty amount include measures taken to prevent recurrence and other mitigating factors.

Why should I attempt to resolve the enforcement action with a consent order?

There are often significant savings in time and money when the parties in an enforcement action can reach an agreed upon resolution. If, however, an agreement to the terms, conditions and/or any civil penalty proposed in a Consent Order cannot be reached, the Department may issue an Administrative Order (unilateral) without your consent. The Administrative Order would include findings of fact, conclusions of law, and contain specific requirements addressing the violation(s) and the civil penalty may be higher based on factors under consideration.

If an agreed upon resolution is not reached and an order is issued without my consent, what are my options?

A Respondent may seek further review as set forth in the Notice of Appeal procedure, which is on the Department's Website at:

[http://www.scdhec.gov/environment/baq/docs/DepartmentDecisions/Notice of Appeal Procedure.pdf](http://www.scdhec.gov/environment/baq/docs/DepartmentDecisions/Notice%20of%20Appeal%20Procedure.pdf)

