

CLEAN HARBORS INC  
Form 10-K/A  
April 29, 2005

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K/A  
(AMENDMENT NO. 1)**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934  
FOR THE FISCAL YEAR ENDED DECEMBER 31, 2004

COMMISSION FILE NO. 0-16379

**CLEAN HARBORS, INC.**

(Exact name of registrant as specified in its charter)

**Massachusetts**  
(State or other jurisdiction of  
incorporation or organization)

**04-2997780**  
(IRS Employer  
Identification No.)

**1501 Washington Street**  
**Braintree, Massachusetts**  
(Address of principal executive offices)

**02184-7535**  
(Zip Code)

**Registrant's telephone number: (781) 849-1800 ext. 4454**  
**Securities registered pursuant to Section 12(b) of the Act:**  
None

**Securities registered pursuant to Section 12(g) of the Act:**  
Common Stock, \$.01 par value

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding twelve months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.  Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act).  Yes  No

On June 30, 2004 (the last business day of the registrant's most recently completed second fiscal quarter), the aggregate market value of the voting and non-voting common stock of the registrant held by non-affiliates of the registrant was \$90,981,096. Reference is made to Part III of this report for the assumptions on which this calculation is based.

On March 28, 2005 there were outstanding 14,961,345 shares of Common Stock, \$.01 par value.

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**DOCUMENTS INCORPORATED BY REFERENCE**

Certain portions of the registrant's definitive proxy statement for its 2005 annual meeting of stockholders (which was filed with the Commission on April 15, 2005) are incorporated by reference into Part III of this report.

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**EXPLANATORY NOTE**

Clean Harbors, Inc. is filing this amendment to its annual report on Form 10-K for the year ended December 31, 2004, filed with the Securities and Exchange Commission on March 31, 2005 ("Original Filing") in accordance with the Commission's exemptive order contained in Release No. 34-50754, to:

amend and restate "Internal Control Weakness" under the heading "Factors That May Affect Future Results" included in Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations,"

amend and restate Item 9A to include Management's Annual Report on Internal Control Over Financial Reporting,

include a Report of Independent Registered Public Accounting Firm relating to our internal control over financial reporting,

include revised signatures required as a result of the revisions discussed above,

include a revised Consent of Independent Registered Public Accounting Firm required as a result of the revisions discussed above, and

correct certain minor typographical and similar errors.

As a result of these amendments, the certifications pursuant to Section 302 and Section 906 of the Sarbanes-Oxley Act of 2002, filed as exhibits to the Original Filing, have been re-executed and re-filed as of the date of this Form 10-K/A.

Except as described above, this amendment does not contain updates to reflect any events occurring after March 31, 2005. All information in this amendment is subject to updating and supplementing as provided in our reports filed with the Securities and Exchange Commission, as may be amended, for periods subsequent to December 31, 2004.

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CLEAN HARBORS, INC.

ANNUAL REPORT ON FORM 10-K

YEAR ENDED DECEMBER 31, 2004

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### Forward-Looking Statements

In addition to historical information, this Annual Report contains forward-looking statements, which are generally identifiable by use of the words "believes," "expects," "intends," "anticipates," "plans to," "estimates," "projects," or similar expressions. These forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from those reflected in these forward-looking statements. Factors that might cause such a difference include, but are not limited to, those discussed in the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations Factors That May Affect Future Results." Readers are cautioned not to place undue reliance on these forward-looking statements, which reflect management's opinions only as of the date hereof. We undertake no obligation to revise or publicly release the results of any revision to these forward-looking statements. Readers should carefully review the risk factors described in other documents which we file from time to time with the Securities and Exchange Commission (the "SEC"), including the Quarterly Reports on Form 10-Q to be filed by us during 2005.

## PART I

### ITEM 1. BUSINESS

Clean Harbors, Inc. through its subsidiaries (hereinafter collectively referred to as "Clean Harbors" or "we" or "our") is one of the largest providers of environmental services and the largest operator of non-nuclear hazardous waste treatment facilities in North America based on 2002 industry reports. We service approximately 55% of North America's commercial hazardous incineration volume, 21% of North America's hazardous landfill volume, and are the industry leader in total hazardous waste disposal facilities. We provide services and solutions to a diversified industry base with over 45,000 customers, including more than 175 Fortune 500 companies, in the United States, Canada, Mexico and Puerto Rico. We perform environmental services through a network of more than 100 service locations, and operate five incineration facilities, nine commercial landfills, seven wastewater treatment operations, and 20 treatment, storage and disposal facilities, or TSDFs, as well as five PCB management facilities and two oil and used oil products recycling facilities. We can provide low cost solutions to our customers due to our large scale, industry knowledge, recent cost cutting and productivity-enhancing initiatives, and ability to internalize our waste streams. As a result, we have been able to increase EBITDA margins since the first half of fiscal year 2003. For the twelve-month period ended December 31, 2004, we generated revenue and EBITDA (a measure not defined by generally accepted accounting principles which is described on page 41) of \$643.2 million and \$74.7 million, as compared to \$611.0 million and \$50.5 million as restated for the period ended December 31, 2003. As further discussed in Item 6, "Selected Financial Data," we are restating our financial statements for the years ended December 31, 2003 and 2002, and financial information for the years ended December 31, 2001, 2000 and 1999, in order to correct errors related to estimated self-insured workers' compensation and motor vehicle claims.

The wastes that we handle include materials that are classified as "hazardous" because of their unique properties, as well as other materials subject to federal and state environmental regulation. We provide final treatment and disposal services designed to manage hazardous and non-hazardous wastes, which cannot be economically recycled or reused. We transport, treat and dispose of industrial wastes for commercial and industrial customers, health care providers, educational and research organizations, other environmental services companies and governmental entities.

Clean Harbors, Inc. was incorporated in Massachusetts in 1980 and its principal offices are located in Braintree, Massachusetts. The Company's shares of common stock trade on The Nasdaq National Market under the symbol "CLHB." We maintain a website at the following Internet address: <http://www.cleanharbors.com>. Through a link on this website to the SEC website, <http://www.sec.gov>, we provide free access to our annual reports on Form 10-K, quarterly reports on Form 10-Q, current

reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 as soon as reasonably practicable after electronic filing with the SEC. Our guidelines on corporate governance, the charters for our Board Committees, and our code of ethics for members of the Board of Directors, senior officers and the chief executive officer are also available on our website, and we will post on our website any waivers of, or amendments to, such code of ethics. Our website and the information contained therein or connected thereto are not incorporated by reference into this Form 10-K.

## Acquisition

Effective September 7, 2002, we purchased from Safety-Kleen Services, Inc., or the Seller, and certain of the Seller's domestic subsidiaries, substantially all of the assets of the Chemical Services Division, or CSD, of Safety-Kleen Corp., or Safety-Kleen. The sale included the operating assets of certain of the Seller's subsidiaries in the United States and the stock of five of the Seller's subsidiaries in Canada, or the CSD Canadian Subsidiaries. The sale was made pursuant to a Sale Order issued on June 18, 2002 by the Bankruptcy Court for the District of Delaware as part of the proceedings under Chapter 11 of the Bankruptcy Code in which Safety-Kleen and its domestic subsidiaries (including the Sellers) had been operating since June 2000 as debtors in possession. The Sale Order authorized the sale of the assets of the CSD to Clean Harbors free and clear of all liens, claims, encumbrances and interests except for certain liabilities and obligations we assumed as part of the purchase price.

The assets of the CSD (including the assets of the CSD Canadian Subsidiaries) which we acquired consist primarily of 44 hazardous waste treatment and disposal facilities including, among others, 22 TSDFs (six of which we have since closed), six wastewater treatment facilities (one of which we have since closed), nine commercial landfills, and four incineration facilities. Such facilities are located in 30 states, Puerto Rico, six Canadian provinces and Mexico. The most significant of such facilities include landfills in Buttonwillow, California with approximately 10.0 million cubic yards of remaining capacity, in Lambton, Ontario with approximately 8.9 million cubic yards of remaining capacity which is the largest of the total of three hazardous waste landfills in Canada, and in Waynoka, Oklahoma with approximately 1.5 million cubic yards of remaining capacity; and incinerators in Deer Park, Texas, which is the largest hazardous waste incineration facility in the United States, and in Aragonite, Utah. Additional significant facilities are the incinerators in Mercier, Quebec and in Lambton, Ontario.

The primary reasons for the acquisition of the CSD assets were to broaden our disposal capabilities and geographic reach, particularly in the West Coast and Southwest regions of the United States, in Canada and in Mexico, and to significantly expand our network of hazardous waste disposal facilities. In addition, we believed that the acquisition of the CSD's hazardous waste facilities in new geographic areas would allow us to expand our site and industrial services. The performance of site and industrial services often involves hazardous waste disposal components that potentially increase the utilization and profitability of our facilities. Finally, we believed that the acquisition would result in significant cost savings by allowing us to internally treat and dispose of hazardous waste for which we previously paid third parties because we lacked the facilities required to dispose of the waste internally.

## Industry

According to industry reports, the hazardous waste disposal market in North America is in excess of \$2.0 billion. We also service the much larger industrial maintenance market. The \$2.0 billion estimate does not include the industrial maintenance market, except to the extent that the costs of disposal of hazardous wastes generated as a result of industrial maintenance are included.

There are substantial barriers to entry into the hazardous waste management industry including high regulatory compliance costs and expertise, the arduous federal, state, provincial and local permitting processes for new disposal facilities, and the requirement for an extensive asset network,

operating knowledge and major capital expenditures to purchase or construct new disposal facilities. As a result, no new hazardous waste incinerators or hazardous waste landfills have commenced commercial operations in North America in the last decade. We believe that industry fundamentals are improving. Capacity has been reduced in recent years causing stabilization in pricing, and new regulatory requirements have increased in-house disposal costs and outsourcing. Furthermore, customers are using fewer providers for their hazardous waste treatment and disposal needs as they seek to limit their outside vendors and the number of facilities in which their hazardous waste materials are disposed.

The hazardous waste management industry was "created" in 1976 with the passage of the Resource Conservation and Recovery Act, or RCRA. RCRA requires waste generators to distinguish between "hazardous" and "non-hazardous" wastes, and to treat, store and dispose of hazardous waste in accordance with specific regulations. This new regulatory environment, combined with strong economic growth, increased corporate concern surrounding environmental liabilities, and early-stage industry dynamics contributed to growth in the industry. The largest generators of hazardous waste materials are companies in the chemical, petrochemical, primary metals, paper, furniture, aerospace and pharmaceutical industries. Hazardous waste types processed or transported include flammables, combustibles and other organics, acids and caustics, cyanides and sulfides, solids and sludge, industrial wastewaters, items containing PCBs (such as utility transformers), and medical waste.

In the mid to late 1990s, the hazardous waste management industry was characterized by overcapacity, minimal regulatory advances and pricing pressure. However, since 2001, over one-third of all North American commercial incineration capacity has been eliminated, and we believe that competition has been reduced through consolidation and that new regulations have increased the overall barriers to entry. Underscoring these trends, we believe that the number of major industry participants in the North American hazardous waste sector has declined from over 20 in the early 1990s to only five major participants today. Since the mid 1990s, approximately 500,000 tons of incineration capacity has been eliminated as eight major incinerators were deactivated, substantially increasing average capacity utilization. Additionally, new Maximum Achievable Control Technologies, or MACT, standards have been implemented, which we believe will increase compliance costs and drive increased outsourcing of incineration as customers with captive (i.e., in-house and non-commercial) incinerators choose to outsource rather than make the substantial investment in their facilities which would be required to achieve compliance.

The environmental services industry today includes a broad range of services including the following:

**Collection, Transportation and Logistics Management** specialized handling, packaging, transportation and disposal of industrial waste, laboratory quantities of hazardous chemicals, household hazardous wastes, and pesticides;

**Incineration** the preferred method for treatment of organic hazardous waste because it effectively destroys the contaminants;

**Landfill Disposal** used primarily for the disposal of inorganic wastes;

**Physical Waste Treatment** used to reduce the volume or toxicity of waste or make it suitable for further treatment, reuse, or disposal;

**Resource Recovery and Fuels Blending** removes contaminants to restore fitness for an intended purpose and to reduce the volume of waste;

**Wastewater Treatment** separates wastes including industrial liquid wastes containing heavy metals, organics and suspended solids through physical and chemical treatment so that the treated water can be discharged to local sewer systems under permits; and

**Site Services** includes the maintenance of industrial facilities and equipment such as recurring cleaning in order to continue operations, maintain and improve operating efficiencies, and satisfy safety requirements; the planned cleanup of hazardous waste sites and the cleanup of accidental spills and discharges, such as those resulting from transportation accidents; and the cleanup and restoration of buildings, equipment, and other sites and facilities that have been contaminated.

The collection and disposal of solid and hazardous wastes are subject to local, state, provincial and federal requirements and regulations, which regulate health, safety, the environment, zoning and land-use. Included in these regulations is the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or CERCLA, of the United States. CERCLA holds generators and transporters of hazardous substances, as well as past and present owners and operators of sites where there has been a hazardous release, strictly, jointly and severally liable for environmental cleanup costs resulting from the release or threatened release. Canadian companies are regulated under similar regulations, but the responsibility and liability associated with the waste passes from the generator to the transporter or receiver of the waste, in contrast to provisions of CERCLA.

## Competitive Strengths

**Leading Provider of Hazardous Waste Services and Disposal** We are one of the largest providers of environmental services and the largest operator of non-nuclear hazardous waste treatment facilities in North America based on 2002 industry reports. We operate, in the aggregate, the largest number of incinerators, hazardous waste landfills, wastewater treatment facilities and TSDFs in North America, and provide multi-faceted and low cost services to a broad mix of customers. We attract and better serve our customers because of our capabilities and the size, scale and geographic location of our assets, which allow us to serve multiple locations. Finally, as our collections of waste increase, our size allows us to increase our cash flow and earnings as we can internalize a greater volume of waste in our incinerators and landfills.

**Large and Diversified Customer Base** We service over 175 of the Fortune 500 companies and more than 45,000 customers overall, including commercial and industrial customers, health care providers, educational and research organizations, other environmental services companies and governmental entities. This diversification limits our exposure to any one customer or industry and reduces credit exposure to higher risk customers.

**Stable and Recurring Revenue Base** We have long-standing relationships with our customers, averaging 15 years with our top ten customers. Our diversified customer base also provides stable and recurring revenues as a majority of our revenues are derived from previously served customers with recurring needs for our services. In addition, the costs to our customers of switching providers are high. This is due to many customers' desire to audit disposal facilities prior to their qualification as approved sites and to limit the number of facilities to which their wastes are shipped in order to reduce their potential liability under U.S. environmental regulations. We have been selected as an approved vendor by large generators of waste because we possess comprehensive collection, recycling, treatment, transportation, disposal, and waste tracking capabilities and have the expertise necessary to comply with applicable environmental laws and regulations. Those customers who have selected us as an approved vendor often continue to use our services.

**Comprehensive Service Capabilities** Our comprehensive service offerings allow us to act as a full service provider to our customers. Our full service orientation creates incremental revenue growth as customers seek to minimize the number of outside vendors and demand "one-stop" service providers. Our expanded geographic coverage maximizes the number of customer facilities that we can service.



**Integrated Network of Assets** We have the most extensive collection of incinerators, landfills, treatment facilities and TSDFs in North America. Our broad network enables us to effectively handle a waste stream from origin through disposal and to efficiently direct and internalize our waste streams to reduce costs.

**Regulatory Compliance** We have recently made substantial capital investments in our facilities to ensure that they are in substantial compliance with current federal, state, provincial and local regulations. Companies that rely on in-house disposal may find the current regulatory requirements to be too capital-intensive or complicated, and may choose to outsource many of their hazardous waste disposal needs.

**Effective Cost Management** Our significant scale allows us to maintain low costs through standardized compliance procedures, significant purchasing power, extensive research and development capabilities and our ability to efficiently utilize logistics and transportation to economically direct waste streams. We also have the ability to internalize the substantial majority of all hazardous waste that we process in our own disposal assets. Finally, we are committed to reducing costs and have significantly reduced headcount and other operating costs since our acquisition of the CSD assets.

**Proven and Experienced Management Team** Our 14 executive officers collectively have over 210 years of experience in the environmental services industry. Our Chief Executive Officer founded the company in 1980, and the average tenure of the 13 other members of the executive management team exceeds 13 years.

## Business Strategy

Our strategy is to develop and maintain ongoing relationships with a diversified group of customers who have recurring needs for environmental services. We strive to be recognized as the premier supplier of a broad range of value-added environmental services based upon quality, responsiveness, customer service, information technologies, breadth of product offerings and cost effectiveness.

**Improve Utilization of Existing Waste Facilities** We currently operate an extensive network of hazardous waste management properties and have made substantial investments in these facilities to date, which will provide us with significant operating leverage as volumes increase. In addition, there are opportunities to expand waste handling capacity at these facilities by modifying the terms of the existing permits and by adding capital equipment and new technology. Through selected permit modifications, we can expand the range of treatment services offered to our customers without the large capital investment necessary to acquire or build new waste management facilities.

**Focus on Cost Reductions** We continually seek to increase efficiency and to reduce costs in our business. Since the acquisition of the CSD assets, we have significantly reduced headcount and other operating costs through enhanced technology, process reengineering and more stringent expense management.

**Capitalize on Outsourcing and Demand for Service Provider Consolidation** We believe that our large industrial customers increasingly require a comprehensive range of environmental services to be provided by a smaller number of service providers. This trend should place smaller operators at a competitive disadvantage due to their size and limited financial resources. Furthermore, many of our customers are seeking to focus on their core competencies and are outsourcing their hazardous waste disposal needs. New environmental regulations, such as the MACT standards, have significantly increased regulatory compliance costs, leading to a decrease in captive incinerator capacity and additional outsourcing as these customers choose to shut down their incinerators rather than invest substantial capital like we have invested in our

facilities. We seek to work with our customers to handle a greater amount of their hazardous waste disposal needs arising from these outsourcing trends and to capitalize on the demand for the expanded portfolio of environmental services that we offer.

**Expand Network of Service Centers** We believe that the Site Services Division has a competitive advantage, particularly in areas where service centers are located at or near a TSDF. We currently operate 20 TSDFs and more than 100 service locations. By opening additional service centers in close proximity to the TSDFs we now operate, we believe that we can, with minimal capital expenditures, increase our market share within the site services segment of the waste disposal market. We believe much of this additional waste can be sent to our existing facilities at competitive transportation costs thereby increasing utilization and enhancing overall profitability.

**Develop New Services and Penetrate the Industrial Maintenance Services Market** Industrial waste customers continue to demand alternatives to traditional waste disposal in order to increase recycling and reclamation activities and to minimize the end disposal of hazardous waste. We plan to utilize our technological expertise and track record of innovation to further improve and expand the range of services that we offer, and to develop less expensive methods of disposal. In 1999, we added industrial cleaning and maintenance to our service offerings. We believe that this multi-billion dollar market offers significant opportunities for growth because of our minimal current penetration and our ability to leverage our existing assets as hazardous wastes are often removed in the cleaning process.

**Selective Acquisition Strategy** We also intend to actively pursue small accretive "bolt-on" acquisitions in certain services or market sectors where we believe such acquisitions can enhance and expand our business with minimal capital outlay. We believe that we can expand existing services, especially in our non-disposal services, through strategic acquisitions in order to generate incremental revenues from existing and new customers and to obtain greater market share.

## Services

We provide a wide range of environmental services and manage our business as two major segments: Technical Services and Site Services.

**Technical Services** (69% of 2004 revenue). These services involve the collection, transport, treatment and disposal of hazardous and non-hazardous wastes, and include physical treatment, resource recovery, fuels blending, incineration, landfill disposal, wastewater treatment, lab chemical disposal, explosives management, and CleanPack® services. Our CleanPack® services include the collection, identification and categorization, specialized packaging, transportation and disposal of laboratory chemicals and household hazardous wastes. Our technical services are provided through a network of service centers from which a fleet of trucks or railcars is dispatched to pick up customers' wastes either on a predetermined schedule or on-demand and to deliver such wastes to permitted facilities, which are usually owned by us. Our service centers can also dispatch chemists to a customer location for the collection of chemical and laboratory waste for disposal.

**Site Services** (31% of 2004 revenue). These services provide customers with highly skilled experts who utilize specialty equipment and resources to perform services at any chosen location. Under the Site Services umbrella, our Field Service crews and equipment are dispatched on a planned or emergency basis, and perform services such as confined space entry for tank cleaning, site decontamination, large remediation projects, selective demolition, spill cleanup, railcar cleaning, product recovery and transfer, scarifying and media-blasting and vacuum services. Additional services include used oil and oil products recycling, as well as PCB management and disposal.

Also, as part of Site Services, Industrial Services crews focus on industrial cleaning and maintenance projects. Our Industrial Services manage hazardous, non-hazardous, wet and dry materials and specialize in chemical cleaning, hydro blasting, liquid/dry vacuuming, sodium bicarbonate blasting, line cleaning, boiler cleanouts, and steam cleaning of our customers' process equipment and systems, as well as video inspection. Additionally, specialized project work such as dewatering, and on-site material processing utilizing thermal treatment units are also performed on customers' sites. We market these services through our internal sales organizations and, in many instances, delivery of services in one area supports or leads to business in our other service lines or segments.

The table below shows for each of the three years in the three-year period ended December 31, 2004 the total revenues contributed by our principal lines of business (in thousands):

	Years Ended December 31,		
	2004	2003	2002
Technical Services	\$ 444,617	\$ 422,777	\$ 220,085
Site Services	198,609	187,742	128,873
Other	(7)	450	1,175
	<u>\$ 643,219</u>	<u>\$ 610,969</u>	<u>\$ 350,133</u>

Additional segment information can be found in the financial statements and the notes thereto appearing in Item 8 of this annual report on Form 10-K.

### ***Technical Services***

Technical Services provides the collection, transportation and logistics management of containerized and bulk waste, as well as the categorizing, packaging and removal of laboratory chemicals for disposal (CleanPack®). Through a highly coordinated transportation fleet, Clean Harbors provides reliable, cost effective transportation and disposal to customers across North America. From the Technical Service Centers, trucks are dispatched to pick up customers' waste on a predetermined schedule as well as on demand, and then deliver it to one of our nearby transfer, storage and disposal ("TSD") facilities. From these same Technical Service Centers, specially trained chemists are dispatched to customer locations to safely collect, label and package all quantities of laboratory chemicals for disposal.

### **Collection, Transportation and Logistics Management**

As an integral part of our services, industrial wastes are collected from customers and transported by us to and between our facilities for treatment or bulking for shipment to final disposal locations. Customers typically accumulate waste in containers, such as 55 gallon drums, bulk storage tanks or 20 cubic yard roll-off boxes. In providing this service, we utilize a variety of specially designed and constructed tank trucks and semi-trailers as well as third party transporters, including railroads. Liquid waste is frequently transported in bulk, but may also be transported in drums. Heavier sludge or bulk solids are transported in sealed, roll-off boxes or bulk dump trailers. Our fleet is equipped with a mobile satellite monitoring system and communications network, which allows real time communication with the transportation fleet.

### **Treatment and Disposal**

We transport, treat and dispose of industrial wastes for commercial and industrial customers, health care providers, educational and research organizations, other environmental services companies and governmental entities. The wastes handled include substances, which are classified as "hazardous" because of their corrosive, ignitable, infectious, reactive or toxic properties, and other substances

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subject to federal, state and provincial environmental regulation. We provide final treatment and disposal services designed to manage hazardous and non-hazardous wastes, which cannot be otherwise economically recycled or reused.

We operate a network of TSDFs that primarily focuses on the collection of waste from smaller to mid-size generators. These TSDFs collect, temporarily store and/or consolidate compatible waste streams for more efficient transportation to final recycling, treatment or disposal destinations. TSDFs in the United States have Part B permits under RCRA that, among other things, allow us to store waste for up to one year for bulking, treatment or transfer purposes. Larger customers typically ship directly to the end disposal sites with full truckloads of material. Depending upon the content, the material collected at the TSDFs is either disposed of at our incineration, landfill or wastewater treatment facilities, disposed of at end disposal facilities not owned by us, or recycled. Waste types processed or transferred in drums or bulk quantities include:

Flammables, combustibles and other organics;

Acids and caustics;

Cyanides and sulfides;

Solids and sludge;

Industrial wastewaters;

Items containing PCBs, such as utility transformers and electrical light ballasts;

Medical waste;

Other regulated wastes; and

Non-hazardous industrial waste.

We receive detailed waste profiles prepared by our customers to document the nature of the waste. A sample of the delivered waste is tested to ensure that it conforms to the customer-generated waste profile record and to select an appropriate method of treatment and disposal. Once the wastes are characterized, compatible wastes are consolidated to achieve economies in storage, handling, transportation and ultimate treatment and disposal. At the time of acceptance of a customer's waste at our facility, a unique computer "bar code" identification label is assigned to each container of waste, enabling the use of sophisticated computer systems to track and document the status, location and disposition of the waste.

*Physical Treatment.* Physical treatment methods include distillation, separation and stabilization. These methods are used to reduce the volume or toxicity of waste material or to make it suitable for further treatment, reuse, or disposal. Distillation uses either heat or vacuum to purify liquids for resale. Separation utilizes techniques such as sedimentation, filtration, flocculation and centrifugation to remove solid materials from liquids. Stabilization refers to a category of waste treatment processes designed to reduce contaminant mobility or solubility and convert waste to a more chemically stable form. Stabilization technology includes many classes of immobilization systems and applications. Stabilization is a frequent treatment method for metal-bearing wastes received at several of our facilities, which treat the waste to meet specific federal land disposal restrictions. After treatment, the waste is tested to confirm that it has been rendered non-hazardous. It can then be sent to a non-hazardous waste landfill, at significantly lower cost than disposal at a hazardous waste landfill.

*Resource Recovery and Fuels Blending.* Resource recovery involves the treatment of wastes using various methods, which effectively remove contaminants from the original material to restore its fitness for its intended purpose and to reduce the volume of waste requiring disposal. We operate treatment

systems for the reclamation and reuse of certain wastes, particularly solvent-based wastes generated by industrial cleaning operations, metal finishing and other manufacturing processes.

Spent solvents that can be recycled are processed through thin film evaporators and other processing equipment and are distilled into usable products. Upon recovery of these products, we either return the recovered solvents to the original generator or sell them to third parties. Organic liquids and solids with sufficient heat value are blended to meet strict specifications for use as supplemental fuels for incinerators, cement kilns, industrial furnaces and other high efficiency boilers. We have installed fuels blending equipment at some TSDFs to prepare these supplemental fuels. When possible, we burn fuel blended material at our incinerators. Otherwise, we send the fuel blended material to supplemental fuel users that are licensed to accept the blended fuel material. Although we pay a fee to the users who accept this product, this disposal method is substantially less costly than other disposal methods.

*Incineration.* Incineration is the preferred method for the treatment of organic hazardous waste, because it effectively destroys the contaminants at temperatures in excess of 2,000 degrees Fahrenheit. High temperature incineration effectively eliminates organic wastes such as herbicides, halogenated solvents, pesticides, and pharmaceutical and refinery wastes, regardless of whether they are gases, liquids, sludge or solids. Federal and state incineration regulations require a destruction and removal efficiency of 99.99% for most organic wastes and 99.9999% for PCBs and dioxin.

We have five active incineration facilities that offer a wide range of technological capabilities to customers through this network. In the United States, we operate a fluidized bed thermal oxidation unit for maximum destruction efficiency of hazardous waste with an annual capacity of 55,000 tons, and two solids and liquids-capable incineration facilities with a combined estimated annual capacity of 185,000 tons. We also operate two hazardous waste liquid injection incinerators in Canada with total annual capacity of approximately 178,000 tons.

Our incineration facilities in Kimball, Nebraska, Deer Park, Texas and Aragonite, Utah are designed to process liquid organic wastes, sludge, solids, soil and debris. The Deer Park facility has two kilns and a rotary reactor. Our incineration facilities in Kimball, Nebraska and Deer Park, Texas have on-site landfills for the disposal of ash and other waste material produced as a result of the incineration process.

Our incineration facilities in Mercier, Quebec and Lambton, Ontario are liquid injection incinerators, designed primarily for the destruction of liquid organic waste. Typical waste streams include wastewater with low levels of organics and other higher concentration organic liquid wastes not amenable to conventional physical or chemical waste treatment.

The North American hazardous waste incineration market is now served by a total of 12 major incineration facilities operated by a total of seven companies. We own five of these active incineration facilities and offer a wide range of technological capabilities to our customers through this network. The primary competitors in the incineration market are Onyx (a subsidiary of Veolia Environnement (NYSE: VE)), Teris, LLC (a subsidiary of Suez Lyonnaise des Eaux), Von Roll America/WTI (a joint venture), and Ross Incineration Services, Inc. (a private company).

*Landfills.* Landfills are used primarily for the disposal of inorganic wastes. In the United States and Canada, we operate nine commercial landfills. Seven commercial landfills are designed and permitted for the disposal of hazardous wastes and two landfills are operated for non-hazardous industrial waste disposal and, to a lesser extent, municipal solid waste.

Of the seven commercial landfills used for disposal of hazardous waste, five are located in the United States, and two are located in Canada. As of December 31, 2004, the useful economic lives (for accounting purposes) of these landfills include approximately 27.4 million cubic yards of remaining capacity. This estimate of the useful economic lives of these landfills includes permitted airspace and unpermitted airspace that management believes to be probable of being permitted based on our

analysis of various factors. In addition to the capacity included in the useful economic lives of these landfills, there are approximately 35.2 million cubic yards of additional unpermitted airspace capacity included in the footprints of these landfills that may ultimately be permitted. There can be no assurance that this unpermitted additional capacity will be permitted.

In addition to hazardous waste landfill sites, we operate two non-hazardous industrial landfills with 0.5 million cubic yards of remaining permitted capacity. These two facilities are located in the United States and have been issued operating permits under the authority of Subtitle D of RCRA. Prior to issuance of a permit, we must demonstrate to the permitting agency that our non-hazardous industrial landfills have, and must subsequently employ, operational programs protective of the integrity of the landfill, human health and the surrounding environment. Our non-hazardous landfill facilities are permitted to accept commercial industrial waste, including wastes from foundries, demolition and construction, machine shops, automobile manufacturing, printing, metal fabrications and recycling.

The commercial hazardous landfill sector is one of the most consolidated in the hazardous treatment and disposal industry. The North American hazardous waste landfill disposal market is serviced by 22 facilities owned by a total of 10 companies. While most of these companies operate two or fewer facilities, we and Waste Management, Inc. have a significant share of the North American market. Other competitors include Envirosource, Inc., American Ecology Corp., EQ and Stablex Canada.

*Wastewater Treatment.* We operate wastewater treatment facilities that offer a range of wastewater treatment technologies. These wastewater treatment operations involve processing hazardous and non-hazardous wastes through the use of physical and chemical treatment methods. The solid waste materials produced by these wastewater processing operations are then disposed of at facilities which are owned by us, or at off-site facilities owned and operated by unrelated businesses, while the treated effluent is discharged to the local sewer system under permit.

Our wastewater treatment facilities treat a broad range of industrial liquid and semi-liquid wastes containing heavy metals, organics and suspended solids, including:

Acids and caustics;

Ammonias, sulfides and cyanides;

Heavy metals, ink wastes and plating solutions;

Landfill leachate and scrubber waters; and

Oily wastes and water-soluble coolants.

Wastewater treatment can be economical as well as environmentally sound, by combining different wastewaters in a "batching" process that reduces costs for multiple waste stream disposal. For instance, acidic waste from one source can be neutralized with alkaline from a second source to produce a neutral solution.

We compete against a number of competitors with multiple facilities (e.g., Rhodia a division of Teris LLC, which is a subsidiary of Suez Lyonnaise des Eaux, Philip Services Corp. (Other OTC:PSCD.PK), US Filter, a subsidiary of Veolia Environnement (NYSE: VE), Heritage Environment Services LLC, a private company, and Envirite, Inc., a private company). There are also a number of operators with single facilities that process high volumes of waste in niche markets (e.g., Dupont Environmental Treatment, a subsidiary of E. I. DuPont de Nemours and Company (NYSE: DD), and Empak, a private company).

*Explosives Management.* We dispose of munitions and other explosives at our facility in Colfax, Louisiana.

### **CleanPack® Services**

CleanPack® provides specialized handling, packaging, transportation and disposal of laboratory quantities of outdated hazardous chemicals, household hazardous wastes, and waste pesticides and herbicides. CleanPack® chemists utilize our CHOICE® waste management software system to support our lab pack services and complete the regulatory information required for every pick-up. The CleanPack® operation services a wide variety of customers including:

Pharmaceutical companies;

Engineering, and research and development departments of industrial companies;

College, university and high school laboratories;

Commercial laboratories;

Hospital and medical care laboratories;

State and local municipalities; and

Thousands of agribusinesses and residents through household hazardous waste and pesticide/herbicide collection programs.

CleanPack® chemists collect, identify, label, and package waste into Department of Transportation approved containers. Lab packed wastes are then transported to one of our facilities where the waste is consolidated for recycling, reclamation, fuels blending, aqueous treatment, incineration or secure chemical landfill. Other services provided by our CleanPack® operations include:

*Household Hazardous Waste.* We perform one-day, multi-day or mobile household hazardous waste and pesticide collection programs throughout the U.S. and Canada. These collection programs provide communities and their residents the opportunity to properly dispose of their paints, solvents, batteries, fluorescent lamps, cleaners, pesticides and other potentially hazardous materials.

*Reactive Materials Services.* Reactive materials technicians utilize specialized equipment and training to stabilize and desensitize highly reactive and potentially explosive chemicals.

*CustomPack® Services.* We provide training, technical support, and disposal services for customers with the resources and experience to package their own waste chemicals.

*Laboratory Move Services.* CleanPack® chemists properly and safely segregate, package, transport, and unpackage hazardous chemicals being moved from older laboratories to newer laboratories.

*Laboratory Closures Services.* CleanPack® crews perform comprehensive, site-specific chemical removal and disposal, as well as decontamination for facilities and laboratories undergoing a closure or major cleanout.

### **Site Services**

We provide a wide range of environmental site services to maintain industrial facilities and process equipment, as well as clean up or contain actual or threatened releases of hazardous materials into the environment. These services are provided to a wide range of clients including large chemical, petroleum, transportation, utility, and governmental agencies. Our strategy is to identify, evaluate, and solve customers' environmental problems, on a planned or emergency basis, by providing a comprehensive interdisciplinary response to the specific requirements of each job or project.

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Site Services is responsible for providing trained, skilled labor and specialty equipment to perform various services on a customer's site or other location. Field Service crews and equipment are dispatched on a planned or emergency basis to manage routine cleaning in hazardous environments or



emergencies such as a chemical or oil spill clean up. Industrial Service crews focus on industrial cleaning and maintenance projects that typically require fast turnaround, or complex onsite material processing.

*Field Services.* Crews and equipment are dispatched on a scheduled or emergency basis to perform everything from site decontamination and remediation projects to selective demolition, emergency response, spill cleanup and vacuum services. Whether the action is planned, corrective or the result of an emergency response, Clean Harbors' multidisciplinary team of remedial action professionals provide solutions to a variety of industrial cleanup problems. Clean Harbors Field Services performs a wide variety of services including:

Emergency response

Site decontamination

Excavation and removal

Product recovery and transfer

Scarifying and media-blasting

Tank cleaning

Vacuum services

Utility services

Demolition

Rail car cleaning

Used oil and oil products recycling

Remediation and environmental construction

PCB management and disposal

*Industrial Services.* The fast turnaround of industrial cleaning and maintenance projects requires the right technologies, experience and care. Every project that Clean Harbors Industrial Services performs incorporates techniques of chemistry, operational analysis and experience to identify the right process and procedure to satisfy customer needs. Clean Harbors Industrial Services focuses on planned cleaning activities most often associated with plant maintenance, shutdowns, routine boiler cleanouts, heat exchangers, process vessels and tanks and includes the following services:

Chemical cleaning

Hydro blasting

Vacuum services

Steam cleaning

Sodium bicarbonate blasting

Dewatering and pressing

Material processing

Boiler cleaning services

Line cleaning

Video inspection

***Other Services***

*Apollo Onsite Services.* Clean Harbors' Apollo Onsite Services Program is an on-site solution that allows customers to outsource all or portions of their environmental management program. The Apollo Program serves the dual purpose of not only improving customers' waste stream management, but also can make their entire environmental program safer, more cost effective and self-sufficient. Select Clean Harbors' technicians work on a customer's site in tandem with customer to deliver proper waste transportation and disposal, lab chemical packing (CleanPack®), and can include field services and industrial services. Whether a customer requires a single field technician or a multi-person team of diversified experience, Clean Harbors designs the right program to satisfy the customer's specific need. Apollo Onsite Services utilize a hand-in-hand, team approach that leverages our extensive resources and infrastructure, including Web-enhanced technologies and online services. Additionally, the Apollo Onsite Program leverages our transportation and disposal assets by providing incremental volumes to process at our facilities. The Apollo Onsite Services Program provides:

Management of drum, bulk and lab pack quantities of hazardous and non-hazardous wastes;

Specialized environmental labor;

Management of waste from source to final destination;

Chemical consolidation, bulking and packaging;

Solid waste management;

Transportation and logistics for offsite disposal; and

Inspection of satellite and 90-day storage facilities.

*Information Management Services.* Our Online Services allow customers free access to their waste information online, 24 hours per day, seven days per week. Customers can create, submit, edit and view their waste profiles; automatically receive quarterly waste tracking reports; and have the ability to view, print or download signed manifests. Additionally, they can view collection schedules and place orders over the Internet.

*Personnel Training.* We provide comprehensive personnel training programs for our own employees and for our customers on a commercial basis. Such programs are designed to promote safe work practices under potentially hazardous conditions, whether or not toxic chemicals are present, in compliance with stringent regulations promulgated under RCRA and the Federal Occupational Safety and Health Act ("OSHA"). Our Technical Training Center includes confined space entry, exit and extraction equipment, an air-system demonstration maze, respirator fit testing room, leak and spill response equipment, and a layout of a mock decontamination zone, all designed to fulfill the requirements of OSHA Hazardous Waste and Emergency Response Standards.

**Seasonality and Cyclical Nature of Business**

Our operations may be affected by seasonal fluctuations due to weather and budgetary cycles influencing the timing of customers' spending for remedial activities. Typically during the first quarter of each year there is less demand for environmental services due to the cold weather, particularly in the northern and midwestern United States and Canada. The main reason for this effect is reduced volumes of waste being received at our facilities and higher operating costs associated with operating in sub-freezing weather and high levels of snowfall. In addition, factory closings for the year-end holidays reduce the volume of industrial waste generated, which results in lower volumes of waste handled by us during the first quarter of the following year.

The hazardous and industrial waste management business is cyclical to the extent that it is dependent upon a stream of waste from cyclical industries such as the chemical and petrochemical,

primary metals, paper, furniture, aerospace and pharmaceutical industries. If the business of those cyclical industries slows significantly, the revenues that are obtained from those industries is likely to slow.

### **Customers**

Our principal customers are utility, chemical, petroleum, petrochemical, pharmaceutical, transportation and industrial firms, educational institutions, other environmental service companies and government agencies. Our sales efforts are directed toward establishing and maintaining relationships with businesses that have ongoing requirements for one or more of our services. Our customer list includes many of the largest industrial companies in the United States. We believe that our diverse customer base, in terms of number, industry and geographic location, as well as the large geographical area in which our facilities are located in North America, provides us with a recurring revenue base. A majority of our revenues are derived from previously served customers with recurring needs for our services. For the fiscal years ended December 31, 2004, 2003 and 2002, no single customer accounted for more than 5% of our revenues. We believe the loss of any single customer would not have a material adverse effect on our financial condition or results of operations.

Under applicable U.S. environmental laws and regulations, generators of hazardous wastes retain legal liability for the proper handling of those wastes up to and including their ultimate disposal. In response to these potential concerns, many large generators of industrial wastes and other purchasers of waste management services (such as general contractors on major remediation projects) have decreased the number of providers they use for such services. We have been selected as an approved vendor by large generators because we possess comprehensive collection, recycling, treatment, transportation, disposal, and waste tracking capabilities and have the expertise necessary to comply with applicable environmental laws and regulations. By becoming an approved vendor for a large waste generator or other purchaser, we become eligible to provide waste management services to the multiple plants and projects of each generator or purchaser located in our service areas. However, in order to obtain such approved vendor status, it may be necessary for us to bid against other qualified competitors in terms of the services and pricing to be provided. Furthermore, large generators or other purchasers of waste management services often periodically audit our facilities and operations to ensure that our waste management services are being performed in compliance with applicable laws and regulations and other criteria established by us and such customers.

### **Geographical Information**

For the year ended December 31, 2004, we derived approximately \$557.8 million or 86.7% of revenues from customers located in the United States and Puerto Rico, approximately \$84.7 million or 13.2% of revenues from customers located in Canada, and less than 1.0% of revenues from customers in Mexico. For the year ended December 31, 2003, we derived approximately \$540.7 million or 88.5% of revenues from customers located in the United States and Puerto Rico, approximately \$70.3 million or 11.5% of revenues from customers located in Canada, and less than 1.0% of revenues from customers in Mexico. Prior to the acquisition of the CSD assets effective September 7, 2002, we derived substantially all of our revenues from environmental services provided to customers located in the United States and Puerto Rico. Following the acquisition of the CSD assets, we derived approximately \$32.6 million or 9.3% of 2002 revenues from customers located in Canada.

As of December 31, 2004, we had property, plant and equipment, net of depreciation and amortization of approximately \$180.5 million, and permits and other intangible assets of \$99.5 million. Of these totals, approximately \$23.5 million or 13.0% of long-lived assets and \$25.2 million or 25.3% of permits and other intangible assets were in Canada, with the balance being in the United States and Puerto Rico (except for insignificant assets in Mexico).

### **Competitive Conditions**

The hazardous and industrial waste management industry, in which we compete, is highly competitive. The sources of competition vary by locality and by type of service rendered, with competition coming from the other major waste services companies and hundreds of privately owned firms that offer waste services. We compete against three major companies, which are Philip Services Corp., Onyx Environmental Services (a division of Veolia Environnement), and Waste Management, Inc. We also compete against regional waste management companies and numerous small companies. Each of these competitors is able to provide one or more of the environmental services offered by us. In addition, we compete with many firms engaged in the transportation, brokerage and disposal of hazardous wastes through recycling, waste-derived fuels programs, thermal treatment or landfill. The principal methods of competition for all our services are price, quality, reliability of service rendered and technical proficiency in handling industrial and hazardous wastes properly. We believe that we offer a more comprehensive range of environmental services than our competitors in major portions of our service territory, that our ability to provide comprehensive services supported by unique information technologies capable of managing the customers' overall environmental program constitutes a significant competitive advantage, and that our stable ownership allows us to focus on building long-term relationships with our customers.

Treatment and disposal operations are conducted by a number of national and regional environmental services firms. We believe that our ability to collect and transport waste products efficiently, quality of service, safety, and pricing are the most significant factors in the market for treatment and disposal services.

For our site services, CleanPack® and onsite services, competitors include several major national and regional environmental services firms, as well as numerous smaller local firms. We believe that availability of skilled technical professional personnel, quality of performance, diversity of services and price are the key competitive factors in this service industry.

In the United States, the original generators of hazardous waste remain liable under federal and state environmental laws for improper disposal of such wastes. Even if waste generators employ companies that have proper permits and licenses, knowledgeable customers are interested in the reputation and financial strength of the companies they use for management of their hazardous wastes. We believe that our technical proficiency and reputation are important considerations to our customers in selecting and continuing to utilize our services.

### **Compliance/Health & Safety**

We regard compliance with applicable environmental regulations and the health and safety of our workforce as critical components of our overall operations. We strive to maintain the highest professional standards in our compliance and health and safety activities. Our internal operating requirements are in many instances more stringent than those imposed by regulation. Our compliance program has been developed for each of our waste management facilities and service centers under the direction of our corporate staff. The compliance and health and safety staffs are responsible for facilities permitting and regulatory compliance, health and safety, field safety, compliance training, transportation compliance, and related record keeping. To ensure the effectiveness of our regulatory compliance program, the Compliance organization monitors daily operational activities and issues a monthly report to senior management concerning the status of environmental compliance and health and safety programs. We also have an Environmental Health and Safety (EHS) Compliance Internal Audit Program designed to identify any weaknesses or opportunities for improvement in our ongoing compliance programs. We also perform periodic audits and inspections of the disposal facilities of other firms utilized by us.

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Our facilities are frequently inspected and audited by regulatory agencies, as well as by customers. Although our facilities have been cited on occasion for regulatory violations, we believe that each facility is currently in substantial compliance with applicable requirements. Major facilities and service centers have a full-time compliance or health and safety representative to oversee the implementation of our compliance program at the facility or service center. These highly trained regulatory specialists are independent from operations and report to the Senior Vice President of Compliance and Regulatory Affairs, who ultimately reports to the General Counsel.

### Employees

As of December 31, 2004, we employed approximately 3,792 active full-time employees, of which approximately 435 employees belong to unions. The table below shows the employees and union or non-union affiliation. We believe that our relationship with our employees is satisfactory.

	<b>Number of Employees</b>
<b>Unions in the United States:</b>	
International Brotherhood of Teamsters	182
Utility Workers of America	25
<b>Unions in Canada:</b>	
Communication, Energy and Paper Workers' Union	114
International Brotherhood of Teamsters	99
International Union of Operating Engineers	15
Non-union employees	3,357
	<b>3,792</b>

As part of our commitment to employee safety and quality customer service, we have an extensive compliance program and a trained environmental, health and safety staff. We adhere to a risk management program designed to reduce potential liabilities to us and to our customers.

### Intellectual Property

We have invested significantly in the development of proprietary technology and also to establish and maintain an extensive knowledge of the leading technologies and incorporate these technologies into the environmental services that we offer and provide to our customers. We currently hold a total of three patents and 15 trademarks in the United States, and we license software and other intellectual property from various third parties. We enter into confidentiality agreements with certain of our employees, consultants and corporate partners, and control access to software documentation and other proprietary information. We believe that we hold adequate rights to all intellectual property used in our business and that we do not infringe upon any intellectual property rights held by other parties.

### Management of Risks

We adhere to a program of risk management policies and practices designed to reduce potential liability, as well as to manage customers' ongoing environmental exposures. This program includes installation of risk management systems at our facilities, such as fire suppression, employee training, environmental, auditing and policy decisions restricting the types of wastes handled. We evaluate all revenue opportunities and decline those that we believe involve unacceptable risks.

We dispose of waste at our incineration, wastewater treatment and landfill facilities, or at facilities owned and operated by other firms that we have audited and approved. Typically, we apply established technologies to the treatment, storage and recovery of hazardous wastes. We believe our operations are

conducted in a safe and prudent manner and in substantial compliance with applicable laws and regulations.

### **Insurance and Financial Assurance**

Our insurance programs cover the potential risks associated with our multifaceted operations from two primary exposures: direct physical damage and third party liability. We maintain a casualty insurance program providing coverage for vehicles, employer's liability and commercial general liability in the aggregate amount of \$30.0 million, \$27.0 million and \$28.0 million, respectively, per year, subject to a retention of \$0.5 million per occurrence. We also have workers' compensation insurance whose limits are established by state statutes. Since the early 1980s, casualty insurance policies have typically excluded liability for pollution, which is covered under a separate pollution liability program.

We have pollution liability insurance policies covering potential risk in three areas: as a contractor performing services at customer sites, as a transporter of waste and for waste processing at our facilities. We have contractor's liability insurance of \$10.0 million per occurrence and \$10.0 million in the aggregate, covering off-site remedial activities and associated liabilities. Steadfast Insurance Company (a unit of Zurich Insurance N.A.) provides pollution liability coverage for waste in-transit with single occurrence and aggregate liability limits of \$40.0 million. This Steadfast policy covers liability in excess of \$0.3 million for pollution caused by sudden and accidental occurrences during transportation of waste from the time waste is picked up from a customer until its delivery to the final disposal site.

Federal and state regulations require liability insurance coverage for all facilities that treat, store or dispose of hazardous waste. RCRA and the Toxic Substances Control Act and comparable state hazardous waste regulations typically require hazardous waste handling facilities to maintain pollution liability insurance in the amount of \$1.0 million per occurrence and \$2.0 million in the aggregate for sudden occurrences, and \$3.0 million per occurrence and \$6.0 million in the aggregate for non-sudden occurrences. We have a policy from Steadfast Insurance Company insuring our treatment, storage and disposal activities that meets the regulatory requirements. In addition, this policy provides excess limits above the regulatory requirements up to \$30.0 million.

Under our insurance programs, coverage is obtained for catastrophic exposures, as well as those risks required to be insured by law or contract. It is our policy to retain a significant portion of certain expected losses related primarily to employee benefit, workers' compensation, commercial general and vehicle liability. Provisions for losses expected under these programs are recorded based upon our estimates of the aggregate liability for claims. We believe that policy cancellation terms are similar to those of other companies in other industries.

Operators of hazardous waste handling facilities are also required by federal and state regulations to provide financial assurance for closure and post-closure care of those facilities should the facilities cease operation. Closure would include the cost of removing the waste stored at a facility which ceased operating and sending the material to another facility for disposal and the cost of performing certain procedures for decontamination of the facilities. Total closure and post-closure financial assurance required by regulators is approximately \$277.0 million. We have placed all of the required financial assurance for closure through a qualified insurance company, Steadfast Insurance Company, which per terms of the policy required us to provide \$73.5 million of letters of credit as collateral.

Our ability to continue conducting our industrial waste management operations could be adversely affected if we should become unable to obtain sufficient insurance or surety bonds to meet our business and regulatory requirements in the future. The availability of insurance may also be influenced by developments within the insurance industry, although other businesses in the environmental services industry would likely be similarly impacted by such developments.

## Environmental Regulation

While our business has benefited substantially from increased governmental regulation of hazardous waste transportation, storage and disposal, the environmental services industry itself has become the subject of extensive and evolving regulation by federal, state, provincial and local authorities. We are required to obtain federal, state, provincial and local permits or approvals for each of our hazardous waste facilities. Such permits are difficult to obtain and, in many instances, extensive studies, tests, and public hearings are required before the approvals can be issued. We have acquired all operating permits and approvals now required for the current operation of our business, and have applied for, or are in the process of applying for, all permits and approvals needed in connection with continued operation and planned expansion or modifications of our operations.

We make a continuing effort to anticipate regulatory, political and legal developments that might affect operations, but are not always able to do so. We cannot predict the extent to which any environmental legislation or regulation that may be enacted or enforced in the future may affect our operations.

## Federal Regulation of Hazardous Waste

The most significant federal environmental laws affecting us are the Resource Conservation and Recovery Act ("RCRA"), The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), also known as the Superfund Act, the Clean Air Act, the Clean Water Act and the Toxic Substances Control Act ("TSCA").

*RCRA.* RCRA is the principal federal statute governing hazardous waste generation, treatment, transportation, storage and disposal. Pursuant to RCRA, the Environmental Protection Agency (the "EPA") has established a comprehensive, "cradle-to-grave" system for the management of a wide range of materials identified as hazardous or solid waste. States that have adopted hazardous waste management programs with standards at least as stringent as those promulgated by the EPA, have been delegated authority by the EPA to administer their facility permitting programs in lieu of the EPA's program.

Every facility that treats, stores or disposes of hazardous waste must obtain a RCRA permit from the EPA or an authorized state agency, unless a specific exemption exists, and must comply with certain operating requirements. Under RCRA, hazardous waste management facilities in existence on November 19, 1980 were required to submit a preliminary permit application to the EPA, the so-called Part A Application. By virtue of this filing, a facility obtained interim status, allowing it to operate until licensing proceedings are instituted pursuant to more comprehensive and exacting regulations (the Part B permitting process). Interim Status facilities may continue to operate pursuant to the Part A Application until their Part B permitting process is concluded.

RCRA requires that Part B permits contain provisions for required on-site study and cleanup activities, known as "corrective action," including detailed compliance schedules and provisions for assurance of financial responsibility. See "Environmental Liabilities" under Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations," for a discussion of our environmental liabilities. See "Insurance and Financial Assurance" above for a discussion of our financial assurance requirements.

*The Superfund Act.* The Superfund Act is the primary federal statute regulating the cleanup of inactive hazardous substance sites and imposing liability for cleanup on the responsible parties. It also provides for immediate response and removal actions coordinated by the EPA to releases of hazardous substances into the environment, and authorizes the government to respond to the release or threatened release of hazardous substances or to order responsible persons to perform any necessary cleanup. The statute provides for strict, and in certain cases, joint and several liability for these



responses and other related costs, and for liability for the cost of damages to natural resources, to the parties involved in the generation, transportation and disposal of such hazardous substances. Under the statute, we may be deemed liable as a generator or transporter of a hazardous substance which is released into the environment, or as the owner or operator of a facility from which there is a release of a hazardous substance into the environment. See Item 3, "Legal Proceedings," for a description of certain such proceedings involving us.

*The Clean Air Act.* The Clean Air Act was passed by Congress to control the emissions of pollutants into the air and requires permits to be obtained for certain sources of toxic air pollutants such as vinyl chloride, or criteria pollutants, such as carbon monoxide. In 1990, Congress amended the Clean Air Act to require further reductions of air pollutants with specific targets for non-attainment areas in order to meet certain ambient air quality standards. These amendments also require the EPA to promulgate regulations, which (i) control emissions of 189 hazardous air pollutants; (ii) create uniform operating permits for major industrial facilities similar to RCRA operating permits; (iii) mandate the phase-out of ozone depleting chemicals; and (iv) provide for enhanced enforcement.

The Clean Air Act requires the EPA, working with the states, to develop and implement regulations, which result in the reduction of volatile organic compound ("VOC") emissions and emissions of nitrogen oxides ("NOx") in order to meet certain ozone air quality standards specified by the Clean Air Act. In late 2000, the Texas Natural Resource Conservation Commission (now known as the Texas Commission on Environmental Quality, or TCEQ) enacted new Clean Air Act Regulations dealing with the monitoring and control of emissions of NOx and VOCs. These new regulations were required because of a revision in the designation of the Houston Metropolitan Area from a serious ozone non-attainment area to a severe ozone non-attainment area. This new designation will require our Deer Park, Texas incineration facility to further reduce emissions of NOx. NOx emissions contribute to the formation of ground-level ozone, which can be harmful to human health and the environment.

The Interim Standards of the Hazardous Waste Combustor Maximum Achievable Control Technology (the "HWC MACT") rule of the Clean Air Act Amendments were promulgated on February 13, 2002. This rule established new emission limits and operational controls on all new and existing incinerators, cement kilns, industrial boilers and light-weight aggregate kilns that burn hazardous waste-derived fuel.

Facilities subject to the HWC MACT rule were required to comply with the new emission standards by September 30, 2003, or they could apply for an extension with compliance being required by September 30, 2004. We submitted the required documentation of substantial compliance at all of our three U.S. incinerator facilities on or before the September 30, 2004 deadline. We made most of the capital expenditures required to achieve that compliance in the fiscal years ended December 31, 2002 through 2004; however, there will be some additional performance testing and documentation costs in 2005.

*Clean Water Act.* This legislation prohibits discharges into the waters of the United States without governmental authorization and regulates the discharge of pollutants into surface waters and sewers from a variety of sources, including disposal sites and treatment facilities. The EPA has promulgated "pretreatment" regulations under the Clean Water Act, which establish pretreatment standards for introduction of pollutants into publicly owned treatment works ("POTWs"). In the course of the treatment process, our wastewater treatment facilities generate wastewater, which we discharge to POTWs pursuant to permits issued by the appropriate governmental authority. We are required to obtain discharge permits and conduct sampling and monitoring programs. We believe each of our operating facilities complies in all material respects with the applicable requirements.

In December 2000, the EPA promulgated new effluent limitations, pretreatment standards and source performance standards for centralized wastewater treatment ("CWT") facilities. CWT facilities

receive and treat a wide variety of hazardous and non-hazardous wastewaters from off-site companies and discharge the treated water directly to waterways or to municipal sewer systems. The new rules set stringent limits for the discharge of metals, organic compounds and oil. All of our wastewater treatment facilities are affected by the new rules and were in substantial compliance with the discharge standards by December 2004.

*Toxic Substances Control Act.* We also operate a network of collection, treatment and field services (remediation) activities throughout North America that are regulated under provisions of the TSCA. TSCA established a national program for the management of substances classified as PCBs, which include waste PCBs as well as RCRA wastes contaminated with PCBs. The rules set minimum design and operating requirements for storage, treatment and disposal of PCB wastes. Since their initial publication, the rules have been modified to enhance the management standards for TSCA-regulated operations including the decommissioning of PCB transformers and articles; detoxification of transformer oils; incineration of PCB liquids and solids; landfill disposal of PCB solids; and remediation of PCB contamination at customer sites.

*Other Federal Laws.* In addition to regulations specifically directed at the transportation, storage, and disposal facilities, there are a number of regulations that may "pass-through" to the facilities based on the acceptance of regulated waste from affected client facilities. Each facility that accepts affected waste must comply with the regulations for that waste, facility or industry. Examples of this type of regulation are National Emission Standards for Benzene Waste Operations and National Emissions Standards for Pharmaceuticals Production. Each of our facilities addresses these regulations on a case-by-case basis determined by its ability to comply with the pass-through regulations.

In our transportation operations, we are regulated by the U.S. Department of Transportation, the Federal Railroad Administration, the Federal Aviation Administration and the U.S. Coast Guard, as well as by the regulatory agencies of each state in which we operate or through which our vehicles pass.

Health and safety standards under the Occupational Safety and Health Act, or OSHA, are applicable to all of our operations. This includes both the Technical Services and Site Services operations.

#### **State and Local Regulations**

Pursuant to the EPA's authorization of their RCRA equivalent programs, a number of states have regulatory programs governing the operations and permitting of hazardous waste facilities. Accordingly, the hazardous waste treatment, storage and disposal activities of a number of our facilities are regulated by the relevant state agencies in addition to federal EPA regulation.

Some states classify as hazardous some wastes that are not regulated under RCRA. For example, Massachusetts considers used oil as "hazardous wastes" while RCRA does not. Accordingly, we must comply with state requirements for handling state regulated wastes, and, when necessary, obtain state licenses for treating, storing, and disposing of such wastes at our facilities.

We believe that each of our facilities is in substantial compliance with the applicable requirements of federal and state laws, the regulations thereunder, and the licenses which we have obtained pursuant thereto. Once issued, such licenses have maximum fixed terms of a given number of years, which differ from state to state, ranging from three years to ten years. The issuing state agency may review or modify a license at any time during its term. We anticipate that once a license is issued with respect to a facility, the license will be renewed at the end of its term if the facility's operations are in compliance with applicable requirements. However, there can be no assurance that regulations governing future licensing will remain static, or that we will be able to comply with such requirements.

Our wastewater treatment facilities are also subject to state and local regulation, most significantly sewer discharge regulations adopted by the municipalities which receive treated wastewater from the

treatment processes. Our continued ability to operate our liquid waste treatment process at each such facility is dependent upon our ability to continue these sewer discharges.

Our facilities are regulated pursuant to state statutes, including those addressing clean water and clean air. Local sewer discharge and flammable storage requirements are applicable to certain of our facilities. Our facilities are also subject to local siting, zoning and land use restrictions. Although our facilities occasionally have been cited for regulatory violations, we believe we are in substantial compliance with all federal, state and local laws regulating our business.

### **Canadian Hazardous Waste Regulation**

In Canada, the provinces retain control over environmental issues within their boundaries and thus have the primary responsibility for regulating management of hazardous wastes. The federal government regulates issues of national scope or where activities cross provincial boundaries.

*Provincial Regulations.* To a greater or lesser extent, provinces have enacted legislation and developed regulations to fit their needs. Most of Canada's industrial development and the major part of its population can be found in four provinces: Ontario, Quebec, Alberta and British Columbia. It is in these provinces that the most detailed environmental regulations are found. We operate major waste management facilities in each of these provinces, as well as waste transfer facilities in Nova Scotia and Manitoba.

The main provincial acts dealing with hazardous waste management are:

*Ontario Environmental Protection Act*

*Quebec Environmental Quality Act*

*Alberta Environmental Protection and Enhancement Act*

*British Columbia Waste Management Act*

These pieces of legislation were developed by the provinces totally independently and, among other things, generally control the generation, characterization, transport, treatment and disposal of hazardous wastes. Regulations developed by the provinces under the relevant legislation are also developed independently, but are often quite similar in effect and sometimes in application. For example, there is some uniformity in manifest design and utilization.

Provincial legislation also provides for the establishment of waste management facilities. In this case, the facilities are also controlled by provincial statutes and regulations governing emissions to air, groundwater and surface water and prescribing design criteria and operational guidelines.

During 2004 the province of Ontario announced its intent to adopt further regulation of landfills located in the province. The proposed regulations would take the form of Land Disposal Restrictions ("LDR") similar to restrictions enacted in the United States to bring the province in closer comity with the U.S. regulatory scheme. The rule making process is in its initial stages and the province is expected to issue the draft regulations for public comment sometime in the first half of 2005. Because of the preliminary nature of the proposed regulations, we are not yet able to determine whether the regulations when proposed will pose negative impacts on our Ontario landfill.

Waste transporters require a permit to operate under provincial waste management regulations and are subject to the requirements of the Federal Transportation of Dangerous Goods legislation. They are required to report the quantities and disposition of materials shipped.

Within the provincial regulations, definitions of hazardous wastes are quite similar. Wastes can be defined as hazardous based on origin or characteristic and the descriptions or parameters involved are very similar to those in effect in the United States. A major difference between the United States

regulatory regime and those in Canada relates to ownership and liability. Under Canadian provincial regulations, ownership changes when waste is transferred to a properly permitted third party carrier and subsequently to an approved treatment and disposal facility. This means that the generator is no longer liable for improper handling, treatment or disposal, responsibility having been transferred to the carrier or the facility. Exceptions may occur if the carrier is working under contract to the generator or if the waste is different from that which was originally contracted among the parties.

*Canadian Federal Regulations.* The federal government has authority for those matters which are national in scope and in impact and for Canada's relations with other nations. The main federal laws governing hazardous waste management are:

*Canadian Environmental Protection Act (1999), ("CEPA 99")*

*Transportation of Dangerous Goods Act*

Environment Canada is the federal agency with responsibility for environmental matters and the main legislative instrument is the Canadian Environmental Protection Act. This act charges Environment Canada and Health Canada with protection of human health and the environment and seeks to control the production, importation and use of substances in Canada and to control their impact on the environment.

The Export and Import of Hazardous Wastes Regulations under CEPA 99 control the export and import of hazardous wastes and hazardous recyclable materials. By reference, these regulations incorporate the Transportation of Dangerous Goods Act and Regulations, which address identification, packaging, marking and documentation of hazardous materials during transport. CEPA 99 requires that anyone proposing to export or import hazardous wastes or hazardous recyclable materials or to transport them through Canada notify the Minister of the Environment and obtain a permit to do so. Section 9 of CEPA 99 allows the federal government to enter into administrative agreements with the provinces and territories for the development and improvement of environmental standards. These agreements represent cooperation towards a common goal rather than a delegation of authority under CEPA 99. To facilitate the development of provincial and territorial agreements, the federal, provincial and territorial governments participate in the Canadian Council of Ministers of the Environment ("CCME"). The Council comprises the 14 environment ministers from the federal, provincial and territorial governments, who normally meet twice a year to discuss national environmental priorities and to determine work to be carried out under the auspices of CCME.

*Canadian Local and Municipal Regulations.* Local and municipal regulations seldom reference direct control of hazardous waste management activities. Municipal regulations and by-laws, however, control such issues as land use designation, access to municipal services and use of emergency services, all of which can have a significant impact on facility operation.

### **Compliance with Environmental Regulations**

We incur costs and make capital investments in order to comply with the previously discussed environmental regulations. These regulations require that we remediate contaminated sites (which almost entirely consist of facilities that were acquired or in which we became involved as part of our acquisition of the CSD assets), operate our facilities in accordance with enacted regulations, obtain required financial assurance for closure and post-closure care of our facilities should such facilities cease operations, and make capital investments in order to keep our facilities in compliance with environmental regulations.

As further discussed in Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" under the headings "Acquisition" and "Environmental Liabilities," we assumed in connection with the acquisition of the CSD assets environmental liabilities valued at approximately \$184.5 million. For the years ended December 31, 2004 and 2003, we spent \$10.3 million and \$8.0 million, respectively, to address environmental liabilities, almost all of the spending related to the environmental liabilities assumed as part of the acquisition of the CSD assets. For the year ending December 31, 2005, we anticipate spending approximately \$14.4 million relating to environmental liabilities.

As discussed more fully above under the heading "Insurance and Financial Assurance," we are required to provide financial assurance with respect to certain statutorily required closure, post-closure and corrective action obligations at our facilities. We have placed most of the required financial assurance for facility closure and post-closure monitoring with an insurance company. In addition to the direct cost of the financial assurance policy, the policy requires that we provide letters of credit of approximately \$73.5 million as collateral for the policy.

As described in Item 3, "Legal Proceedings," we are involved in legal proceedings arising under environmental laws and regulations. Alleged failure to comply with laws and regulations may lead to the imposition of fines or the denial, revocation or delay of the renewal of permits and licenses by governmental entities. In addition, such governmental entities, as well as surrounding landowners, may claim that we are liable for environmental damages. Citizens groups have become increasingly active in challenging the grant or renewal of permits and licenses for hazardous waste facilities, and responding to such challenges has further increased the costs associated with establishing new facilities or expanding current facilities. A significant judgment against us, the loss of a significant permit or license or the imposition of a significant fine could have a material adverse effect on our business and future prospects.

## **ITEM 2. PROPERTIES**

Our principal executive offices are in Braintree, Massachusetts where approximately 41,000 square feet are leased under arrangements expiring in 2006. There are also U.S. based regional administrative offices in Massachusetts and South Carolina, and regional administrative offices in Ontario and Quebec. We own or lease property in 36 states, six Canadian provinces, Mexico and Puerto Rico.

Our principal property, plant and equipment consist of land, landfill assets and buildings (primarily incinerators, wastewater treatment plants and transfer stations), vehicles and equipment (including environmental remediation equipment). We have 48 active permitted hazardous waste management properties, and 61 additional service centers and satellite or support locations, which occasionally move to other locations as operations and space requirements change. The incinerators, landfills, and TSDFs are our most significant properties and they are included in the Technical Services segment.

Our properties are sufficient and suitable to our needs. The following tables set forth certain information as of December 31, 2004 regarding our properties. Substantially all of our operating properties are mortgaged as collateral for our loans.

### **Hazardous Waste Management Properties**

Included in the 48 hazardous waste management properties are five incineration locations, nine commercial landfills, seven wastewater treatment plants, 20 TSDFs, and seven facilities which specialize in PCB management, oil and used oil products recycling. Some properties offer multiple capabilities. As described below under "Inactive Properties," we also own 17 discontinued facilities.

*Hazardous Waste Facilities*

*Incinerators.* We own five operating incineration facilities containing a total of seven incinerators, as follows:

	<b># of Incinerators</b>	<b>Practical Capacity (Tons)</b>	<b>Utilization Rate Year Ended December 31, 2004</b>
Nebraska	1	55,000	73%
Utah	1	65,000	80%
Texas	3	120,000	103%
Ontario, Canada	1	105,000	93%
Quebec, Canada	1	73,000	97%
	<b>7</b>	<b>418,000</b>	<b>92%</b>

Our incinerators offer a wide range of technological capabilities to customers through this network. Incineration in the United States is provided by a fluidized bed thermal oxidation unit and two solids and liquids-capable incineration facilities. In Canada, we operate two hazardous waste liquid injection incinerators.

*Landfills.* In the United States and Canada, we operate nine commercial landfills as follows:

	<b># of Facilities</b>	<b>Remaining Highly Probable Airspace (cubic yards, in thousands)</b>	<b>Remaining Lives (Years)</b>
California	2	12,750	44 and 68
Colorado	1	513	51
North Dakota	1	449	40
Oklahoma	1	1,463	18
Texas	1	63	2
Utah	1	2,127	24
Alberta, Canada	1	1,111	29
Ontario, Canada	1	8,908	51
	<b>9</b>	<b>27,384</b>	

Seven of our commercial landfills are designed and permitted for the disposal of hazardous wastes and two landfills are operated for non-hazardous industrial waste disposal and, to a lesser extent, municipal solid waste. In addition to our commercial landfills, we also own and operate two non-commercial landfills that only accept waste from on-site incinerators. We own all of the landfills with the exception of the landfill in Oklahoma that is leased.

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*Wastewater Treatment Plants.* We operate seven facilities that offer a range of wastewater treatment technologies and customer services, as follows:

	<u># of Facilities</u>	<u>Owned</u>	<u>Leased</u>
Connecticut	1	1	
Louisiana	3	2	1
Tennessee	1	1	
Ohio	1	1	
Ontario, Canada	1	1	
	<u>7</u>	<u>6</u>	<u>1</u>

Wastewater treatment consists primarily of three types of services: hazardous wastewater treatment, sludge de-watering or drying, and non-hazardous wastewater treatment.

*Transportation, Storage and Disposal Facilities ("TSDFs").* We operate 20 TSDFs in the United States and Canada as follows:

	<u># of Facilities</u>	<u>Owned</u>	<u>Leased</u>
Arizona	1	1	
California	2	1	1
Florida	1		1
Illinois	1		1
Kansas	1		1
Louisiana	1	1	
Maryland	1	1	
Massachusetts	1	1	
North Carolina	1	1	
Ohio	1	1	
Texas	1	1	
British Columbia, Canada	1	1	
Manitoba, Canada	1	1	
Nova Scotia, Canada	1	1	
Ontario, Canada	3	1	2
Quebec, Canada	2	2	
	<u>20</u>	<u>14</u>	<u>6</u>

Our TSDFs facilitate the movement of materials among our network of service centers and treatment and disposal facilities. Transportation may be accomplished by truck, rail, barge or a combination of modes, with our own assets or in conjunction with third-party transporters. Specially designed containment systems, vehicles and other equipment permitted for hazardous and industrial waste transport, together with drivers trained in transportation skills and waste handling procedures, provide for the movement of customer waste streams.

*PCB Management Facilities and Oil Storage or Recycling Capabilities.* We operate seven facilities specializing in PCB management or providing oil storage and recycling capabilities in six states, of which four are owned and three are leased. These facilities are the most significant properties relating to our Site Services segment.

### **Other Facilities and Properties**

*Service Centers and Satellite locations.* We operate 61 additional service centers and satellite or support locations in 28 states, three provinces in Canada, one in Mexico and one in Puerto Rico, of which 17 are owned and 44 are leased. These locations are aligned with one or more of our landfills, incinerators, wastewater treatment, consulting, administrative, or other treatment and disposal facilities.

*Inactive CSD Facilities.* In addition to the active facilities and properties described above, we own a total of 17 discontinued facilities that were acquired as part of the CSD assets due to our assumption of the remediation liabilities associated with such properties or our closure of such sites. See "Business Acquisition" above. The principal such discontinued facilities are a closed incinerator and landfill in Baton Rouge, Louisiana, closed incinerators in Roebuck, South Carolina, Coffeyville, Kansas and Bridgeport, New Jersey, and two closed wastewater treatment facilities in Cleveland, Ohio. Prior to the sale of the CSD assets, Safety-Kleen gave notice to the applicable regulatory agencies of Safety-Kleen's intent to close the facilities, and Safety-Kleen stopped accepting wastes at Baton Rouge in 1997, at Roebuck in 1998, at Coffeyville in 2000, at Bridgeport in 2001 and at Cleveland in 1990. We are proceeding with the closure process.

### **ITEM 3. LEGAL PROCEEDINGS**

#### *General Environmental Matters*

Our waste management services are continuously regulated by federal, state, provincial and local laws enacted to regulate discharge of materials into the environment, remediation of contaminated soil and groundwater or otherwise protect the environment. This ongoing regulation results in our frequently becoming a party to judicial or administrative proceedings involving all levels of governmental authorities and other interested parties. The issues involved in such proceedings generally relate to applications for permits and licenses by us and conformity with legal requirements, alleged violations of existing permits and licenses or requirements to clean up contaminated sites. At December 31, 2004, we were involved in various proceedings, the principal of which are described below, relating primarily to activities at or shipments from our waste treatment, storage and disposal facilities.

#### *Legal Proceedings Related to Acquisition of CSD Assets*

Effective September 7, 2002 (the "Closing Date"), we purchased from Safety-Kleen Services, Inc. and certain of its domestic subsidiaries (collectively, the "Sellers") substantially all of the assets of the Chemical Services Division (the "CSD") of Safety-Kleen Corp. ("Safety-Kleen"). We purchased the CSD assets pursuant to a sale order (the "Sale Order") issued by the Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") which had jurisdiction over the Chapter 11 proceedings involving the Sellers, and we therefore took title to the CSD assets without assumption of any liability (including pending or threatened litigation) of the Sellers except as expressly provided in the Sale Order. However, under the Sale Order (which incorporated by reference certain provisions of the Acquisition Agreement between us and Safety-Kleen Services, Inc.), we became subject to certain legal proceedings involving the CSD assets for three reasons as described below. As of December 31, 2004, we had reserves of \$35.4 million (substantially all of which we had established as part of the purchase price for the CSD assets) relating to our estimated potential liabilities in connection with such legal proceedings which were then pending. We periodically adjust the aggregate amount of such reserves when such potential liabilities are paid or otherwise discharged or additional relevant information becomes available to us.

The first reason for our becoming subject to certain legal proceedings in connection with the acquisition of the CSD assets is that, as part of the CSD assets, we acquired all of the outstanding capital stock of certain Canadian subsidiaries (the "CSD Canadian Subsidiaries") formerly owned by



the Sellers (which subsidiaries were not part of the Sellers' bankruptcy proceedings), and we therefore became subject to the legal proceedings (which include the Ville Mercier Legal Proceedings described below) in which the Canadian Subsidiaries were then involved. The second reason is that, on the Closing Date for the CSD assets, there were ongoing legal proceedings (which include the FUSRAP Legal Proceedings described below) which directly involved certain of the CSD assets of which we became the owner and operator. While we did not agree to be responsible for damages or other liabilities of the Sellers relating to such proceedings, these proceedings might nevertheless affect the future operation of those CSD assets. The third reason is that, as part of the purchase price for the CSD assets, we agreed with the Sellers that we would indemnify the Sellers against certain current and future liabilities of the Sellers under applicable federal and state environmental laws including, in particular, the Sellers' share of certain cleanup costs payable to governmental entities under the federal Comprehensive Environmental Response, Compensation and Liability Act ("Superfund Act") or analogous state Superfund laws. As described below, we and the Sellers are not in complete agreement at this time as to the scope of our indemnity obligations under the Sale Order and the Acquisition Agreement with respect to certain Superfund liabilities of the Sellers.

The principal legal proceedings related to our acquisition of the CSD assets are as follows. While, as described below, we have established reserves for certain of these matters, there can be no guarantee that any ultimate liability we incur for any of these matters will not exceed (or be less than) the amount of the current reserves or that we will not incur other material expenditures.

*Ville Mercier Legal Proceedings.* One of the CSD Canadian Subsidiaries (the "Mercier Subsidiary") owns and operates a hazardous waste incinerator in Ville Mercier, Quebec (the "Mercier Facility"). A property owned by the Mercier Subsidiary adjacent to the current Mercier Facility is now contaminated as a result of actions dating back to 1968, when the Quebec government issued to the unrelated company which then owned the Mercier Facility two permits to dump organic liquids into lagoons on the property. By 1972, groundwater contamination had been identified, and the Quebec government provided an alternate water supply to the municipality of Ville Mercier.

In 1999, Ville Mercier and three neighboring municipalities filed separate legal proceedings against the Mercier Subsidiary and certain related companies together with certain former officers and directors, as well as against the Government of Quebec. The lawsuits assert that the defendants are jointly and severally responsible for the contamination of groundwater in the region, which the plaintiffs claim was caused by contamination from the former Ville Mercier lagoons and which they claim caused each municipality to incur additional costs to supply drinking water for their citizens since the 1970's and early 1980's. The four municipalities claim a total of \$1.6 million (CDN) as damages for additional costs to obtain drinking water supplies and seek an injunctive order to obligate the defendants to remediate the groundwater in the region. The Quebec Government also sued the Mercier Subsidiary to recover approximately \$17.4 million (CDN) of alleged past costs for constructing and operating a treatment system and providing alternative drinking water supplies. The Mercier Subsidiary continues to assert that it has no responsibility for the groundwater contamination in the region.

Because the continuation of such proceedings by the Mercier Subsidiary, which we now own, would require us to incur legal and other costs and the risks inherent in any such litigation, we, as part of our integration plan for the CSD assets, decided to vigorously review options which will allow us to establish harmonious relations with the local communities, resolve the adversarial situation with the Provincial government and spare continued legal costs. Based upon our review of likely settlement possibilities, we now anticipate that as part of any such settlement we will likely agree to assume at least partial responsibility for remediation of certain environmental contamination and certain prior costs. At December 31, 2004, we had accrued \$10.6 million for remedial liabilities and associated legal costs relating to the Ville Mercier Legal Proceedings.

*FUSRAP Legal Proceedings.* As part of the CSD assets, we acquired a hazardous waste landfill in Buttonwillow, California (the "Buttonwillow Landfill"). During 1998 and 1999, the Seller's subsidiary which then owned the Buttonwillow Landfill (the "Buttonwillow Seller") accepted and disposed in the Buttonwillow Landfill certain construction debris (the "FUSRAP Wastes") that originated at a site in New York that was part of the federal Formerly Utilized Sites Remedial Action Program ("FUSRAP"). FUSRAP was created in the mid-1970s in an attempt to manage various sites around the country contaminated with residual radioactivity from activities conducted by the Atomic Energy Commission and the United States military during World War II. The FUSRAP Wastes are primarily construction and demolition debris exhibiting low-activity residual radioactivity that were shipped to the Buttonwillow Landfill by the U.S. Army Corps of Engineers.

The California Department of Health Services ("DHS") claimed in a letter to the Buttonwillow Seller delivered in 1999 that the Buttonwillow Seller did not lawfully accept the FUSRAP Wastes under applicable California law and regulations. Both DHS and the California Department of Toxic Substances Control ("DTSC") filed claims in the Sellers' bankruptcy proceedings preserving the right of those agencies to claim penalties for damages against the Buttonwillow Seller and possibly seeking to compel removal of the FUSRAP Wastes from the Buttonwillow Landfill. However, aside from the letter to the Buttonwillow Seller and the filing of the proofs of claim in the Sellers' bankruptcy proceedings, the California agencies have not commenced any enforcement proceedings relating to the Buttonwillow Landfill. Both we and the Sellers believe that the FUSRAP Wastes were properly, safely and lawfully disposed of at the Buttonwillow Landfill under all applicable laws and regulations, and we would vigorously resist any efforts to require that such wastes be removed if either of the California agencies should in the future initiate any enforcement action for this purpose. We now estimate that the cost of removing the FUSRAP Wastes from the Buttonwillow Landfill would be approximately \$6.9 million. However, we have not accrued any costs of removing the FUSRAP Wastes because we believe that, in the event the California agencies were in the future to initiate any enforcement action, only a remote possibility exists that a final order would be issued requiring us to remove such wastes.

In November 2003, a California non-profit corporation allegedly acting under the California Unfair Business Practices Act added us (as the current owner of the Buttonwillow Landfill) as a defendant to a lawsuit which that corporation had originally brought in 2000 against certain of the Sellers in the California Superior Court for the County of Los Angeles. That lawsuit sought, among other matters, an order requiring the named defendants (including us) to remove the FUSRAP Wastes from the Buttonwillow Landfill and to dispose of this material at a facility licensed for disposal of radioactive waste. We filed a motion for summary adjudication and while the motion was pending, on December 23, 2004, we settled the lawsuit brought by that non-profit corporation through payment by us of a substantially reduced percentage of the legal fees incurred by that corporation and the execution of releases by all parties to the lawsuit, and the lawsuit was dismissed by the Court with prejudice.

*Indemnification of Certain CSD Superfund Liabilities.* Our agreement with the Sellers under the Acquisition Agreement and the Sale Order to indemnify the Sellers against certain cleanup costs payable to governmental entities under federal and state Superfund laws now relate primarily to (i) two properties included in the CSD assets which are either now subject or proposed to become subject to Superfund proceedings, (ii) certain potential liabilities which the Sellers might incur in the future in connection with an incinerator formerly operated by Marine Shale Processors, Inc. to which the Sellers shipped hazardous wastes, and (iii) 35 active Superfund sites owned by third parties where the Sellers have been designated as Potentially Responsible Parties ("PRPs"). As described below, there are also four other Superfund sites owned by third parties where the Sellers have been named as PRPs or potential PRPs and for which the Sellers have sent demands for indemnity to us since September 2004. In the case of the two properties referenced above which were included in the CSD assets, we are potentially directly liable for cleanup costs under applicable environmental laws because of our

ownership and/or operation of such properties since the Closing Date. In the case of Marine Shale Processors and the 35 other third-party sites referenced above, we do not have direct liability for cleanup costs but may have an obligation to indemnify the Sellers, to the extent provided in the Acquisition Agreement and the Sale Order, against the Sellers' share of such cleanup costs which are payable to governmental entities.

Federal and state Superfund laws generally impose strict, and in certain circumstances, joint and several liability for the costs of cleaning up Superfund sites not only upon the owners and operators of such sites, but also upon persons or entities which in the past have either generated or shipped hazardous wastes which are present on such sites. The Superfund laws also provide for liability for damages to natural resources caused by hazardous substances at such sites. Accordingly, the Superfund laws encourage PRPs to agree to share in specified percentages of the aggregate cleanup costs for Superfund sites by entering into consent decrees, settlement agreements or similar arrangements. Non-settling PRPs may be liable for any shortfalls in government cost recovery and may be liable to other PRPs for equitable contribution. Under the Superfund laws, a settling PRP's financial liability could increase if the other settling PRPs were to become insolvent or if additional or more severe contamination were discovered at the relevant site. In estimating the amount of those Sellers' liabilities at those Superfund sites where one or more of the Sellers has been designated as a PRP and as to which we believe that we have potential liability under the Acquisition Agreement and the Sale Order, we therefore reviewed any existing consent decrees, settlement agreements or similar arrangements with respect to those sites, the Sellers' negotiated volumetric share of liability (where applicable), our prior knowledge of the relevant sites, and our general experience in dealing with the cleanup of Superfund sites.

*Properties Included in CSD Assets.* The CSD assets acquired by us include an active service center located at 2549 North New York Street in Wichita, Kansas (the "Wichita Property"). The Wichita Property is one of several properties located within the boundaries of a 1,400 acre state-designated Superfund site in an old industrial section of Wichita known as the North Industrial Corridor Site. Along with numerous other PRPs, the Sellers executed a consent decree relating to such site with the EPA, and we are continuing our ongoing remediation program for the Wichita Property in accordance with that consent decree. Also included within the CSD assets acquired by us are rights under an indemnification agreement between the Sellers and a prior owner of the Wichita Property which we anticipate but cannot guarantee will be available to reimburse certain such cleanup costs.

The CSD assets also include a former hazardous waste incinerator and landfill in Baton Rouge, Louisiana ("BR Facility") currently undergoing remediation pursuant to an order issued by the Louisiana Department of Environmental Quality. In December 2003, we received an information request from the federal EPA pursuant to the Superfund Act concerning the Devil's Swamp Lake Site ("Devil's Swamp") in East Baton Rouge Parish, Louisiana. On March 8, 2004, the EPA proposed to list Devil's Swamp on the National Priorities List for further investigations and possible remediation. Devil's Swamp includes a lake located downstream of an outfall ditch where wastewaters and stormwaters have been discharged from the BR Facility, as well as extensive swamplands adjacent to it. Contaminants of concern cited by the EPA as a basis for listing the site include substances of the kind found in wastewaters discharged from the BR Facility in past operations. While our ongoing corrective actions at the BR Facility may be sufficient to address the EPA's concerns, there can be no assurance that additional action will not be required and that we will not incur material costs. We cannot now estimate our potential liability for Devil's Swamp; accordingly, we have accrued no liability for remediation of Devil's Swamp beyond what was already accrued pertaining to the ongoing corrective actions and amounts sufficient to cover certain projected legal fees and related expenses.

*Marine Shale Processors.* Beginning in the mid-1980's and continuing until July 1996, Marine Shale Processors, Inc., located in Amelia, Louisiana ("Marine Shale"), operated a kiln which incinerated waste producing a vitrified aggregate as a by-product. Marine Shale contended that its

operation recycled waste into a useful product, i.e., vitrified aggregate, and therefore was exempt from regulation under the Resource Conservation Recovery Act ("RCRA") and permitting requirements as a hazardous waste incinerator under applicable federal and state environmental laws. The EPA contended that Marine Shale was a "sham-recycler" subject to the regulation and permitting requirements as a hazardous waste incinerator under RCRA, that its vitrified aggregate by-product was a hazardous waste, and that Marine Shale's continued operation without required permits was illegal. Litigation between the EPA and Marine Shale began in 1990 and continued until July 1996 when the U.S. Fifth Circuit Court of Appeals ordered Marine Shale to shut down its operations. During the course of its operation, Marine Shale produced thousands of tons of aggregate, some of which was sold as fill material at various locations in the vicinity of Amelia, Louisiana, but most of which was stockpiled on the premises of the Marine Shale facility. Almost all of this aggregate has since been moved to a nearby site owned by an affiliate of Marine Shale, known as Recycling Park, Inc. In accordance with a court order authorizing the movement of this material to this off-site location, all of the materials located at Recycling Park, Inc. comply with the land disposal restrictions of RCRA. Approximately 7,000 tons of aggregate remain on the Marine Shale site. Moreover, as a result of past operations, soil and groundwater contamination may exist on the Marine Shale facility and the Recycling Park, Inc. site.

Although the Sellers never held an equity interest in Marine Shale, the Sellers were among the largest customers of Marine Shale in terms of overall incineration revenue. If the EPA or the Louisiana Department of Environmental Quality ("LDEQ") were in the future to designate the Marine Shale facility and/or the Recycling Park, Inc. site as a Superfund site or sites, the Sellers could potentially be exposed to liability for cleanup costs as PRPs and, in such event, the Sellers could assert that we would be obligated to indemnify the Sellers for such costs payable to governmental entities in accordance with our agreement described above. Based on a plan to settle obligations that was established at the time of the acquisition, we obtained more complete information as to the potential status of the Marine Shale facility and the Recycling Park, Inc. site as a Superfund site or sites, the potential costs associated with possible removal and disposal of some or all of the vitrified aggregate and closure and remediation of the Marine Shale facility and the Recycling Park, Inc. site, and the respective shares of other identified potential PRPs on a volumetric basis. Accordingly, we determined in the third quarter of 2003 that the remedial liabilities and associated legal costs were then probable and estimable and recorded liabilities for our estimate of the Sellers' proportionate share of environmental cleanup costs potentially payable to governmental entities under federal and/or state Superfund laws. At December 31, 2004, we had accrued \$13.7 million of reserves relating to potential cleanup costs for the Marine Shale facility and the Recycling Park, Inc. site.

On December 24, 2003, the Sellers' plan of reorganization became effective under chapter 11 of the Bankruptcy Code. If the EPA or the LDEQ were in the future to designate the Marine Shale facility and/or the Recycling Park, Inc. site as a Superfund site or sites, the Sellers might assert that they are not responsible for potential cleanup costs associated with such site or sites, and we might assert that under the Sale Order we are not obligated to pay or reimburse cleanup and related costs associated with such site or sites. We cannot now provide assurances with respect to any such matters which, in the event the EPA or the LDEQ were in the future to designate the Marine Shale facility and/or the Recycling Park, Inc. site as a Superfund or sites, would need to be resolved by future events, negotiations and, if required, legal proceedings.

*Third Party Superfund Sites.* Prior to the Closing Date, the Sellers had generated or shipped hazardous wastes which are present on an aggregate of 35 sites owned by third parties which have been designated as federal or state Superfund sites and at which the Sellers, along with other parties, had been designated as PRPs. Under the Acquisition Agreement and the Sale Order, we agreed with the Sellers that we would indemnify the Sellers against the Sellers' share of the cleanup costs payable to governmental entities in connection with those 35 sites, which were listed in Exhibit A to the Sale Order (the "Listed Third Party Sites"). At 29 of the Listed Third Party Sites, the Sellers had addressed,

prior to our acquisition of the CSD assets in September 2002, the Sellers' cleanup obligations to the federal and state governments and to other PRPs by entering into consent decrees or other settlement agreements or by participating in ongoing settlement discussions or site studies and, in accordance therewith, the PRP group is generally performing or has agreed to perform the site remediation program with government oversight. With respect to one of those 29 Listed Third Party Sites, certain developments have occurred since our purchase of the CSD assets as described in the following paragraph. Of the six remaining Listed Third Party Sites, we on behalf of the Sellers are contesting with the governmental entities and PRP groups involved liability at two sites, have settled the Sellers' liability at one site, confirmed that the Sellers were ultimately not named as PRPs at one site, and plan to fund participation by the Sellers as settling PRPs at three sites. With respect to the 35 Listed Third Party Sites, we had reserves of \$20.2 million at December 31, 2004.

With respect to one (the "Helen Kramer Landfill Site") of the 35 Listed Third Party Sites, the Sellers had entered (prior to the Sellers commencing their bankruptcy proceeding in June 2000) into settlement agreements with certain members of the PRP group which agreed to perform the cleanup of that site in accordance with a consent decree with governmental entities, in return for which the Sellers received a conditional release from such governmental entities. Following the Sellers' commencement of their bankruptcy proceeding, the Sellers failed to satisfy their payment obligations to those PRPs under those settlement agreements. In November 2003, certain of those PRPs made a demand directly on us for the Sellers' share of the cleanup costs incurred by the PRPs with respect to the Helen Kramer Landfill Site. However, at a hearing in the Bankruptcy Court on January 6, 2004 on a motion by those PRPs seeking an order that we were liable to such PRPs under the terms of the Sale Order, the Bankruptcy Court declined to hear the motion on the ground that those PRPs (which are not governmental entities) have no right to seek direct payment from us for any portion of the cleanup costs which they have incurred in connection with that site. We also understand that, when the Sellers' plan of reorganization became effective in December 2003, the Sellers were discharged from their obligations to those PRPs for that site, and the Sellers have never made an indemnity request upon us for any obligations relating to that site. The PRPs have indicated their intention to pursue additional recourse against us, but we filed in February 2005 a complaint with the Bankruptcy Court seeking sanctions against the PRPs for contempt of the injunction in the Sale Order against those PRPs' efforts to proceed directly against us, and that matter is still pending.

By letters to us dated September 22 and 28, 2004, and January 22 and 28, 2005, the Sellers identified, in addition to the 35 Listed Third Party Sites, four additional sites owned by third parties which the EPA or a state environmental agency has designated as a Superfund site or potential Superfund site and at which one or more of the Sellers have been named as a PRP or potential PRP. In those letters, the Sellers asserted that we have an obligation to indemnify the Sellers for their share of the potential cleanup costs associated with such four additional sites. We have responded to such letters from the Sellers by stating that, under the Sale Order, we have no obligation to reimburse the Sellers for any cleanup and related costs (if any) which the Sellers may incur in connection with such four additional sites. We intend to assist the Sellers in providing information now in our possession with respect to such four additional sites and to participate in negotiations with the government agencies and PRP groups involved. In addition, at one of those four additional sites, we may have some liability independently of the Sellers' involvement with that site, and we may also have certain defense and indemnity rights under contractual agreements for prior acquisitions relating to that site. Accordingly, we are now investigating that site further. However, we now believe that we have no liabilities with respect to the potential cleanup of those four additional sites that are both probable and estimable at this time, and we have therefore not established any reserves for any potential liabilities of the Sellers in connection therewith.

*Inactive Third Party Superfund Sites.* In addition to the Superfund sites owned by third parties described in the preceding paragraphs, the Sellers have also been identified as PRPs at several other

federal or state Superfund sites owned by third parties that we believe are now inactive with respect to the Sellers. The inactive sites generally involve the shipment by the Sellers of a de minimis amount of wastes to such sites and prior consent decrees, settlement agreements or similar arrangements providing for minimal payment obligations by the Sellers. De minimis agreements generally are intended to settle all claims for small PRPs and such agreements have limited "re-opener" provisions. At certain other inactive sites, the Sellers have disclaimed any liability by advising the governmental entities involved that the Sellers had not shipped any wastes to those sites. We have not established reserves for any of the inactive sites because we believe that the Sellers' cleanup liabilities with respect to those sites have already been resolved and that, under the Sale Order, we would not be responsible for such liabilities in any event.

***Other Legal Proceedings Related to CSD Assets***

In addition to the legal proceedings related to the acquisition of the CSD assets described above, one lawsuit has been filed against us subsequent to the acquisition based in part upon allegations relating to our current ownership and operation of a former CSD facility. In December 2003, a lawsuit was filed in the 18th Judicial District Court in Iberville Parish, Louisiana, against our subsidiary which acquired and now operates a deep injection well facility near Plaquemine, Louisiana. This lawsuit was brought under the citizen suit provisions of the Louisiana Environmental Quality Act. The lawsuit alleges that the facility is in violation of state law by disposing of hazardous waste into an underground injection well that the plaintiffs allege is located within the banks or boundaries of a body of surface water within the jurisdiction of the State of Louisiana. The lawsuit also focuses on a "new area of concern" at the facility which the plaintiffs allege is a source of contamination which will require environmental remediation and/or restoration. The lawsuit also alleges that our former facility manager made false representations and failed to disclose material information to the regulators about the site after we acquired it in September 2002. The plaintiffs seek an order declaring the injection well to be located within the banks or boundaries of a body of surface water under state law, payment of civil penalties, and an additional penalty of \$1.0 million for damages to the environment, plus interest. The plaintiffs also seek an order requiring the facility to remove all waste disposed of since September of 2002, and in general, to conduct an investigation into and remediate the alleged contamination at the facility, as well as damages for alleged personal injuries and property damage, natural resources damages, costs of litigation, and attorney's fees. Although, as described above, this lawsuit was originally brought only against our subsidiary which acquired and operates the Plaquemine facility, the plaintiffs sent on February 23, 2005 a written notice to the Louisiana Department of Environmental Quality indicating their intent to file a new citizens' suit to seek similar remedies against us.

We believe this lawsuit is without merit, and are vigorously defending against the claims made. We further believe that, since its acquisition by us, the Plaquemine facility has been and now is in full compliance with its operating permits and all applicable state laws, and that any alleged contamination in the "new area of concern" complained of by the plaintiffs was and is already being addressed under the corrective action provisions of its RCRA operating permit. In addition, we believe that many of the plaintiffs' claims relate to actions or omissions allegedly taken or caused by third parties that formerly owned and/or operated, or generated or shipped waste to, the Plaquemine facility for which we have no legal responsibility under the Sale Order. Although we have established reserves to cover our estimated legal costs to be incurred in connection with this proceeding, this lawsuit is in its preliminary stages and we are therefore unable to estimate any other potential liability relating to the lawsuit.

***Legal Proceedings Not Related to CSD Assets***

In addition to the legal proceedings in which we became involved as a result of our acquisition of the CSD assets, we are, or in the case of certain recently resolved proceedings were, also involved in certain legal proceedings which have arisen for other reasons. The principal such legal proceedings

include certain federal securities class action litigation (which was dismissed on November 30, 2004 as described below), certain Superfund proceedings relating to sites owned by third parties where we (or a predecessor) have been named a PRP, certain regulatory proceedings, and litigation involving the former holders of our subordinated notes.

*Federal Securities Class Action Litigation.* On November 18, 2003, an individual plaintiff who purchased 1,700 shares of our common stock filed a purported class action suit in the United States District Court for the District of Massachusetts against us and a current and former officer of our Company. The plaintiff alleged violation of the Securities Exchange Act of 1934 and regulations promulgated thereunder by the Securities and Exchange Commission (the "SEC"), and sought certification of a class that would consist of all purchasers of our stock between November 19, 2002 and August 14, 2003. Principally, the complaint alleged that in connection with certain of our public announcements we failed to disclose adverse information with respect to the impact of the acquisition of the CSD assets on us and that certain financial projections included in those announcements, particularly the guidance issued with respect to anticipated EBITDA for 2003, were overstated and made without reasonable basis. Subsequently, three additional plaintiffs who purchased 300, 16,500 and 1,500 shares of our common stock, respectively, filed complaints in the same court containing essentially the same allegations and seeking the same class certification.

We believe that at all times during the purported class period we and the two other defendants conducted ourselves in compliance with relevant securities laws and that the guidance as to anticipated EBITDA and other forward-looking statements contained in our public announcements are protected by the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. On November 30, 2004, all of the lawsuits described in the preceding paragraph were voluntarily dismissed with prejudice by the lead counsel for the plaintiffs. The cases were never certified as a class action, and the plaintiffs voluntarily dismissed their cases by means of a voluntary stipulation of dismissal with prejudice, without financial consideration and with mutual release of all claims.

*Superfund Sites Not Related to CSD Acquisition.* We have been named as a PRP at 28 sites that are not related to the CSD acquisition. Fourteen of these sites involve two subsidiaries which we acquired from ChemWaste, a former subsidiary of Waste Management, Inc. As part of that acquisition, ChemWaste agreed to indemnify us with respect to any liability of those two subsidiaries for waste disposed of before we acquired them. Accordingly, Waste Management is paying all costs of defending those two Company subsidiaries in those 14 cases, including legal fees and settlement costs.

Our subsidiary which owns the Bristol, Connecticut facility is involved in one of the 28 Superfund sites. As part of the acquisition of that facility, the seller and its now parent company, Cemex, S.A., agreed to indemnify us with respect to any liability for waste disposed of before we acquired the facility, which would include any liability arising from Superfund sites.

Eleven of the 28 Superfund sites involve subsidiaries acquired by us which had been designated as PRPs with respect to such sites prior to acquisition of such subsidiaries by us. Some of these sites have been settled, and we believe our ultimate liability with respect to the remaining such sites will not be material to our result of operations, cash flow from operations or financial position.

As of December 31, 2004, we had reserves of \$0.2 million for cleanup of Superfund sites not related to the CSD acquisition at which either we or a predecessor has been named as a PRP. However, there can be no guarantee that our ultimate liabilities for these sites will not materially exceed this amount or that indemnities applicable to any of these sites will be available to pay all or a portion of related costs.

***EPA Enforcement Actions***

*Kimball Facility.* On April 2, 2003, Region VII of the U.S. Environmental Protection Agency ("EPA Region VII") in Kansas City, Kansas, served a Complaint, Compliance Order and Notice of Opportunity for Hearing ("CCO") on our subsidiary which operates an incineration facility in Kimball, Nebraska. The CCO stems from an inspection of the Kimball facility between April 8 and 10, 2002. Thereafter, EPA Region VII issued a Notice of Violation ("NOV") for certain alleged violations of RCRA. We responded to the NOV by letter and contested the allegations. The EPA alleges, among other things, that the facility had open containers of incinerator ash in the ash stabilization building, stored incompatible wastes without adequate separation, and failed to label equipment in hazardous waste service. After extensive settlement negotiations, on February 23, 2004, we and EPA Region VII executed a Consent Agreement and Final Order that included a Supplemental Environmental Project ("SEP"). We will be required to perform and account for the SEP in accordance with the EPA's SEP Policy. The SEP will involve cleaning out chemicals from high school laboratories, art departments and other campus locations, with all such work to be performed by our own trained field chemists. The SEP will also include the proper packaging, labeling, manifesting, transportation, and ultimately disposal, recycling or re-use of these chemicals at the hazardous waste treatment, storage and disposal facilities owned and operated by our subsidiaries, in lieu of the payment of any further civil penalties. We will have two years to complete the performance of the SEP, and any remaining amounts then still owed and outstanding will have to be paid in cash at that time, as calculated pursuant to a sliding scale formula that reduces the amount of cash that will be owed as more of the environmental services are rendered over the two-year period. At December 31, 2004, we had accrued \$132 thousand for our SEP liability.

*Chicago Facility.* By letter dated January 16, 2004, Region V of the EPA ("EPA Region V") in Chicago, Illinois notified us that EPA Region V believes our Chicago, Illinois facility may be in violation of the National Emission Standard for Benzene Waste Operations Subpart FF regulations promulgated under the Clean Air Act and that EPA Region V may seek injunctive relief and civil penalties for these alleged violations. The alleged violations pertain to total annual benzene quantity determinations and reporting, provisions of individual waste stream identification and emissions control information, and treatment and control requirements for the benzene waste streams. EPA Region V is seeking a fine of \$325 thousand. We believe that our Chicago facility complies in all material respects with these regulations and has engaged in ongoing settlement discussions with EPA Region V to resolve the issues described in the letter from EPA Region V without litigation. We believe that the cost of resolving this matter will not be material to our results of operations or financial position.

***State and Provincial Enforcement Actions***

*Chicago Facility.* On February 12, 2004, our subsidiary which owns the Chicago facility was notified by the Illinois Attorney General's Office that an enforcement action was being initiated against such facility. The enforcement action alleges that the Chicago facility has violated its operating permit, certain Illinois Pollution Control Board regulations, and allegedly applicable provisions of the National Emission Standards for Hazardous Air Pollutants ("NESHAPs"). The enforcement action raises allegations pertaining to adequate capture and control of air emissions, timely notification regarding the applicability and compliance status of affected air emission sources, ensuring that devices were designed to operate with no detectable organic emissions, maintaining equipment integrity, and securing off-site containers engaged in waste and recovery operations. The Illinois Attorney General's Office announced that it was seeking \$170 thousand in penalties. Our legal and compliance representatives have held discussions with the Illinois Attorney General's Office and the Illinois Environmental Protection Agency, and anticipate that a Supplemental Environmental Project will be negotiated that will substantially reduce the cash component of the penalty in exchange for agreeing to the installation of equipment upgrades at the facility designed to address and control air emissions from operations.



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These negotiations are ongoing, and although significant progress has been made, there can be no assurance that a settlement can be reached or that the penalty will be reduced.

*London, Ontario Facility.* We and one of our Canadian subsidiaries, Clean Harbors Canada, Inc., received a summons alleging a number of regulatory offenses under the Ontario Occupational Health and Safety Act as a result of a fire in October 2003 at a Clean Harbors Canada, Inc., waste transfer facility in London, Ontario. A worker at the facility received serious injuries as a result of the fire. The initial appearance on this matter occurred on November 22, 2004. We have not yet determined whether to defend the charges or attempt to negotiate a settlement. We have not accrued any liability associated with this matter because any potential liability is not now estimable.

### *Contingency*

*Litigation Involving Former Holders of Subordinated Notes.* On April 30, 2001, we issued to John Hancock Life Insurance Company, Special Value Bond Fund, LLC, the Bill and Melinda Gates Foundation, and certain other institutional lenders (collectively, the "Lenders") \$35 million of 16% Senior Subordinated Notes due 2008 (the "Subordinated Notes") as part of our refinancing of all our then outstanding indebtedness. Under the Securities Purchase Agreement dated as of April 12, 2001, between us and the Lenders (the "Purchase Agreement"), we were also required to pay a \$350 thousand closing fee and issue to the Lenders warrants for an aggregate of 1,519,020 shares of our common stock (the "Warrants") exercisable at any time prior to April 30, 2008 at an exercise price of \$.01 per share. The Purchase Agreement contained covenants limiting (with certain exceptions) our ability to acquire other businesses or incur additional indebtedness without the consent of a majority in interest of the Lenders. The Purchase Agreement also provided that, if we should elect to prepay the Subordinated Notes prior to maturity, we would be obligated to pay a prepayment penalty which, in the case of a prepayment prior to April 30, 2004, would include a so-called "Make Whole Amount" computed using a discount rate 2.5% above the then current yield on United States government securities of equal maturity to the Subordinated Notes. The Purchase Agreement also provided that, if we should default on any of the terms of the Purchase Agreement including the covenants described above, the Lenders would have the right to call the Subordinated Notes for payment at an amount equal to the principal, accrued interest and the so-called "Make Whole Amount" then in effect.

During several months prior to our acquisition of the CSD assets effective September 7, 2002, we sought the Lenders' cooperation with respect to such acquisition and to include the Lenders in a refinancing of our outstanding debt (which might involve leaving the Subordinated Notes outstanding or refinancing them). The Lenders, however, ultimately refused to provide any such cooperation. We thus notified the Lenders that we were proceeding with the acquisition of the CSD assets, which would be a violation of certain covenants in the Purchase Agreement, and the Lenders then called the Subordinated Notes for payment, including principal, interest and the "Make Whole Amount" of \$16,991,129, an amount equal to 48.5% of the principal amount of the Subordinated Notes. In response to the Lenders' demand, we immediately paid in full the amount demanded, while notifying the Lenders that we were paying the "Make Whole Amount" under protest. It is our position that if the payment to the Lenders is not deemed to be voluntary and the 48.5% "Make Whole Amount" is deemed unconscionable, the "Make-Whole Amount" is likely to be held unenforceable under Massachusetts case law.

Shortly after the closing of the acquisition of the CSD assets, we wrote to the Lenders demanding a return of the prepayment penalty, in response to which, on September 27, 2002, the Lenders filed a complaint in the Norfolk Superior Court asking the Court to determine the prepayment penalty to be valid and enforceable. On October 1, 2002, we filed a complaint in the Business Litigation Session of the Suffolk Superior Court seeking a declaratory judgment that the "Make Whole Amount" is an unenforceable penalty and seeking an order for the return of the amount paid as a penalty, less the Lenders' actual damages (if any), plus interest and costs. In the case of certain of the Lenders, we also

seek a judgment that those Lenders' receipt of their share of the "Make Whole Amount," the closing payment and the fair value of the Warrants constitutes a violation of applicable Massachusetts usury laws. We filed a motion seeking to consolidate both legal proceedings in the Business Litigation Session of the Suffolk Superior Court, which motion was granted. Discovery in the proceedings was completed and all parties served and filed motions for summary judgment. On March 15, 2004, the Court granted summary judgment for the Lenders ruling that the "Make Whole Amount" was enforceable, and on May 15, 2004 the Court ordered we pay \$323 thousand to the Lenders for legal and expert cost reimbursement. We have appealed the Court's rulings, and the Lenders have cross-appealed as to the amount of legal and expert cost reimbursement. The Appeals Court heard the appeals on March 5, 2005, but a decision of the Court is not expected for several months. We have not accrued the Lenders' legal and expert costs because, based on the advice of legal counsel, we now believe that such payment is not probable.

**ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

No matters were submitted to a vote of our security holders during the fourth quarter of 2004.

## PART II

**ITEM 5. MARKET FOR THE REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES****Common Stock**

Our common stock began trading publicly in the over-the-counter market on November 24, 1987 and was added to the NASDAQ National Market effective December 15, 1987. Our common stock trades on the NASDAQ National Market under the symbol CLHB. The following table sets forth the high and low sales prices of our common stock for the indicated periods as reported by NASDAQ.

2003	High	Low
First Quarter	\$ 16.52	\$ 8.94
Second Quarter	15.09	8.95
Third Quarter	9.88	4.25
Fourth Quarter	9.35	3.25
2004	High	Low
First Quarter	\$ 9.08	\$ 6.45
Second Quarter	9.98	7.21
Third Quarter	12.11	8.26
Fourth Quarter	15.09	10.41

On March 18, 2005, there were 560 shareholders of record of our common stock, excluding stockholders whose shares were held in nominee name. We estimate that approximately 2,900 additional shareholders held shares in street name at that date.

We have never declared nor paid any cash dividends on our common stock, and we are prohibited under our credit agreement from paying cash dividends on our common stock (see "Liquidity and Capital Resources" under Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations").

**Securities Authorized For Issuance Under Equity Compensation Plans**

See Item 12, "Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters," for a description of the securities which are authorized for issuance under our equity compensation plans.

**Issuer Purchases of Equity Securities**

During the fiscal quarter ended December 31, 2004, we did not repurchase any of our outstanding common stock or any other securities registered under the Securities Exchange Act of 1934, as amended.

**ITEM 6. SELECTED FINANCIAL DATA**

The following selected consolidated financial information should be reviewed in conjunction with Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Item 8, "Financial Statements and Supplementary Data" of this report. As discussed below in Note 1, we are restating our financial statements for the years ended December 31, 2003 and 2002, and financial information for the years ended December 31, 2001, 2000 and 1999, in order to correct errors related to estimated self-insured workers' compensation and motor vehicle claims.

**For the Year Ended December 31,(1)**

	2004	(Restated) 2003	(Restated) 2002(2)	(Restated) 2001	(Restated) 2000
	(in thousands except per share amounts)				
<b>Income Statement Data:</b>					
Revenues	\$ 643,219	\$ 610,969	\$ 350,133	\$ 251,601	\$ 233,466
Cost of revenues	464,838	453,461	252,469	178,348	165,804
Selling, general and administrative expenses	104,509	108,430	61,518	43,727	41,610
Accretion of environmental liabilities(3)	10,394	11,114	1,199		
Depreciation and amortization	24,094	26,482	15,508	11,113	10,656
Restructuring		(124)	750		
Other acquisition costs			5,406		
Income from operations	39,384	11,606	13,283	18,413	15,396
Other income (expense)(4)	(1,345)	(94)	129		
(Loss) on refinancings(5)	(7,099)		(24,658)		
Interest (expense), net	(22,297)	(23,724)	(13,414)	(10,724)	(9,795)
Income (loss) before provision for income taxes and cumulative effect of change in accounting principle	8,643	(12,212)	(24,660)	7,689	5,601
Provision for (benefit from) income taxes(6)	6,043	5,322	3,787	2,412	(2,016)
Income (loss) before cumulative effect of change in accounting principle	2,600	(17,534)	(28,447)	5,277	7,617
Cumulative effect of change in accounting principle		66			
Net income (loss)	2,600	(17,600)	(28,447)	5,277	7,617
Redemption of Series C Preferred Stock, dividends on Series B and C Preferred Stocks and accretion on Series C Preferred Stock(7)	11,798	3,287	1,291	448	448
Net income (loss) attributable to common shareholders	\$ (9,198)	\$ (20,887)	\$ (29,738)	\$ 4,829	\$ 7,169
<b>Basic earnings (loss) per share:</b>					
Earnings (loss) before cumulative effect of change in accounting principle	\$ (0.65)	\$ (1.54)	\$ (2.44)	\$ 0.42	\$ 0.65
Cumulative effect of change in accounting principle, net of tax					