



STATE OF
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

89 KINCE HIGHWAY
DOVER, DELAWARE 19901

PHONE: (302) 739-4403
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**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 Del. C. §6005(b)(3)

Order No. 2004-A-0015

*PERSONALLY SERVED BY ENVIRONMENTAL
PROTECTION OFFICER*

Issued to:

Coastal Coatings, Inc.
Attn: Michael Neal, President
639 South Marshall Street
Milford, Delaware 19963

Registered Agent:

Coastal Coatings, Inc.
538 Highway One
Lewes, Delaware 19958

Dear Mr. Neal:

This is to notify Coastal Coatings, Inc. ("Respondent"), that the Secretary of the Department of Natural Resources and Environmental Control ("Department") has found Respondent in violation of 7 Del. C. Chapter 60, and accordingly, the Department is issuing a Notice of Administrative Penalty Assessment, ("Assessment and Order"), pursuant to 7 Del. C. §6005(b)(3).

BACKGROUND

Respondent owns and operates a wood coating facility located at 639 South Marshall Street in Milford, Delaware. The facility stains and/or paints exterior wood panels manufactured at the Lewes, Delaware facility. The wood coating operation was moved from Lewes to Milford following a fire at the Lewes facility.

Delaware's Good Nature depends on you!

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FINDINGS OF FACT

On February 14, 2003, Permit: APC-2003/0732-CONSTRUCTION was issued to Respondent for the construction of a GBI Model 2110 flow coating machine at the new location in Milford. On November 13, 2003, the Department contacted Respondent to schedule a construction-to-operation inspection for the Permit: APC-2003/0732-CONSTRUCTION which had expired on November 3, 2003.

During the discussion, Respondent informed the Department that the wood coating process began operation in April 2003. In addition, Respondent informed the Department that it was not using the GBI Model 2110 flow coating machine which was previously permitted. Instead, Respondent moved a GBI Model 8000 from the Lewes facility to the Milford facility and initiated construction and operation of that model without amending the construction permit for the GBI Model 2110 flow coating machine and without obtaining an operating permit from the Department.

STATUTORY, REGULATORY AND PERMIT REQUIREMENTS

1. 7 Del. C. § 6003 (b)(1) states:

“No person shall, without first having obtained a permit from the Secretary, construct, install, replace, modify or use any equipment or device or other article which may cause or contribute to the discharge of an air contaminant.”

2. Regulation 2, Section 2.1 of the State of Delaware’s “Regulations Governing the Control of Air Pollution” states:

“...no person shall initiate construction, install, alter or initiate operation of any equipment of facility or air contaminant control device which will emit or prevent the emission of an air contaminant prior to receiving approval of his application from the Department...”

3. Permit: APC-2003/0732-CONSTRUCTION, Condition 1.1 states:

“The project shall be constructed in accordance with the application described above. If any changes are necessary, revised plans must be submitted and a supplemental approval issued prior to actual construction.”

4. Permit: APC-2003/0732-CONSTRUCTION, Condition 1.2 states:

“...this permit does not authorize the on-line operation of this equipment. When construction or installation is completed, the Division of Air and Waste

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Management shall be notified and a request for a permit to operate shall be made."

CONCLUSIONS

1. Respondent violated 7 Del. C. § 6003 (b)(1) by installing, replacing, modifying or using any equipment or device or other article which may cause or contribute to the discharge of an air contaminant without first having obtained a permit from the Secretary.
2. Respondent violated Regulation 2, Section 2.1 by installing and initiating operation of the GBI Model 8000 prior to receiving approval of its application from the Department.
3. Respondent violated Permit: APC-2003/0732-CONSTRUCTION, Condition 1.1 by failing to submit revised plans and receive a construction permit amendment from the Department prior to actual construction of the GBI Model 8000.
4. Respondent violated Permit: APC-2003/0732-CONSTRUCTION, Condition 1.2 by operating the GBI Model 8000 for 8 months without notifying the Division of Air and Waste Management and requesting a permit to operate.

ASSESSMENT OF PENALTY

Pursuant to the provisions of 7 Del. C. § 6005(b)(3), this letter will serve as written notice to Respondent that on the basis of its findings, the Department has determined that a \$5,000, penalty and \$121.73 reimbursement for Department costs, are appropriate for fully resolving the alleged violations identified in this Assessment and Order. This Assessment and Order is being issued in order to dispose of this issue without litigation, and without any admission by Respondent of liability for alleged violations.

Respondent shall submit a check to the Department in the amount of \$5,000, for the penalty and a check in the amount of \$121.73 for the Department's costs within 30 days from the receipt of this Assessment and Order. The checks shall be made payable to the "State of Delaware" and shall be directed to: Valerie S. Csizmadia, Deputy Attorney General, Delaware Department of Justice, Environmental Unit, 3rd Floor, 102 W. Water Street, Dover, Delaware 19904.

PUBLIC HEARING

This Assessment and Order shall become effective and final unless the Department receives from Respondent, no later than 30 days from the receipt of this Notice, a written request

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for a public hearing on these matters as provided in 7 Del. C. §6005(b)(3). In the event Respondent requests a hearing, the Department reserves the right to withdraw this Assessment and Order and take additional enforcement actions it deems appropriate, including but not limited to, the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 Del. C. §6005. The Department otherwise does not intend to convene a public hearing on these matters, but reserves the right to do so at its discretion.

If you have any questions, please contact Robert J. Taggart at (302) 323-4542.

4-1-04

Date



John A. Hughes, Secretary

cc: John Blevis, Director
Valerie S. Csizmadia, Deputy Attorney General
✓ Ali Mirzakhali, P.E., Administrator
✓ Robert J. Taggart, Program Manager
✓ Nancy E. Terranova, Program Manager
Phanuel C.K. Bediako, Environmental Scientist
✓ Karen A. Mattio, Environmental Engineer
Jennifer M. Bothell, Enforcement Coordinator
✓ Mercedes Rooks, Paralegal
Dover File

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WAIVER OF STATUTORY RIGHT TO A HEARING

Coastal Coatings, Inc. hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to submit a check in the amount of \$5,000, for the penalty and a check in the amount of \$121.73 for the Department's costs, made payable to the "State of Delaware," within 30 days of receipt of this Assessment and Order. The checks shall be directed to Valerie S. Csizmadia, Deputy Attorney General, Delaware Department of Justice, Environmental Unit, 3rd Floor, 102 W. Water Street, Dover, Delaware 19904.

Coastal Coatings, Inc.

Date: _____

By: _____

Title: _____