



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

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DOVER, DELAWARE 19901

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**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 *Del. C.* § 6005

Order No. 2013-WH-0062

*PERSONALLY SERVED BY AN ENVIRONMENTAL
PROTECTION OFFICER*

Issued To:

Attn: Ms. Joyce Morales,
Chief Financial Officer
Summit Aviation, Inc.
4200 Summit Bridge Road
Middletown, Delaware 19709

Registered Agent:

Corporation Service Company
2711 Centerville Road
Suite 400
Wilmington, Delaware 19808

Dear Ms. Morales:

The Secretary of the Department of Natural Resources and Environmental Control ("Department") has found Summit Aviation, Inc. ("Respondent" or "Summit Aviation") in violation of 7 *Del. C.* Chapters 60 and 63 and 7 DE Admin. Code 1302, Delaware's *Regulations Governing Hazardous Waste* ("DRGHW"). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment, pursuant to 7 *Del. C.* § 6005(b)(3).

BACKGROUND

Respondent owns and operates a full service aviation center, located at 4200 Summit Bridge Road in Middletown, Delaware. Respondent provides aircraft and avionics repair and maintenance to general aviation, corporate, and government owned aircraft. Respondent's aviation services range from design and fabrication to installation, modification and certification of unique systems.

Delaware's Good Nature depends on you!

In late 2012/early 2013, the Department received hazardous waste generator manifests that listed Summit Aviation as the generator. The Department conducted a review of the manifests and discovered that Respondent was considered a large quantity generator (“LQG”)¹ of hazardous waste; though Respondent’s most recent notification to the Department indicated that it was classified as a conditionally exempt small quantity generator (“CESQG”)² of hazardous waste. Prior to 2012, the Department’s manifest records indicated that Respondent was classified as a small quantity generator (“SQG”)³ of hazardous waste.

The Department contacted Respondent’s consultant, Environmental Alliance (“consultant”), in January/February 2013 and informed the consultant that, based on the most recent manifests received by the Department, Respondent was considered a LQG of hazardous waste. The Department further informed the consultant that Respondent would be required to submit a subsequent Notification of Regulated Waste Activity to the Department, to update its generator category, which at the time was still classified as a CESQG. Additionally, the Department provided the consultant with guidance on the requirements for LQGs. As a result, on March 1, 2013, Respondent submitted an annual hazardous waste report for calendar 2012 and notified the Department that Summit Aviation is a LQG.

On September 26, 2013, the Department conducted a hazardous waste compliance assessment at Summit Aviation. Prior to the assessment, Department representatives reviewed Respondent’s waste manifests for the years 2011, 2012, and 2013. At the time of the assessment, the Department determined that Respondent became a LQG beginning in 2012. The Department identified eighteen (18) violations of the DRGHW.

Following the compliance assessment, Respondent submitted response letters to the Department dated October 3, 10, 11, and 18, 2013. However, some of the information received in these letters was determined, by the Department, to be inconsistent. These inconsistencies are addressed in more detail in the “Findings of Fact and Violation...” section of this Order.

Respondent’s October 11, 2013 letter included a RCRA Contingency Plan proposal and a compliance schedule, in response to the violations identified during the assessment. The Department acknowledged Respondent’s proposed plan and compliance schedule and informed Respondent that most of the dates proposed in the compliance schedule were acceptable to the Department. The Department, nevertheless, informed Respondent that it planned to issue a Notice of Violation (“NOV”) to Respondent, formally documenting its observations and providing a timeframe to correct any violations cited in the NOV.

The Department issued Notice of Violation (“NOV”) No. 13-HW-40, dated October 18, 2013, which was received by Respondent on October 23, 2013, for the eighteen (18) violations.

¹ Generators of more than 1,000 kilograms (2,200 pounds) of hazardous waste in any calendar month are large quantity generators (Delaware’s *Regulations Governing Hazardous Waste*, 2013).

² A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kilograms of hazardous waste in that month.

³ A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month is a small quantity generator.

The Department required Respondent to immediately achieve compliance and submit documentation demonstrating compliance to the Department within 30 days of receipt of the NOV (by November 22, 2013).

Respondent submitted its NOV responses to the Department by e-mail, on November 22, 2013. Respondent failed, however, to demonstrate compliance with violations 13, 14 and 16, (failure to develop a hazardous waste contingency plan, failure to familiarize local emergency response agencies with the types and location of hazardous waste, and failure to submit job descriptions, respectively) listed below in the "Findings of Fact and Violation..." section.

FINDINGS OF FACT AND VIOLATION INCLUDING REGULATORY REQUIREMENTS

1. Section 265.1100 of DRGHW states:

"The requirements of this subpart apply to owners or operators who store or treat hazardous waste in units designed and operated under § 265.1101 of this subpart. These provisions will become effective on February 18, 1993, although the owner or operator may notify the Secretary of his intent to be bound by this subpart at an earlier time. The owner or operator is not subject to the definition of land disposal in RCRA § 3004(k) provided that the unit:

(a) Is a completely enclosed, self-supporting structure that is designed and constructed of manmade materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the units; and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls;

(b) Has a primary barrier that is designed to be sufficiently durable to withstand the movement of personnel and handling equipment within the unit;

(c) If the unit is used to manage liquids, has:

(1) A primary barrier designed and constructed of materials to prevent migration of hazardous constituents into the barrier;

(2) A liquid collection system designed and constructed of materials to minimize the accumulation of liquid on the primary barrier; and

(3) A secondary containment system designed and constructed of materials to prevent migration of hazardous constituents into the barrier, with a leak detection and liquid collection system capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest possible time, unless the unit has been

granted a variance from the secondary containment system requirements under § 265.1101(b)(4);
(d) Has controls as needed to prevent fugitive dust emissions; and
(e) Is designed and operated to ensure containment and prevent the tracking of materials from the unit by personnel or equipment.”

On September 26, 2013, Department representatives determined that Respondent had conducted five (5) paint stripping events in Respondent's Paint Hangar without having the appropriate paint stripping operation system in place. Respondent's response to the Department's compliance inspection, in its letter dated October 3, 2013, stated that three (3) paint stripping events had occurred in the Paint Hangar. In contrast, however, Respondent's October 18, 2013 letter stated that five (5) paint stripping events had actually occurred. Respondent had been working with the Department, since January 2012, about conducting paint stripping operations via the installation of a hazardous waste tank system. Respondent's representatives stated during the assessment, however, that the tank system had yet to be installed, though they had elected to commence paint stripping operations. Respondent's representatives explained that the building where the paint stripping occurred has concrete curbing around the exterior to prevent waste from being released from the building. They further explained that they covered the floor, including floor grates (that lead to an oil/water separator and outdoors), where the paint stripping was conducted, with two layers of 4 mil poly sheeting. The aircraft was then brought into the hangar and operators pumped paint stripper onto the aircraft. Operators then used a squeegee to remove the paint stripper waste from the aircraft, allowing it to fall to the floor covered with the poly sheeting. Respondent's representatives stated that the poly sheeting was then rolled up and placed into drums and labeled as hazardous waste. Respondent's representatives further stated that they removed any remaining loose paint with a power washer and then shoveled⁴ the liquid into 55 gallon drums and labeled them as hazardous waste. Lastly, at the end of the paint stripping operation, Respondent's representatives stated that they contacted Safety Kleen to remove the drums labeled hazardous waste. The Department had previously advised Respondent that this is not an acceptable method of performing the paint stripping operations. On April 23, 2012, Respondent's consultant submitted a proposal to the Department, asking for its approval to use a trench and aboveground storage tank system to collect potentially hazardous waste from the paint stripping operations. The letter and proposal made several references to the fact that the paint stripping operations had not yet been employed and that Respondent intended to put the proposed operations in place subsequent to approval by the Department. The proposal detailed that there are three entry/discharge points in the existing grated trench, one leading to an oil/water separator and two which are fire suppression system overflow piping leading outdoors. The proposal stated that prior to paint stripping operations, Respondent will plug all entry/discharge points and test each for tightness. During a conference call on May 4, 2012, however, the Department informed Respondent that the paint stripping operation it formally proposed to the Department was not an acceptable method of performing paint

⁴ Respondent contradicted this statement in its letter to the Department, dated October 3, 2013, by stating that the wastewater was collected by wet/dry vac.

stripping operations, as it did not adequately meet the secondary containment requirements for tank systems as set forth in DRGHW. On June 7, 2012, Respondent's consultant submitted two new proposals to the Department, relating to the waste collection system and the entry/discharge points. Additionally, the Department received proposals in January/February 2013 and again on June 7, 2013. However, Respondent elected to begin paint stripping operations without first having a system in compliance with DRGHW in place and instead merely covering the floor and trench with poly sheeting. In the absence of a hazardous waste tank system in place, Respondent is operating the paint hangar as a hazardous waste containment building in violation of § 265.1100 of DRGHW.

2. Section 262.34(a)(3) of DRGHW states:

“(a) Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status, provided that: ...

(3) While being accumulated on site, each container and tank is labeled or marked clearly with the words ‘Hazardous Waste’;”

On September 26, 2013, Department representatives observed a 55 gallon steel drum in the Paint Hangar containing alodine rinse waste. The drum was labeled “Non-Regulated Liquid – Alodine Rinse” and “Non-USEPA Regulated.” However, Respondent's representatives stated the waste was actually hazardous waste and the 2012 annual report indicates this waste is hazardous for corrosivity (D002) and chromium (D007). Department representatives also observed a 55 gallon steel drum labeled “Waste Paint” in the Hazardous Waste Accumulation Shed. Failing to label these two containers with the words “Hazardous Waste” is a violation of § 262.34(a)(3).

3. Section 265.176(b) of DRGHW states in part:

“(b) ... ‘ No smoking ’ signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.”

On September 26, 2013, Department representatives observed waste alodine in the Paint Hangar, which is hazardous for corrosivity (D002) and chromium (D007). Respondent's representative stated that the site typically also accumulates waste paint and solvent in this area, which is hazardous for ignitability (D001). Department representatives observed a phone and a fire extinguisher; however, a “No Smoking” sign was not posted in the Paint Hangar. Failing to post the required signage is a violation of § 265.176(b).

4. Section 262.11 of DRGHW states in part:

“A person who generates a solid waste, as defined in §261.2, must determine if that waste is a hazardous waste...”

Respondent's response to the Department's compliance inspection, in its letter dated October 3, 2013, stated that three (3) paint stripping events had occurred in the Paint Hangar. The waste from the first paint stripping event was analyzed and determined to be hazardous due to chromium content. The waste from the second paint stripping event was analyzed and determined to be non-hazardous. Respondent utilized generator knowledge to determine the waste from the third paint stripping event was non-hazardous. In its October 18, 2013 letter, Respondent stated that five (5) paint stripping events had actually occurred. The Department concluded, therefore, that generator knowledge was utilized for the last three (3) paint stripping events, in the absence of any information to the contrary. Respondent did not, though, describe how generator knowledge was used to make its determination. The Department concluded, as a result, that Respondent failed to make an adequate hazardous waste determination on this waste stream; a violation of § 262.11.

Respondent's letter to the Department dated October 3, 2013, stated that both solids and wastewater are generated as a result of paint stripping operations. Respondent's letter dated October 18, 2013, provided additional information related to its management of solid wastes. Respondent stated that it utilized generator knowledge to determine the solids generated were non-hazardous. However, Respondent failed to describe how general knowledge was used to make this determination. The Department remains concerned, as a result, that the waste may be hazardous, due to the fact that the paint utilized by Respondent contains heavy metals. Therefore, the Department concluded that Respondent did not make an adequate hazardous waste determination.

Additionally, at the time of the compliance assessment on September 26, 2013, Department representatives observed aerosol cans throughout the site. Respondent was unable to provide any information regarding the management of this waste stream. Respondent's letter dated October 3, 2013, stated that it does generate spent aerosol cans on a regular basis and will begin to manage them as hazardous waste in accordance with the Department's guidance on aerosol can management. Respondent's letter to the Department, dated October 11, 2013, acknowledges that it has discarded spent aerosol cans in its normal trash. Failing to make a hazardous waste determination on the spent aerosol cans prior to the compliance assessment and failing to adequately characterize the waste from the last three (3) paint stripping events are violations of § 262.11 of DRGHW.

5. Section 262.34(c)(1)(ii) of DRGHW states:

“(c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) as applicable of this section provided he:

(ii) Marks his containers either with the words ‘Hazardous Waste’ or with the word ‘Waste’ and a description to identify the contents of the container (e.g., Waste Acetone, Waste Solvent).”

On September 26, 2013, Department representatives observed waste paint/solvent being collected in a 55 gallon steel drum with a flip-top funnel operated as a satellite accumulation area. The container was labeled "Non-Regulated Liquid" and "Non-USEPA Regulated." However, Respondent stated that this waste stream was considered hazardous waste. The Department confirmed via Respondent's most recent annual report and manifests that the waste is shipped off-site as hazardous waste with the waste codes F003, F005, D001, D035, D005, and D006.

Additionally, Department representatives observed three (3) – 10 gallon flip top safety cans in Hangar #6 and four (4) – 10 gallon flip top safety cans in Hangar #8. The safety cans are utilized to accumulate rags. Each can was labeled with the words "Oily Rags Only" or "Fuel Rags Only." Though the containers were labeled with different terminology, it appeared that employees did not distinguish between containers and any rags generated in the area were placed in the nearest container, regardless of the labeling. During the compliance assessment, Respondent was unable to describe with what the rags were contaminated. Respondent's most recent annual report indicates it shipped "23 barrels of paper towels, absorbent pads of alcohol/oil/hydraulic/grease cleaning towels from aircraft cleaning/disassembly operations." Based upon the observations made during the compliance assessment, the Department concluded that the rags observed would fall into the same category as that which Respondent's annual report references and therefore are hazardous waste. Failure to properly label the eight (8) containers of hazardous waste is a violation of § 262.34(c)(1)(ii).

6. Section 279.22(c)(1) of DRGHW states:

"(c) Labels.

(1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words 'Used Oil'."

On September 26, 2013, Department representatives observed eight (8) - 5 gallon containers, in Hangar #5 and in Hangar #8, utilized to accumulate used oil. None of the containers were labeled with the words "Used Oil." This is a violation of § 279.22(c)(1).

7. Section 279.22(b)(3) of DRGHW states:

"(b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities must be:

(3) Closed during storage, except when it is necessary to add or remove oil."

On September 26, 2013, Department representatives observed eight (8) - 5 gallon containers, in Hangar #5 and in Hangar #8, utilized to accumulate used oil. Each of the containers was open. This is a violation of § 279.22(b)(3).

8. Section 262.34(a)(2) of DRGHW states:

“(a) Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status, provided that:

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;”

On September 26, 2013, Department representatives observed a drum of waste paint (referenced in violation #1) in the Hazardous Waste Accumulation Shed. The drum of waste paint was not marked with an accumulation start date, which is a violation of § 262.34(a)(2).

9. Section 265.173(a) of DRGHW states:

“(a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”

On September 26, 2013, Department representatives observed a drum of waste paint (referenced in violations #1 and #8) in the Hazardous Waste Accumulation Shed. The waste paint container had an open funnel sitting in the bung of the drum. The container, therefore, was not closed; a violation of §265.173(a).

10. Section 265.1087(c)(1) of DRGHW states:

“(c)(1) A container using Container Level 1 controls is one of the following:

(i) A container that meets the applicable U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation as specified in paragraph (f) of this section.

(ii) A container equipped with a cover and closure devices that form a continuous barrier over the container openings such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a “portable tank” or bulk cargo container equipped with a screw-type cap).

(iii) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container such that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.”

On September 26, 2013, Department representatives observed a drum of waste paint (referenced in violations #1, #8, and #9) in the Hazardous Waste Accumulation Shed. The contents of the container included paint and solvent and is thus subject to the air emission

requirements found in DRGHW Part 265, Subpart CC. The container was open, which is a violation of § 265.1087(c)(1).

11. Section 273.18 (a) of DRGHW states in part:

“(a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.”

On September 26, 2013, Department representatives did not observe a central accumulation area for spent lamps or batteries. Respondent’s letter dated October 3, 2013 stated that, while it generates mercury-containing lamps and batteries, it has not maintained an identified universal waste accumulation area at the facility. The letter also stated that Respondent will establish an area to collect universal waste and will immediately begin maintaining records of universal waste shipments. Respondent’s letter dated October 11, 2013 indicated that it has been using Alto Fluorescent Lamps that pass TCLP (Toxicity Characteristic Leaching Procedure)⁵ for mercury. As a result, Respondent has been placing its spent fluorescent lamps in the trash. However, Respondent has also thrown other mercury vapor lamps that do not pass the TCLP, into the normal trash. Failing to send mercury lamps that exceed the regulatory limit to an authorized handler is a violation of § 273.18(a).

12. Section 262.40(a) of DRGHW states:

“(a) A generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.”

On September 26, 2013, Department representatives reviewed manifests for the years 2011, 2012, and 2013. Respondent was not able to provide the designated facility signed copy of the following manifests: 003093560SKS signed by the generator on May 14, 2013 and 003033860SKS signed by the generator on November 9, 2011. In addition, Respondent was unable to provide either the generator signed or designated facility signed copy of the following manifests: 003582745FLE signed by the generator on March 8, 2011, 004296718FLE signed by the generator on March 23, 2011, and 003372034FLE signed by the generator on May 5, 2011. Failure to retain copies of manifests is a violation of § 262.40(a).

13. Section 265.51(a) of DRGHW states:

⁵ The Toxicity Characteristic Leaching Procedure (TCLP) is Method 1311 in EPA’s SW-846, “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods.” The test method is used to determine the concentration of an analyte in a sample of waste. The concentration is then compared to the regulatory limit found in DRGHW § 261.24 to determine if the waste is hazardous due to its toxicity.

“(a) Each owner or operator must have a printed contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.”

On September 26, 2013, Respondent was unable to provide a contingency plan to Department representatives. Respondent’s October 3, 2013 response letter confirmed that a contingency plan had not yet been developed; a violation of § 265.51(a).

14. Section 265.37(a) of DRGHW states:

“(a) The owner or operator must attempt in writing, with documentation of receipt, to make the following arrangements, as appropriate for the type of waste handled at his facility and potential need for the services of these organizations:

- (1) Arrangements to familiarize police, fire departments, and emergency responses teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;*
- (2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;*
- (3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and*
- (4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.”*

On September 26, 2013, Respondent had not made arrangements with local emergency response agencies to familiarize them with the types of hazardous waste accumulated on-site; a violation of § 265.37(a).

15. Section 265.16(d)(1) of DRGHW states:

“(d) The owner or operator must maintain the following documents and records at the facility:

- (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;”*

On September 26, 2013, Respondent was unable to provide a list of employees handling hazardous waste and their job titles. Failure to maintain accurate names and job titles for each position at the facility related to hazardous waste is a violation of § 265.16(d)(1).

16. Section 265.16(d)(2) of DRGHW states:

“(d) The owner or operator must maintain the following documents and records at the facility:

(2) A written job description for each position listed under paragraph (d)(1) of this section. This description may be consistent in its degree of specificity with description for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualification, and duties of facility personnel assigned to each position;”

On September 26, 2013, Respondent was unable to provide a job description for each employee handling hazardous waste; a violation of § 265.16(d)(2).

17. Section 265.16(a)(1) of DRGHW states:

“(a)(1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensure that facility’s compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section.”

On September 26, 2013, Respondent provided records demonstrating that some employees had received either “Hazmat Customer Training” offered by the United Parcel Service or Hazardous Materials Shipping training offered by the Dangerous Goods International Training Center. However, Respondent was unable to provide documentation demonstrating that employees had received any training relating to hazardous waste and its on-site management. This is a violation of § 265.16(a)(1).

18. Section 265.174 of DRGHW states:

“The owner or operator must inspect areas where containers are stored at least weekly, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. A written record of the inspections must be maintained onsite for a minimum of 3 years.”

On September 26, 2013, Respondent was unable to provide documentation demonstrating that weekly inspections had been conducted at either of the two hazardous waste accumulation areas for the past three (3) years. This is a violation of § 265.174.

CONCLUSIONS

Based on the foregoing, the Department has concluded that Summit Aviation, Inc. has violated the above cited regulatory provisions.

ASSESSMENT OF PENALTY AND COSTS

Pursuant to the provisions of 7 *Del. C.* § 6005(b)(3), this is written notice to Respondent that on the basis of its findings, the Department is assessing Respondent an administrative penalty of \$81,426.00 for the violations identified in this Assessment and Order.

In addition to the penalty assessment, Respondent is hereby assessed estimated costs in the amount of \$12,214.00, pursuant to 7 *Del. C.* § 6005(c), which were incurred by the Department in the investigation of the noted violations.

Respondent shall submit one check to the Department in the amount of \$81,426.00 to pay the penalty and one check to the Department in the amount of \$12,214.00 to pay the estimated 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: Robert F. Phillips, Deputy Attorney General, Department of Justice, Environmental Unit, 102 W. Water Street-3rd Floor, Dover, Delaware 19904.

PUBLIC HEARING

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

PRE-PAYMENT

Respondent may prepay the administrative penalty of \$81,426.00 and the Department's estimated costs in the amount of \$12,214.00 in the manner described in the assessment section above. By doing so, Respondent waives its right to a hearing and the opportunity to appeal or contest the Assessment which shall become a final Order.

If you have any questions, please contact Karen J'Anthony at (302) 739-9403.

1/9/2014

Date



Collin P. O'Mara, Secretary

Enf/Summit Aviation Adm. Penalty Order - Final

cc: Robert F. Phillips, Deputy Attorney General
Marjorie A. Crofts, WHS Director
Nancy Marker, SHWMS Program Administrator
Karen J'Anthony, SHWMS Program Manager
Melissa Ferree, SHWMS Engineer
Zakary Fisch, SHWMS Environmental Scientist
Jenny Bothell, Enforcement Coordinator
Susan Baker, Paralegal
SHWMS File

WAIVER OF STATUTORY RIGHT TO A HEARING

Summit Aviation, Inc. hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to the following:

1. **Summit Aviation, Inc.** will pay the administrative penalty in the amount of \$81,426.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Robert F. Phillips, Deputy Attorney General, Department of Justice, 102 W. Water Street-3rd Floor, Dover, DE 19904; and
2. **Summit Aviation, Inc.** will reimburse the Department in the amount of \$12,214.00 which represents the Department's estimated costs. The reimbursement shall be paid within 30 days of receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and be directed to Robert F. Phillips, Deputy Attorney General, Department of Justice, 102 W. Water Street-3rd Floor, Dover, DE 19904.

Summit Aviation, Inc.

Date: _____

By: _____

Title: _____