



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

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OFFICE OF THE
SECRETARY

**AMENDED ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**
Pursuant to 7 Del. C. §6005(b)(3)

Order No. 2008-A-0005

*Issued by Certified Mail/Return
Receipt Requested to Respondent:*

Mr. Matthew P. Appelget, President
Waste Associates
1790 Darbytown Road
Richmond, Virginia 23231

*Issued by an Environmental
Protection Officer to Registered Agent:*

The Corporation Trust Co.
Corporation Trust Center
1209 Orange Street
Wilmington, Delaware 19801

This is to notify Eastern Shore Environmental, Inc. ("Respondent" or "ESE"), that the Secretary of the Department of Natural Resources and Environmental Control ("Department") has found Respondent in violation of 7 DE Admin. Code 1301, Delaware Regulations Governing Solid Waste or ("DRGSW"), and Solid Waste Permit SW-99/03, and accordingly, the Department is issuing a Notice of Amended Administrative Penalty Assessment, pursuant to 7 Del. C. §6005(b)(3).

BACKGROUND

Respondent privately owned and operated a solid waste transfer station, located at 836 Postles Corner Road in Little Creek (the "facility"), at the time the violations were discovered by the Department. Respondent operated under solid waste permit SW-99/03, which authorized the transfer of municipal solid waste ("MSW") and construction and demolition ("C&D") debris, in accordance with the DRGSW.

Department representatives conducted a compliance assessment at ESE on September 7, 2006. They discovered eight (8) violations of Respondent's permit during the inspection, which continued over a 3-day period (the 7th, 8th, and 11th of September). The Department issued Notice of Violation ("NOV") No. 06-SW-09, dated October 20, 2006, to Respondent, notifying them of the violations documented during the inspection. Respondent replied to the NOV in a letter dated and received on November 20, 2006, indicating that they had corrected all of the violations documented by the Department.

Delaware's Good Nature depends on you!

Department representatives discovered similar violations during a compliance inspection at ESE in December of 2005.

FINDINGS OF VIOLATION

Violations of the Delaware Regulations Governing Solid Waste ("DRGSW")

1. **Section 4.1.1.3. (formerly 4.A.1.c.)* of the DRGSW states:**

"Permittees shall abide by the conditions of their permit issued by the Department."

On September 7, 8, and 11, 2006, Department representatives conducted a compliance inspection at Respondent's facility and discovered eight (8) violations of Respondent's permit. These violations demonstrate that Respondent failed to abide by the conditions of their permit.

2. **Section 10.5.1.2. (formerly 10.E.1.b.)* of the DRGSW states:**

"Transfer stations shall be maintained and operated to conform with the Plan of Operation submitted at the time of permit application and approved by the Department."

On September 7, 8, and 11, 2006, Department representatives conducted a compliance inspection at Respondent's facility and discovered eight (8) violations of Respondent's permit. These violations demonstrate that Respondent failed to maintain and operate their facility in conformance with the Plan of Operation submitted at the time of permit application and approved by the Department. The Plan of Operation provides the comprehensive internal framework for compliance with Respondent's permit. See Plan of Operation sections 3.2.1, 3.2.2, 3.3, 3.4, 3.5(1), and 3.7.

Violations of Permit SW-99/03

1. **Condition II.L. of Permit SW-99/03 states:**

"The Transfer Station shall be operated in a manner to prevent the establishment of habitat for nuisance organisms such as flies, maggots, roaches, rodents, and similar vermin."

On September 7, 2006, Department representatives observed damaged exterior wall panels on the south side of the transfer station building. Upon further investigation, Department representatives observed numerous large, active

* The Registrar of Regulations has implemented a revised numbering system.