



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

Complete Coverage Woodpriming, LLC
288 Pinewood Road
Allenstown, NH 03275

Re: State Permit to Operate No. SP-0147
AFS# 3301390438

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 20-005

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the New Hampshire Department of Environmental Services, Air Resources Division, and Complete Coverage Woodpriming, LLC under the authority of NH RSA 125-C:15, and NH RSA 125-I:3-a. This Administrative Fine by Consent is effective upon signature by the parties.

II. PARTIES

1. The Department of Environmental Services, Air Resources Division is a duly-constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive in Concord, New Hampshire.
2. Complete Coverage Woodpriming, LLC ("Complete Coverage") is a New Hampshire limited liability company having a mailing address of 288 Pinewood Road, Allenstown, NH 03275.

III. BACKGROUND

1. NH RSA 125-C authorizes the New Hampshire Department of Environmental Services ("NHDES") to regulate sources of air pollution in New Hampshire. NH RSA 125-C:4 authorizes the Commissioner of NHDES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. Under this authority, the Commissioner has adopted NH CODE ADMIN. RULES Env-A 100 *et seq.* (the "Air Program Rules").
2. NH RSA 125-C:15, I-b, authorizes the Commissioner of NHDES to impose, on any person, administrative fines up to \$4,000¹ for each offense upon any person who violates any provision of NH RSA 125-C, the Air Program Rules, any permit, compliance schedule, stop use order, or order of abatement, issued under the authority of NH RSA 125-C; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to NHDES in accordance with NH RSA 125-C or the Air Program Rules. The Commissioner may assess an additional fine for repeat violations.

¹ The Commissioner's administrative fine authority for violations of NH RSA 125-C increased from \$2,000 to \$4,000 per violation effective January 1, 2020.

3. NH RSA 125-C:6 and NH RSA 125-C:11, I, authorize NHDES to establish and operate a statewide system under which permits shall be required for the construction, installation, operation or material modification of air pollution devices and sources. In accordance with this authority, the Commissioner of NHDES has adopted NH CODE ADMIN. RULES Env-A 600 to regulate a statewide permit system.

4. Complete Coverage operates a facility in which wood siding and other flat building products are coated with primers, paints, stains, and stain blockers located at 288 Pinewood Road in Allenstown, New Hampshire (the "Facility").

5. Complete Coverage emits volatile organic compounds ("VOCs") from the Facility and is required to obtain a permit from NHDES.

6. On September 2, 2011, NHDES issued State Permit to Operate No. SP-0147 to Complete Coverage to operate a lumber flood coater and two spray guns ("emission units") at the Facility (the "Permit"). The Permit expired on September 20, 2016.

7. Per Env-A 608.08(c), after a timely and complete application for renewal is filed with NHDES, the owner or operator may continue to operate under the terms and conditions of the expired state permit to operate until NHDES has taken final action on the renewal application.

8. On June 29, 2016, NHDES received a timely application from Complete Coverage to renew the Permit. Subsequently, NHDES sent to Complete Coverage a letter of completeness for the application.

9. Per NH RSA 125-C:12, IV-a, the applicant shall pay any cost or expense associated with public notices or notifications in the permit process.

10. Per Env-A 621.02(b), within 10 days after the completion of a draft temporary permit, draft permit to operate, or draft decision to deny the application with supporting findings of fact, NHDES shall prepare a public notice of the receipt of the permit application and the intent to issue, amend, or deny such permit.

11. Env-A 621.02(f)(2) requires the applicant for a state permit to operate to provide to NHDES payment of publication costs incurred by NHDES and an administrative fee of \$15.00 if the applicant requests NHDES to publish the notice required under Env-A 621.02(b).

12. On February 7, 2019, NHDES published the public notice of intent to issue a draft state permit to operate the Facility to Complete Coverage, in two newspapers.

13. On March 13, 2019, NHDES sent an invoice for the amount of \$529.43 to Complete Coverage for the costs of publication that NHDES incurred on February 7, 2019, and associated administrative fees. NHDES requested payment of the publication costs and fees by April 12, 2019.

14. On March 14, 2019, NHDES reissued the Permit to Complete Coverage to operate the emissions units at the Facility. NHDES amended the Permit on August 30, 2019, and the Permit expires on March 31, 2024.

15. In April and May 2019, NHDES sent email correspondence to Complete Coverage requesting payment of the invoiced publication costs and fees.

16. NH RSA 125-C:12, IV-b, states that as a condition of any permit or authorization required, the Commissioner of NHDES may require payment of an annual emissions fee sufficient to cover the costs of implementing or enforcing the permit program authorized by NH RSA 125-C including:

- (a) The costs of reviewing and acting upon any permit renewal;
- (b) Emissions and ambient monitoring, for those costs incurred under the permitting program;
- (c) Preparing generally applicable rules or guidance;
- (d) Modeling, monitoring, analyses, and compliance demonstrations;
- (e) Preparing inventories and tracking emissions; and
- (f) Inspections and enforcement.

18. Complete Coverage was required to submit annual reports of emissions to NHDES on or before April 15th of the year following the year covered by the report, per NH RSA 125-C:6, XI; Env-A 907.02; and the *reporting requirements* set out in Condition VII of the Permit.

19. Complete Coverage is required to pay annual emission-based fees for the emissions from the Facility regulated under the Permit, per NH RSA 125-C:12, IV-b; Env-A 705; and in accordance with the emission fee requirements set out in Conditions VII and XI of the Permit. Env-A 705.05(a) requires that annual emission-based fees be submitted to NHDES by May 15th for emissions from the previous calendar year.

20. On June 4, 2019, NHDES issued Letter of Deficiency (“LOD”) No. ARD 19-011 to Complete Coverage, requesting that it submit the required annual report of emissions for 2018; and pay the past-due emission-based fees for 2018, within 30 days of the date of the LOD.

21. On June 27, 2019, NHDES received an incomplete and inaccurate annual emissions report for 2018 from Complete Coverage.

22. NH RSA 125-I authorizes NHDES to regulate the release of toxic chemicals into the ambient air in New Hampshire. NH RSA 125-I:3, II, authorizes the Commissioner of NHDES to adopt rules relative to the prevention, control, abatement, and limitation of regulated toxic air pollutant (“RTAP”) emissions. The Commissioner has adopted NH CODE ADMIN. RULES ENV-A 1400, in accordance with NH RSA 125-I:3, II (the “RTAP Rules”). Per Env-A 1401.02, the RTAP Rules apply to the owner or operator of any new, modified, or existing process or device located at a stationary source that emits an RTAP into ambient air, unless exempt. The RTAP Rules were updated and readopted effective on January 5, 2018.

23. NH RSA 125-I:3-a authorizes the Commissioner of NHDES to impose administrative fines up to \$4,000² per offense for violations of NH RSA 125-I, and the RTAP Rules, in accordance with NH RSA 125-C:15, I-b(b). NH RSA 125-I:3-a, II, requires the Commissioner to determine fines in accordance with NH RSA 125-C:15, I-b(b). NH RSA 125-I:3-a, III, authorizes the Commissioner to assess an additional fine for repeat violations.

24. NH RSA 125-I:5, V, and Env-A 1405.01(a), require the owner or operator of any device or process that emits an RTAP to determine compliance with the ambient air limits (“AALs”) by

² The Commissioner’s administrative fine authority for violations of NH RSA 125-I increased from \$2,000 to \$4,000 per violation effective January 1, 2020.

using one of the methods listed in Env-A 1405.01. Air dispersion modeling analysis is an authorized method to demonstrate compliance per Env-A 1405.01.

25. Env-A 902.01(c), and Condition VI, of the Permit required Complete Coverage to maintain records demonstrating compliance with AALs for RTAPs emitted from the Facility.

26. Per Env-A 1201.01, the purpose of Env-A 1200 is to establish requirements for the implementation of reasonably available control technology ("RACT") on certain stationary source categories located in New Hampshire that emit VOCs.

27. On April 14, 2014, NHDES sent a letter to Complete Coverage to notify it that NHDES had revised Env-A 1200; and that effective January 1, 2016, Complete Coverage would be subject to revised VOC emission limits for its flat wood paneling coating operations, and certain work practice standards at the Facility.

28. From January 1, 2016, through March 14, 2019, Env-A 1214.02, and the *operating and emission limitations* listed in Condition IV of the Permit, at that time, required Complete Coverage to limit VOC emissions of flat wood paneling coating operations from the emission units at the Facility to either 2.9 pounds of VOC per gallon ("lb VOC/gal") of solids or 2.1 lb VOC/gal of material, as applied.

29. Env-A 1214.03, and the *operating and emission limitations* listed in Condition IV of the Permit, require Complete Coverage to store all VOC-containing coatings and thinners used at the Facility in closed containers to control VOC emissions.

30. Env-A 608.04(b) requires NHDES to review each application for a state permit to operate to ensure compliance with the Air Program Rules.

31. Per Env-A 608.06(a), any applicant who fails to file any required information or who has filed incorrect information in an application for issuance or amendment of a state permit to operate shall, upon becoming aware or being notified by NHDES of such failure or incorrect filing, file in writing with the NHDES such supplementary facts or corrected information no later than 30 days after such discovery or notification.

32. Per Env-A 608.06(b), while processing an application that has been deemed complete, if NHDES determines that the application does not contain enough detail for NHDES to reach its own conclusions regarding whether the application meets the requirements specified in Env-A 608.04, NHDES shall request the applicant to provide the additional details in writing within 30 days of receipt of its request.

33. During review of the permit application that Completed Coverage submitted to NHDES on June 29, 2016, NHDES determined that Complete Coverage was using a flat wood panel coating in EU01 that contained 5.02 lb VOC/gal of solids and 2.79 lb VOC/gal material, and that Complete Coverage failed to conduct a valid compliance demonstration for the RTAP AAL revisions finalized on April 4, 2014 and December 30, 2016.

34. As part of its review of the permit application, on August 18, 2017, NHDES conducted a site visit at the Facility to determine compliance with NH RSA 125-C, the Air Program Rules, and the Permit. During the site visit, NHDES staff observed and documented that Complete Coverage failed to limit VOC emissions from a flat wood paneling coating used in EU01 to either 2.9 lb VOC/gal of solids or 2.1 lb VOC/gal of material; failed to store a flat wood paneling coating used

in EU01 in a closed container; and failed to maintain records to demonstrate compliance with AALs for RTAPs emitted from the Facility.

35. During the site visit conducted on August 18, 2017, NHDES staff met with Kenneth Roy, the manager of Complete Coverage, at the Facility. During the meeting, Mr. Roy agreed to consult with a supplier of Complete Coverage to purchase a coating material that would comply with the VOC emission limits of EU01 in the 2011 Permit, store the coating used in EU01 in a closed container, and install stacks at the Facility to be able to demonstrate compliance with AALs for RTAPs emitted from the Facility.

36. On August 23, 2017, NHDES sent a letter to Complete Coverage summarizing the meeting with Mr. Roy during the site visit on August 18, 2017. In the letter, NHDES requested that Complete Coverage provide a written compliance plan to address certain specified items within 30 days of the letter. NHDES did not receive a compliance plan from Complete Coverage by September 22, 2017.

37. On October 12, 2017, NHDES issued LOD No. ARD 17-016 to Complete Coverage. In LOD No. ARD 17-016, NHDES noted the deficiencies observed during the site visit that NHDES conducted on August 18, 2017; and the failure of Complete Coverage to submit the compliance plan requested in the letter that NHDES sent to Complete Coverage on August 23, 2017. In the LOD, NHDES requested that Complete Coverage take certain actions within certain time periods to address the unresolved deficiencies at the Facility.

38. On October 26, 2017, NHDES received a letter from Complete Coverage stating that it had stored all VOC-containing coatings and thinners at the Facility in closed containers. In addition, Complete Coverage stated that it was working to address the remaining action items in LOD No. ARD 17-016.

39. On January 25, 2018, NHDES received an email from Complete Coverage in response to LOD No. ARD 17-016. In its email, Complete Coverage stated that it had switched to using a flat wood paneling coating that limits emissions from the Facility to 2.9 lb VOC/gal of solids or 2.1 lb VOC/gal of material. Complete Coverage also stated that it started storing all VOC-containing coatings and thinners at the Facility in closed containers on October 16, 2017.

40. On February 5, 2018, DES received an email from Complete Coverage in response to LOD No. ARD 17-016. In the email, Complete Coverage stated, among other things, that it had installed stacks at the Facility.

41. On March 14, 2018, NHDES conducted an inspection of the Facility to determine compliance with NH RSA 125-C, the Air Program Rules, and the Permit. During the inspection, NHDES staff observed and documented that Complete Coverage was not using the flat wood paneling compliant coating in the Facility that Complete Coverage described in its email to NHDES on January 25, 2018. NHDES staff observed and documented that Complete Coverage was storing all VOC-containing coatings and thinners at the Facility in closed containers.

42. On April 6, 2018, NHDES sent a compliance evaluation report to Complete Coverage noting several deficiencies identified during the compliance evaluation of the Facility conducted on March 14, 2018. In the report, NHDES specifically noted, among other deficiencies, that Complete Coverage failed to limit VOC emissions from a flat wood paneling coating used in EU01 to either 2.9 lb VOC/gal of solids or 2.1 lb VOC/gal of material; failed to maintain records

to demonstrate compliance with AALs for RTAPs emitted from the Facility; failed to submit timely annual emission-based fees for emissions from the Facility from 2011 to 2016; and failed to report hours of operation of EU01 and EU02 in its 2012 to 2016 annual emission reports.

43. Env-A 1205 sets out the procedures for requesting a RACT Order from NHDES, including initial and final determinations made by NHDES, and for issuing proposed and final RACT Orders.

44. On September 26, 2018, NHDES received a request from Complete Coverage for a RACT Order to use a flat wood paneling coating at the Facility that exceeded the VOC emission limits of Env-A 1214.02, and the Permit, at that time.

45. On November 14, 2018, NHDES completed air dispersion modeling analysis and determined that emissions of RTAPs from the Facility comply with the associated AALs.

46. On March 14, 2019, NHDES issued Final RACT Order No. RO-0004 in accordance with Env-A 1205, which is incorporated by reference into the Permit in the *operating and emission limitations* listed in Condition IV. Per the RACT Order, Complete Coverage is required to control VOC emissions by using coatings at the Facility that meet the following limits:

(a) For stain blockers, the limit shall be 2.96 lb VOC/gal, as applied, excluding water and exempt compounds; and

(b) For all other coatings, the limit shall be 2.1 lb VOC/gal, as applied, excluding water and exempt compounds.

47. On September 17, 2019, NHDES issued Administrative Order No. 19-028 ARD (the "Order") to Complete Coverage. In the Order, NHDES alleged specific violations of the Permit and the Air Program Rules by Complete Coverage, and ordered Complete Coverage to take specific actions to come into compliance with NH RSA 125-C, the Permit, and the Air Program Rules. Complete Coverage did not appeal the Order.

48. Subsequently, NHDES determined that Complete Coverage caused approximately 9.9 tons of excess VOC emissions from the Facility by operating its flat wood paneling coating operations from January 1, 2016, through March 14, 2019, due to its failure to comply with Env-A 1214.02 and the Permit.

49. On October 28, 2019, NHDES issued to Complete Coverage a Letter of Compliance ("LOC") for LOD #ARD 19-011. On October 29, 2019, NHDES issued to Complete Coverage an LOC for LOD #ARD 17-016. On January 3, 2020, NHDES issued to Complete Coverage a Notice of Compliance for the Order.

IV. ALLEGATIONS

1. Complete Coverage violated Env-A 621.02(f)(2) by failing to submit to NHDES reimbursement of publication costs incurred by NHDES, and payment of the associated administrative fees, after NHDES published a public notice of the draft state permit to operate at the request of Complete Coverage, as noted in the Order. The Air Resources Division ("ARD") has determined the violations to be minor deviations from the requirement with minor potential for harm, for which NH RSA 125-C:15, I-b(b)(1); previously specified a potential fine range of \$100 to \$1,000 for each violation. For settlement purposes only, ARD proposes a fine of \$250 for these violations.

2. Complete Coverage violated Env-A 907.02, and Condition VII of the Permit, by failing to submit to NHDES a report of its emissions from the Facility in 2018, by April 15, 2019, as noted in the Order. ARD has determined the violations to be minor deviations from the requirement with minor potential for harm, for which NH RSA 125-C:15, I-b(b)(1); previously specified a potential fine range of \$100 to \$1,000 for each violation. For settlement purposes only, ARD proposes a fine of \$500 for these violations.

3. Complete Coverage violated Env-A 705, and Condition VII of the Permit, by failing to submit to NHDES the emission-based fees for emissions from the Facility in 2018, in accordance with Condition XI of the Permit by May 15, 2019; as noted in the Order. ARD has determined the violations to be minor deviations from the requirement with minor potential for harm, for which NH RSA 125-C:15, I-b(b)(1); previously specified a potential fine range of \$100 to \$1,000 for each violation. For settlement purposes only, ARD proposes a fine of \$500 for these violations.

4. Complete Coverage violated Env-A 1405.01; Env-A 902.01(c); and Condition VI of the Permit by failing to maintain records to demonstrate compliance with AALs for RTAPs emitted from the Facility. ARD has determined these violations to be major deviations from the requirement with minor potential for harm, for which NH RSA 125-I:3-a, II; and NH RSA 125-C:15, I-b(b)(7); previously specified a potential fine range of \$851 to \$1,500 for each violation. For settlement purposes only, ARD proposes a single fine of \$851 for these violations.

5. Complete Coverage violated Env-A 1214.02, and Condition IV of the Permit, by failing to limit VOC emissions from its flat wood paneling coating operations at the Facility to either 2.9 lb VOC/gal of solids or 2.1 lb VOC/gal of material from January 1, 2016, through March 14, 2019; as noted in the Order. ARD has determined the violations to be major deviations from the requirement with minor potential for harm, for which NH RSA 125-C:15, I-b(b)(7); previously specified a potential fine range of \$851 to \$1,500 for each violation. For settlement purposes only, ARD proposes a fine of \$1,000 per calendar year, or part thereof, for a total fine of \$4,000 for these violations.

6. Complete Coverage violated Env-A 1214.03, and Condition IV of the Permit, by failing to store all VOC-containing coatings in closed containers to control VOC emissions from the Facility, as noted in the Order. ARD has determined the violations to be major deviations from the requirement with minor potential for harm, for which NH RSA 125-C:15, I-b(b)(7); previously specified a potential fine range of \$851 to \$1,500 for each violation. For settlement purposes only, ARD proposes a fine of \$851 for these violations.

7. Complete Coverage violated Env-A 608.06(a), by failing to submit to NHDES in writing supplementary facts no later than 30 days after NHDES notified Complete Coverage that it failed to file the required information with its application to reissue the Permit. ARD has determined the violation to be moderate deviation from the requirement with minor potential for harm, for which NH RSA 125-C:15, I-b(b)(4); previously specified a potential fine range of \$601 to \$1,250 for each violation. For settlement purposes only, ARD does not propose a fine for this violation.

V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING

1. Complete Coverage agrees to pay the proposed fine in the amount of \$6,952 to NHDES upon execution of this Administrative Fine by Consent ("Agreement") by an authorized representative of Complete Coverage, as follows:

- a. Complete Coverage shall pay to NHDES the amount of \$1,000 upon execution of this Agreement by an authorized representative of Complete Coverage; and
 - b. Complete Coverage shall pay to NHDES the balance owed in the amount of \$5,952 in 12 equal monthly payments in the amount of \$496 each, and the first monthly payment shall be due 30 days from the date of this Agreement.
2. All payments in accordance with the preceding paragraph shall be paid by certified check or money order made payable to *Treasurer, State of New Hampshire* and mailed to: NHDES Legal Unit, **Attn: Compliance Attorney**, P.O. Box 95, Concord, NH 03302-0095.
 3. In accordance with NH RSA 6:11-a, if any payment made by check is returned due to insufficient funds NHDES may charge a fee in the amount of 5% of the face amount of the check or \$25.00, whichever is greater; plus, all protest and bank fees in addition to the amount of the check to cover the costs of collection.
 4. By executing this Agreement, Complete Coverage waives its right to a hearing on or any appeal of the administrative fines identified in this Agreement, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
 5. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Complete Coverage, the Director of the Air Resources Division, and accepted and approved by the Commissioner of NHDES.
 6. Consistent with the Governor's declaration of emergency, and emergency orders, NHDES will take all necessary and feasible steps to assist citizens who are affected by the outbreak of COVID-19, including those unable to work because of illness or the need to care for a family member, those out of work because their employers have temporarily closed or reduced their hours, those unable to access necessary resources because of shortages, or any other individuals suffering hardship because of the outbreak of COVID-19. All extension requests of any deadline set out in this Agreement, due to the COVID-19 pandemic, will be carefully considered. Approval of such requests will not be unreasonably withheld.
 7. No failure by NHDES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this agreement on any further breach or default.

WHEREFORE, the parties voluntarily accept the terms of this Agreement.

Complete Coverage Woodpriming, LLC

COPY

By: Kenneth Roy, Manager
Duly Authorized

8-12-2020
Date

Department of Environmental Services

COPY


Craig A. Wright, Director
Air Resources Division

8/12/20

Date

The Agreement of the Parties is accepted and approved.

COPY


Robert R. Scott, Commissioner

8/12/20

Date

- cc: NHDES Legal Unit
File AFS #3301390438 (Stationary Source)

- ec: Public Information Officer, NHDES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Allenstown Select Board and Health Officer
James Tilley, Enforcement Section Supervisor, ARD/NHDES
EPA Region 1