

The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



PSI Molded Plastics New Hampshire, Inc.
5 Wickers Drive
Wolfboro, NH 03893

Re: State Permit to Operate No. SP-0122
AFS# 3300390110

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 21-013

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the New Hampshire Department of Environmental Services, Air Resources Division, and PSI Molded Plastics New Hampshire, Inc. under the authority of RSA 125-C:15. This Administrative Fine by Consent is effective upon signature by the parties, and approval by the Commissioner.

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. PSI Molded Plastics New Hampshire, Inc. is a corporation registered to do business in New Hampshire having a mailing address of 5 Wickers Drive, Wolfboro, NH 03893. PSI Molded Plastics New Hampshire, Inc. ("GI Plastek Wolfboro") owns the active, registered trade name of *GI Plastek Wolfboro* according to records maintained by the Secretary of State of New Hampshire. The trade name was originally registered by *GI Plastek Corp* in 2009.

III. BACKGROUND

1. RSA 125-C authorizes the New Hampshire Department of Environmental Services ("NHDES") to regulate sources of air pollution in New Hampshire. 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. 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 RSA 125-C, the Air Program Rules, any permit, compliance schedule, stop use order, or order of abatement, issued under the authority of 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

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

to NHDES in accordance with RSA 125-C or the Air Program Rules. The Commissioner may assess an additional fine for repeat violations.

3. RSA 125-C:6 and 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. GI Plastek Wolfeboro operates a custom injection molding operation at 5 Wickers Drive in Wolfeboro, New Hampshire (the "Facility"). Operations at the Facility include the spray painting of custom molded parts and assemblies for cabinets; speaker cabinets; office, medical, and military equipment. The paints and coatings used at the Facility contain compounds, that when emitted, are categorized as regulated toxic air pollutants ("RTAPs"), hazardous air pollutants ("HAPs"), and volatile organic compounds ("VOCs").
5. GI Plastek Wolfeboro is required to hold a permit from NHDES in accordance with RSA 125-C, and Env-A 600.
6. On October 31, 2016, NHDES renewed State Permit to Operate No. SP-0122 (the "Permit") to *GI Plastek Corp* authorizing the operation of four spray booths, identified as emissions units Nos. 5-8, at the Facility. On November 15, 2017, GI Plastek Corp changed its name to PSI Molded Plastics New Hampshire, Inc. On February 23, 2018, NHDES amended the Permit to reflect the name change. The Permit expires on October 31, 2021.
7. Per Env-A 1201.01, the purpose of Env-A 1200 is to establish the requirements for the implementation of reasonably available control technology ("RACT") on certain stationary source categories located in New Hampshire that emit VOCs.
8. Env-A 1212.06 specifies certain limits for VOC emissions for miscellaneous plastic parts and products coatings operations, including single-component and multi-component general coatings, with VOC content limits stated in pounds of VOCs per gallon of coating as applied ("lbs VOC/gal"); and are incorporated into the Permit, at Item 6a. in Table 2.
9. Env-A 1212.07 specifies certain limits for VOC emissions for automotive/transportation and business machine plastic parts coatings operations, that include VOC content limits of primers, basecoats, non-basecoats, and clear coats, as low bake/air-dried coatings on interior and exterior parts; business machine coatings; red, yellow, and black automotive/transportation parts coatings; which are stated in lbs VOC/gal; and which are incorporated into the Permit, at Item 7 in Table 2.
10. Per Env-A 901.01, the purpose of Env-A 900 is to set out the requirements of the owners and operators of sources that discharge air pollutants to maintain records so that the emissions of such pollutants can be readily calculated, or estimated, and reported to NHDES to demonstrate compliance with emission limits, compile emissions inventories, and develop strategic plans.
11. Env-A 902.01 requires any owner or operator of a regulated source to maintain all required records for a minimum of five years; and to make all required records available to NHDES, upon request. This requirement is incorporated into the Permit, at Item 1 in Table 4.
12. Env-A 904.02 requires the owners and operators of regulated sources with actual VOC emissions greater than or equal to 10 tons in any calendar year ("tpy"), or whose sources are

subject to Env-A 1200, to maintain the following information: a) the identification of each VOC-emitting process or device that is subject to Env-A 600; b) the operating schedule during the high ozone season for each VOC-emitting process or device, including: (1) the typical hours of operation per day, and (2) the typical days of operation per calendar month; and c) the following VOC-emission data: (1) actual monthly VOC emissions in tons from each VOC-emitting process or device, (2) typical high ozone season day VOC emissions in pounds per day from each VOC-emitting process or device, and (3) the emission factors and the origin of the emission factors used to calculate the VOC emissions. These requirements are incorporated into the Permit, at Item 3 in Table 4.

13. Env-A 904.03 requires the owners and operators of surface coating operations subject to Env-A 1200 to maintain records of information about such coatings, including: a) certain specified coating formulation and analytical data; b) the number of gallons of each coating used during a typical high ozone season day; and c) process information for a typical high ozone day, including: application method, number of coats, drying method, substrate type and form. These requirements are incorporated into the Permit, at Item 4 in Table 4.

14. Env-A 908 requires the owners and operators of regulated sources to submit an annual VOC emission statement to NHDES by April 15 of the year following the calendar year covered by the statement. The annual VOC emission statement must include all of the information required to be recorded and maintained by Env-A 904.02(a)-(c). The requirement to submit an annual VOC emission statement to NHDES was incorporated into the Permit, at Item 3 in Table 6.

15. On September 6, 2018, NHDES conducted an inspection of the Facility to determine compliance with RSA 125-C, the Air Program Rules, and the Permit. During the inspection, NHDES staff observed and documented that GI Plastek Wolfeboro could not provide the records of its VOC emissions, required by Env-A 900 and the Permit, upon request by NHDES staff. GI Plastek Wolfeboro could not demonstrate that it had controlled its emissions of VOCs from the permitted devices at the Facility to within permitted limits; and could not determine if it was required to submit annual VOC emission statements to NHDES.

16. On October 23, 2018, NHDES received the requested records from GI Plastek Wolfeboro. During a review of the records, NHDES determined that GI Plastek Wolfeboro had failed to control emissions of VOCs from the permitted devices at the Facility to within permitted limits.

17. Env-A 907.02 requires the owner or operator of a stationary source, area source, or device requiring a permit to submit an annual emissions report to NHDES on or before April 15 of the year following the year covered by the report. This requirement was incorporated into the Permit, at Item 2 in Table 6.

18. Prior to October 24, 2018, Env-A 705 required the owner or operator of a stationary source, area source, or device requiring a permit to submit to NHDES the annual emission fees no later than April 15 for emissions from the previous calendar year. This requirement was incorporated into the Permit, at Item 5 in Table 6.

19. From the information gathered during the inspection, and the records provided by GI Plastek Wolfeboro thereafter, NHDES staff determined that GI Plastek Wolfeboro had failed to submit to NHDES annual reports and annual emission-based fees for all actual emissions of VOCs, HAPs, and RTAPs from each of the permitted devices at the Facility for the calendar years of 2016 and 2017.

20. On October 9, 2018, NHDES sent a compliance evaluation report to GI Plastek Wolfeboro noting the deficiencies identified during the inspection of the Facility; and during its review of records subsequently submitted to NHDES by GI Plastek Wolfeboro. NHDES requested that GI Plastek Wolfeboro submit, among other things, amended annual emission reports and annual emission-based fees for the permitted devices at the Facility for calendar years 2016 and 2017; VOC emission statements for each calendar year when VOC emissions from the permitted devices at the Facility were greater than 10 tpy; and a corrective action plan, or a request for a RACT Order, that describes how GI Plastek Wolfeboro would demonstrate that VOC emissions from the permitted devices at the Facility would comply with the limits required under Env-A 1212, and the Permit.

21. On October 23, 2018, NHDES received from GI Plastek Wolfeboro amended annual emission reports and annual emission-based fees for emissions of VOCs, HAPs, and RTAPs from the permitted devices at the Facility during calendar years 2016 and 2017.

22. 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.

23. Env-A 1202.21 defines “bubble” to mean a technique of aggregating certain emissions so as to impose controls that are more stringent than RACT-level on certain emissions units at a particular source; while simultaneously imposing controls that are less stringent than RACT-level on other emissions units, including the option of no controls on such units.

24. On February 8, 2019, NHDES received a request from GI Plastek Wolfeboro for a RACT Order to use a bubble, on a monthly basis, to determine if VOC emissions from the permitted devices at the Facility comply with VOC emissions limits specified in Env-A 1212, and the Permit.

25. On November 20, 2019, NHDES issued RACT Order No. RO-0005 to GI Plastek Wolfeboro that requires it, among other things, to use a bubble, on a monthly basis, to calculate and record if VOC emissions from the permitted devices at the Facility comply with VOC emission limits specified in Env-A 1212. During its evaluation of the RACT Order application submitted by GI Plastek Wolfeboro, NHDES determined that the Facility would be in compliance for the period from January 1, 2016; through December 31, 2018; if a bubble had been used to calculate the VOC emissions from the permitted devices at the Facility.

26. On January 8, 2021, NHDES received documentation from GI Plastek Wolfeboro confirming that several of the coatings used at the Facility, for the period of January 1, 2016; through November 20, 2019; remained non-compliant. The documentation further quantified, by year, the excess emissions of VOCs emitted from the Facility based on the use of the non-compliant coatings.

IV. ALLEGATIONS

1. GI Plastek Wolfeboro violated Env-A 1212; and the Permit, at Items 6 and 7 in Table 2; by failing to control the VOC emissions from its emissions units to permitted limits from January 1, 2016 through November 20, 2019. The Air Resources Division (“ARD”) has determined the violation to be a major deviation from the requirements with a minor potential for harm for which RSA 125-C:15, I-b(b)(7) previously specified a fine range of \$851 to \$1,500. ARD proposes a fine

of \$1,500 per calendar year, or any part thereof, for a total proposed fine of \$6,000 for these violations.

2. GI Plastek Wolfeboro violated Env-A 904.03; and the Permit, at Item 4 in Table 4; by failing to maintain the required records regarding surface coatings used in operations at the Facility when emissions of VOC exceeded 10 tpy for calendar years 2013 through 2016, dates inclusive. ARD has determined these violations to be moderate deviations from the requirements with minor potential for harm for which RSA 125-C:15, I-b(b)(4) previously specified a fine range of \$601 to \$1,250. For settlement purposes only, ARD does not propose a fine for this violation.

3. GI Plastek Wolfeboro violated Env-A 908; and the Permit, at Item 3 in Table 6; by failing to submit VOC emission statements for the Facility when VOC emissions exceeded 10 tpy for calendar years 2013 through 2016, dates inclusive. ARD has determined the violations to be major deviations from the requirements with minor potential for harm for which RSA 125-C:15, I-b(b)(7) previously specified a fine range of \$851 to \$1,500. For settlement purposes only, ARD proposes a fine of \$851 for each of the four years for a total proposed fine of \$3,404 for these violations.

4. GI Plastek Wolfeboro violated Env-A 907.02; and the Permit, at Item 2 in Table 6; by failing to submit accurate annual emissions reports to NHDES for calendar years 2016 and 2017, by April 15 of the year following the year covered by the report. ARD has determined these violations to be major deviations from the requirements with minor potential for harm for which RSA 125-C:15, I-b(b)(7) previously specified a fine range of \$851 to \$1,500. For settlement purposes only, ARD proposes a fine of \$851 for each of the two years for a total proposed fine of \$1,702 for these violations.

5. GI Plastek Wolfeboro violated Env-A 705, in effect prior to October 24, 2018; and the Permit, at Item 5 in Table 6; by failing to submit the total amount of annual emission-based fees due to NHDES for emissions from the Facility during calendar years 2016 and 2017, by April 15 of the year following the calendar year for which the emissions-based fees are due. ARD has determined these violations to be major deviations from the requirements with minor potential for harm for which RSA 125-C:15, I-b(b)(7) previously specified a fine range of \$851 to \$1,500. For settlement purposes only, ARD does not propose a fine for these violations.

V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING


1. GI Plastek Wolfeboro agrees to pay the proposed fine in the amount of \$11,106, subject to the following terms:

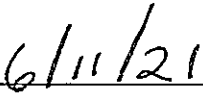
a. Of the total administrative fine in the amount of \$11,106, the amount of \$2,000 will be suspended, provided that GI Plastek Wolfeboro remains in compliance with this Administrative Fine by Consent (“Agreement”), and the statutes, rules, permits and orders under the purview of the Air Resources Division of NHDES for a period of three years from the effective date of this Agreement. If GI Plastek Wolfeboro fails to maintain compliance during the three-year period, or fails to fully comply with the terms of this Agreement the amount suspended, \$2,000, and any other amounts remaining due pursuant to the terms of this Agreement, shall become immediately due and payable in full. If GI Plastek Wolfeboro maintains compliance with the terms of this Agreement, and the statutes, rules, permits and orders under the purview of the Air Resources Division of NHDES for the prescribed three-year period, the suspended portion of the fine shall be waived; and

- b. GI Plastek Wolfeboro agrees to pay the remaining portion of the fine, in the amount of \$9,106, in a lump sum payment, due upon the execution of this Agreement by an authorized representative of GI Plastek Wolfeboro.
2. Payment in accordance with the preceding paragraph shall be paid by certified or corporate check 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. If any payment is made by check or money order that is returned due to insufficient funds, in accordance with RSA 6:11-a, NHDES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
4. By executing this Agreement, GI Plastek Wolfeboro 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 GI Plastek Wolfeboro and the Director of the ARD, and is 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 companies and other entities affected by the outbreak of COVID-19, including those with employees who are unable to work because of illness or the need to care for a family member, those which have temporarily closed or reduced their hours, those unable to access necessary resources because of shortages, or any other company experiencing 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.

PSI Molded Plastics New Hampshire, Inc.


By: Brian Porter, General Manager
Duly Authorized


Date

Department of Environmental Services

COPY


Craig A. Wright, Director
Air Resources Division

6/18/21

Date

The Agreement of the Parties is accepted and approved.

COPY


Robert R. Scott, Commissioner

6/18/21

Date

- cc: NHDES Legal Unit
File AFS #3300390110 (Stationary Source)

- ec: Public Information Officer, NHDES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Wolfeboro Town Manager
Ed Peduto, Enforcement Section Supervisor, ARD/NHDES
EPA Region 1