

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**OFFICE OF COMPLIANCE & INSPECTION**

**IN RE: Quarter Moon, Incorporated**

**FILE NO.: AIR 10 – 20**

NOTICE OF VIOLATION

A. Introduction

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. Facts

- (1) The subject facility is located at 200 Highpoint Avenue in the town of Portsmouth, Rhode Island (the “Facility”).
- (2) The Facility is a stationary source of air pollutants subject to the DEM Air Pollution Control (“APC”) Regulations.
- (3) On 19 March 2007, DEM’s Office of Air Resources (“OAR”) issued Operating Permit No. RI-38-04(R1) to the Respondent. On 24 April 2009, OAR issued Operating Permit RI-38-09 to the Respondent (collectively, the “Permits”).
- (4) The Permits required the Respondent to adhere to the following emission limits:
  - (a) Gel coats used in emission unit P001 (a gel coat spray booth), except those applied by brush, shall not have a volatile organic compound (“VOC”) content greater than 36.1% by weight.
  - (b) Organic hazardous air pollutants (“HAPs”) from open molding operations shall not exceed the limit specified by an equation that is the weighted sum of the mass of resin and gel coat used, based on a twelve month rolling average.
- (5) On 15 February 2010 the Respondent submitted to OAR its annual compliance certification report for calendar year 2009. OAR’s review of the report revealed that from May through November 2009 three gel coats used in emission unit P001 had a VOC content greater than 36.1% by weight that were not applied by brush.

- (6) On 5 March 2010 the Respondent submitted to OAR a compliance report on HAP emissions at the Facility. OAR's review of the report revealed that for calendar year 2009 the Facility exceeded its HAP limit for each month.

D. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **APC Regulation No. 29, Section 29.4.6** – requiring compliance with an operating permit.

E. Penalty

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

**Three Thousand Five Hundred Dollars (\$ 3,500.00)**

- (2) The proposed administrative penalty is calculated pursuant to the DEM Rules and Regulations for Assessment of Administrative Penalties, as amended, and must be paid to the Director within twenty days of your receipt of this Notice of Violation ("NOV"). Payment shall be in the form of a certified check or money order made payable to the "General Treasury - Water & Air Protection Program Account," and shall be forwarded to the DEM Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against the respondent in this NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.

F. Right to Administrative Hearing

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before the DEM Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through E above. All requests for hearing MUST:
  - (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b),
  - (b) Be **RECEIVED** by DEM's Administrative Adjudication Division, at the following address, within twenty days of your receipt of this NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk

DEM - Administrative Adjudication Division  
235 Promenade Street, 3<sup>RD</sup> Floor  
Providence, RI 02908-5767

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
  - (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Rule 7.00(b) of the DEM Administrative Rules of Practice and Procedure for the Administrative Adjudication Division of Environmental Matters.
- (2) A copy of each request for hearing must also be forwarded to:
- Joseph J. LoBianco, Esquire  
DEM - Office of Legal Services  
235 Promenade Street, 4<sup>TH</sup> Floor  
Providence, RI 02908-5767
- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
  - (4) Each respondent must file a separate and timely request for an administrative hearing before DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner with regard to any violation set forth herein, then this NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (v) and 42-17.6-4(b) and (c).
  - (5) Failure to comply with this NOV may subject each respondent to additional civil and/or criminal penalties.
  - (6) This NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Joseph J. LoBianco at the DEM Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Martha Mulcahey of DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 7032.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section F above.

FOR THE DIRECTOR

---

David E. Chopy, Chief  
DEM Office of Compliance and Inspection

Date: \_\_\_\_\_

CERTIFICATION

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_  
the within Notice of Violation was forwarded to:

Quarter Moon, Incorporated  
c/o Jim Forrest, Registered Agent  
300 Highpoint Avenue  
Portsmouth, RI 02871

by Certified Mail.

---



## ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, AIR

File No.: AIR 10 – 20

Respondent: Quarter Moon, Incorporated

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D (1) – Failure to limit emissions of VOCs and HAPs as required by permit	Type I (\$ 10,000 Max. Penalty)*	Moderate	\$ 3,500	1 violation	\$3,500
<b><i>SUB-TOTAL</i></b>					<b>\$3,500.00</b>

\*Maximum Penalties represent the maximum penalty amounts per day, per violation.

**TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$ 3,500.00**

**PENALTY MATRIX WORKSHEET**

CITATION: Failure to limit emissions of VOCs and HAPs) as required by permit  
 VIOLATION NO.: D (1)

<b>TYPE</b>		
<u>  X  </u> <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<u>      </u> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	<u>      </u> <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.
<b>DEVIATION FROM THE STANDARD</b>		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b>FACTORS CONSIDERED:</b></p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) <b>The extent to which the act or failure to act was out of compliance:</b> The Respondent failed to limit emissions of volatile organic compounds (VOCs) and organic hazardous air pollutants (HAPs) as required by the permit. The Respondent is a stationary source of air pollutants subject to federal and state air pollution control regulations. Compliance with emission limitations for production gel coats as stated in the permit is of importance to the regulatory program.</p> <p>(B) <b>Environmental conditions:</b> Not relevant.</p> <p>(C) <b>Amount of the pollutant:</b> Three gel coats had VOCs above the required emissions limit. OAR calculated that the Respondent emitted an excess 187 pounds of VOCs. The HAPs exceedances ranged from 1 kilogram to 146 kilograms over the emission limits.</p> <p>(D) <b>Toxicity or nature of the pollutant:</b> VOCs in gel coats are emitted during the manufacturing of fiberglass boat components. According to the permit, the VOCs emitted are styrene and methyl methacrylate, which are also listed as HAPs.</p> <p>(E) <b>Duration of the violation:</b> 7 months for the VOC noncompliance (May through November 2009) and 12 months for the HAP noncompliance (January 2009 through December 2009).</p> <p>(F) <b>Areal extent of the violation:</b> Not relevant.</p>		
(continued)		

(continued from the previous page)

- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the use of gel coats that exceeded the VOC emissions limits in the permit. The Respondent mitigated the violation by discontinuing use of the noncompliant gel coats and replacing them with compliant gel coats after OAR issued a Notice of Alleged Violations to the Respondent on 22 January 2010.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** DEM issued an NOV to the Respondent on 28 May 2009 for prior violations of its permit.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the violation since the Respondent is the operator of the facility. The violation was foreseeable by the Respondent.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not relevant.

<b>MAJOR</b>	<b><u>X</u> MODERATE</b>	<b>MINOR</b>
--------------	--------------------------	--------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 10,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$5,000 to \$10,000	\$2,500 to \$5,000	\$1,000 to \$2,500
	<b>MODERATE</b>	\$2,500 to \$5,000 <b>\$3,500</b>	\$1,000 to \$2,500	\$500 to \$1,000
	MINOR	\$1,000 to \$2,500 <b>\$2,500</b>	\$500 to \$1,000	\$100 to \$500