

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

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Arkwright Advanced Coating, Inc.

FILE NO.: AIR 12 – 06

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 538 Main Street in the town of Coventry, Rhode Island (the “Facility”) and is operated by the Respondent.
- (2) The Facility is a stationary source of air pollutants subject to the DEM’s Air Pollution Control (“APC”) Regulations.
- (3) On 24 November 2008, the DEM issued Operating Permit No. RI-31-08 to the Respondent (the “Permit”).
- (4) The Permit requires the Respondent to limit the total quantity of volatile organic compounds (“VOCs”) discharged to air pollution control device C037 (“C037”) so as not to exceed 350 pounds per hour.
- (5) On 14 February 2012 DEM issued an information request letter to the Respondent (the “February 14th letter”).
- (6) On 14 March 2012, the DEM received an electronic letter from the Respondent (the “March 14th letter”) in response to the February 14th letter.
- (7) DEM’s review of the March 14th letter revealed that the total quantity of VOCs discharged to C037 exceeded 350 pounds per hour from calendar year 2007 through calendar year 2011.

C. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have

violated the following statutes and/or regulations:

- (1) **DEM's APC Regulation 29.4.6** – requiring compliance with an operating permit.

D. 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:

Seven Thousand Seven Hundred and Fifty Dollars (\$7,750.00)

- (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 (20) days of your receipt of this Notice of Violation (“NOV”). Payment shall be in the form of a certified check, cashiers 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.

E. 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 D 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 (20) 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
One Capitol Hill, 2ND Floor
Providence, RI 02903

- (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, 4TH 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 E 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:

Arkwright Advanced Coating, Inc.
c/o CT Corporation System, Registered Agent
10 Weybosset Street
Providence, RI 02903

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, AIR

File No.: AIR 12 – 06

Respondent: Arkwright Advanced Coating, Inc.

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	
C (1) – Failure to limit the total quantity of VOC discharged to thermal oxidizer as required by permit	Type I (\$ 10,000 Max. Penalty)*	Minor	\$ 2,500	3.1 years	\$7,750.00
<i>SUB-TOTAL</i>					\$7,750.00

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

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$ 7,750.00

PENALTY MATRIX WORKSHEET

CITATION: Failure to limit the total quantity of VOC discharged to thermal oxidizer as required by permit
 VIOLATION NO.: C (1)

TYPE		
<p><u> X </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD <small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p><u>FACTORS CONSIDERED:</u> Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: The Respondent failed to limit the total quantity of VOC discharged to C037 as required by its permit. The Respondent is a stationary source of air pollutants subject to federal and state air pollution control regulations. Compliance with terms of the permit is important to the regulatory program.</p> <p>(B) Environmental conditions: Considered, but not utilized for this calculation.</p> <p>(C) Amount of the pollutant: The maximum VOC loading rate exceeded the maximum loading rate of 350 pounds per hour. Data provided by the Respondent show the control device received an excess of 16,670 pounds of VOC spread over the last months of 2008 through 2011 (less than 500 pounds in late 2008 and approximately two to three tons of VOC per year from 2009 through 2011). The maximum combined hourly VOC loading rate fed to C037 from two pieces of production equipment was determined to be 434 pounds per hour, some 24% over the limitation stated in the permit.</p> <p>(D) Toxicity or nature of the pollutant: Respondent uses solvents, some of which are classified as hazardous air pollutants, including methanol, toluene, triethylamine and xylene (mixed isomers).</p> <p>(E) Duration of the violation: Just over three years.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</p>		
(continued)		

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- (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 noncompliance. The Respondent mitigated the violation by implementing a calculation procedure to insure that it does not exceed the maximum loading capacity of 350 pounds per hour to C037 after issuance of a Notice of Alleged Violations by DEM to the Respondent on 11 April 2012.
- (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:** Considered, but not utilized for this calculation.
- (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:** Considered, but not utilized for this calculation.

MAJOR	MODERATE	<u> X </u> MINOR
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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
	MODERATE	\$2,500 to \$5,000	\$1,000 to \$2,500	\$500 to \$1,000
	MINOR	\$1,000 to \$2,500 \$2,500	\$500 to \$1,000	\$100 to \$500