



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Office of Compliance and Inspection 235 Promenade Street, Providence, RI 02908-5767
Telephone 401-222-1360 Fax 401-222-3811 TDD 401-222-4462

July 3, 2014

CERTIFIED MAIL

Aspen Aerogels Rhode Island, LLC
c/o Corporation Service Company, Registered Agent
222 Jefferson Boulevard, Suite 200
Warwick, RI 02888

RE: **NOTICE OF VIOLATION**
File No.: AIR 14-02

Dear Sir or Madam:

Enclosed please find a Notice of Violation ("NOV") relating to air pollution violations at a facility/property located at 3 Dexter Road in the city of East Providence, Rhode Island.

PLEASE READ THIS DOCUMENT CAREFULLY. Pursuant to R.I. General Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35 each named Respondent is entitled to request an administrative hearing before the Director or her designee regarding the alleged violations, orders, and/or penalties set forth in this NOV. Further details regarding each Respondent's right to an administrative hearing are provided within the NOV.

If Aspen Aerogels Rhode Island, LLC ("Aspen") wishes to request an administrative hearing concerning this NOV, the request must **be made in writing and be received within twenty (20) days of your receipt of this NOV.** A written request for an administrative hearing must be submitted to:

Administrative Clerk
DEM-Administrative Adjudication Division ("AAD")
One Capitol Hill, 2ND Floor
Providence, RI 02903

A copy of the request for an administrative hearing must also be forwarded to:

Marisa Desautel, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, Rhode Island 02908-5767

Page two

Name: Aspen Aerogels Rhode Island, LLC

RE: Notice of Violation

Aspen may also wish to arrange for an informal meeting to discuss the NOV with representatives of the Office of Compliance & Inspection ("OC&I"). At that informal meeting, representatives of the OC&I will be prepared to discuss the facts set forth in the NOV, steps that may be necessary to comply with the orders contained therein, pertinent regulatory requirements, as well as issues related to the penalty assessed in this NOV. If agreement on resolution of the enforcement action can be reached, a Consent Agreement may be entered that both resolves the NOV and eliminates the need for an administrative hearing.

Representatives of the OC&I are prepared to discuss a resolution of this matter with Aspen; however, please be advised that correspondence with the OC&I, including a request for an informal meeting to discuss this NOV, does not constitute a formal request for a hearing and will not protect Aspen's right to a formal hearing before the AAD.

If Aspen wishes to arrange for an informal meeting to discuss this NOV, please contact:

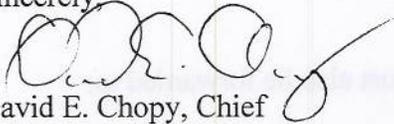
Christopher R. John, Supervising Air Quality Specialist
Office of Compliance and Inspection
235 Promenade Street, Room 220
Providence, Rhode Island 02908-5767
Telephone: (401) 222-1360, ext 7023

Or

Anna Maria Cole, Technical Staff Assistant
Telephone: (401) 222-1360, ext 7431

Aspen has a right to be represented by legal counsel before the AAD or in an informal meeting with the OC&I. Aspen is not obligated to do so, but if Aspen plans on having legal representation present at an informal meeting with the OC&I, please inform us at the time of the request for an informal meeting so that we can make arrangements to have legal counsel present.

Sincerely



David E. Chopy, Chief
Office of Compliance and Inspection

Enclosure: Notice of Violation

cc: Doug McVay, Chief, DEM Office of Air Resources
Thomas McCusker, Environmental Protection Agency, Region 1

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Aspen Aerogels Rhode Island, LLC

FILE NO.: AIR 14 – 02

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 the DEM's jurisdiction.

B. Facts

- (1) The facility is located at 3 Dexter Road in the city of East Providence, Rhode Island (the “Facility”) and is operated by the Respondent.
- (2) The Facility is (and has been) a stationary source of air pollutants subject to the DEM’s *Air Pollution Control Regulation No. 9* entitled *Air Pollution Control Permits*.
- (3) On 3 August 2011 the DEM issued Approval Nos. 1890, 1893 and 2111-2113 (collectively, the “Permit”) to Aspen Aerogels, Inc. The Permit authorizes the Respondent to emit air pollutants for the production of aerogel insulation materials.
- (4) On 24 September 2012 the DEM received a letter from Aspen Aerogels, Inc. that it intended to transfer the Permit to Aspen Aerogels Rhode Island, LLC, a wholly owned subsidiary LLC of Aspen Aerogels, Inc.
- (5) The Permit requires the Respondent to:
 - (a) Limit the discharge of nitrogen oxide (“NOx”) to the atmosphere to 5.44 pounds per hour (the “NOx limit”);
 - (b) Limit the discharge of ammonia to the atmosphere to 3 pounds per hour (the “Ammonia Limit”);
 - (c) Limit the discharge of volatile organic compounds (“VOCs”) to 6.09 pounds per hour (the “VOCs Limit”);

- (d) Maintain a minimum of 90% ammonia control efficiency of the wet scrubber (“Scrubber”);
 - (e) Maintain a minimum operating temperature of 1500°F for the thermal oxidizer (“Oxidizer”) whenever VOCs or ammonia or both are being discharged to the Oxidizer; and
 - (f) Ensure all VOCs, ammonia and particulate matter emissions generated from the heat treatment ovens are captured and discharged to the Scrubber followed by the Oxidizer.
- (6) On 8 July 2013 the DEM received a letter from the Respondent. The letter stated that on 13 June 2013 and 16 June 2013 about 86 pounds of NOx over the NOx Limit and less than 1 pound of ammonia over the Ammonia Limit were released at the Facility over a 4 ½ hour period.
- (7) On 18 September 2013 the DEM received a letter from the Respondent. The letter stated that between 16 June 2013 and 1 August 2013 the Oxidizer operated between 1421°F and 1497°F when VOCs and ammonia were being discharged to the Oxidizer.
- (8) On 24 October 2013 the DEM received a letter from the Respondent. The letter stated that:
- (a) On 26 September 2013 the Oxidizer operated at 1499.20°F when VOCs and ammonia were being discharged to the Oxidizer resulting in the release at the Facility of about less than 1 pound of VOCs over the VOCs Limit and less than 1 pound of ammonia over the Ammonia Limit; and
 - (b) On 6 October 2013 the Scrubber operated at 65% ammonia control efficiency resulting in the release at the Facility of about less than 1 pound of NOx over the NOx Limit.
- (9) On 29 April 2014 the DEM received a letter from the Respondent. The letter stated that between 10 April 2014 and 11 April 2014 a partial breach of the ductwork upstream of the Scrubber and Oxidizer resulted in the uncontrolled release of VOCs and ammonia to the atmosphere.
- (10) On 22 May 2014 the DEM received a letter from the Respondent. The letter stated that on 3 May 2014 a mechanical failure of an airline upstream of the Oxidizer resulted in the uncontrolled release of VOCs and ammonia to the atmosphere.

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 No. 9.6.8** – requiring any person who receives a permit to comply with all conditions in the permit.
- (2) **DEM's APC Regulation No. 9.6.9** – stating that the failure to comply with all conditions in the permit is a violation of the regulations.

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** against each named respondent:

Five Thousand Dollars (\$5,000)

- (2) The proposed administrative penalty is calculated pursuant to the DEM's *Rules and Regulations for Assessment of Administrative Penalties*, as amended, and must be paid to the DEM within 30 days of your receipt of this 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's 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 the DEM's Administrative Adjudication Division, at the following address, within 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's *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:

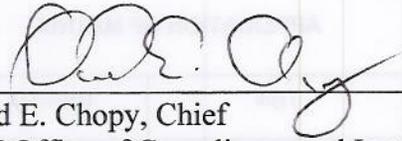
Marisa Desautel, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767

- (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 the 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) Marisa Desautel, Esq. 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: July 3, 2014

CERTIFICATION

I hereby certify that on the 3rd day of July, 2014
the within Notice of Violation was forwarded to:

Aspen Aerogels Rhode Island, LLC
c/o Corporation Service Company, Registered Agent
222 Jefferson Boulevard, Suite 200
Warwick, RI 02888

by Certified Mail.





ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, AIR

File No.: AIR 14 - 02

Respondent: Aspen Aerogels Rhode Island, LLC

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) and (2) – Failure to comply with permit	Type I (\$ 10,000 Max. Penalty)*	Minor	\$1,000	5 violations	\$5,000
SUB-TOTAL					\$5,000

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

ADMINISTRATIVE PENALTY SUMMARY (continued)

ECONOMIC BENEFIT FROM NONCOMPLIANCE

COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT ARE IN COMPLIANCE. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:

- THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE; OR
- THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.

A review of the record in this matter has revealed that the Respondent has either enjoyed no identifiable benefit from the noncompliance alleged in this enforcement action or that the amount of economic benefit that may have resulted can not be quantified.

COST RECOVERY

ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.

A review of the record in this matter has revealed that the DEM has not incurred any additional or extraordinary costs during the investigation, enforcement and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$ 5,000

PENALTY MATRIX WORKSHEET

CITATION: Failure to comply with permit
 VIOLATION NO.: C (1) and (2)

TYPE		
<u> X </u> TYPE I DIRECTLY related to protecting health, safety, welfare or environment.	<u> </u> TYPE II INDIRECTLY related to protecting health, safety, welfare or environment.	<u> </u> TYPE III INCIDENTAL to protecting health, safety, welfare or environment.

DEVIATION FROM THE STANDARD
 THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM Rules and Regulations for Assessment of Administrative Penalties

- (A) **The extent to which the act or failure to act was out of compliance:** The Respondent failed to maintain a minimum operating temperature of 1500°F for its thermal oxidizer whenever VOC and/or ammonia were being discharged to it, failed to maintain a minimum of 90% ammonia control efficiency of its wet scrubber, failed to limit NOx and ammonia emissions during the production of aerogel insulation materials, and failed to capture and treat all VOC and ammonia emissions generated from the heat treatment ovens as required by the permit. The Respondent is a stationary source of air pollutants subject to state air pollution control regulations. Compliance with terms stated in the permit is of importance to the regulatory program.
- (B) **Environmental conditions:** Considered, but not utilized for this calculation.
- (C) **Amount of the pollutant:** The Respondent submitted reports to the DEM stating that the following amounts of pollutants were released at the facility that were over the permit limits:
 - About 86 pounds of NOx and 1 pound of ammonia on 13 June 2013 and 16 June 2013;
 - About 248 pounds of VOCs and 2.0 pounds of ammonia between 16 June 2013 and 1 August 2013;
 - About < 1.0 pounds of VOCs and <1.0 pounds of ammonia on 26 September 2013 and about 0.15 pounds of NOx on 6 October 2013;
 - About 4 pounds of VOCs and 5 pounds of ammonia between 10 April 2014 and 11 April 2014; and
 - About 9 pounds of VOCs and 11 pounds of ammonia on 3 May 2014.

(continued)

(continued from the previous page)

- (D) **Toxicity or nature of the pollutant:** VOCs and NOx, after their release during certain atmospheric conditions in the presence of sunlight and other pollutants, contribute to the formation of ozone. Ammonia is listed as a toxic air contaminant.
- (E) **Duration of the violation:** Notifications provided to the DEM by the Respondent indicate that incidences of noncompliance occurred intermittently and at irregular intervals over 7 months.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.
- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Following issuance of an informal written notice from the DEM to the Respondent on 4 December 2013, the Respondent notified the DEM that it had implemented appropriate corrective actions to prevent recurrences.
- (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:** The Respondent was issued a notice of violation in 2013 (2013 NOV) and assessed an administrative penalty for matters related to the permit that is the subject of this NOV. The Respondent paid an administrative penalty to resolve the 2013 NOV.
- (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 operates the facility.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** The Respondent self-reported the violations.

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

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 \$1,000	\$500 to \$1,000	\$100 to \$500

