

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Rhode Island Blood Center

FILE NO.: OCI-AIR-25-10

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 Rhode Island Department of Environmental Management (“Director” of “RIDEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under RIDEM's jurisdiction.

B. ADMINISTRATIVE HISTORY

On 12 September 2024, RIDEM issued an Expedited Citation Notice (“ECN”) to Respondent requiring the submission of records (the “Records”) in accordance with Permit Approval Nos. 2183 and 2249, and Air Pollution Control Regulation §250-RICR-120-05-14 (“Part 14”). Respondent submitted the Records in compliance with the aforementioned ECN on or about 19 November 2024. Subsequent RIDEM review of the Records revealed that Respondent was in violation of their permits which is the basis of this Notice of Violation (“NOV”).

C. FACTS

- (1) The facility is located at 405 Promenade Street, Providence, Rhode Island (“Facility”).
- (2) Rhode Island Blood Center operates the Facility.
- (3) The Facility is a stationary source of air pollutants subject to Rhode Island’s Air Pollution Control (“APC”) Regulations (“APC Regulations”), including, but not limited to, 250-RICR-120-05-07 (“Part 7”), entitled *Emission of Air Contaminants Detrimental to Person or Property*.
- (4) On 14 February 2020, RIDEM Respondent a revised minor source Permit Approval No. 2183 for the conversion of an existing Cummins/Onan diesel fired engine/generator (the “Generator”) set from emergency service to non-emergency service, and Permit Approval No. 2249 for the installation of a diesel oxidation catalyst, a Continuous Parameter Monitoring System (“CPMS”) and a crankcase ventilation system for the Generator set to comply with the reciprocating internal combustion engine maximum achievable control technology (“RICE MACT”) (40 CFR 63, Subpart ZZZZ) (“Permit”).

- (5) The diesel oxidation catalyst is an air pollution control device that is used to reduce the concentration of air pollutants exhausted from the Generator to the environment.
- (6) Condition B.5. of the Permit requires Respondent to maintain the diesel oxidation catalyst so that the pressure drop across the catalyst does not increase or decrease by more than 2 inches of water from the pressure drop across the catalyst that was measured during the initial performance test.
- (7) On 30 October 2020, Respondent submitted a report which indicated the pressure drop across the catalyst that was measured during the initial performance test was 3 inches of water. Therefore, the Permit requires that the pressure drop across the diesel oxidation catalyst be maintained between 1 and 5 inches of water.
- (8) On 19 November 2024, a RIDEM review of the Records from the Facility revealed that:
 - (a) The pressure drop measured across the catalyst was less than 1 inch of water for a total duration of 4.4 hours over 9 days as of 1 October 2024.
 - (b) Respondent violated Condition B.5. of the Permit for failure to maintain the pressure drop across the catalyst between 1 and 5 inches of water.
- (9) The Permit violation has the potential to adversely impact human health and the environment given that diesel emissions contain air pollutants including, but not limited to, carbon monoxide, polyaromatic hydrocarbons, and particulate matter that can lead to serious health conditions like asthma and respiratory illnesses and can worsen lung and/or heart disease.

D. VIOLATION

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

- (1) **Rhode Island's Air Pollution Control Permits (250-RICR-120-05-9)**
 - (a) **Part 9.10(H)** – requiring any person who receives a permit to comply with all conditions in the permit.
 - (b) **Part 9.10(I)** – failure to comply with all conditions in the permit is a violation of this regulation.
- (2) **Rhode Island's Emission of Air Contaminants Detrimental to Person or Property (250-RICR-120-05-7.6)** – prohibiting any person from emitting any contaminant which either alone or in connection with other emissions, by reason of their concentration or duration, may be injurious to human, plant, or animal life, or cause damage to property or which unreasonably interferes with the enjoyment of life and property.

E. ORDER

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), Respondent is hereby ORDERED to:

- (1) **Within thirty (30) days of receipt of this NOV**, Respondent shall investigate the oxidation catalyst and conduct necessary maintenance to achieve the required pressure drop across the catalyst.
- (2) Within ten (10) days of repairing the oxidation catalyst, Respondent shall submit records documenting the repair of the system to RIDEM's Office of Air Resources via email at dem.aircompliance@dem.ri.gov.

F. 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:

\$5,000

- (2) The proposed administrative penalty is calculated pursuant to Rhode Island's *Rules and Regulations for Assessment of Administrative Penalties* (250-RICR-130-00-1) ("Penalty Rules") and must be paid to RIDEM within 30 days of your receipt of the NOV.
- (3) Penalty payments shall be by one of two methods:
 - (a) By certified check, cashier's check, or money order made payable to the **General Treasury – Water and Air Protection Program** and forwarded to:

Administrator, RIDEM Office of Compliance and Inspection
235 Promenade Street, Suite 220
Providence, RI 02908-5767
 - (b) By wire transfer in accordance with instructions provided by RIDEM.
- (4) Penalties assessed against Respondent in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (5) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if the Director determines that reasonable efforts have been made to comply promptly with the NOV.

G. 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 RIDEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F 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 RIDEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
RIDEM - Administrative Adjudication Division
235 Promenade Street, Room 350
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).
 - (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 Part 1.7(B) of Rhode Island's *Rules and Regulations for the Administrative Adjudication Division* (250-RICR-10-00-1).

- (2) A copy of each request for hearing must also be forwarded to:

Johann G. Donall, Esquire
RIDEM - 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 RIDEM'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 regarding any violation set forth herein, then the 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 (vi) and 42-17.6-4(b) and (c).

- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) The 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) Johann G. Donall of RIDEM's Office of Legal Services at (401) 537-4081 or Johann.Donall@dem.ri.gov. All other inquiries should be directed to Sean J. Zeiger of RIDEM's Office of Compliance and Inspection at (401) 537-4146 or sean.zeiger@dem.ri.gov.

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 G above.

FOR THE DIRECTOR

By: _____
Christina Hoefsmit, Acting Administrator
RIDEM Office of Compliance and Inspection

Dated: _____

CERTIFICATION

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

Rhode Island Blood Center
c/o Haslaw, Inc., Registered Agent
100 Westminster Street
Suite 1500
Providence, RI 02903

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: Air Pollution
File No.: OCI-AIR-25-10
Respondent: Rhode Island Blood Center

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)(a), D(1)(b), & D(2) – Permit violation and emitting air contaminants injurious to life.	Type I (\$10,000 Max. Penalty) *	Moderate	\$5,000	1 violation	\$5,000
SUB-TOTAL					\$5,000

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

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 COMPLY. 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 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 cannot 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 RIDEM 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 RULES = \$5,000

PENALTY MATRIX WORKSHEET

CITATION: Failure to maintain oxidation catalyst as required by permit

VIOLATION NO.: D(1)(a), D(1)(b), & D(2)

TYPE		
<u> X </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.	<u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
FACTORS CONSIDERED: Taken from Part 1.10(A)(1)(b) of the Penalty Rules. (1) The extent to which the act or failure to act was out of compliance: Respondent failed to maintain the diesel oxidation catalyst as required by the permit. Respondent is a stationary source of air pollutants. Compliance with conditions of the permit is of importance to the regulatory program. (2) Environmental conditions: The area is a developed, high density urban land use with population density of approximately 11,875 people per square mile. The percent of people with low income is approximately 40%. The area is at the 94th percentile for diesel air pollution relative to the rest of the State of Rhode Island. (3) Amount of the pollutant: Considered, but not utilized for this calculation. (4) Toxicity or nature of the pollutant: The alleged violations have the potential to adversely impact human health given that diesel emissions of carbon monoxide, nitrogen oxides, polyaromatic hydrocarbons (PAHs) and particulate matter can cause or contribute to asthma, bronchitis, and heart and lung disease. PAHs are suspected human carcinogens. Diesel emissions contribute to acid rain and ground level ozone that damages crops, trees, and other vegetation. (5) Duration of the violation: Full duration unknown. The last iteration of records submitted by Respondent showed the violation occurred intermittently for a total of 4.4 hours on 9 days during 2024 as of 1 October 2024. (6) Areal extent of the violation: Considered, but not utilized for this calculation. (7) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance: Respondent failed to take reasonable and appropriate steps to prevent the noncompliance. RIDEM is not aware of what actions, if any, Respondent has taken to mitigate the noncompliance.		

(continued)

(continued from the previous page)

- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Respondent previously failed to comply with the air pollution control regulations and the Permit as described in two (2) ECNs issued to Respondent on 12 September 2024 and 25 July 2023.
- (9) **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:** Respondent had complete control over the violation since Respondent operates the Facility. The requirement to maintain the diesel oxidation catalyst is clearly stated in the Permit, so the violation was foreseeable by Respondent. Negligence is attributed to Respondent for this violation.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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