

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

OFFICE OF COMPLIANCE & INSPECTION

IN RE: EaglePicher Technologies, LLC

FILE NO.: OCI-AIR-25-68

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 13 March 2020, RIDEM issued Respondent a Notice of Violation (the “2020 NOV”) for operating a Donaldson Torit® dust collector (the “Torit Dust Collector”), without a permit and for emitting air pollutants in excess of Minimum Quantities (“MQs”) including (but not limited to) mercury and cadmium compounds, without obtaining a permit. Respondent’s ongoing violations for operating the same Torit Dust Collector and emission of air pollutants in excess of MQs provided the impetus for the current Notice of Violation (“NOV”).

C. FACTS

- (1) The facility is located at 2000 South County Trail, in the Town of East Greenwich, Rhode Island (“Facility”).
- (2) Respondent operates the Facility.
- (3) The Facility is a stationary source of air pollutants subject to Part 9 of the *Air Pollution Control Regulations* (“APC Regulations”) (250-RICR-120-05-9), entitled “Air Pollution Control Permits.”
- (4) On 2 June 2020, RIDEM Office of Air Resources (“OAR”) issued Respondent Permit Approval Nos. 2178-2179 and 2470-2471 (the “2020 Permits”).
- (5) The 2020 Permits included several requirements including, but not limited to:
 - (a) The installation of an InfaStaub Infa-Micron MKR 8/20-8/20 RO dust collector and carbon adsorption unit for the control of mercury emissions from the Paste Room (Approval No. 2470).

- (b) The installation of an Infa Staub Infa-Micron MKR 7/20-7/20 RO HEPA filter dust collector (Approval No. 2471) for the control of heavy metal and mercury particulate emissions from the Assembly Area.
 - (c) The unpermitted existing Torit Dust Collector shall be rendered inoperable with the startup of the replacement dust collector.
- (6) On 21 September 2021, RIDEM inspected the Facility. The inspection revealed the following:
- (a) The replacement dust collectors were not installed as permitted in the 2020 Permits; and
 - (b) The Torit Dust Collector was not rendered inoperable with the startup of the replacement dust collector as required by the 2020 Permits.
- (7) On 2 June 2021, the 2020 Permits were effectively canceled by OAR as per APC Regulations, Part 9.10(C)(1) given that construction, installation or modification of the new permitted dust collectors had not commenced within one (1) year from the date of issuance of the 2020 Permits.
- (8) On 7 November 2023, Respondent submitted to OAR a permit application to operate the Torit Dust Collector.
- (9) On 8 May 2025, OAR reviewed records from the Facility. The review of records revealed the following:
- (a) Respondent emitted air pollutants in excess of MQs listed in APC Regulations, Part 9.17 for the following pollutants:
 - (i) Cadmium and cadmium compounds (MQ is 0.07 lbs./year)
 - 2022 – 0.47 lbs./year
 - 2023 – 1.24 lbs./year
 - 2024 – 1.26 lbs./year
 - (ii) Mercury and mercury compounds (MQ is 0.7 lbs./year)
 - 2020 – 0.78 lbs./year
 - 2021 – 0.72 lbs./year
 - 2022 – 1.29 lbs./year
 - 2023 – 2.28 lbs./year
 - 2024 – 1.88 lbs./year
 - (iii) Lead and lead compounds (MQ is 0.9 lbs./year)
 - 2023 – 0.9158 lbs./year

- (10) On 8 May 2025, OAR issued Respondent a Notice of Intent to Enforce (“NOI”) that required Respondent to obtain a permit to operate in compliance with the APC Regulations, Part 9 and other applicable sections.
- (11) On 21 May 2025, OAR issued permit approval Nos. 2178-2179 and 2625-2627 thereby authorizing Respondent to operate the Torit Dust Collector.
- (12) Respondent operated the Torit Dust Collector without a permit for a duration of 4.96 years (2 June 2021 to 21 May 2025) in noncompliance with APC Regulations, Part 9.6(B).

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 Code of Regulations, APC Regulations (250-RICR-120-05-9)**
 - (a) **APC Regulations, Part 9.6 (B)** – no person that is required to obtain a minor source permit or a major source permit under this regulation shall operate the emission units for which the minor source permit or major source permit is required, without obtaining the required permit.
 - (b) **APC Regulations, Part 9.7.1 (A)(6)** – a minor source permit is required for the construction, installation or modification of any stationary source which has the potential to increase emissions of a listed toxic air contaminant by greater than the minimum quantity for that contaminant, as specified in Part 9.17.

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:

\$24,800

- (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.

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 RIDEM's 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 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:

Maria I. Rice, 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) Maria Rice of RIDEM's Office of Legal Services at (401) 537-4189 or maria.rice@dem.ri.gov. All other inquiries should be directed to Sean 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 F above.

FOR THE DIRECTOR

By: _____,
Christina Hoefsmit, 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:

EaglePicher Technologies, LLC
c/o Corporation Service Company, Registered Agent
222 Jefferson Boulevard, Suite 200
Warwick, RI 02888

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: Air Pollution
 File No.: OCI-AIR-25-68
 Respondent: EaglePicher Technologies, 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	
D (1) – Failure to obtain a permit required to operate an emissions unit (the Torit Dust Collector)	Type I <i>(\$10,000 Max. Penalty) *</i>	Major	\$ 5,000	4.96 years	\$24,800
SUB-TOTAL					\$24,800

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

ECONOMIC BENEFIT FROM NONCOMPLIANCE
<p>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:</p> <ul style="list-style-type: none"> - THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE, OR - THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.
<p>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 can not be quantified.</p>

COST RECOVERY
<p>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.</p>
<p>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.</p>

TOTAL PENALTY PROPOSED UNDER PENALTY RULES = \$24,800

PENALTY MATRIX WORKSHEET

CITATION: Failure to obtain a permit required to operate an emissions unit (the Torit Dust Collector)
 VIOLATION NO.: D (1)

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 operated a Torit Dust Collector without a permit from 2 June 2021 to 21 May 2025. Respondent is a stationary source of air pollutants subject to state air pollution control regulations. Respondent emitted air pollutants in excess of MQs listed in Part 9.17 for pollutants including cadmium and cadmium compounds, mercury and mercury compounds, and lead and lead compounds. Compliance with the requirements to apply for and obtain minor source permit approvals is of major importance to the regulator program.
- (2) **Environmental conditions:** Considered but not utilized for this calculation.
- (3) **Amount of the pollutant:** Annual emissions of cadmium and cadmium compounds exceeded the minimum quantity of 0.07 lbs./year defined in Part 9.17 during three (3) years (2022 to 2024). Annual emissions of mercury and mercury compounds exceeded the minimum quantity of 0.7 lbs./year defined in Part 9.17 during five (5) years (2020 to 2024). Annual emissions of lead and lead compounds exceeded the minimum quantity of 0.9 lbs./year defined in Part 9.17 during 2023.
- (4) **Toxicity or nature of the pollutant:** Cadmium, mercury, and lead are listed as air toxic contaminants under Part 9.17. Cadmium is a probable human carcinogen via the pathway of inhalation. Mercury is a toxic metalloid that causes damage to the central nervous system, lungs and kidneys. Lead is also a toxic metal that can cause damage to the brain and central nervous system with pronounced impacts on children.
- (5) **Duration of the violation:** Respondent operated the Torit Dust Collector without obtaining a permit for 4.96 years (2 June 2021 to 21 May 2025).
- (6) **Areal extent of the violation:** Considered but not utilized for this calculation.

(continued)

(continued from the previous page)

- (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 by failing to apply for and obtain a permit from RIDEM prior to operating the Torit Dust Collector. While Respondent attempted to mitigate the noncompliance by submitting a permit application to operate the Torit Dust Collector on 7 November 2023, the permit application was not approved by RIDEM until 21 May 2025.
- (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:** RIDEM issued a separate notice of violation to Respondent for the same regulations that is the subject of this Notice of Violation. On 13 March 2020, RIDEM issued a Notice of Violation and penalty to Respondent for the operation of the Torit Dust Collection without a permit. The 2020 NOV also stated that Respondent was emitting air pollutants in excess of MQs including (but not limited to) mercury and cadmium compounds, without a permit.
- (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:** Negligence is attributable to Respondent for its operation of the Torit Dust Collector without a permit. Respondent had complete control over the violation, and the violation was foreseeable.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

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