

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

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BEFORE THE ADMINISTRATOR

In the Matter of

Fujifilm Graphic Systems U.S.A., Inc.,

Respondent

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Docket No. RCRA-05-2007-0018

ORDER

This proceeding arises under the authority of Section 3008(a) of the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 U.S.C. § 6928(a). The purpose of this Order is to direct parties to exchange prehearing information in accordance with Rule 22.19 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (40 C.F.R. Part 22). The parties are directed to provide the following information:

By Complainant and Respondent:

1. Desired or required location of the hearing. *See* Rules 22.19(d) and 22.21(d).
2. A list of prospective witnesses, a brief summary of their anticipated testimony, and a copy of each document or exhibit to be proffered in evidence to the extent not covered by the specific requests below.

By Complainant:

1. Provide a copy of the notification to the State of Illinois of the commencement of this action as alleged in paragraph 6 of the complaint.
2. Provide a copy of the notification of hazardous waste activity filed on or about January 20, 2001, referred to in paragraph 28 of the complaint.
3. Provide a copy of the report of inspection of Respondent's facility.
4. Provide a summary of any evidence supporting the allegation in paragraph 35 of the complaint that Respondent stored approximately 500 gallons of hazardous waste at its facility for 117 days, beginning in the Winter of 2005, and continuing to the Spring of 2006.
5. Provide a summary of any evidence supporting the allegation in paragraph 36 of the complaint that Respondent stored one 55-gallon container of hazardous waste at its facility for 146 days, beginning in the Winter of 2005, and continuing to the Spring of 2006.

6. Provide a summary of any evidence supporting the allegation in paragraph 41 of the complaint that, as of April 20, 2006, Respondent failed to test and maintain its fire protection equipment.
7. Provide a summary of any evidence, including a copy of Respondent's Contingency Plan, supporting the allegations in paragraph 46 of the complaint that, as of April 20, 2006, Respondent's Contingency Plan failed to include emergency contacts' home addresses, the description, capability and location of all emergency equipment, a description of alternate evacuation routes, and that Respondent had failed to submit its Contingency Plan to all local police departments, fire departments, hospitals, and state and local emergency response teams.
8. Provide a summary of any evidence supporting the allegation in paragraph 51 of the complaint that, as of April 20, 2006, Respondent's Training Program failed to familiarize its personnel with emergency procedures, emergency equipment, and emergency systems.
9. Provide a summary of any evidence supporting the allegation in paragraph 52 of the complaint that Respondent failed to provide its personnel with any 2004 Annual Review of its initial training.
10. Provide a summary of any evidence supporting the allegation in paragraph 58 of the complaint that, on April 20, 2006, Respondent had four satellite accumulation containers in its hazardous waste storage area which were not in use, but in storage, and not closed.
11. Provide a summary of any expert testimony.
12. Provide a copy of the civil penalty computation worksheets and explain in detail the calculation of the proposed penalty.

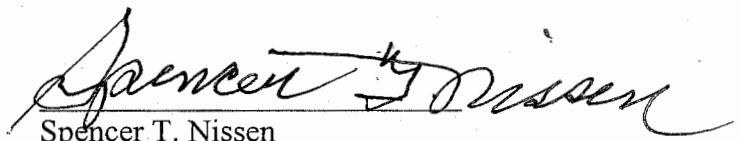
By Respondent:

1. If not provided in responses to specific items below, summarize any facts supporting denial of the violations alleged in the complaint.
2. Respondent having admitted the allegations of paragraph 35 and 36 of the complaint that Respondent stored hazardous wastes at the facility, including at certain times between December 2005 and June 2006, explain the denial that this is a violation of 35 IAC § 703.121.
3. Respondent having admitted the allegations of paragraph 58 of the complaint that on April 20, 2006 and at a time when hazardous waste was not being added or removed, several containers of hazardous waste were open, explain the denial that this is a violation of 35 IAC §§ 725.273(a) and 722.134(c)(1)(A).
4. If Respondent is contending that the facility at all relevant times tested and maintained the communications or alarm systems, fire protection equipment and decontamination equipment at the facility as necessary to assure its proper operation in time of emergency, provide a summary of evidence to support this claim.

5. If Respondent is contending that the facility at all relevant times maintained and complied with an appropriate emergency contingency plan, provide documentation to support this claim.
6. If Respondent is contending that Respondent at all times provided personnel at the facility with necessary and adequate training with respect to hazardous waste activities, provide documentation to support this claim.
7. Submit a memorandum supporting the arguments that Complainant failed to comply with the requirements of the Administrative Procedure Act and that Complainant's actions, including the issuance of the Compliance Order, are not authorized by RCRA.
8. Submit a memorandum supporting the arguments that Complainant's proposed penalty is arbitrary, capricious, improper, duplicative, excessive and violative of the applicable EPA policies and regulations.
9. If Respondent is contending that the proposed penalty exceeds its ability to pay, provide financial statements, copies of income tax returns or other data to support such contention.

Responses to this Order should be provided to the Regional Hearing Clerk, the other party, and to the undersigned on or before January 8, 2008.

Dated this 30th day of November, 2007.


Spencer T. Nissen
Administrative Law Judge


* In accordance with Rule 22.5(c)(4), the parties are directed to promptly notify the Regional Hearing Clerk, all other parties, and the ALJ of any change in address and/or telephone number.

** The parties are informed that the use of E-Mail to communicate with this office is considered inappropriate.

In the matter of *Fujifilm Graphic Systems U.S.A., Inc.*, Respondent.
Docket No. RCRA-05-2007-0018

CERTIFICATE OF SERVICE

I certify that the foregoing Order, dated November 30, 2007, was sent this day in the following manner to the addressees listed below.


Mary Angeles
Legal Staff Assistant

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Original and One Copy by Pouch Mail to:

Sonja Brooks-Woodard
Regional Hearing Clerk
U.S. EPA, Region V, MC-13J
77 West Jackson Blvd., 13th Floor
Chicago, IL 60604-3590

One Copy by Pouch Mail to:

Jeffery M. Trevino, Esq.
Associate Regional Counsel
U.S. EPA / Region V, C-14J
77 West Jackson Boulevard
Chicago, IL 60604-3590

One Copy by Regular Mail to:

David A. Roth, Esq.
Greenbaum, Rowe, Smith & Davis, LLP
Metro Corporate Campus One
P.O. Box 5600
Woodbridge, NJ 07095-0988

Dated: November 30, 2007
Washington, D.C.