

UNITED STATES OF AMERICA



ENVIRONMENTAL PROTECTION AGENCY

In the Matter of

DAVIS
CHEVROLET-BUICK-CADILLAC, INC.

Respondent

Docket No. RCRA (3008) VIII-95-04

Judge Greene

ORDER DENYING MOTION FOR PARTIAL SUMMARY DECISION

This matter arises under Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA," or "the Act,") 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984, Pub. L. 98-616, 98 Stat. 3224 (1984). The complaint charged Defendant with several violations of the Act and implementing regulations at 40 C.F.R. Part 260. Four counts were resolved by a partial consent agreement.¹ However, the settlement did not include Count III of the complaint.

¹The Partial Consent Order and Consent Agreement was lodged with the Regional Hearing Clerk for Region 8 on January 9, 1996.

Complainant now seeks summary determination with respect to liability for Count III.

Count III alleges that Respondent is an operator of a storage facility and is subject to the requirements of 40 C.F.R. Parts 264 and 265, as well as the permit requirements of 40 C.F.R. Part 270, as a result of (1) having accumulated spent lacquer thinner, a “characteristic/listed hazardous waste,” for longer than 270 days without obtaining an extension of the 270 day accumulation period; and (2) having generated more than 100 kilograms but less than 1000 kilograms of hazardous wastes, including spent lacquer thinner, from July, 1991, through June, 1994. It is then alleged (paragraphs 39-40 of the complaint) that “Respondent failed to comply with the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270,” and that “Respondent’s failure to comply (with the said requirements) is a violation of 40 CFR § 262.34(f) and sections 3002 and 3005 of RCRA”

Section 262.34(f) provides as follows, in pertinent part:

A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month **and** who accumulates hazardous waste in quantities exceeding 6000 kilograms or accumulates hazardous waste for more than . . . 270 days . . . is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 **unless he has been granted an extension** to the . . . 270 day . . . period. Such extension may be granted by EPA if hazardous wastes must remain on site for longer than . . . 270 days . . . due to unforeseen, temporary, and uncontrollable circumstances. . . . (Emphasis added).

A central purpose of section 262.34(f) is to make clear the point at which a generator who accumulates hazardous waste takes on the attributes of “an operator of a storage facility” and becomes “subject to the requirements of 40 CFR parts 264 and 265” Section 262.34(f) does not require that an extension be obtained by a facility that accumulates waste for more than 270 days, and does not literally *require* anything other than that the status and obligations of “operator of a storage facility” shall attach if an extension of time for hazardous waste accumulation beyond 180 days (or 270 days in an appropriate case, as here) is not granted.

Assuming Complainant can establish -- and there is much evidence -- that Respondent did in fact (1) accumulate spent lacquer thinner in excess of 270 days without an extension, and (2) generate hazardous wastes at the rate of of 100-1000 kilograms per month for the years alleged (*i. e.* that Respondent is an operator of a storage facility and is subject to 40 C.F.R. Parts 264, 265, and 270), nevertheless Count III charges that *Respondent's failures to comply with Parts 254, 265, and 270² constitute violations of section 262.34(f).*

²Part 264, **Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**, §§ 264.1 to 264.1102 (pp. 138-331, 40 CFR); Part 265, **Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities**, §§ 265.1 through 265.1102 (pp. 332- 486, 40 CFR); and Part 270, **EPA Administered Permit Programs: The Hazardous Waste Permit Program**, §§ 270.1 through 270.73 (pp. 806 - 869, 40 CFR).

This charge presents two difficulties. First, it is not easy to see how section 262.34(f) can be violated at all; it simply provides that an operator who generates a certain range of amounts of hazardous waste per month, and accumulates this waste for a particular length of time (in this case, 270 days) without obtaining a permit shall be considered an operator of a (hazardous waste) storage facility and shall therefore be subject to Parts 264, 265, and 270. Next, even if section 262.34(f) is capable of being violated, Count III asserts that Respondent's general failure to observe a vast array of federal regulations -- 40 C.F.R. §§ 264.1 through 265.1102 and 270.1 through 270.73, found at pp. 138-486 and 806-869 of 40 C.F.R.-- is the source of the violations of section 262.34(f). Count III, which is all that remains to be resolved herein, does not specify which portions of the aforesaid vast array of regulations were not observed so as to result in violations of section 262.34(f). In short, Count III either fails or comes perilously close to failing to state a cause of action, and/or to stating the cause so broadly as to defy understanding and reasonable response.³

While it is noted that Respondent's answer to the complaint did not specifically raise failure to state a cause of action with respect to any of the counts,⁴ and that Respondent did not seek a more definite statement, the recitation of a cause of action is a

³ Count III is considered together with the general allegations of the complaint which were incorporated into each of the counts. See *General Allegations*, ¶¶ 1-27, at 1 through 5 of the complaint. A copy of the complaint is attached hereto as *Appendix*.

⁴ *Answer of Davis Chevrolet-Buick-Cadillac, Inc.*, ¶¶ 3-4, at 2.

fundamental ingredient without which it is impossible to proceed. Here it is clear that section 262.34(f) does not contain provisions that any failure to observe other requirements, such as those contained in 40 C.F.R. Parts 264, 265, and 270, can violate. Moreover, Complainant's failure to specify in Count III just which portions of 40 C.F.R. Parts 264, 265, and 270 it is believed Respondent failed to observe -- thus allegedly leading to a violation of section 262.34(f) -- makes it impossible for the Court to consider what the interaction between that section and the requirements of Parts 264-265, and 270 that Respondent failed to observe, allegedly, might be. The general allegations of the complaint which were incorporated into each count do not assist in this matter.⁵ Nor do the referenced sections of the Act (§ 3002, *Standards Applicable to Generators of Hazardous Waste*; and § 3005, *Permits for Treatment, Storage, or Disposal of Hazardous Waste*; 42 U.S.C. §§ 6922, 6925) shed light upon the allegations of Count III.⁶ Accordingly, Complainant's motion is denied for failure of Count III to state a cause of action. In an abundance of caution, however, an opportunity is provided for renewal of the motion.

⁵ Only a few of the twenty-seven paragraphs of the *General Allegations* can be said to pertain to Parts 264, 265, and 270. The concluding paragraph, wherein it is stated that an EPA inspector identified probable RCRA violations at Respondent's facility, mentions only 40 CFR §§ 261.1(c)(8), 262.34(a)(2), 262.34(d)(5)(ii)(B), and 279.22(d)(3). See complaint, ¶ 27 at 5.

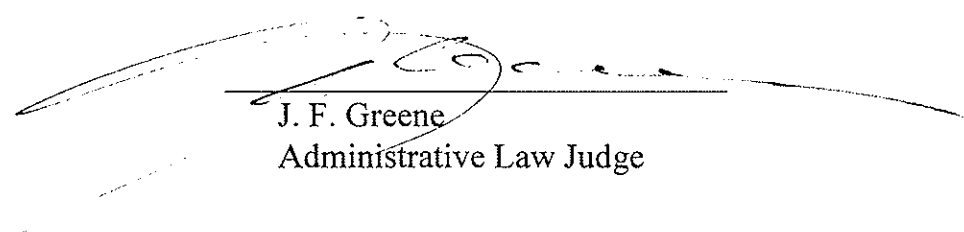
⁶ See complaint, Count III, ¶ 40, at 8. RCRA section 3002 provides authority for the Administrator of the U. S. Environmental Protection Agency to promulgate regulations "establishing such standards, applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment." Section 3005, gives authority to the Administrator to promulgate regulations pertaining to permits for treatment, storage, or disposal of hazardous waste, *inter alia*.

ORDER

1. Complainant's motion for summary decision as to liability is hereby denied for reasons set out above.

2. If Complainant wishes to renew the motion, such renewal shall be filed no later than September 18, 1998. Any response that Respondent may wish to make shall be filed no later than October 5, 1998.

3. And it is FURTHER ORDERED that Respondent's Motion to Strike Exhibits and Motion to Enforce Settlement Agreement shall be, and is hereby, denied.

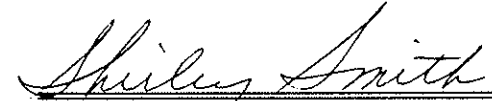


J. F. Greene
Administrative Law Judge

Washington, D. C.
July 22, 1998

CERTIFICATE OF SERVICE

I hereby certify that the original of this **Order Denying Motion For Partial Summary Decision**, copies were sent to the counsel for the complainant and counsel for the respondent on August 26, 1998.



Shirley A. Smith
Shirley A. Smith
Legal Staff Assistant
To Judge J. F. Greene

Name of Respondent: Davis Chevrolet-Buick-Cadillac, Inc.
Docket Number: RCRA-(3008)-VIII-95-04

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

95 MAY -3 PM 4: 37

Docket No. RCRA(3008)-VIII-95-04

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
DAVIS CHEVROLET-) FIRST AMENDED COMPLAINT,
BUICK-CADILLAC, INC.) COMPLIANCE ORDER AND NOTICE OF
) OPPORTUNITY FOR HEARING
GILLETTE, WYOMING)
(EPA ID NO. WYD036012136))
)
RESPONDENT)
_____)

COMPLAINT

This is a civil administrative action authorized by section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928. The Complainant is the Administrator of the United States Environmental Protection Agency ("EPA"), whose authority has been delegated to the Director of the EPA Region VIII Hazardous Waste Management Division, whose authority has been redelegated to the Chief of the Hazardous Waste Branch. This proceeding is subject to EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits ("Rules of Practice"), 40 C.F.R. Part 22. (Exhibit 1).

GENERAL ALLEGATIONS

1. All general allegations set forth in this complaint are specifically incorporated into each count by this reference.
2. EPA has jurisdiction of this matter pursuant to section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

3. Respondent, Davis Chevrolet-Buick-Cadillac, Inc., is a "person" within the meaning of section 1004(15) of RCRA, 42 U.S.C. § 6903(15), thus, is subject to regulation under RCRA.

4. Respondent owns and operates an automobile/truck dealership, including an auto body repair shop, a service center and service department at 111 East 2nd Street in Gillette, Wyoming, which does business under the name, Davis Chevrolet-Buick-Cadillac, Inc.

5. "Used oil" as defined at 40 CFR § 279.1 is a solid waste within the meaning of section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

6. Section 3014 of RCRA, 42 U.S.C. § 6935, authorizes EPA to promulgate regulations establishing standards for the management of used oil.

7. The Standards for the Management of Used Oil regulations promulgated under RCRA, which are set forth at 40 CFR Part 279, became effective on March 8, 1993. See 57 Fed. Reg. 176 (September 10, 1992).

8. Section 3001 of RCRA, 42 U.S.C. § 6921, authorizes EPA to promulgate regulations pertaining to the identification and listing of hazardous waste.

9. The regulations pertaining to the identification and listing of hazardous waste under RCRA are set forth at 40 CFR Part 261.

10. Section 3002 of RCRA, 42 U.S.C. § 6922, authorizes EPA to promulgate regulations establishing the standards applicable to generators of hazardous waste.

11. The regulations establishing standards applicable to the generators of hazardous waste promulgated under RCRA are set forth at 40 CFR Part 262.

12. Section 3005 of RCRA, 42 U.S.C. § 6925, authorizes EPA to promulgate regulations establishing the standards for permits for treatment, storage, or disposal of hazardous waste.

13. The regulations establishing standards for permits for treatment, storage, or disposal of hazardous waste promulgated under RCRA are set forth at 40 CFR Parts 264-270.

14. Section 3010 of RCRA, 42 U.S.C. § 6930, requires any person generating or transporting hazardous waste to file with the EPA Administrator a notification stating the location and general description of such hazardous waste activity.

15. Davis Chevrolet, Inc., notified EPA of its hazardous waste activity as a small generator through submission of EPA Form 8700-12 on or about August 15, 1986.

16. On or about the June 14-15, 1994, Mr. Randy Lamdin, an authorized EPA inspector, conducted an inspection at Respondent's automobile/truck dealership to determine Respondent's compliance with RCRA.

17. Mr. Lamdin presented his EPA credentials/inspector authorization letter to Respondent upon his arrival at the Respondent's business on or about the afternoon of June 14, 1994.

18. Respondent consented to EPA's conduct of the RCRA compliance evaluation inspection on or about the afternoon of June 14, 1994.

19. Respondent owns and operates one (1) "aboveground tank," as defined at 40 CFR § 279.1, at the business located at 111 East 2nd Street in Gillette, Wyoming.

20. Respondent's one (1) aboveground tank at the business located at 111 East 2nd Street in Gillette, Wyoming, is an "existing tank" within the meaning of 40 CFR § 279.1.

21. During the field portion of the RCRA inspection conducted on or about June 14-15, 1994, the EPA inspector observed that the area in the vicinity of the Respondent's aboveground used oil storage tank had a minor spill/release that had not been cleaned up or managed properly.

22. Spent lacquer thinner (EPA RCRA hazardous waste codes D001, F003, F005) is a characteristic/listed hazardous waste.

23. During the field portion of the RCRA inspection conducted on or about June 14-15, 1994, the EPA inspector observed that Respondent had failed to place hazardous waste accumulation dates on five (5) fifty-five (55) gallon drums of spent lacquer thinner (EPA RCRA hazardous waste codes D001, F003, F005) characteristic/listed hazardous waste.

24. During the field portion of the RCRA inspection conducted on or about June 14-15, 1994, the EPA inspector determined that Respondent was storing approximately 525 gallons

(nine 55 gallon drums and one 30 gallon drum) of spent lacquer thinner (EPA RCRA hazardous waste codes D001, F003, F005) characteristic/listed hazardous waste.

25. During the office portion of the RCRA inspection conducted on or about June 14-15, 1994, Mr. Mike Troup, Davis Chevrolet-Buick Cadillac, Inc., Body Shop Manager, stated to the EPA inspector that Respondent generates approximately fifteen (15) gallons of spent lacquer thinner each month.

26. During the office portion of the RCRA inspection conducted on or about June 14-15, 1994, the EPA inspector observed that Respondent failed to post the location of fire extinguishers and a spill control material location diagram or information next to the telephone.

27. Upon completion of the EPA RCRA compliance evaluation inspection on or about June 15, 1994, Respondent was issued an EPA Notice of Inspection by the EPA inspector, which identified probable RCRA violations under 40 CFR §§ 261.1(c)(8), 262.34(a)(2), 262.34(d)(5)(ii)(B) and 279.22(d)(3).

COUNT I

(Failure to Clean Up and Properly Manage
a Minor Used Oil Spill/Release)

28. Used oil generators are required to clean up and properly manage released used oil and other materials in accordance with 40 CFR § 279.22(d)(3).

29. Respondent failed to clean up and properly manage a minor used oil spill/release in accordance with 40 CFR § 279.22(d)(3).

30. Respondent's failure to clean up and properly manage a minor used oil spill/release is a violation of 40 CFR § 279.22(d)(3) and section 3014 of RCRA, 42 U.S.C. § 6935, and is therefore subject to the assessment of civil penalties under section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

COUNT II

(Failure to Clearly Mark the Date Accumulation of Hazardous Waste Begins on Each Container)

31. Pursuant to 40 CFR §§ 261.6(b), 262.34(d)(4), and 262.34(a)(2), hazardous waste small quantity generators are required to clearly mark the date upon which each period of accumulation of hazardous waste begins on each container in which hazardous waste is being accumulated.

32. Respondent failed to clearly mark the date upon which each period of accumulation of hazardous waste begins on each container in which hazardous waste is being accumulated.

33. Respondent's failure to clearly mark the date upon which each period of accumulation of hazardous waste begins on each container in which hazardous waste is being accumulated is a violation of 40 CFR § 262.34(a)(2), and section 3002 of RCRA, 42 U.S.C. § 6922, and is therefore subject to the assessment of civil penalties under section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

COUNT III

(Failure to Comply with Regulatory Requirements
for Operators of Hazardous Waste Storage Facilities)

34. In accordance with 40 CFR § 262.34(f), a hazardous waste generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and accumulates such hazardous waste for more than 180 days (or more than 270 days if the generator must transport the hazardous waste over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270 unless an extension to the 180-day (or 270-day if applicable) period is granted by EPA.

35. Respondent generated greater than 100 kilograms but less than 1000 kilograms of hazardous waste per month, which includes but is not limited to spent lacquer thinner (EPA RCRA hazardous waste codes D001, F003, F005), and Safety-Kleen related hazardous wastes, from July 1991 through June 1994.

36. Respondent accumulated spent lacquer thinner for more than 270 days.

37. Respondent did not receive an extension to the 270-day period for accumulation of spent lacquer thinner from EPA.

38. Respondent is an operator of a storage facility and is subject to the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270.

39. Respondent failed to comply with the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270.

40. Respondent's failure to comply with the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270 is a violation of 40 CFR § 262.34(f), and sections 3002 and 3005 of RCRA, 42 U.S.C. §§ 6922, 6925, and is therefore subject to the assessment of civil penalties under section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

COUNT IV

(Failure to Post the Location of Fire Extinguishers and Spill Control Material Next to the Telephone)

41. Hazardous waste small quantity generators are required to post the location of fire extinguishers and spill control material information next to the telephone in accordance with 40 CFR § 262.34(d)(5)(ii)(B).

42. Respondent failed to post the location of fire extinguishers and spill control material information next to the telephone in accordance with 40 CFR § 262.34(d)(5)(ii)(B).

43. Respondent's failure to post the location of fire extinguishers and spill control material information next to the telephone constitutes a violation of 40 CFR § 262.34(d)(5)(ii)(B), and section 3002 of RCRA, 42 U.S.C. § 6922, and is therefore subject to the assessment of civil penalties under section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

COUNT V

(Failure to Obtain an EPA Identification Number
As a Generator of Hazardous Waste)

44. A generator of hazardous waste must not treat, store, dispose of, or offer for transportation, hazardous waste without having notified the EPA Administrator of such activity and received an EPA identification number from the EPA Administrator as required by 40 CFR § 262.10(b) and 40 CFR § 262.12 and sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930.

45. Respondent treated hazardous waste generated at Respondent's facility without notifying the EPA Administrator of such activity or receiving an EPA identification number from the EPA Administrator as required by 40 CFR § 262.10(b) and 40 CFR § 262.12 and sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930.

46. Respondent stored hazardous waste generated at Respondent's facility without notifying the EPA Administrator of such activity or receiving an EPA identification number from the EPA Administrator as required by 40 CFR § 262.10(b) and 40 CFR § 262.12 and sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930.

47. Respondent offered for transportation hazardous waste generated at Respondent's facility without notifying the EPA Administrator of such activity or receiving an EPA identification number from the EPA Administrator as required by 40 CFR § 262.10(b) and 40 CFR § 262.12 and sections 3002 and 3010

of RCRA, 42 U.S.C. §§ 6922 and 6930.

48. Respondent's treatment, storage and offering for transportation of hazardous waste generated at Respondent's facility without notifying the EPA Administrator of such activity or receiving an EPA identification number from the EPA Administrator is a violation of 40 CFR § 262.10(b) and 40 CFR § 262.12 and sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and is therefore subject to the assessment of civil penalties under section 3008(g) of RCRA, 42 U.S.C. § 6928(g).

COMPLIANCE ORDER

Based upon the allegations set forth in this complaint, and pursuant to section 3008 of RCRA, 42 U.S.C. § 6928, Respondent is ORDERED to perform the following actions:

1. Within thirty (30) days of receipt of this complaint and compliance order, Respondent shall provide EPA with photographic documentation demonstrating that the minor spill/release of used oil in the vicinity of the Respondent's aboveground used oil storage tank has been cleaned up or properly managed in accordance with 40 CFR § 279.22(d)(3).

2. Within thirty (30) days of receipt of this complaint and compliance order, Respondent shall provide EPA with documentation verifying that approximately 525 gallons of spent lacquer thinner (D001, F003, F005) characteristic/ listed hazardous waste, which was contained in nine 55 gallon drums and one 30 gallon drum, has been properly

disposed of or recycled. Relevant documentation includes a hazardous waste manifest and related land disposal restriction certification/notice, or a certified letter stating that the hazardous waste stream was recycled onsite in Respondent's solvent recycling unit.

3. Within thirty (30) days of receipt of this complaint and compliance order, Respondent shall provide EPA with documentation verifying that the location of fire extinguishers and spill control material information has been posted next to the telephone.

PROPOSED CIVIL PENALTY

Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to assess a civil penalty of up to \$25,000 for each day of continued noncompliance with RCRA. Based upon the facts alleged in this complaint and taking into account the factors prescribed by RCRA (i.e., the seriousness of the violations and any good faith efforts by Respondent to comply with applicable requirements), Complainant proposes to assess a civil penalty of \$ 108,865 as follows:

<u>COUNT</u>	<u>PROPOSED PENALTY</u>
1	\$ 2,250
2	\$ 2,275
3	\$ 71,390
4	\$ 10,450
5	<u>\$ 22,500</u>
TOTAL	\$108,865

The Penalty Computation Worksheets and Narrative Explanation for the alleged RCRA violations in support of the assessment of civil penalties proposed in this complaint are attached hereto (Exhibit 2). The proposed civil penalties have been calculated in accordance with the RCRA Civil Penalty Policy (October 1990) (Exhibit 3).

TERMS OF PAYMENT

If Respondent does not contest the findings and assessments set out above, payment of the penalty for the violations may be forwarded to EPA. Payment must be made by certified or cashier's check payable to "Treasurer, United States of America," and sent to the following address:

EPA Region VIII.
(Regional Hearing Clerk)
Mellon Bank
P.O. Box 360859M
Pittsburgh, PA 15251

Payment of the penalty in this manner does not relieve the Respondent of his obligation to perform the activities required by the Compliance Order.

NOTICE OF POTENTIAL LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to section 3008(c) of RCRA, 42 U.S.C. § 6928(c), a Respondent that fails to comply with a Compliance Order within the time specified in the Order shall be liable for additional civil penalties of up to \$25,000 for each day of continued noncompliance. Such continued noncompliance may also result in the institution of a civil judicial action.

OPPORTUNITY TO REQUEST A HEARING

As provided in section 3008(b) of RCRA, 42 U.S.C. § 6928(b), you have the right to request a public hearing within thirty (30) days of service of this Complaint and Compliance Order. You must file a written Answer within thirty days of service of this Complaint, notwithstanding the twenty day period provided in 40 CFR § 22.15, if you 1) contest any material fact upon which the complaint and compliance order is based; 2) contend that the amount of the civil penalty proposed is inappropriate; or 3) contend that you are entitled to judgment as a matter of law.

Your answer must 1) clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint and compliance order; 2) briefly state the circumstances or arguments which are alleged to constitute grounds for defense; and 3) specifically request an administrative hearing, if so desired. The denial of any material fact or the raising of any affirmative defense in your answer shall be construed as a request for a hearing. Failure to deny any of the factual allegations in this complaint and compliance order shall constitute an admission of the undenied allegations. The answer to this complaint should be sent to:

Regional Hearing Clerk
U.S. EPA Region VIII
999 18th Street
Suite 500 (8RC)
Denver, Colorado 80202-2466

(and)

Joseph M. Santarella Jr.
Assistant Regional Counsel
U.S. EPA Region VIII
999 18th Street
Suite 500 (8RC)
Denver, Colorado 80202-2466

IF YOU FAIL TO REQUEST A HEARING, YOU WILL
WAIVE YOUR RIGHT TO CONTEST FORMALLY ANY OF
THE ALLEGATIONS SET FORTH IN THIS COMPLAINT
AND COMPLIANCE ORDER.

IF YOU FAIL TO FILE A WRITTEN ANSWER WITHIN
THE THIRTY (30) DAY TIME LIMIT, A DEFAULT
JUDGMENT MAY BE ENTERED PURSUANT TO 40 C.F.R.
§ 22.17. THIS JUDGMENT MAY IMPOSE THE
PENALTY PROPOSED IN THIS COMPLAINT AND
COMPLIANCE ORDER.

SETTLEMENT CONFERENCE

The EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation in a settlement conference does not extend the period for filing an answer and request for hearing as set out above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in 40 CFR Part 22. If a settlement can be reached, the terms of such settlement shall be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Regional Judicial Officer.

Any questions that you may have regarding this Complaint or Compliance Order or any request for an informal settlement conference should be directed to:

Joseph M. Santarella Jr.
Assistant Regional Counsel
EPA Region VIII
999 18th Street
Suite 500 (8RC)
Denver, CO 80202-2466
Telephone #: (303) 293-1458
Facsimile #: (303) 294-7653

IN THE MATTER OF:
DOCKET NO.:

Davis Chevrolet-Buick-Cadillac, Inc.
RCRA(3008)-VIII-95-04

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION VIII,
Complainant.

Date: 5-3-95

By:

Terry L. Anderson
Terry L. Anderson, Chief
Hazardous Waste Branch

Date: May 3, 1995

By:

Joseph M. Santarella Jr.
Joseph M. Santarella Jr.
Assistant Regional Counsel