



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brian Stenson
Manager, Environment, Health and Safety
Fujifilm Graphic Systems USA, Inc.
850 Central Avenue
Hanover Park, Illinois 60133

Re: Administrative Complaint and Compliance Order
Fujifilm Graphic Systems USA, Inc. **RCRA-05-2007-0018**
U.S. EPA ID. NO.: ILR 000102988

Dear Mr. Stenson:

Enclosed please find an Administrative Complaint and Compliance Order (Complaint), which specifies the United States Environmental Protection Agency's (U.S. EPA's) determination that Fujifilm Graphic Systems USA, Inc., violated certain requirements of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq., as amended.

This determination is based on information collected during a compliance evaluation inspection (CEI) conducted at Fujifilm Graphic Systems USA, Inc., located at 850 Central Avenue, Hanover Park, Illinois, on April 20, 2006, by the U.S. EPA. The allegations in the enclosed Complaint state the reasons for U.S. EPA's determination.

Accompanying this Complaint is a notice of opportunity for hearing. Should you desire to contest the Complaint, a written request for a hearing is required to be filed within 30 days after your receipt of the Complaint. The request for a hearing must be filed with the Regional Hearing Clerk (E-13J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of your request should also be sent to Mr. Jeffery Trevino, Office of Regional Counsel (C-14J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Mr. Trevino may be telephoned at (312) 886-6729.

Regardless of whether you choose to request a hearing within the prescribed time limit following the filing of this Complaint, you are extended an opportunity to request an informal settlement conference. Topics for discussion at the settlement conference may include the establishment of a compliance schedule or the mitigation of the proposed penalty in accordance with the U.S. EPA

guidance on pollution prevention and supplemental environmental projects. A request for an informal settlement conference with the U.S. EPA will not affect or extend the 30 day deadline to file an answer in order to avoid a finding of default on the Complaint.

If you have any questions or desire to request an informal conference for the purpose of conducting settlement discussions, please contact Ms. Jamie Paulin, U.S. Environmental Protection Agency, RCRA Branch, Land and Chemicals Division, (LR-8J), 77 West Jackson Boulevard, Chicago, Illinois 60604. Ms. Paulin may be telephoned at (312) 886-1771.

Sincerely,


Willie H. Harris, P.E.

Chief
RCRA Branch
Land and Chemicals Division

Enclosure

cc: Todd Marvel, Illinois Environmental Protection Agency
David A. Roth, Greenbaum, Rowe, Smith & Davis L.L.P.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)

Fujifilm Graphic Systems U.S.A., Inc.)
850 Central Avenue)
Hanover Park, Illinois 60133)

U.S. EPA ID #: ILR 000 102 988)

Respondent.)
_____)

) Docket No. RCRA-05-2007-0018

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COMPLAINT AND COMPLIANCE ORDER

COMPLAINT

I. Preliminary Statement and Jurisdiction

1. This is a civil administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), 42 U.S.C. § 6928(a). RCRA was amended in 1984 by the Hazardous and Solid Waste Amendments of 1984 ("HSWA").
2. This action is also instituted pursuant to Sections 22.1(a)(4), 22.13, 22.14 and 22.37 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("Consolidated Rules"), 40 C.F.R. Part 22.
3. Jurisdiction for this action is conferred upon the United States Environmental Protection Agency, ("U.S. EPA"), by Sections 2002(a)(1), 3006(b), and 3008 of RCRA, 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

4. The Complainant is, by lawful delegation, the Director, Land and Chemicals Division, Region 5, U.S. EPA.
5. Respondent is Fujifilm Graphic Systems U.S.A, Inc. ("Fujifilm"), 850 Central Avenue, Hanover Park, Illinois, 60133.
6. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), U.S. EPA provided notice of commencement of this action to the State of Illinois, by delivering written notice of U.S. EPA's intent to file a complaint and compliance order against Respondent.

II. Applicable Statutory and Regulatory Provisions

7. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e), or of any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and the issuance of compliance orders under Section 3008 of RCRA, 42 U.S.C. § 6928.
8. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg.3778 (January 31, 1986). The Administrator of U.S. EPA granted Illinois final authorization to administer certain HSWA and additional RCRA requirements effective March 5, 1988, 53 Fed. Reg.126 (January 5, 1988); April 30, 1990, 55 Fed. Reg. 7320 (March 1, 1990); June 3, 1991, 56 Fed. Reg. 13595 (April 3,

1991); August 15, 1994, 59 Fed. Reg. 30525 (June 14, 1994); May 14, 1996, 61 Fed. Reg. 10684 (March 15, 1996); and October 4, 1996, 61 Fed. Reg. 40520 (August 5, 1996). The U.S. EPA-authorized Illinois regulations are codified at 35 Illinois Administrative Code (IAC) Part 703 *et seq.* See also 40 C.F.R. § 272.700 *et seq.*

9. Sections 3002 and 3004 of RCRA, 42 U.S.C. §§ 6922 and 6924, directed U.S. EPA to promulgate regulations governing generators of hazardous waste and facilities that treat, store or dispose of hazardous waste, and governing the owners and operators of such facilities. Pursuant to Sections 3002 and 3004 of RCRA, 42 U.S.C. §§ 6922 and 6924, U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, respectively governing generators of hazardous waste, and facilities that treat, store or dispose of hazardous waste, and governing the owners and operators of such facilities. The federally-authorized Illinois regulations that govern generators of hazardous waste are codified at 35 IAC Part 703 et seq. The federally-authorized Illinois regulations that govern facilities that treat, store or dispose of hazardous waste, and that govern the owners and operators of such facilities, are codified at 35 IAC Part 724 (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities), and 35 IAC Part 725 (Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities).
10. Section 3005 of RCRA, 42 U.S.C. § 6925, directed U.S. EPA to promulgate regulations prohibiting the treatment, storage, or disposal of hazardous waste except in accordance with a permit, and requiring each person owning or operating a facility at which hazardous waste is treated, stored, or disposed (“TSD” facility) to have a permit issued

by U.S. EPA or the authorized state, or to have interim status under Section 3005(e) of RCRA, 42 U.S.C. § 6925(e).

11. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), U.S. EPA has promulgated regulations at 40 C.F.R. Part 270 that establish permitting requirements and procedures.
12. The federally-authorized Illinois regulations that govern (in lieu of analogous federal regulations) the issuance of hazardous waste permits are codified at 35 IAC Part 703.
13. Section 3005(e) of RCRA, 42 U.S.C. § 6925(e) includes a provision for “interim status” which allows TSD facilities to operate in certain circumstances pending receipt of a permit. U.S. EPA promulgated standards at 40 C.F.R. Part 265 that are applicable to facilities subject to interim status requirements. The federally-authorized Illinois regulations that govern the interim status standards for owners and operators of hazardous waste TSD facilities (in lieu of analogous federal regulations) are codified at 35 IAC Part 725.
14. Facilities that treat, store, or dispose of hazardous waste must obtain either a permit or interim status. 42 U.S.C. §§ 6925-6926, 40 C.F.R. § 270.1, 35 IAC Part 703.
15. U.S. EPA is authorized to enforce State regulations in those States authorized to administer a hazardous waste program. 42 U.S.C. § 6928(a).
16. U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. 42 U.S.C. § 6928(a).
17. A “generator” is any person, by site, whose act or process produces hazardous waste identified or listed in 35 IAC Part 721, or whose act first causes a hazardous waste to become subject to regulation. 35 IAC § 720.110.

18. A “large quantity generator” is a generator that generates more than 1,000 kg of hazardous waste in a calendar month. 35 IAC § 720.110.
19. A “facility” is, inter alia, all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. 40 C.F.R. § 260.10 and 35 IAC § 720.110. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations).
20. A “solid waste” is any discarded material not excluded by 40 C.F.R. § 261.4(a), or by variance granted under 40 C.F.R. §§ 260.30 and 260.31. 35 IAC Part 720.
21. A solid waste is a hazardous waste if, inter alia, it is listed in Subpart D of Part 721 and has not been excluded from the lists in Subpart D of this Part under 35 IAC §§ 720.120 and 720.122. 35 IAC §§ 720.110 and 721.103.
22. The regulation at 35 IAC Part 721, Subpart D, contains a list of classes and types of hazardous wastes that have been listed on the basis that the class or type of waste is ignitable waste, corrosive waste, reactive waste, toxicity characteristic waste, acute hazardous waste, or toxic waste.
23. Any violation of regulations promulgated pursuant to Subtitle C, Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6039, or of any State regulations approved by U.S. EPA pursuant to Section 3006 of RCRA, 42 U.S.C. § 6912, constitutes a violation of RCRA, subject to the assessment of civil or criminal penalties and compliance orders. 42 U.S.C. § 6928.

III. General Allegations

24. Respondent is, and was at all times relevant to this Complaint, a corporation incorporated under the laws of the State of New York.
25. Therefore, Respondent is, and was at all times relevant to this Complaint, a “person” as defined by 35 I.A.C. § 720.110 [40 C.F.R. 260.10], and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
26. Respondent owned or operated real estate and buildings located at 850 Central Avenue, Hanover Park, Illinois, with operations which included the demonstration of photographic equipment.
27. Therefore, Respondent owned a “facility” as defined by 35 IAC § 720.110 and 40 C.F.R. § 260.10.
28. On or about January 20, 2001, Respondent notified U.S. EPA of its hazardous waste activities at the facility pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930.
29. Respondent is, and was at all times relevant to this Complaint, a generator of hazardous waste as defined in 35 IAC § 720.110 and 40 C.F.R. § 260.10.
30. Respondent generated hazardous waste which included a “D002” corrosive material and a “D001” flammable material.
31. Respondent has never had a storage treatment and disposal of hazardous waste permit pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).
32. Respondent has never had interim status to store treat and dispose of hazardous waste pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e.).

IV. Specific Allegations

Count One - Storage of Hazardous Waste

33. Paragraphs 1 through 32 of this Complaint are hereby incorporated herein by reference as if set forth in full.
34. A RCRA Permit Exempt facility may store hazardous waste at its facility for ninety (90) days or less. 35 IAC § 722.134(a) and (b) [40 C.F.R. § 262.34(a) and (b)].
35. Respondent stored approximately five-hundred (500) gallons of hazardous waste at its facility for 117 days, beginning in the Winter of 2005, and continuing to the Spring of 2006.
36. Respondent stored one (1) 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.
37. Therefore, Respondent failed to comply with the RCRA Permit Exempt condition of 35 IAC § 722.134(a) and (b) [40 C.F.R. § 262.34(a) and (b)].
38. Therefore, Respondent stored hazardous waste at its facility without a RCRA Permit, or RCRA Interim Status, or RCRA Permit Exempt Status, in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and the regulations at 35 IAC § 703.121 [40 C.F.R. § 270.1(c)].

Count Two - Failure to Test and Maintain Fire Protection Equipment

39. Paragraphs 1 through 32 of this Complaint are hereby incorporated herein by reference as if set forth in full.
40. A RCRA Permit Exempt Status facility must test and maintain all facility communications or alarm systems, fire protection equipment, and decontamination equipment, as necessary to assure its proper operation in time of emergency. 35 IAC

§ 722.134(a)(4); 35 IAC § 725.133 [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.33].

41. As of April 20, 2006, Respondent had failed to test and maintain its fire protection equipment.
42. Therefore, Respondent failed to comply with the RCRA Permit Exempt condition of 35 IAC § 722.134(a)(4); 35 IAC § 725.133 [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.33].
43. Therefore, Respondent stored hazardous waste at its facility without a RCRA Permit, or RCRA Interim Status, or RCRA Permit Exempt Status, in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and the regulations at 35 IAC § 703.121 [40 C.F.R. § 270.1(c)].

Count Three - Failure to Complete Contingency Plan

44. Paragraphs 1 through 32 of this Complaint are hereby incorporated herein by reference as if set forth in full.
45. A RCRA Permit Exempt Status facility must have a Contingency Plan which describes arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams, and be submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams. 35 IAC § 722.134(a)(4); 35 IAC §§ 725.152(c), (d), (e) and (f) and 725.153(b) [40 C.F.R. § 262.34(a)(4); 40 C.F.R. §§ 265.52(c), (d), (e) and (f) and 265.53(b)].
46. 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 Respondent had failed to

submit its Contingency Plan to all local police departments, fire departments, hospitals, and state and local emergency response teams.

47. Therefore, Respondent failed to comply with the RCRA Permit Exempt condition of 35 IAC § 722.142(a)(4); 35 IAC § 725.133 [40 C.F.R. § 262.42(a)(4); 40 C.F.R. § 265.33.
48. Therefore, Respondent stored hazardous waste at its facility without a RCRA Permit, or RCRA Interim Status, or RCRA Permit Exempt Status, in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and the regulations at 35 IAC § 703.121 [40 C.F.R. § 270.1(c)].

Count Four - Failure to Complete Training Program

49. Paragraphs 1 through 32 of this Complaint are hereby incorporated by reference as if set forth in full.
50. A RCRA Permit Exempt Status facility must provide to personnel a Training Program designed to completely ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including; procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment; familiarizing them with key parameters for automatic waste feed cut-off systems; familiarizing them with communications or alarm systems; familiarizing them with responses to fire or explosions; familiarizing them with responses to groundwater contamination incidents; familiarizing them with shutdown of operations; and, providing them with an annual review of the initial training. 35 IAC § 722.134(a)(4); 35 IAC § 725.116(a)(3) and (c) [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.16(a)(3) and (c)].

51. As of April 20, 2006, Respondent's Training Program failed to familiarize its personnel them with emergency procedures, emergency equipment, and emergency systems, including; procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment; familiarizing them with key parameters for automatic waste feed cut-off systems; familiarizing them with communications or alarm systems; familiarizing them with responses to fire or explosions; familiarizing them with responses to groundwater contamination incidents; familiarizing them with shutdown of operations.
52. Respondent failed to provide its personnel with any 2004 Annual Review of its initial training.
53. Respondent failed to comply with RCRA Permit Exemption Status condition of 35 IAC § 722.134(a)(4); 35 IAC § 725.116(a)(3) and (c) [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.16(a)(3) and (c).
54. Therefore, Respondent stored hazardous waste at its facility without a RCRA Permit, or RCRA Interim Status, or RCRA Permit Exempt Status, in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and the regulations at 35 IAC § 703.121 [40 C.F.R. § 270.1(c)].

Count Five - Failure to Manage Containers

55. Paragraphs 1 through 32 of this Complaint are hereby incorporated by reference as if set forth in full.
56. A RCRA Permit Exempt Status facility may accumulate as much as fifty-five (55) gallons of hazardous waste, or one quart of acutely hazardous waste, listed in 35 IAC

§ 721.133(e) [40 C.F.R. § 261.33(e)], in containers at, or near, any point of generation, where wastes initially accumulate ("satellite accumulation containers"), which is under the control of the operator of the process generating the waste, provided it comply with, among other conditions, 35 IAC § 725.273(a) [40 C.F.R. § 265.173(a)]. 35 IAC § 722.134(c)(1)(A) [40 C.F.R. § 262.34(c)(1)(i)].

57. Any container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste. 35 IAC § 725.273(a) [40 C.F.R. § 265.173(a)].
58. On April 20, 2006, Respondent had four (4) satellite accumulation containers in its hazardous waste storage area which were not in use, but in storage, and not closed.
59. Respondent failed to comply with RCRA Permit Exemption Status conditions 35 IAC §§ 725.273(a) and 722.134(c)(1)(A).
60. Therefore, Respondent stored hazardous waste at its facility without a RCRA Permit, or RCRA Interim Status, or RCRA Permit Exempt Status, in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and the regulations at 35 IAC § 703.121 [40 C.F.R. § 270.1(c)].

V. Proposed Civil Penalty

The Administrator of U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per

day for each violation of Subtitle C of RCRA occurring or continuing on or after January 31, 1997.

The Complainant determined the proposed civil penalty according to Section 3008 of RCRA, 42 U.S.C. § 6928. In assessing a civil penalty, the Administrator of U.S. EPA must consider "the seriousness of the violation and any good faith efforts to comply with applicable requirements." Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). Complainant has considered the facts and circumstances of this case with specific reference to U.S. EPA's 1990 RCRA Civil Penalty Policy ("the Penalty Policy"). A copy of the Penalty Policy is available upon request. This policy provides a consistent method of applying the statutory penalty factors to this case.

The Complainant proposes, subject to the receipt and evaluation of further relevant information from Respondent, that the Administrator assess a civil penalty of **eighty-nine thousand, eight-hundred fifty-six dollars (\$89,856.00)** for the violations alleged in this Complaint, as further explained in Attachment A, "Penalty Summary Sheet." Respondent may pay this penalty by certified or cashier's check, payable to "Treasurer, the United States of America," and remit to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

A copy of the check shall be sent to:

Regional Hearing Clerk (E-13J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604

Jeffery Trevino
Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Jamie Paulin
RCRA Branch
Land and Chemicals Division (LR-8J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

A transmittal letter identifying this Complaint shall accompany the remittance and the copy of the check.

VI . Compliance Order

Based on the foregoing, Respondent is hereby ordered, pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and § 22.37(b) of the Consolidated Rules, to comply with the following requirements immediately upon the effective date of this Order:

1. Respondent shall maintain compliance with each of the regulations cited in this Complaint and Compliance Order. Respondents shall certify their compliance with each of these regulations within thirty (30) days of the date of the filing of this Complaint and Compliance Order.

2. Respondent shall notify U.S. EPA in writing upon achieving compliance with this Order within fifteen (15) calendar days after the date it achieves compliance. If Respondent has not taken or completed any requirement of this Order, Respondent shall notify U.S. EPA of the

failure, its reasons for the failure, and the proposed date for compliance within ten (10) calendar days after the due date set forth in this Order.

VII. Opportunity to Request a Hearing

You have the right to request a hearing to contest any material fact in this Complaint, or to contest the amount of the proposed penalty, or both, as provided in Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and in accordance with the Consolidated Rules. A copy of these rules accompanies this Complaint. To request a hearing, Respondent must specifically make the request in a written Answer to this Complaint. Respondent must file its written Answer with the Regional Hearing Clerk within thirty (30) days of the date this Complaint is filed with the Regional Hearing Clerk. 40 C.F.R. § 22.15(a). In counting the thirty (30) day time period, the actual date of receipt is not included. Saturdays, Sundays, and federal legal holidays are included in the computation. If the thirty (30) day period expires on a Saturday, Sunday, or federal legal holiday, the time period is extended to include the next day which is not a Saturday, Sunday, or federal legal holiday. 40 C.F.R. § 22.7(a).

The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint with respect to which Respondent has any knowledge, or clearly state that Respondent has no knowledge as to particular factual allegations in the Complaint. The Answer shall also state:

1. The circumstances or arguments alleged to constitute the grounds of defense;
2. The facts Respondent intends to place at issue; and,
3. Whether Respondent requests a hearing.

Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material fact in the Complaint constitutes an admission of that allegation. 40 C.F.R. § 22.15.

Respondent must file its Answer with the Regional Hearing Clerk (E-13J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the Answer and any subsequent documents filed in this action should be sent to Jeffery Trevino, Office of Regional Counsel (C-14J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. Mr. Trevino may be telephoned at (312) 886-6729.

If Respondent fails to file a timely written Answer to the Complaint, with or without a request for a hearing, the Regional Administrator or Presiding Officer may issue a Default Order pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on the factual allegations under Section 3008 of RCRA, 42 U.S.C. § 6928. Default will also result in the penalty proposed in the Complaint becoming due and payable by Respondent without further proceedings thirty (30) days after issuance of a final order upon default under 40 C.F.R. § 22.27(c). In addition, default will preclude Respondent from obtaining adjudicative review of any of the provisions contained in the Compliance Order section of the Complaint.

A hearing upon the issues raised in the Complaint and Answer shall be held (upon the request of Respondent in the Answer) and conducted according to the Administrative Procedures

Act, 5 U.S.C. §§ 551 et seq. The hearing will be in a location determined pursuant to 40 C.F.R. § 22.21(d) of the Consolidated Rules.

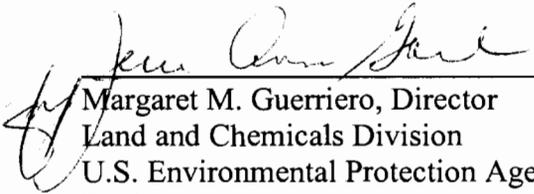
VIII. Settlement Conference

Whether or not you as Respondent request a hearing, you may request an informal conference to discuss the facts of this case and to arrive at a settlement. To request a settlement conference, Respondent should write to Ms. Jamie Paulin, RCRA Branch (LR-8J), Land and Chemicals Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or telephone her at (312) 866-1771.

Your request for an informal settlement conference does not extend the thirty (30) day period during which you must submit a written Answer and Request for Hearing. Respondent may pursue the informal conference procedure simultaneously with the adjudicatory hearing procedure.

U.S. EPA encourages all parties for whom a civil penalty is proposed to pursue the possibilities of settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold a conference. The parties will embody any settlement that they may reach as a result of the conference in a written Consent Agreement and Final Order (“CAFO”) issued by the Director, Land and Chemicals Division, Region 5, U.S. EPA. The issuance of a CAFO shall constitute a waiver of Respondent’s right to request a hearing on any stipulated matter in the CAFO.

Dated this 28th day of Sept., 2007.



Margaret M. Guerriero, Director
Land and Chemicals Division
U.S. Environmental Protection Agency
Region 5

Complaint Docket No. RCRA-05-2007-0018

RECEIVED
REGIONAL COUNCIL CLERK
SEP 28 11 27

RCRA-05-2007-0018

Attachment A
PENALTY SUMMARY SHEET
 Fujifilm Graphic Systems USA, Inc.
 IIR 000 102 988

NATURE OF VIOLATION	CITATION OF REGULATION OR LAW	HARM/ DEVIATION	GRAVITY-BASED PENALTY	MULTI-DAY PENALTY	ADJUSTMENTS	ECONOMIC BENEFIT	TOTAL PENALTY
Count 1: Storage of hazardous waste without a permit by failing to store hazardous waste on-site for less than 90 days.	35 IAC § 722.134(b) [40 C.F.R. § 262.34(b)]	moderate / moderate	\$8,382	\$65,613 [56 days - 1 day = 55 days x \$1193]	\$0.00	** \$1001	\$73,995
Count 2: Failure to test and maintain all facility fire protection equipment, where required.	35 IAC § 722.134(a)(4); 35 IAC § 725.133 [40 CFR § 262.34(a)(4); 40 CFR § 265.33]	minor / minor	\$387	\$0.00	\$0.00	** \$818	\$387
Count 3: Failure to include agreements made with local authorities within the contingency plan; and submit the plan to all local police departments, fire departments, hospitals and State and local emergency response teams.	35 IAC § 722.134(a)(4); 35 IAC §§ 725.152(c), (d), (e) and (f) and 725.153(b) [40 CFR § 262.34(a)(4); 40 CFR §§ 265.52(c), (d), (e) and (f) and 265.53(b)]	moderate / minor	\$5,158	\$0.00	\$0.00	< \$200 \$180	\$5,158
Count 4: Failure to include certain required elements within the training program; and take part in an annual review of the initial training required for the year 2004.	35 IAC § 722.134(a)(4); 35 IAC § 725.116(a)(3) and (c) [40 CFR § 262.34(a)(4); 40 CFR § 265.16(a)(3) and (c)]	moderate / minor	\$5,158	\$0.00	\$0.00	** \$971	\$5,158
Count 5: Failure to keep containers closed during storage except when it is necessary to add or remove waste.	35 IAC § 722.134(c)(1)(A); 35 IAC § 725.273(a) [40 CFR § 262.34(c)(1)(i); 40 CFR § 265.173(a)]	moderate / minor	\$5,158	\$0.00	\$0.00	< \$200	\$5,158
Subtotals			\$24,243	\$65,613	\$0.00	** \$2790	\$89,856

Note: The gravity-based penalty amount is determined using the Revised Penalty Matrices for the RCRA Civil Penalty Policy, dated January 11, 2005. The multi-day component of the gravity-based civil penalty is determined using the multi-day matrix outlined in the Revised Penalty Matrices for the RCRA Civil Penalty Policy, dated January 11, 2005. Policy adjustments and economic benefit (BEN) are as explained in the 2003 RCRA Civil Penalty Policy. Finally, the gravity-based penalty is adjusted for inflation (where appropriate) in order to implement the Civil Monetary Penalty Inflation Rule pursuant to the Debt Collection Improvement Act of 1996.

Count 1 multi-day includes 56 days over 90 days. (56 days - 1day = 55 days x \$1193 = \$65,613)

CASE NAME: Fujifilm Graphic Systems USA, Inc. (Fujifilm)

DOCKET NO: RCRA-05-2007-0018

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Complaint** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

Fujifilm
Fujifilm Holdings America Corporation
850 Central Avenue
Hanover Park, IL 60133

Return Receipt # 7001 0300 0000 1448 8378 9/28/2007
BJ

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

Return Receipt # 7001 0300 0000 1448 5782 9/28/2007

And via First Class Mail to:

Todd Marvel
Illinois EPA
1021 North Grand Avenue East
Springfield, IL 62702-3998

Dated: 9/28/2007



Katrina Jones
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division -RCRA Branch
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5882

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