



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Divyakant Patel
RMMI, Inc.
936 Beatrice Parkway
Edison, NJ 08820

and

Mr. Michael Sancilardi
MJS Contracting, Inc.
85 Bridge Street
Sewaren, NJ 07077

FEB 23 2009

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REGION III PHILADELPHIA, PA

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RECEIVED

RE: Administrative Penalty Complaint, Docket No. CAA-3-2009-0091

Dear Messrs. Patel and Sancilardi:

Enclosed is a Complaint and Notice of Opportunity for Hearing ("Complaint") concerning violations by RMMI, Inc., ("RMMI") and MJS Contracting, Inc., ("MJS") of Section 112 of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7412. The Complaint is based on violations of the asbestos National Emission Standard for Hazardous Air Pollutants ("asbestos NESHAP"), regulations pertaining to the emission, handling, and disposal of asbestos by owners or operators of a demolition or renovation activity at an affected facility, codified at 40 C.F.R. Part 61, Subpart M. The violations relate to the failure to provide notification of a demolition project involving Regulated Asbestos Containing Material ("RACM"); failure to have an on-site representative trained in the provisions of the asbestos NESHAP; failure to adequately wet RACM; failure to remove RACM before demolition; and failure to deposit asbestos containing waste material as soon as practical at an asbestos waste disposal site. The Complaint should be read and analyzed carefully to determine the alternatives available to you in responding to the alleged violation and proposed penalty.

Unless both parties elect to resolve the proceeding by paying the penalty proposed in the Complaint, an Answer to this Complaint must be filed by each party within thirty (30) days of its receipt. The Answer must specifically respond to each of the allegations in the Complaint. Failure to respond by specific Answer within 30 days of your receipt of this document will constitute an admission of the allegations made in the Complaint. Failure to answer shall result in the filing of a Motion for a Default Order and the possible issuance of a Default Order imposing the penalty proposed in the Complaint and Notice without further proceedings.

Each party may choose to request a hearing to contest any matter set forth in the Complaint. Such request must be included in your Answer to this Complaint. Whether or not a hearing is requested, each party may request an informal settlement conference to discuss resolution of this case. A request for a settlement conference may be included in your Answer.

In addition, your companies may be required to disclose to the Securities and Exchange Commission ("SEC") the existence of certain administrative or judicial proceedings taken against your companies under Federal, State or local environmental laws. Please see the enclosed "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" for more information about this requirement and to aid you in determining whether your company is subject to it.

Lastly, EPA has determined that RMMI and MJS may be "small businesses" under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). Please see the enclosed "Information for Small Businesses" sheet, which provides information on compliance assistance and on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities. Any decision to participate in such program or to seek compliance assistance does not constitute a request for a settlement conference, relieve you of your obligation to file a timely answer to the Complaint, or create for you any new rights or defenses under law. Nor will such an action affect EPA's enforcement of the Complaint. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process, as set forth in the Consolidated Rules of Practice (enclosed). The SBREFA Ombudsman does not participate in the resolution of EPA's enforcement action.

Each party may also request a settlement conference by contacting the attorney assigned to this case:

Russell S. Swan (3RC10)
Assistant Regional Counsel
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Mr. Swan can be reached by telephone at (215) 814-5387. If you are represented by legal counsel, your counsel should contact Mr. Swan.

Sincerely,



Abraham Ferdas, Director
Land and Chemicals Division

Enclosures

cc: Richard Ponak
Enforcement Officer

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the matter of:

DOCKET NO. CAA-03-2009-0091

RMMI, Inc.
936 Beatrice Parkway
Edison, NJ 08820,

and

MJS Contracting, Inc.
85 Bridge Street
Sewaren, NJ 07077,

Respondents,

Former Holiday Inn Hotel
Route 447
Monroe County
East Stroudsburg, PA 18301,

Facility.

ADMINISTRATIVE COMPLAINT
AND
NOTICE OF OPPORTUNITY FOR
HEARING

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OFFICE OF THE ADMINISTRATIVE
HEARINGS DIVISION

I. INTRODUCTION

1. Complainant, the Division Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region III ("EPA") initiates this administrative action against RMMI, Inc., and MJS Contracting, Inc. (hereinafter collectively referred to as "Respondents"), for violations of Section 112 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7412, as alleged below. The authority for issuance of this Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") is set forth in Section 113(a)(3) and (d) of the CAA, 42 U.S.C. § 7413(a)(3) and (d), and the

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), set forth at 40 C.F.R. Part 22. The authority to issue this Complaint has been duly delegated to the signatory below.

II. APPLICABLE STATUTES AND REGULATIONS

2. Section 112 of the CAA, 42 U.S.C. § 7412, requires the Administrator of EPA to publish a list of air pollutants determined to be hazardous and to promulgate regulations establishing emission standards or, where necessary, design, equipment, work practice, or operational standards for each listed hazardous air pollutant.

3. Section 114 of the CAA, 42 U.S.C. § 7414, authorizes the Administrator of EPA to require any person who owns or operates any emission source or who is otherwise subject to the requirements of the CAA to, among other things, establish and maintain such records, make such reports and provide such information as the Administrator might reasonably require to develop or determine compliance with emission standards.

4. Congress listed asbestos as a hazardous air pollutant under the authority of Section 112 of the CAA, 42 U.S.C. § 7412. Pursuant to Sections 112 and 114 of the CAA, 42 U.S.C. §§ 7412 and 7414, EPA promulgated a National Emission Standard for Asbestos ("the asbestos NESHAP"), codified at 40 C.F.R Part 61, Subpart M, Sections 61.140 - 61.157. The asbestos NESHAP includes regulations governing, inter alia, the emission, handling, and disposal of asbestos by the owner or operator of a demolition or renovation activity at an affected facility. Pursuant to Section 112(q) of the CAA, 42 U.S.C. § 7412(q), the above referenced standards and provisions remain in full force and effect, notwithstanding the November 15, 1990 Clean Air Act Amendments.

5. Section 113(a)(3) and (d) of the CAA, 42 U.S.C. § 7413(a)(3) and (d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any rule, plan, order, waiver, or permit promulgated, issued, or approved under, inter alia, Section 112 of the CAA, 42 U.S.C. § 7412.

III. DEFINITIONS

6. Pursuant to 40 C.F.R. § 61.141, “asbestos” means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

7. Pursuant to 40 C.F.R. § 61.141, “asbestos-containing waste materials” means, in pertinent part, mill tailings or any waste that contains commercial asbestos and is generated by a source, subject to the provisions of the asbestos NESHAP, including friable asbestos waste material and materials contaminated with asbestos including disposable equipment and clothing.

8. Pursuant to 40 C.F.R. § 61.141, “friable asbestos material” means, in pertinent part, any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

9. Pursuant to 40 C.F.R. § 61.141, “Category II nonfriable asbestos-containing material (“ACM”)” means, in pertinent part, any material that contains more than 1 percent asbestos as determined using the methods specified in 40 C.F.R. Part 763,

Polarized Light Microscopy, that, when dry, cannot be crumpled, pulverized, or reduced to powder by hand pressure.

10. Pursuant to 40 C.F.R. § 61.141, “demolition” means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

11. Pursuant to 40 C.F.R. § 61.141, “facility” means any institutional, commercial, public, industrial, or residential structure, installation, or building.

12. Pursuant to 40 C.F.R. § 61.141, “owner or operator of a demolition or renovation activity” means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises a demolition or renovation operation, or both.

13. Pursuant to 40 C.F.R. § 61.141, “regulated asbestos-containing material (“RACM”)” means, in pertinent part, friable asbestos material or Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

14. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include “an individual, corporation, partnership, (or) association.”

IV. GENERAL ALLEGATIONS

15. RMMI, Inc. (“RMMI”) is a corporation located at 936 Beatrice Parkway, Edison, New Jersey 08820.

16. MJS Contracting, Inc., ("MJS") is an excavation construction contractor located at 85 Bridge Street, Sewaren, New Jersey 07077, and is a corporation organized under the laws of the State of New Jersey.

17. At all times relevant to this Complaint, the former Holiday Inn Hotel located at Routes 209 & 447, East Stroudsburg, Pennsylvania 18301 was a "facility" as that term is defined by 40 C.F.R. § 61.141.

18. At all times relevant to this Complaint, RMMI was the owner of the former Holiday Inn Hotel (the "Facility").

19. RMMI retained MJS to do general demolition of the Facility.

20. At all times relevant to this Complaint, the Respondent MJS engaged in and completed a "demolition" project at the Facility, as that term is defined by 40 C.F.R. § 61.141.

21. The Respondents are "persons" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

22. At all times relevant to this Complaint, the Respondent RMMI was the "owner or operator of a demolition or renovation activity" as that term is defined at 40 C.F.R. § 61.141.

23. At all times relevant to this Complaint, the Respondent MJS was the "owner or operator of a demolition or renovation activity" as that term is defined at 40 C.F.R. § 61.141.

24. On October 25, 2006 ("October 25 Inspection"), Richard Ponak, EPA's duly authorized representative, conducted an asbestos NESHAP inspection at the Facility.

25. During the October 25 Inspection, Mr. Ponak spoke with Mr. Mike Sancilardi, the president of MJS and on-site supervisor for the demolition project at the Facility.

26. At all times relevant to this Complaint, Mr. Sancilardi was employed by MJS.

27. During the October 25 Inspection, Mr. Ponak observed that MJS was in the process of demolishing the Facility.

28. During the October 25 Inspection, Mr. Ponak observed that most of one building of the Facility was still standing, but the portion that had been demolished was in large piles of debris.

29. Mr. Ponak observed during the October 25 Inspection, that mixed in the demolition debris was dry suspect asbestos containing transite plaster, spray-on asbestos containing ceiling material, and other suspect RACM.

30. During the October 25 Inspection, Mr. Ponak asked Mr. Sancilardi if there was an asbestos survey and if a demolition notification was sent to the EPA.

31. Mr. Sancilardi told Mr. Ponak, that he thought the owner, Mr. Patel, had taken care of the survey and notification.

32. During the October 25 Inspection, Mr. Ponak informed Mr. Sancilardi that the demolition contractor needed to file a NESHAP demolition notification.

33. During the October 25 Inspection, Mr. Ponak observed that every intact room had suspect asbestos containing ceiling material.

34. During the October 25 Inspection, Mr. Ponak also observed that there was transite debris as well as suspect asbestos containing wall plaster scattered throughout the site in the demolished portion of the Facility.

35. During the October 25 Inspection, Mr. Ponak recommended that Mr. Sancilardi not disturb any more of the RACM until Mr. Ponak contacted him with the sample results.
36. Mr. Ponak also recommended that Mr. Sancilardi not demolish any more of the existing building and to not disturb the debris.
37. During the October 25 Inspection, Mr. Ponak took thirty-seven (37) photographs of the Facility and nine (9) samples of the suspect RACM from the Facility.
38. The samples taken during the October 25 inspection were taken from some of the intact rooms and from the demolition debris.
39. The samples of the transite asbestos collected from the intact rooms and from the demolition debris were sent to Criterion Laboratories, Inc. ("Criterion"), 3370 Progress Drive, Bensalem, Pennsylvania for analysis to determine the percentage of asbestos in each sample.
40. Criterion is certified by the National Institutes of Standards and Technology, National Voluntary Laboratory Accreditation Program ("NVLAP").
41. Criterion analyzed the samples collected during the October 25 Inspection using Polarized Light Microscopy with Dispersion Staining in accordance with EPA "Interim Method" (EPA-600/M4-82-020, or 40 C.F.R. Part 763, Appendix E).
42. Analysis of the samples taken during the October 25 Inspection from the intact rooms and from the debris waste pile showed that seven (7) of the nine (9) samples contained more than one (1) percent asbestos.
43. All of the asbestos material observed during the October 25 Inspection, was observed by Mr. Ponak to be dry, friable and not enclosed in leak-tight bags.

44. On October 31, 2006 a second inspection was conducted at the Facility (“October 31 Inspection”).

45. During the October 31 Inspection, Mr. Ponak observed that the Facility was still in the same condition as the October 25 Inspection, and that no demolition was going on.

46. Mr. Ponak also observed during the October 31 Inspection, that some scrap metal had been removed from the site and some asbestos containing transite had been disturbed at the Facility.

47. During the October 31 Inspection, Mr. Ponak informed Mr. Patel that there were NESHAP violations, and that EPA would be issuing an Administrative Order to have the site cleaned up.

48. The asbestos-containing material referenced herein constitutes “RACM” as that term is defined at 40 C.F.R. § 61.141 and asbestos containing waste material as that term is defined at 40 C.F.R. § 61.141.

V. VIOLATIONS

Count I

FAILURE TO PROVIDE NOTICE

49. Complainant realleges the allegations contained in paragraphs 1 through 48 above.

50. At the time of the violations alleged in this Complaint found in Counts I through IV, Respondents “Demolished” the Facility as that term is defined by 40 C.F.R. § 61.141.

51. 40 C.F.R. § 61.145(b) provides, in pertinent part, that each owner or operator of a demolition or renovation activity to which this section applies shall: (1) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the

notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. (2) Update notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent. (3) Postmark or deliver the notice...(i) at least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material).

52. EPA never received written notification of Respondents' intent to demolish the Facility before the asbestos demolition project was conducted at the Facility.

53. Respondents' failure to comply with the requirements of 40 C.F.R. § 61.145(b) constitutes a violation of Section 112 of the CAA, 42 U.S.C. § 7412.

Count II

FAILURE TO HAVE ON-SITE REPRESENTATIVE TRAINED IN THE PROVISIONS OF THE ASBESTOS NESHAP

54. Complainant realleges the allegations contained in paragraphs 1 through 53 above.

55. At the time of the violations alleged in this Complaint found in Counts I through IV, Respondents "Demolished" the Facility as that term is defined by 40 C.F.R. § 61.141.

56. 40 C.F.R. § 61.145(c) provides, in pertinent part, that each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (a) of this section, shall comply with the following procedures: (8) Effective 1 year after promulgation of this regulation, no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized

representative, trained in the provisions of this regulation and the means of complying with them, is present.

57. During the October 25, 2006 inspection the inspector asked if either Respondent had a foreman or management-level person or other authorized representative trained in the provisions of the asbestos NESHAP.

58. Neither Respondent was able to confirm that a foreman or management-level person or other representative trained in the provisions of the asbestos NESHAP was onsite at the Facility during the October 25, 2006 inspection.

59. Respondents' failure to comply with the requirements of 40 C.F.R. § 61.145(c)(8) constitutes a violation of Section 112 of the CAA, 42 U.S.C. § 7412.

Count III

FAILURE TO ADEQUATELY WET RACM

60. Complainant realleges the allegations contained in paragraphs 1 through 59 above.

61. At the time of the violations alleged in this Complaint found in Counts I through IV, Respondents "Demolished" the Facility as that term is defined by 40 C.F.R. § 61.141.

62. With the exception of two samples taken during the October 25 Inspection, the asbestos-containing material referenced in paragraphs 29, 33-35, 38-43, and 46 constitutes "RACM" as that term is defined at 40 C.F.R. § 61.141 and asbestos containing waste material as that term is defined at 40 C.F.R. § 61.141.

63. 40 C.F.R. § 61.145(c) provides, in pertinent part, that each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (a) of this section, shall comply with the following procedures: (6) For all RACM,

including material that has been removed or stripped, (i) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with 40 C.F.R. § 61.150; and (ii) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

64. EPA's inspector observed and photographed dry RACM throughout the site during the October 25, 2006 inspection.

65. Respondents' failure to comply with the requirements of 40 C.F.R. § 61.145(c)(6) constitutes a violation of Section 112 of the CAA, 42 U.S.C. § 7412.

Count IV

FAILURE TO REMOVE RACM BEFORE DEMOLITION

66. Complainant realleges the allegations contained in paragraphs 1 through 65 above.

67. At the time of the violations alleged in this Complaint found in Counts I through IV, Respondents "Demolished" the Facility as that term is defined by 40 C.F.R. § 61.141.

68. The asbestos-containing material referenced in paragraphs 29, 34-36, 39-44, and 47 constitutes "RACM" as that term is defined at 40 C.F.R. § 61.141 and asbestos containing waste material as that term is defined at 40 C.F.R. § 61.141.

69. 40 C.F.R. § 61.145(c) provides, in pertinent part, that each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (a) of this section, shall comply with the following procedures: (1) Remove all RACM from a facility being demolished or renovated before any activity begins that would break

up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal.

70. The EPA inspector observed RACM mixed with demolition debris and RACM hanging off the partially demolished building during the October 25, 2006 inspection.

71. Respondents' failure to comply with the requirements of 40 C.F.R. § 61.145(c)(1) constitutes a violation of Section 112 of the CAA, 42 U.S.C. § 7412.

VI. PROPOSED CIVIL PENALTY

Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. § 19.4, authorize a penalty of not more than \$32,500 for each CAA violations. EPA proposes to assess a civil penalty of seventy nine thousand three hundred seventy dollars (\$79,370.00) against Respondents. The proposed penalty does not constitute a "demand" as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412.

The proposed penalty is as follows:

A. **Gravity Component**

Count I:

Failure to provide Administrator with written notice of intention to renovate (> 50 units)
40 C.F.R. § 61.145(b)(1)

\$ 15,000.00

Count II:

Failure to have on-site representative trained in the provisions of the asbestos NESHAP (> 50 units)
40 C.F.R. § 61.145(c)(8)

\$ 15,000.00

Count III:

Failure to adequately wet
RACM (> 50 units)
40 C.F.R. § 61.145(c)(6)(i)

\$ 15,000.00

Count IV:

Failure to remove RACM before
demolition (> 50 units)
40 C.F.R. § 61.145(c)(1)

\$ 15,000.00

INFLATION ADJUSTMENT: 1.2895

X \$ 60,000.00

SUBTOTAL

\$ 77,370.00

Size of the Violator

\$ 2,000.00

B. Economic Benefit

\$ 0.00

TOTAL PROPOSED PENALTY:

\$ 79,370.00

The proposed civil penalty has been determined in accordance with Section 113 of the CAA, 42 U.S.C. § 7413; 40 C.F.R. Part 19; U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1992 ("CAA Penalty Policy"), and Appendix III thereto ("Asbestos Penalty Policy"); Modifications to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Rule ("Inflation Policy"). Copies of the CAA Penalty Policy, Asbestos Penalty Policy, and the September 21, 2004 Inflation Policy are enclosed with this Complaint. The proposed penalty is not a demand as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412.

In determining the amount of any penalty to be assessed, Section 113(e) of the CAA, 42 U.S.C. § 7413(e), requires EPA to take into consideration the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as

established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. To develop the proposed penalty herein, Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA's Asbestos Penalty Policy as well as the CAA Penalty Policy, both of which were indexed for inflation in keeping with 40 C.F.R. Part 19.

EPA will consider, among other factors, Respondents' ability to pay to adjust the proposed civil penalty assessed in this Complaint. The proposed penalty reflects a presumption of Respondents' ability to pay the penalty and to continue in business based on the size of their businesses and the economic impact of the proposed penalty on their businesses. The burden of raising and demonstrating an inability to pay rests with Respondents. In addition, to the extent that facts or circumstances unknown to Complainant at the time of the issuance of the Complaint become known after issuance of the Complaint, such facts and circumstances may also be considered as a basis for adjusting the proposed civil penalty assessed in the Complaint.

EPA's applicable penalty policy represents an analysis of the statutory penalty factors enumerated above, as well as guidance on their application to particular cases. If the penalty proposed herein is contested through the hearing process described below, Complainant is prepared to support the statutory basis for the elements of the penalty policy applied in this case as well as the amount and nature of the penalty proposed.

The gravity component of the penalty accounts for the substantive nature of the violation. No further adjustment of the penalty appears warranted under the applicable penalty policies at this time. If appropriate, further penalty adjustments may be made

during settlement negotiations. EPA reserves the right to seek higher penalties if new evidence supports such assessment.

VI. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Respondents have the right to request a hearing to contest any matter of law or material fact set forth in the Complaint or the appropriateness of the proposed penalty. To request a hearing, Respondents must file a written Answer to this Complaint with the Regional Hearing Clerk, U.S. EPA Region III (3RC00), 1650 Arch Street, Philadelphia, PA 19103-2029 within thirty (30) days of receipt of this Complaint. The Answer should clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondents have any knowledge. If Respondents have no knowledge of a particular factual allegation, the Answer should so state. That statement will be deemed a denial of the allegation. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which Respondents dispute; (3) the basis for opposing any proposed relief; and (4) whether a hearing is requested. All material facts not denied in the Answer will be considered as admitted. A copy of the Answer and all other documents filed with the Regional Hearing Clerk related to this Complaint must be sent to Russell S. Swan (3RC10), Assistant Regional Counsel, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA, 19103-2029.

If either Respondent fails to file a written Answer within thirty (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint as to that Respondent and a waiver of the right to a hearing under Section 113 of the CAA, 42 U.S.C. § 7413. Failure to Answer may result in the filing of a

Motion for Default Order imposing the penalties proposed herein without further proceedings.

Any hearing requested will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. § 554, and the Consolidated Rules set forth at 40 C.F.R. Part 22. A copy of these rules is enclosed. Hearings will be held in a location to be determined at a later date pursuant to 40 C.F.R. § 22.21(d).

VII. SETTLEMENT CONFERENCE

EPA encourages settlement of proceedings at any time after issuance of a Complaint if such settlement is consistent with the provisions and objectives of the CAA. Whether or not a hearing is requested, Respondents may confer with Complainant regarding the allegations of the Complaint and the amount of the proposed civil penalty.

In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee. Settlement conferences shall not affect the requirement to file a timely Answer to the Complaint.

The attorney assigned to this case is Russell S. Swan, Assistant Regional Counsel. If you have any questions or desire to arrange an informal settlement conference, please contact Mr. Swan at (215) 814-5387 before the expiration of the thirty (30) day period following your receipt of this Complaint. If you are represented by legal counsel, you must have your counsel contact Mr. Swan on your behalf. Please be advised that the Consolidated Rules at 40 C.F.R. § 22.8 prohibit any unilateral discussion of the merits of a case with the Administrator, members of the Environmental Appeals Board, Regional Administrator or the Regional Judicial Officer after the issuance of a Complaint.

VIII. QUICK RESOLUTION

In accordance with 40 C.F.R. § 22.18(a) of the Consolidated Rules, Respondents may resolve this proceeding at any time by paying the specific penalty proposed in this Complaint or in Complainant's prehearing exchange. If Respondents pay the specific penalty proposed in this Complaint within 30 days of receiving this Complaint, then, pursuant to 40 C.F.R. § 22.18(a)(1) of the Consolidated Rules, no Answer need be filed.

If Respondents wish to resolve this proceeding by paying the penalty proposed in this Complaint instead of filing an Answer but need additional time to pay the penalty, pursuant to 40 C.F.R. § 22.18(a)(2) of the Consolidated Rules, Respondents may file a written statement with the Regional Hearing Clerk within thirty (30) days after receiving this Complaint stating that Respondents agree to pay the proposed penalty in accordance with 40 C.F.R. § 22.18(a)(1). Such written statement need not contain any response to, or admission of, the allegations in the Complaint. Such statement shall be filed with the Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and a copy shall be provided to Russell S. Swan (3RC10), Assistant Regional Counsel, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029. Within 60 days of receiving the Complaint, Respondents shall pay the full amount of the proposed penalty. Failure to make such payment within 60 days of receipt of the Complaint may subject the Respondents to default pursuant to 40 C.F.R. § 22.17 of the Consolidated Rules.

Upon receipt of payment in full, in accordance with 40 C.F.R. § 22.18(a)(3) of the Consolidated Rules, the Regional Judicial Officer or Regional Administrator shall issue a

final order. Payment by Respondents shall constitute a waiver of Respondents' rights to contest the allegations and to appeal the final order.

Payment of the penalty shall be made by sending a certified or cashier's check made payable to the "Treasurer of the United States of America," in care of:

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

Copies of the check shall be mailed at the same time payment is made to: Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Russell S. Swan (3RC10), Assistant Regional Counsel, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

By Private Commercial Overnight Delivery:

U.S. Environmental Protection Agency
Fines and Penalties
U.S. Bank
1000 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Payment by EFT to:

Wire Transfers

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727

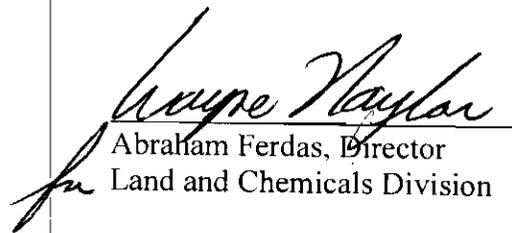
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045
(Field Tag 4200 of the wire transfer message should read:
"D 68010727 Environmental Protection Agency")

On Line Payments:

WWW.PAY.GOV

Enter sfo 1.1 in the search field.

2/20/09
Date


Abraham Ferdas, Director
Land and Chemicals Division

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the matter of:

DOCKET NO. CAA-03-2009-0091

RMMI, Inc.
936 Beatrice Parkway
Edison, NJ 08820,

and

MJS Contracting, Inc.
85 Bridge Street
Sewaren, NJ 07077,

Respondents,

Former Holiday Inn Hotel
Route 447
Monroe County
East Stroudsburg, PA 18301,

Facility.

ADMINISTRATIVE COMPLAINT
AND
NOTICE OF OPPORTUNITY FOR
HEARING

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on the date provided below, the original and one true and correct copy of the foregoing Administrative Complaint and Notice of Opportunity for Hearing were hand-delivered to and filed with the Regional Hearing Clerk (3RC30), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA, and that true and correct copies were served via

certified mail, return receipt requested to:

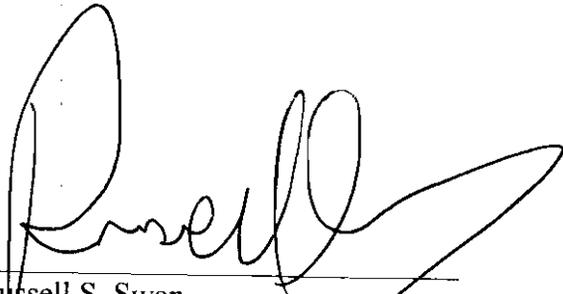
Divyakant Patel
RMMI, Inc.
936 Beatrice Parkway
Edison, NJ 08820,

and

Michael J. Sancilardi
President, MJS Contracting, Inc.
85 Bridge Street
Sewaren, NJ 07077

Date:

2/23/09



Russell S. Swan
Assistant Regional Counsel
U.S. EPA - Region III