

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Fine Line Graphics, Inc.

FILE NO.: 2011-70-HW

NOTICE OF VIOLATION

A. Introduction

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. Facts

- (1) The property is located at 90 Douglas Pike in the town of Smithfield, Rhode Island (the “Property”). The Property includes a facility used for the manufacture of offset printing plates for sale and the operation of a photoengraving business (the “Facility”).
- (2) The Facility is operated by the Respondent.
- (3) The Respondent is registered with the DEM as a large quantity hazardous waste generator at the Facility pursuant to the DEM’s Rules and Regulations for Hazardous Waste Management (the “Hazardous Waste Regulations”) and pursuant to Title 40 of the Code of Federal Regulations (“40 CFR”) under the name of “Fine Line Graphics” with the U.S. Environmental Protection Agency identification number RI5000011510.
- (4) On June 8, 2011, the DEM inspected the Facility. The inspection revealed that the Respondent was storing a waste solvent identified as “Spent Kodak Flexcel XP Washout Solution” in a three hundred (300) gallon container that was not labeled with the words “hazardous waste”.
- (5) On June 9, 2011 the DEM received documents from Respondent relating to the offsite shipment of waste solvent. DEM’s review of the documents revealed that between March 3, 2011 and June 3, 2011 the Respondent shipped twenty-five (25) containers holding approximately eight thousand one hundred twenty-two (8,122) gallons of waste solvent to the I.H. Solve, Inc. facility in Canton, Georgia (the “Georgia Facility”) and the CycleSolv facility in Newark, Delaware (the “Delaware Facility”) without uniform hazardous waste manifests.

- (6) On July 21, 2011 the DEM collected samples from two (2) 55-gallon containers at the Facility holding waste solvent. The DEM inspectors observed hazardous waste labels on the containers.
- (7) On July 28, 2011 the DEM received the analytical test results for the samples that were collected on July 21, 2011. DEM's review of the results revealed that the waste solvent met the definition of a flammable hazardous waste.
- (8) The DEM contacted the states of Georgia and Delaware and was informed that neither the Georgia Facility nor the Delaware Facility is authorized to receive shipments of hazardous waste.

C. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **DEM's Hazardous Waste Regulation 5.3** – requiring that a hazardous waste generator ship hazardous waste to a designated facility.
- (2) **DEM's Hazardous Waste Regulation 5.3 and 40 CFR 262.20** – requiring a generator to complete a hazardous waste manifest for each shipment prior to sending hazardous waste offsite.

D. Order

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **IMMEDIATELY** cease and desist the shipment of hazardous waste to facilities that are not authorized to receive hazardous waste.
- (2) **IMMEDIATELY** begin completing hazardous waste manifests for all offsite shipments of hazardous waste.
- (3) **Within thirty (30) days of receipt of the Notice of Violation (the "NOV")**, submit copies of completed hazardous waste manifests to the DEM's Office of Compliance & Inspection for all offsite shipments of hazardous waste which have occurred since June 8, 2011.

E. Penalty

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

Eighteen Thousand Eight Hundred Fifty Dollars (\$18,850.00)

- (2) The proposed administrative penalty is calculated pursuant to the DEM's Rules and Regulations for Assessment of Administrative Penalties, as amended, and must be paid to the DEM within twenty (20) days of your receipt of this NOV. Payment shall be in the form of a certified check, cashier's check or money order made payable to the "General Treasury - Environmental Response Fund," and shall be forwarded to the DEM Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against Respondent in this NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.

F. Right to Administrative Hearing

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before the DEM Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Paragraphs B through E above. All requests for hearing MUST:
- (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b),
- (b) Be **RECEIVED** by DEM's Administrative Adjudication Division, at the following address, within twenty (20) days of your receipt of this NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
DEM - Administrative Adjudication Division
One Capitol Hill, 2nd Floor
Providence, RI 02903

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
- (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Rule 7.00(b) of the DEM Administrative Rules of Practice and Procedure for the Administrative Adjudication Division of Environmental Matters.

- (2) A copy of each request for hearing must also be forwarded to:

Joseph J. LoBianco, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767

- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner with regard to any violation set forth herein, then this NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (v) and 42-17.6-4(b) and (c).
- (5) Failure to comply with this NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) This NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Joseph J. LoBianco at the DEM Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Tracey Tyrrell of the DEM Office of Compliance and Inspection at (401) 222-1360 ext. 7407.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section F above.

FOR THE DIRECTOR

David E. Chopy, Chief
DEM Office of Compliance and Inspection

Date: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Notice of Violation was forwarded to:

Fine Line Graphics, Inc.
c/o James A. Iacoi, Esq., Registered Agent
17 Broadway
Providence, RI 02903

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, HAZARDOUS WASTE

File No. : 2011-70-HW

Respondent: Fine Line Graphics, Inc.

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
C (1) – Shipment of hazardous waste to an unlicensed facility	Type I (\$ <u>25,000</u> Max. Penalty)*	Major	\$12,500	1 violation	\$12,500.00
C (2) – Shipment of hazardous waste without manifests	Type I (\$ <u>25,000</u> Max. Penalty)*	Moderate	\$6,250	1 violation	\$6,250.00
SUB-TOTAL					\$18,750.00

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

COST RECOVERY		
ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.		
DESCRIPTION OF COST	CALCULATION OF ACTUAL COST INCURRED	AMOUNT
Flashpoint Analysis (Method 1010)	2 samples @ \$50.00/sample	\$ 100.00
SUB-TOTAL		\$ 100.00

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$18,850.00

PENALTY MATRIX WORKSHEET

CITATION: Shipment of hazardous waste to an unlicensed facility
 VIOLATION NO.: C (1)

TYPE		
<p>X TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>____ TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>____ TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>

DEVIATION FROM THE STANDARD
 THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** Respondent failed to ship hazardous waste generated at its Facility to a designated facility that was authorized to receive hazardous waste. The requirement to ship hazardous waste to facilities that are properly licensed to receive hazardous waste is a major component of the regulatory program. State and Federal regulations require owners and operators of facilities designated to receive and manage hazardous waste to install and maintain safety equipment to minimize the possibility of fires, explosions or unplanned releases involving the waste. The regulations also require owners and operators of licensed facilities to maintain a tracking system to ensure proper handling and disposal of each shipment of hazardous waste. The shipment of hazardous waste to a facility that is not authorized to receive hazardous waste presents a danger to human health and the environment by circumventing the regulatory requirements including the need to maintain safety equipment and track shipments to ensure proper disposition of the waste.
- (B) **Environmental conditions:** Not utilized for this calculation.
- (C) **Amount of the pollutant:** Twenty five (25) shipments of hazardous waste totaling approximately eight thousand one hundred twenty two (8,122) gallons.
- (D) **Toxicity or nature of the pollutant:** The hazardous waste exhibits the characteristic of flammability.
- (E) **Duration of the violation:** Three (3) months. The shipments of hazardous waste occurred from March 3, 2011 through and including June 3, 2011.
- (F) **Areal extent of the violation:** Not utilized for this calculation.

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation. After the inspection by the DEM, Respondent began shipping its hazardous waste to a properly licensed facility.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On June 19, 2009 DEM issued a Notice of Violation (NOV) to the Respondent relating to the treatment and management of hazardous waste. Respondent returned to compliance and entered into a Consent Agreement with the DEM on May 5, 2010.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not utilized for this calculation.

<u> X </u> MAJOR	MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$ 25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000 \$12,500	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Shipment of hazardous waste without manifests

VIOLATION NO.: C (2)

TYPE		
<p><u>X</u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>____ TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>____ TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: Respondent failed to complete a hazardous waste manifest for each and every offsite shipment of hazardous waste. The requirement to complete a hazardous waste manifest prior to shipping hazardous waste offsite provides the “cradle to grave tracking” and is a major component of the regulatory program. The offsite shipment of hazardous waste without a manifest removes regulatory safeguards designed to ensure that the subject waste was received and properly disposed of by the licensed facility.</p> <p>(B) Environmental conditions: Not utilized for this calculation.</p> <p>(C) Amount of the pollutant: Twenty five (25) shipments of hazardous waste totaling approximately eight thousand one hundred twenty two (8,122) gallons.</p> <p>(D) Toxicity or nature of the pollutant: The hazardous waste exhibits the characteristic of flammability.</p> <p>(E) Duration of the violation: Three (3) months. The shipments of hazardous waste occurred from March 3, 2011 through and including June 3, 2011.</p> <p>(F) Areal extent of the violation: Not utilized for this calculation.</p>		
(continued)		

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- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation. After the inspection by the DEM, Respondent began shipping its hazardous waste to a properly licensed facility.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On June 19, 2009 DEM issued a Notice of Violation (NOV) to Respondent relating to the treatment and management of hazardous waste. Respondent returned to compliance and entered into a Consent Agreement with the DEM on May 5, 2010.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Not utilized for this calculation.

MAJOR	<u> X </u> MODERATE	MINOR
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	MODERATE	\$6,250 to \$12,500 \$6,250	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250