



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

SEP 30 2009

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Thomas R. Wedoff
Vice President - Finance
Clear Lam Packaging, Inc.
1950 Pratt Boulevard
Elk Grove Village, Illinois 60007

Re: Complaint and Compliance Order
Clear Lam, Inc.
EPA ID No.: ILD 984 805 317

RCRA-05-2009-0025

Dear Mr. Wedoff:

I have enclosed a Complaint and Compliance Order (Complaint) under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a). The Complaint alleges violations of RCRA, 42 U.S.C. § 6901 *et seq.*, and the Illinois Administrative Code by Clear Lam Packaging, Inc. (Clear Lam).

As provided in the Complaint, if Clear Lam would like to request a hearing, Clear Lam must do so in the Answer to the Complaint. Please note that if Clear Lam does not file an Answer with the Regional Hearing Clerk (E-13J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, within 30 days of receipt of this Complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

Regardless of whether Clear Lam chooses to file an Answer and request a hearing within 30 days of receiving the Complaint, EPA extends to Clear Lam the opportunity to continue settlement discussions. A request for an informal settlement conference with EPA will not affect or extend the 30 day deadline to file an Answer.

In addition, whether or not Clear Lam requests a hearing, Clear Lam may request an informal settlement conference.

To request a conference, or if you have any questions about this matter, you may contact Jamie Paulin at (312) 886-1771.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary E. Harris".

Willie H. Harris, P.E.
RCRA Branch Chief
Land and Chemicals Division

Enclosures

cc: Todd Marvel, IEPA (w/enclosure)
Jaqueline M. Vidmar, Seyfarth Shaw LLP (w/enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2009-0025
)	
Clear Lam Packaging, Inc.)	Proceeding to Assess a Civil Penalty
Elk Grove Village, Illinois,)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
_____)	

Complaint and Compliance Order

Preliminary Statement

RECEIVED
SEP 30 2009

REGIONAL HEARING CLERK
USEPA
REGION 5

1. This is an administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act, as amended (RCRA), 42 U.S.C. § 6928(a).

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Jurisdiction for this action is conferred upon 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.

5. Respondent is Clear Lam Packaging, Inc., a corporation doing business and incorporated in the State of Illinois.

Statutory and Regulatory Background

6. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and

dispose of hazardous waste, pursuant to Sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924.

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 any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in 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).

9. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), 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.

10. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 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 that occurred after March 15, 2004.

General Allegations

11. Respondent is a "person" as defined by 35 IAC § 720.110 and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

12. Respondent is an "owner" or "operator," as those terms are defined under IAC § 720.110 and 40 C.F.R. § 260.10, of a facility, located at 1950 Pratt Boulevard, Elk Grove Village, Illinois, that manufactures flexible and rigid packaging materials (Facility).

13. At all times relevant to this Complaint, Respondent's Facility consisted of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

14. Respondent's Facility is a "facility," as that term is defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10.

15. At all times relevant to this Complaint, Respondent used solvents to clean process equipment.

16. Cleaning the process equipment generated solvent waste, which Respondent collected in 55-gallon containers and stored in the hazardous waste storage area of the Facility.

17. At all times relevant to this Complaint, Respondent held solvent waste, a discarded material, for temporary periods in 55-gallon containers before the material was shipped from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

18. Respondent characterized its solvent waste as hazardous waste codes D001, F003, and F005.

19. Respondent stored, transported, disposed of, or otherwise handled its solvent waste in 55-gallon "containers," as that term is defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10.

20. At all times relevant to this Complaint, Respondent's solvent waste was a "solid waste" as that term is defined under 35 IAC § 721.102 and 40 C.F.R. § 261.2.

21. At all times relevant to this Complaint, Respondent's solvent waste was a "hazardous waste" as that term is defined under 35 IAC § 721.103 and 40 C.F.R. § 261.3.

22. At all times relevant to this Complaint, Respondent's holding of solvent waste in 55-gallon containers constituted hazardous waste "storage," as that term is defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10.

23. Respondent is a "generator," as that term is defined under 35 IAC § 720.110 and 40 C.F.R. § 260.10.

24. Respondent generated and managed hazardous waste at the Facility after November 19, 1980.

25. On May 1, 2008, U.S. EPA conducted a Compliance Evaluation Inspection of the Facility (the Inspection).

26. On July 2, 2008, U.S. EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA discovered during the Inspection.

27. On July 31, 2008, Respondent submitted to U.S. EPA a written response to the Notice of Violation.

28. At all times relevant to this Complaint, the State of Illinois had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at its Facility.

29. At all times relevant to this Complaint, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at its Facility.

30. On or about September 14, 1990, Respondent submitted a Hazardous Waste Notification, dated August 22, 1990, to U.S. EPA for the Facility.

31. In its Hazardous Waste Notification dated August 22, 1990, Respondent identified itself as a generator.

32. At all times relevant to this Complaint, Respondent generated during each calendar month more than 1000 kg of hazardous waste at the Facility.

Count 1: Storage of Hazardous Waste without a Permit or Interim Status.

33. Complainant incorporates paragraphs 1 through 32 of this Complaint as though set forth in this paragraph.

34. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

35. Pursuant to 35 IAC § 722.134(a) and 40 C.F.R. § 262.34(a), however, and subject to certain exceptions, a generator of hazardous waste may accumulate hazardous waste on-site for 90 days or less without having a permit or interim status, provided that the generator complies with all applicable conditions set forth in 35 IAC § 722.134(a) and 40 C.F.R. § 262.34(a) including, but not limited to, requirements for owners and operators in Subparts C and D of 35 IAC Part 725 and 35 IAC § 725.116.

36. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 35 IAC Part 724 or 725 and the permit requirements of 35 IAC § 703.121, 35 IAC § 702.120, and 35 IAC § 702.123 unless he has been granted an extension to the 90-day period. Storage for more than 90 days subjects the generator of hazardous waste to the requirement to either obtain a permit or achieve interim status.

37. At all times relevant to this Complaint, Respondent had not been granted an extension to accumulate hazardous waste for more than 90 days.

38. Similarly, the failure to comply with any of the conditions of 35 IAC §§ 722.134(a)(1)-722.134(a)(4) subjects the generator of hazardous waste to the requirements of 35 IAC Part 724 or 725 and the permit requirements of 35 IAC § 703.121, 35 IAC § 702.120, and 35 IAC § 702.123.

39. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must label or mark each container holding hazardous waste clearly with the words "Hazardous Waste." 35 IAC § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)].

40. In order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, it must clearly mark each container holding hazardous waste with the date upon accumulation. 35 IAC § 722.134(a)(2) [40 C.F.R. § 262.34(a)(2)].

41. At the time of the Inspection, Respondent was storing solvent waste in a 55-gallon container with an accumulation date of January 16, 2008 for 16 days over the 90-day limit without obtaining or applying for a permit.

42. At the time of the Inspection, Respondent was storing solvent waste in a 55-gallon container with an accumulation date of December 20, 2007 for 43 days over the 90-day limit without obtaining or applying for a permit.

43. At the time of the inspection, Respondent had not labeled or marked a 55-gallon container of solvent waste with the words "Hazardous Waste."

44. At the time of the inspection, Respondent had not marked a 55-gallon container of solvent waste with a date of accumulation.

45. Accordingly, Respondent failed to satisfy all of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status.

46. Respondent's storage of hazardous waste without a permit or interim status violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of 35 IAC § 703.121, 35 IAC § 702.120, and 35 IAC § 702.123 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

Count 2: Failure to Maintain Aisle Space in Hazardous Waste Storage Area.

47. Complainant incorporates paragraphs 1 through 46 of this Complaint as though set forth in this paragraph.

48. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption provided by 35 IAC § 722.134(a), Respondent became an operator of a hazardous waste storage facility subject to the requirement of 35 IAC § 724.135 [40 C.F.R. § 264.35].

49. 35 IAC § 724.135 [40 C.F.R. § 264.35] requires that the owner or operator of a hazardous waste storage facility maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

50. At the time of the Inspection, Respondent was storing hazardous waste containers without aisle space in the hazardous waste storage area.

51. Respondent's storage of hazardous waste without aisle space violated 35 IAC § 724.135 [40 C.F.R. § 264.35].

Count 3: Failure to Keep Containers of Hazardous Waste Closed During Storage.

52. Complainant incorporates paragraphs 1 through 46 of this Complaint as though set forth in this paragraph.

53. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption provided by 35 IAC § 722.134(a), Respondent became an operator of a hazardous waste storage facility subject to the requirement of 35 IAC § 724.273(a) [40 CFR § 264.173(a)].

54. 35 IAC § 724.273(a) [40 CFR § 264.173(a)] requires that the owner and operator of a hazardous waste facility keep each container holding hazardous waste closed during storage, except when it is necessary to add or remove waste.

55. At the time of the Inspection, Clear Lam Packaging failed to keep containers of hazardous waste closed during storage when waste was not being added to or removed from the containers.

56. Respondent's failure to keep containers holding hazardous waste closed violated 35 IAC § 724.273(a) [40 C.F.R. § 264.173(a)].

Count 4: Failure to Provide Training and Failure to Maintain Training Records.

57. Complainant incorporates paragraphs 1 through 46 of this Complaint as though set forth in this paragraph.

58. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption provided by 35 IAC § 722.134(a), Respondent became an operator of a hazardous waste storage facility subject to the requirement of 35 IAC § 724.116 [40 C.F.R. § 264.16].

59. 35 IAC § 724.116(a)(1) [40 C.F.R. § 264.16(a)(1)] requires that facility personnel successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 35 IAC § 724.116 [40 C.F.R. § 264.16].

60. 35 IAC § 724.116(a)(2) [40 C.F.R. § 264.16(a)(2)] requires that the program of classroom instruction or on-the-job training be directed by a person trained in hazardous waste management procedures, and include instruction which teaches facility personnel hazardous waste management procedures, including contingency plan implementation, relevant to the positions in which they are employed.

61. 35 IAC § 724.116(a)(3) [40 C.F.R. § 264.16(a)(3)] requires, at a minimum, that the training program be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including, where applicable: (1) procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; (2) response to groundwater contamination incidents; and, (3) shutdown of operations.

62. 35 IAC § 724.116(b) [40 C.F.R. § 264.16(b)] requires that facility personnel successfully complete the program required in paragraph (a) of 35 IAC § 724.116 [40 C.F.R. § 264.16] within six months after the effective date of the regulations or six months after the date of employment or assignment to a facility, or to a new position at a facility, whichever is later.

63. 35 IAC § 724.116(c) [40 C.F.R. § 264.16(c)] requires that facility personnel take part in an annual review of the initial training required in 35 IAC § 724.116(a) [40 C.F.R. § 264.16(a)].

64. 35 IAC §§ 724.116(d)(2), (3) and (4) [40 C.F.R. §§ 264.16(d)(2), (3) and (4)] require that owners and operators of hazardous waste facilities maintain the following documents and records:

A written job description for each position listed under paragraph (d)(1) of 35 IAC § 724.116. This description may be consistent in its degree of specificity with descriptions for other positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position; and,

The type and amount of both introductory and continuing training to be given to each employee filling a hazardous waste management position listed under paragraph (d)(1) of 35 IAC § 724.116.

Records that document that the training or job experience required under 35 IAC §§ 724.116(a), (b) and (c) has been given to, and completed by, facility personnel.

65. In 2006, 2007 and 2008, Respondent did not ensure that all classroom instruction or on-the-job training received by Facility personnel satisfied the criteria of 35 IAC §§ 724.116(a)(2) relevant to the positions in which Facility personnel were employed.

66. In 2006 and 2007, Respondent did not ensure that all Facility personnel filling a hazardous waste management position received initial training or annual review of the initial training.

67. Respondent's failure to provide adequate classroom instruction or on-the-job training to, as alleged in paragraph 65 above, violated 35 IAC § 724.116(a) [40 C.F.R. § 264.16(a)].

68. Respondent's failure to provide initial training or annual review of the initial training, as alleged in paragraph 66 above, violated 35 IAC §§ 724.116(a), (b) and (c) [40 C.F.R. §§ 264.16(a), (b) and (c)].

69. At the time of the Inspection, Respondent failed to maintain documents and records providing a written job description that included the requisite skill, education, or other qualifications, and duties for each position at the facility related to hazardous waste management.

70. At the time of the Inspection, Respondent failed to maintain documents and records providing the type and amount of both introductory and continuing training to be given to each employee filling a position at the facility related to hazardous waste management.

71. At the time of the Inspection, Respondent failed to maintain documentation that the training or job experience required under 35 IAC §§ 724.116(a), (b) and (c) had been given to, and completed by, all appropriate facility personnel for 2006, 2007 and 2008.

72. Respondent's failure to maintain records that provided a written job description for each position related to hazardous waste management, and the type and amount of both introductory and continuing training to be given to each employee filling a hazardous waste management position, and documentation that the training or job experience required under 35 IAC §§ 724.116(a), (b) and (c) had been given to, and completed by, facility personnel, violated 35 IAC §§ 274.116(d)(2), (3) and (4) [40 C.F.R. §§ 264.16(d)(2), (3) and (4)].

Count 5: Failure to Have a Complete Contingency Plan.

73. Complainant incorporates paragraphs 1 through 46 of this Complaint as though set forth in this paragraph.

74. As a result of Respondent's failure to meet all of the applicable conditions for the generator exemption provided by 35 IAC § 722.134(a), Respondent became an operator of a hazardous waste storage facility subject to the requirements of 35 IAC §§ 724.152(c), (d), and (e) [40 C.F.R. §§ 264.52(c), (d), and (e)].

75. 35 IAC § 724.152(c) [40 C.F.R. § 264.52(c)] requires that a hazardous waste storage facility's contingency plan describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services pursuant to 35 IAC § 724.137 [40 C.F.R. § 264.37].

76. 35 IAC § 724.152(d) [40 C.F.R. § 264.52(d)] requires that a hazardous waste storage facility's contingency plan list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and that this list be kept up to date.

77. 35 IAC § 724.152(e) [40 C.F.R. § 264.52(e)] requires that a hazardous waste storage facility's contingency plan include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date and must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

78. At the time of the Inspection, Respondent's contingency plan failed to describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and local emergency response teams to coordinate emergency services pursuant to 35 IAC § 724.137 [40 C.F.R. § 264.37].

79. At the time of the Inspection, Respondent's contingency plan did not include the current emergency coordinator's name, office and home phone numbers, and address.

80. At the time Inspection, Respondent's contingency plan did not include a list of all the emergency equipment at the facility, and the location and capabilities of the emergency equipment.

81. Respondent's failure to include within its contingency plan a description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and local emergency response teams to coordinate emergency services; the current emergency coordinator's name, office and home phone numbers; and a list of all the emergency equipment at the facility, and the location and capabilities of the emergency equipment, violated 35 IAC §§ 724.152(c), (d) and (e) [40 C.F.R. §§ 264.52(c), (d) and (e)].

Civil Penalty

The Complainant proposes, subject to the receipt and evaluation of further relevant information from Respondent, that the Administrator assess a civil penalty of eighty eight thousand seven hundred ninety two dollars (\$88,792) for the violations alleged in this Complaint, as further explained in Attachment A, "Penalty Summary Sheet."

Complainant determined the proposed civil penalty according to RCRA Section 3008, 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. *See* 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 2003 RCRA Civil 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.

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. Respondent shall certify its compliance with each of these regulations within thirty (30) days of the date of the filing of this Complaint and Compliance Order by notifying U.S. EPA in writing.

2. If Respondent has not taken or completed compliance with each of regulations cited in this Complaint, Respondent shall notify U.S. EPA of the failure, its reasons for the failure, and the proposed date for compliance within thirty (30) days of the date of the filing of this Complaint and Compliance Order.

Rules Governing this Proceeding

The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (the Consolidated Rules), 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

Respondent must file with the U.S. EPA Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, Illinois 60604

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Tamara Carnovsky to receive any Answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Tamara Carnovsky at (312) 886-2250. Her address is:

Tamara Carnovsky (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, Illinois 60604

Terms of Payment

Respondent may resolve this proceeding at any time by paying the proposed penalty by sending a certified or cashier's check payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must include the case name, docket number and the billing document number on the check and in the letter transmitting the check. Respondent must simultaneously send copies of the check and transmittal letter to the Regional Hearing Clerk and Tamara Carnovsky at the addresses given above, and to:

Jamie Paulin (LR-8J)
Land and Chemicals Division
RCRA Branch
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, Illinois 60604

Answer and Opportunity to Request a Hearing

If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within thirty (30) days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted in accordance with the Consolidated Rules.

In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address specified above.

Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. 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 factual allegation in the Complaint constitutes an admission of the allegation.

Respondent's Answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing.


If Respondent does not file a written Answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order, without further proceedings, 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

Whether or not Respondent requests a hearing, Respondent may request an informal conference to discuss the facts alleged in the Complaint and to discuss settlement. To request an informal settlement conference, Respondent may contact Jamie Paulin at (312) 886-1771.

Respondent's request for an informal settlement conference will not extend the 30-day period for filing a written Answer to this Complaint. Respondent may simultaneously pursue both an informal settlement conference and the adjudicatory hearing process. Complainant encourages all parties against whom it proposes to assess a civil penalty to pursue settlement through an informal conference. Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

September 30, 2009
Date


Margaret M. Guerriero, Director
Land and Chemicals Division

RECEIVED
SEP 30 2009
REGIONAL HEARING CLERK
USEPA
REGION 5

CASE NAME: Clear Lam Packaging, Inc.
DOCKET NO: RCRA-05-2009-0025

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Complaint and Compliance Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

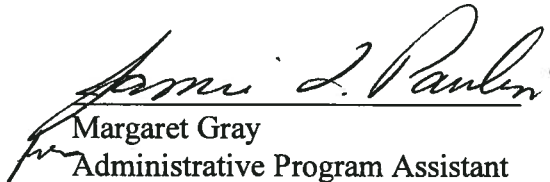
Mr. Tom Wedoff
Clear Lam Packaging, Inc.
1950 Pratt Boulevard
Elk Grove Village, Illinois 60007

Certified Mail #

Ms. Jaqueline M. Vidmar
Seyfarth Shaw LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603

Certified Mail #

Dated: 7/30, 2009


Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency

Region V
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590

RECEIVED
SEP 30 2009
REGIONAL HEARING CLERK
USEPA
REGION 5

Attachment A

PENALTY SUMMARY SHEET CLEAR LAM PACKAGING, INC. ILD 984 805 317

NATURE OF VIOLATION	CITATION OF REGULATION OR LAW	HARM/ DEVIATION	GRAVITY-BASED PENALTY	MULTI-DAY PENALTY	ADJUSTMENTS	ECONOMIC BENEFIT	TOTAL PENALTY
Count 1: Operating without a permit by 1) failing to mark one 55-gal container with an accumulation date and with the words, "Hazardous Waste;" 2) storing hazardous waste greater than 90 days (<i>oldest drum was 43 days greater than 90 days</i>).	35 IAC § 703.121, 35 IAC § 702.120, and 35 IAC § 702.123 [40 CFR §§ 270.1(c) and 270.10(a) and (d), and 270.13]; 42 USC § 6925(a).	moderate / moderate	\$8,382	\$1,193 x 42 days = \$50,106		**\$572	\$58,488
Count 2: Failure to maintain aisle space.	35 IAC § 722.34(a)(4); 35 IAC § 724.135 [40 CFR § 262.34(a)(4); 40 CFR § 264.35].	moderate / moderate	\$8,382	\$0		<\$200	\$8,382
Count 3: Failure to keep containers holding hazardous waste closed during storage, except when necessary to add or remove waste.	35 IAC § 722.34(a); 35 IAC § 724.273(a); 40 CFR §§ 262.34(a); 40 CFR § 264.173(a).	moderate / moderate	\$8,382	\$0		<\$200	\$8,382
Count 4: Failure to provide adequate training, failure to provide initial or annual training and failure to maintain training records.	35 IAC § 722.34(a)(4); 35 IAC § 724.116(a)(1), (a)(2); (b); (c); (d)(2), (d)(3), (d)(4); 40 CFR § 262.34(a)(4); 40 CFR § 264.16(a)(1), (a)(2); (b); (c); and (d)(2), (d)(3), (d)(4).	moderate / moderate	\$8,382	\$0		**\$506	\$8,382
Count 5: Failure to meet all requirements of contingency plan.	35 IAC § 722.34(a)(4); 35 IAC § 724.152(c), (d) and (e); 40 CFR § 262.34(a)(4); 40 CFR § 264.52(c), (d) and (e).	moderate / minor	\$5,158	\$0		**\$241	\$5,158
Subtotals			\$38,686	\$50,106	\$0	**\$1538	\$88,792

**** Economic Benefit is not included in total penalty because it is considered to be insignificant per the RCRA Civil Penalty Policy, dated January 11, 2005.**

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.