



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

SEP 14 2009

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

LR-8J

JLM Chemicals, Inc.
c/o National Registered Agents, Inc.
200 West Adams Street
Chicago, Illinois 60606-5208

Re: Notice of Civil Administrative Complaint against JLM Chemicals, Inc.
EPA ID No.: ILD981093180

RCRA-05-2009-0017

To Whom It May Concern:

Enclosed, please find an Administrative Complaint and Compliance Order (Complaint), which specifies the U.S. Environmental Protection Agency's determination of violations of the Resource Conservation and Recovery Act (RCRA) as amended, 42 U.S.C. § 6901 *et seq.*, committed by JLM Chemicals, Inc (JLM). EPA based its determination on the March 19, 2007, inspection of JLM located at 13100 South Homan Avenue, Alsip, Illinois, and your EPA files. The general allegations in the Complaint state the reasons for EPA's determination. Based on information currently available to us, EPA is proposing a penalty of \$1,086,900.00 in the complaint.

The Complaint outlines your opportunity to request a hearing. Should you desire to contest the Complaint, you must file a written request for a hearing within thirty (30) days after service of this Complaint. You must file the request for hearing with the Regional Hearing Clerk (E-19J), U. S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. You must also send a copy of your request to Harriet Croke, Office of Regional Counsel (C-14J), at the above address.

Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this Complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

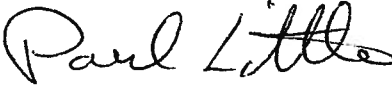

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, please contact Harriet Croke (C-14J), Assistant Regional Counsel at (312) 353-4789.

If you believe that you will be unable to pay a \$1,086,900.00 penalty because of financial reasons, please send us certified, complete financial statements including balance sheets, income statements and all notes to the financial statements, and your company's signed income tax returns with all schedules and amendments, for the past three years.

You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If you fail to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it.

Please note that information on page 9 has been redacted on the basis of a third party's assertion of confidential business information. If you have any questions, please contact Brenda Whitney, United States Environmental Protection Agency, RCRA Branch (LR-8J), 77 West Jackson Boulevard, Chicago, Illinois 60604. She may also be reached at (312) 353-4796.

Sincerely,


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

Enclosure

cc: Larry Hyman
Assignee of JLM Chemicals, Inc.
Michael Moecker & Associates, Inc.
6861 Southwest 196th Avenue
Suite 201-04
Fort Lauderdale, Florida 33332

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2009-0017
)	
JLM Chemicals, Inc.)	Proceeding to Assess a Civil Penalty
Blue Island, Illinois,)	Under Section 3008(a) of the Resource
EPA ID No: ILD981093180)	Conservation and Recovery Act,
)	42 U.S.C. § 6928(a)
Respondent.)	
_____)	

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SEP 14 2009

Complaint and Compliance Order

Preliminary Statement

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY.**

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 JLM Chemicals, Inc., a corporation incorporated in the State of Delaware and doing business 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 3005, of RCRA, 42 U.S.C. §§ 6922, 6923, and 6925.

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 through January 12, 2009.

General Allegations

11. Respondent was and is a “person” as defined by 35 IAC § 720.110 [Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10].
12. At all times relevant to this Complaint, Respondent was an “owner” or “operator” of a facility located at 13100 South Homan Avenue, Alsip, Illinois, 60658-0598 (Facility), as those terms are defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].
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. At all time relevant to this Complaint, Respondent’s Facility was a "facility" as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].
15. At all times relevant to this Complaint, Respondent used propylene and benzene to produce cumene (the cumene unit); and then used cumene to produce phenol and acetone (the phenol unit).
16. Respondent generated wastes from the process identified in paragraph 15 including distillation bottom tars, benzene waste, ignitable waste, and acetophenone waste.
17. Distillation column bottom tars carry the hazardous waste number K022.
35 IAC § 721.132(a). [40 C.F.R. § 261.32].

18. Waste exhibiting the characteristic of toxicity due to benzene content carries the D018 hazardous waste number. 35 IAC § 721.124(b) [40 C.F.R. § 261.25(b)].

19. Waste exhibiting the characteristic of ignitability carries the D001 hazardous waste number. 35 IAC § 721.121(b). [40 C.F.R. § 261.24(b)].

20. Waste exhibiting the characteristic of toxicity due to acetophenone content carries the hazardous waste number U004. 35 IAC § 721.133(f). [40 C.F.R. § 261.33(f)].

21. At all times relevant to this Complaint, Respondent held distillation bottom tars, a discarded material, for temporary periods in tanks 34 and 36 before the material was transported from the Facility for treatment, storage, disposal, burning or incineration elsewhere.

22. At all times relevant to this Complaint, Respondent's distillation bottom tars were a "solid waste" as that term is defined under 35 IAC § 721.102 [40 C.F.R. § 261.2].

23. At all times relevant to this Complaint, Respondent's distillation bottom tars were a "hazardous waste" as that term is defined under 35 IAC § 721.103 [40 C.F.R. § 261.3].

24. At all times relevant to this Complaint, Respondent's acts or processes produced distillation bottom tars (K022).

25. At all times relevant to this Complaint, Respondent's benzene waste was "solid waste" as that term is defined under 35 IAC § 721.102 [40 C.F.R. § 261.2].

26. At all times relevant to this Complaint, Respondent's benzene waste was "hazardous waste" as that term is defined under 35 IAC § 721.103 [40 C.F.R. § 261.3].

27. At all times relevant to this Complaint, Respondent's acts or processes produced benzene waste (D018).

28. At all times relevant to this Complaint, Respondent's ignitable waste was "solid waste" as that term is defined under 35 IAC § 721.102 [40 C.F.R. § 261.2].

29. At all times relevant to this Complaint, Respondent's ignitable waste was "hazardous waste" as that term is defined under 35 IAC § 721.103[40 C.F.R. § 261.3].

30. At all times relevant to this Complaint, Respondent's acts or processes produced ignitable waste (D001).

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

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

33. At all times relevant to this Complaint, Respondent's acts or processes generated acetophenone waste (U004).

34. Respondent's tanks, which store, treat, dispose of, or otherwise handle hazardous waste are "tanks" as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

35. Respondent's drums, buckets and tub which store, treat, dispose of, or otherwise handle hazardous waste are "containers" as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

36. At all times relevant to this Complaint, Respondent's holding of distillation bottom tars (K022), in tanks, buckets, and a tub constituted "storage" of hazardous waste as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

37. At all times relevant to this Complaint, Respondent's holding of benzene waste (D018) and ignitable waste (D001) in drums constituted "storage" of hazardous waste as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

38. At all times relevant to this Complaint, Respondent's holding of acetophenone waste in a drum constituted "storage" of hazardous waste as that term is defined under 35 IAC § 720.110 [40 C.F.R. § 260.10].

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

40. The Facility was generating and managing hazardous waste on or before November 19, 1980.

41. For purposes of this Complaint, the accumulation areas at the Facility will be described in the following manner:

a. Tank Storage Area: at all times relevant to this Complaint, this area consisted of tanks numbered 34 (12,000 gallon capacity), 36 (12,000 gallon capacity), and 39 (14,000 gallon capacity) on the west side of the Facility. At all times relevant to this Complaint, the tanks numbered 34 and 36 were used to store K022 listed hazardous waste;

b. Scrap Yard: at all times relevant to this Complaint, this area consisted of a scrap yard containing drums in the northwest portion of the Facility. At all times relevant to this Complaint, one drum that contained absorbent pads containing benzene waste (D018) and other waste was on a pallet in this area;

c. 90-Day Hazardous Waste Accumulation Area: at all times relevant to this Complaint, this area consisted of a drum accumulation area located to the east of the tanks numbered 34 and 36. This area was designated for the accumulation of hazardous waste for 90 days or less. At all times relevant to this Complaint, three hazardous waste containers (55-gallon drums) were in this area. At all times relevant to this Complaint, each drum contained benzene waste (D018) and/or ignitable waste (D001);

d. Satellite Area West of Cumene Plant: at all times relevant to this Complaint, this area consisted of one drum to the east of the 90-Day Hazardous Waste Accumulation Area, and to the west of the cumene plant. At all times relevant to this Complaint, the drum contained acetophenone waste (U004); and

e. Satellite Area near API Oil/Water Separator: at all times relevant to this Complaint, this area consisted of hazardous waste satellite accumulation containers near the API oil/water separator, where a 55-gallon drum, two buckets, and a tub were located. At all times relevant to this Complaint, the drum included one or more absorbent pads containing benzene waste (D018). At all times relevant to this Complaint, the two buckets and the tub were used to drain hoses and transfer distillation bottom tars (K022) into the oil sump of the API Oil/Water Separator. At all times relevant to this Complaint, the two buckets and the tub contained distillation bottom tars (K022).

42. According to Biennial Report submissions for all times relevant to this Complaint, Respondent identified itself as a large quantity generator.

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

44. On March 19, 2007, personnel from U.S. EPA and the Illinois Environmental Protection Agency conducted a Compliance Evaluation Inspection (Inspection) of the Facility, including a record review.

45. On April 26, 2007, Respondent sent a letter to U.S. EPA regarding the Inspection.

46. On July 31, 2007, U.S. EPA issued an Information Request to the Respondent pursuant to 42 U.S.C. § 6927.

47. On August 28, 2007, Respondent responded to the Information Request.

48. On December 14, 2007, U.S. EPA issued a Notice of Violation (NOV) to Respondent alleging certain violations of RCRA.

49. On January 16, 2008, Respondent submitted to U.S. EPA a written response to the NOV.

50. On or about January 10, 2009, Respondent sold the Facility.

Count 1: Transport/Offer for Transportation without a Hazardous Waste Manifest

51. Complainant incorporates paragraphs 1 through 50 of this Complaint as though set forth in this paragraph.

52. A generator who transports, or offers for transport, hazardous waste for off-site treatment, storage, or disposal, must prepare a manifest. 35 IAC § 722.120(a) [40 C.F.R. § 262.20(a)(1)].

53. On or about March 30, 2005, until on or about July 31, 2007, Respondent offered hazardous waste (K022) for transport off-site without a manifest from the Facility to

this container to a container that is in good condition, or manage the waste in some other way that complies with 35 IAC Part 725, Subpart I [40 C.F.R. Part 265, Subpart I].

35 IAC § 725.271 [40 C.F.R. § 265.171].

61. The interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities also require that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. 35 IAC § 725.131 [40 C.F.R. § 265.31].

62. At the March 19, 2007, Inspection of the Facility, hazardous waste (D001 and/or D018), was leaking from a container in the 90-Day Hazardous Waste Accumulation Area.

63. At the March 19, 2007, Inspection of the Facility, hazardous waste (U004) was leaking from a container at the Satellite Area West of the Cumene Plant.

64. At the March 19, 2007, Inspection of the Facility, hazardous waste (D001) from the leaking 90-Day Hazardous Waste Accumulation Area was on a cracked cement or asphalt slab under a hole in the drum.

65. At the March 19, 2007, Inspection of the Facility, hazardous waste (U004) from the Satellite Area West of the Cumene Plant was on a cracked cement or asphalt slab under the drum.

66. At the March 19, 2007, Inspection of the Facility, hazardous waste (K022) that wind had blown from the oil recovery ropes used to remove oil from the surface of the API Oil/Water Separator was on the ground in the area of the API Oil/Water Separator.

67. At the March 19, 2007, Inspection of the Facility, a container in the Scrap Yard holding hazardous waste (D018) was visibly rusted.

68. On March 19, 2007, Respondent failed to maintain the containers holding D018, D001, and U004 hazardous waste in good condition.

69. Respondent's failure to maintain the containers holding D018, D001, and U004 hazardous waste in good condition on March 19, 2007, violated 35 IAC § 725.271 [40 C.F.R. § 265.171].

70. On March 19, 2007, Respondent failed to maintain and operate the Facility to minimize the possibility of a release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

71. Respondent's failure to maintain and operate the Facility to minimize the possibility of release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment violated 35 IAC § 725.131 [40 C.F.R. § 265.31].

Count 3: Open Hazardous Waste Containers

72. Complainant incorporates paragraphs 1 through 50 of this Complaint as though set forth in this paragraph.

73. A generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status provided that the waste is placed in containers and the generator complies with the applicable requirements of the interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities. 35 IAC § 725.134(a)(1)(A) [40 C.F.R. § 262.34(a)(1)(i)]. The interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities require that a container holding hazardous waste must be closed during storage, except when adding or removing waste. 35 IAC § 725.273(a) [40 C.F.R. § 265.173(a)].

74. At the March 19, 2007, Inspection of the Facility, Respondent failed to keep the following containers closed during storage, when waste was not being added to or removed from the containers: one drum containing hazardous waste (U004) located in the Satellite Area West of the Cumene Plant, one drum containing hazardous waste (D018) located in the Scrap Yard, and two buckets and a tub containing hazardous waste (K022) located near the API Oil/Water Separator.

75. At the March 19, 2007, Respondent failed to keep containers holding hazardous waste closed during storage.

76. Respondent's failure to keep containers holding hazardous waste closed during storage violated 35 IAC § 725.273(a) [40 C.F.R. § 265.173(a)].

Count 4: Storage of Hazardous Waste without a Permit or Interim Status by Failing to Meet the Conditions for Exemption for Generators of Hazardous Waste

77. Complainant incorporates paragraphs 1 through 50 of this Complaint as though set forth in this paragraph.

78. Except as otherwise provided, a large quantity generator may, for ninety days or less, accumulate hazardous waste that is generated on-site without an Illinois hazardous waste permit, provided that the conditions of 35 IAC § 722.134, [40 C.F.R. § 262.34] are met.

79. If the conditions of 35 IAC § 722.134 [40 C.F.R. § 262.34] are not met, then the generator must apply for an operating permit under 35 IAC § 703.180; [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

80. Pursuant to 35 IAC § 722.134(c) [40 C.F.R. § 262.34(c)], a generator may accumulate as much as 55 gallons of hazardous waste at or near any point of generation where wastes initially accumulate without a permit or without having interim status and without complying with 35 IAC § 725.134(a) [40 C.F.R. § 262.34(a)], provided that the generator

complies with all applicable conditions set forth in 35 IAC § 720.134(c) [40 C.F.R. § 262.34(c)] including but not limited to, marking containers either with the words “Hazardous Waste” or with other words that correctly identify the contents of the containers.

81. Pursuant to 35 IAC § 722.134(a) and [40 C.F.R. § 262.34(a)], in order for a generator of hazardous waste to maintain its exemption from the requirement to have an operating permit or interim status, the generator must comply with the specific condition set forth in IAC § 722.134(a)(3) [40 C.F.R. § 262.34(a)(3)] that it label or mark each container holding hazardous waste clearly with the words, “Hazardous Waste.”

82. At the March 19, 2007, Inspection of the Facility, Respondent did not mark containers in the Satellite Area West of the Cumene Plant or the Satellite Area near the API Oil/Water Separator either with the words “Hazardous Waste” or with other words that correctly identify the containers’ contents.

83. Respondent failed to satisfy one of the conditions for complying with 35 IAC § 722.134(c) [40 C.F.R. § 262.34(c)] when it failed to mark its containers with the words “Hazardous Waste,” or with other words that correctly identify the contents of the containers.

84. Accordingly, Respondent was required to comply with 35 IAC § 725.134(a) [40 C.F.R. § 262.34(a)].

85. Respondent failed to satisfy one of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status when it failed to label or mark its containers of hazardous waste with the words “Hazardous Waste.” 35 IAC § 725.134(a) [40 C.F.R. § 262.34(a)].

86. Respondent, therefore, stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a) and became an operator of a

hazardous waste storage facility subject to requirements of 35 IAC Part 724, 35 IAC §§ 703.121, 702.120, and 702.123 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c), 270.10(a) and (d), and 270.13].

Civil Penalty

87. Complainant proposes that the Administrator assess a civil penalty of \$1,086,900.00 against Respondent for the violations alleged in this Complaint, as further explained in Attachment A, "Penalty Summary Sheet."

88. 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.

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 this 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-19J)
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 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 Harriet Croke, Assistant Regional Counsel, to receive any Answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Harriet Croke at (312) 353-4789. Her address is:

Harriet Croke, Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5 (C-14J)
77 W. Jackson Blvd. 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, MO 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 Harriet Croke, Assistant Regional Counsel, at the addresses given above, and to:

Brenda Whitney (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Answer and Opportunity to Request a Hearing

If Respondent contests any material fact upon which this 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 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 this 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 this 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 this 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 this Complaint and to discuss settlement. To request an informal settlement conference, Respondent may contact Brenda Whitney at (312) 353-4796.

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.

Continuing Obligation to Comply

Payment of a civil penalty will not affect Respondent's continuing obligation to comply with RCRA and any other applicable federal, state or local law.

9/10/09
Date

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

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SEP 14 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY.

CASE NAME: JLM Chemicals, Inc.

DOCKET NO: RCRA-05-2009-0017

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-19J), United States Environmental Protection Agency, Region V, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

I further certify that I then caused a true and correct copy of the filed document to be mailed on the date below, via Certified Mail, Return Receipt Requested to:

JLM Chemicals, Inc.
c/o National Registered Agents, Inc.
200 West Adams Street
Chicago, Illinois 60606-5208

Certified Mail Receipt # _____

Dated: 9-14, 2009

Margaret Gray
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

In the Matter of:
JLM Chemicals, Inc., Alsip, Illinois
Administrative Complaint
RCRA Sections 3002, 3003, and 3005

RECEIVED
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U.S. ENVIRONMENTAL
PROTECTION AGENCY