



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2007 APR -5 PM 2:43  
REGIONAL HEARING  
CLERK

MAR 29 2007

**CERTIFIED MAIL- RETURN RECEIPT REQUESTED**

Mr. Dong Heui Son,  
President  
Jetomi Cleaners, Inc.  
d/b/a Queens Bridge Cleaners  
39-28 30<sup>th</sup> Street  
Long Island City, New York 11101

Re: **In the Matter of Jetomi Cleaners, Inc.**  
**Docket No. RCRA-02-2007-7109**

Dear Mr. Son:

Enclosed is the Complaint, Compliance Order and Opportunity for Hearing in the above-referenced proceeding. The Complaint alleges violations of the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 *et seq.*

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint. If you wish to contest the allegations and/or the penalty proposed in the Complaint, you must file an Answer within **thirty (30)** days of your receipt of the enclosed Complaint with the Regional Hearing Clerk of the Environmental Protection Agency ("EPA"), Region 2, at the following address:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 17th floor  
New York, New York 10007-1866

If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer of Region 2, a default order may be entered against you and the entire proposed penalty may be assessed.

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have an informal conference with EPA. However, a request for an informal

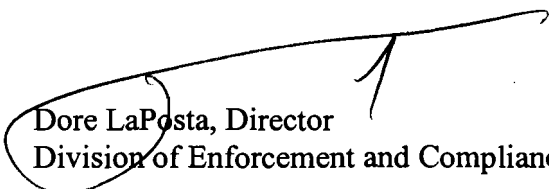
conference **does not** substitute for a written Answer, affect what you may choose to say in an Answer, or extend the thirty (30) days by which you must file an Answer requesting a hearing.

You will find enclosed a copy of the "Consolidated Rules of Practice," which govern this proceeding. (A brief discussion of some of these rules appears in the later part of the Complaint.) For your general information and use, I also enclose both an "Information Sheet for U.S. EPA Small Business Resources" and a "Notice of SEC Registrants' Duty to Disclose Environmental Legal Proceedings" which may apply to you depending on the size of the proposed penalty and the nature of your company.

EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects Policy." Please note that these are only available as part of a negotiated settlement and are not available if this case has to be resolved by a formal adjudication.

If you have any questions or wish to schedule an informal conference, please contact the attorney whose name is listed in the Complaint.

Sincerely,



Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Karen Maples, Regional Hearing Clerk (without enclosures)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**Region 2**

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
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In The Matter of:

Jetomi Cleaners, Inc. d/b/a  
Queens Bridge Cleaners a/k/a  
Bridge Cleaners

Respondent

Proceeding Under Section 3008 of the  
Solid Waste Disposal Act, as amended

**COMPLAINT, COMPLIANCE ORDER**  
**AND NOTICE OF OPPORTUNITY**  
**FOR HEARING**

Docket No. RCRA-02-2007-7109

**COMPLAINT**

This is a civil administrative proceeding instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), 42 U.S.C. §§ 6901 *et seq.* (referred to collectively as the "Act" or "RCRA"). The United States Environmental Protection Agency ("EPA") has promulgated regulations governing the handling and management of hazardous waste at 40 C.F.R. Parts 260 - 273 and 279.

This COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY FOR HEARING ("Complaint") serves notice of EPA's preliminary determination that JETOMI CLEANERS, INC. doing business as QUEENS BRIDGE CLEANERS, also known as Bridge Cleaners, has violated requirements of the authorized New York hazardous waste program.

Section 3006(b) of the Act, 42 U.S.C. § 6926(b), provides that EPA's Administrator may, if certain criteria are met, authorize a state to operate a "hazardous waste program" (within the meaning of Section 3006 of the Act, 42 U.S.C. § 6926) in lieu of the regulations comprising the federal hazardous waste program (the "Federal Program"). The State of New York received final authorization to administer its base hazardous waste program on May 29, 1986. Since 1986, New York State has been authorized for many other hazardous waste requirements promulgated by EPA pursuant to RCRA, See 67 Fed. Reg. 49864 (August 1, 2002), and 70 Fed. Reg. 1825 (January 11, 2005). This includes most EPA regulations issued as of July 1, 1999.

Section 3008(a)(2) of the Act, 42 U.S.C. § 6928(a)(2), authorizes EPA to enforce the regulations constituting the authorized State program and EPA retains primary responsibility for the enforcement of certain requirements promulgated pursuant to HSWA.

Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1), provides, in part, that “whenever on the basis of any information the Administrator [of EPA] determines that any person has violated or is in violation of any requirement of this subchapter [Subtitle C of RCRA], the Administrator may issue an order assessing a civil penalty for any past or current violation.” Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2) provides, in part, that “[i]n the case of a violation of any requirement of [Subtitle C of RCRA] where such violation occurs in a State which is authorized to carry out a hazardous waste program under [Section 3006 of RCRA, 42 U.S.C. § 6926], the Administrator [of EPA] shall give notice to the State in which such violation has occurred prior to issuing an order.”

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2, who has been duly delegated the authority to institute this action, hereby alleges:

### **General Allegations**

#### **Jurisdiction**

1. This Tribunal has jurisdiction over the subject matter of this action pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.1(a)(4).
2. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA has given the State of New York prior notice of this action.

#### **Respondent's background**

3. Respondent is Jetomi Cleaners, Inc., doing business as Queens Bridge Cleaners, and also known as Bridge Cleaners, a dry-cleaning establishment located at 39-28 30<sup>th</sup> Street, Long Island City, New York 11101.
4. Respondent is a for-profit corporation organized pursuant to the laws of the State of New York in 1989. Respondent is a “person” as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15), and in Title 6 of the New York Codes, Rules, and Regulations (“6 NYCRR”) § 370.2(b).<sup>1</sup>
5. Respondent conducts solvent-based fabric cleaning (“dry cleaning”) and related activities in a facility located at 39-28 30<sup>th</sup> Street, Long Island City, New York 11101 (“Facility”).
6. Dry cleaning operations at this location began after November 1980.

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<sup>1</sup> All words or phrases that have been defined in reference to statutory and/or regulatory provisions are used throughout the Complaint as so defined.

7. Respondent was and remains an "owner" and "operator" of the Facility.

**Respondent's generation of waste**

8. Upon information and belief, from at least June 2004, Respondent was operating one Böwe Passant Model P546 (4<sup>th</sup> generation) and two Böwe Passant Model P5110 (4<sup>th</sup> generation) dry-cleaning machines, having 110 pounds ("lbs") and 46 lbs capacities, respectively, that utilizes tetrachloroethylene as the dry-cleaning solvent.
9. Tetrachloroethylene is also known as Perchloroethylene and is commonly referred to as "Perc."
10. Upon information and belief, Respondent, in carrying out its dry-cleaning activities and in the course of conducting normal operations has been generating (and continues to generate) "solid waste" (within the meaning of 6 NYCRR § 371.1(c)) at its Facility.
11. Upon information and belief, Respondent, in carrying out its dry-cleaning activities and in the course of conducting normal operations, has been generating (and continues to generate) "hazardous waste" (within the meaning of 6 NYCRR § 371.1(d)) at its Facility.
12. The hazardous wastes generated by Respondent through its dry-cleaning and related activities at its Facility have included, but are not limited to, tetrachloroethylene contaminated waste distillation residues ("Perc Sludge"); spent tetrachloroethylene contaminated lint, button trap and spin disk filter wastes ("Perc Lint Waste"); spent tetrachloroethylene contaminated separator wastewater ("Perc Wastewater"); and spent tetrachloroethylene contaminated filter cartridges ("Perc Filter Cartridge Waste").
13. The Perc Sludge identified in paragraph "12", above, is a listed hazardous waste (EPA Hazardous Waste Code F002 - spent halogenated solvent) as defined at 6 NYCRR § 371.4(b)(1).
14. The Perc Lint Waste identified in paragraph "12", above, is a listed hazardous waste (F002), as defined at 6 NYCRR § 371.4(b)(1).
15. The Perc Wastewater identified in paragraph "12", above, is both a listed hazardous waste code (F002) and a toxic characteristic hazardous waste (EPA Hazardous waste code (D039) as defined at 6 NYCRR § 371.3(e)(1).
16. The Perc Filter Cartridge Waste identified in paragraph "12", above, is both a listed hazardous waste code (F002) and a toxic characteristic hazardous waste (EPA Hazardous waste code (D039) as defined at 6 NYCRR § 371.3(e)(1).

17. At all times mentioned below in this Complaint and subsequent thereto, Respondent has been a "generator" of "hazardous waste" within the meaning of 6 NYCRR §§ 370.2(b) and 372.2(a)(8)(ii) at its Long Island City location.
18. As of April 2006, and at times both prior thereto and subsequent thereto, Respondent has generated, and continues to generate, on average, more than 100 kilograms ("kg") but less than 1000 kg of hazardous waste in a calendar month and is considered a "small quantity generator" as that phrase is defined in 6 NYCRR § 370.2(b).
19. The requirements for generators are set forth in 6 NYCRR § 372.2. A small quantity generator ("SQG") may accumulate non-acute hazardous waste on-site for one hundred eighty (180) days or less without having a permit or interim status provided it complies with all applicable conditions set forth in 6 NYCRR § 372.2(a)(8) including but not limited to 6 NYCRR § 372.2(a)(8)(iii) - (v).
20. Respondent stores hazardous waste at the Long Island City Facility for a finite period, at the end of which the hazardous waste is sent off-site where it is treated, disposed of or stored elsewhere.

**Past regulatory filings**

21. Pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, Respondent informed EPA, through a notification under the name Bridge Cleaners and dated January 13, 1997 that it generated hazardous waste.
22. In response to the Notification, EPA provided Respondent Bridge Cleaners with EPA Identification Number NYR000034363.

**EPA's Inspection**

23. On or about April 27, 2006, a duly designated representative of EPA ("Inspector") conducted a RCRA Compliance Evaluation Inspection of the Facility ("Inspection").
24. At the time of the Inspection, one 15-gallon container of Perc Lint Waste and Perc Sludge was observed being stored in an alcove area, behind the enclosure for the dry cleaning machines, designated by the Facility as a Hazardous Waste Storage Area.
25. At the time of the Inspection, the container referred to in paragraph "24", above, was not marked with the date indicating when accumulation of hazardous waste began.
26. At the time of the Inspection, the Facility did not have a device, such as a telephone, near the hazardous waste storage area capable of summoning emergency assistance.

27. At the time of the Inspection, the Facility did not post the names and telephone numbers of emergency coordinators next to a telephone near the hazardous waste storage area, or in any other Facility location.
28. At the time of the Inspection, the Facility did not post the location of fire extinguishers and spill control material next to a telephone near the hazardous waste storage area, or in any other Facility location.
29. At the time of the Inspection, the Facility had not attempted to make arrangements to familiarize police, fire departments and emergency response teams with the layout of the Facility and the properties of hazardous waste handled by the Facility.
30. At the time of the Inspection, the Facility had not attempted to make arrangements to familiarize local hospitals with the properties of hazardous waste handled at the Facility and the types of injuries or illnesses which could result from fires, explosions or releases at the Facility.
31. At the time of the Inspection, the Respondent stated that spent fluorescent bulbs had been disposed of as "garbage".
32. At the time of the Inspection, the Facility did not utilize a hazardous waste manifest to ship 210 lbs of hazardous waste from the Facility on April 13, 2006.
33. At the time of the Inspection, Respondent did not have a copy of the manifest with the handwritten signature of the owner or operator of the designated facility (i.e., Treatment, Storage, Disposal facility "TSD") ("TSD to Generator manifest") that was supposed to have received Respondent's waste offered for shipment using manifest number NYG5434533, dated April 18, 2005, to verify that the TSD Facility had received 390 lbs of hazardous waste.
34. At the time of the Inspection, the Facility did not have the TSD to Generator copy of hazardous waste manifest number NYG5434209, dated December 27, 2004, to verify that the TSD facility had received 520 lbs of hazardous waste.
35. At the time of the Inspection, the Facility did not have the TSD to Generator copy of hazardous waste manifest number NYG2019366, dated November 12, 2004, to verify that the TSD facility had received 90 lbs of hazardous waste.

**Notices of Violations and Requests for Information**

36. On or about May 18, 2006, EPA issued to Respondent a combined Notice of Violation and Information Request Letter ("NOV-IRL").

37. The NOV portion of the NOV-IRL, which was issued pursuant to Section 3008 of the Act, 42 U.S.C. § 6928, informed the Respondent that EPA had identified at least nine (9) RCRA violations at its Facility and required Respondent to provide a description and documentation of the actions it had taken to correct the violations within thirty (30) calendar days from receipt of the NOV-IRL.
38. The IRL portion of the NOV-IRL, which was issued pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, sought, in part, information and documentation relating to the Facility's hazardous waste management activities from about April 2004 until about April 2006 which would account for an apparent discrepancy between the quantities of hazardous waste observed being generated at the Facility and quantities of such wastes typically generated by dry cleaning facilities of similar capacity; the IRL also sought additional information or documentation regarding Facility operations that would assist the EPA in fully evaluating Respondent's compliance with RCRA regulations.
39. On or about June 5, 2006, Respondent submitted its Response to the NOV-IRL ("Response"). In response to the question asking for the full legal name of the owner, Respondent identified Jetomi Cleaners as the current owner as of June 15, 2004.
40. In its Response, Respondent stated that its failure to mark containers of hazardous waste with accumulation start dates "has been corrected".
41. In its Response, Respondent stated that its failure to make arrangements to familiarize police, fire departments and emergency response teams with the layout of the Facility, properties of hazardous waste handled by the Facility and associated hazards "has been corrected".
42. In its Response, Respondent stated that its failure to make arrangements to familiarize local hospitals with the properties of hazardous waste handled at the Facility and the types of injuries or illnesses which could result from fires, explosions or releases at the Facility "has been corrected".
43. In its Response, Respondent stated that "there are no phones in the immediate local (sic) of the vapor room where the hazardous waste containers are stored" and that an "air horn" has been installed, instead.
44. In its Response, Respondent stated that its failure to post the names and telephone numbers of emergency responders "has been corrected".
45. In its Response, Respondent stated that its failure to post the location of fire extinguishers and spill control material near the telephone "has been corrected".



46. In its Response, Respondent stated that its failure to manage and dispose of spent fluorescent tubes as hazardous waste or as Universal Waste "has been corrected".
47. In its Response, and referring to separator water (Perc Wastewater), Respondent stated that, from June 2004 through December 2005, "there was confusion on how to dispose of the wastewater" and that "[s]ome of the wastewater was poured into the POTW".
48. In its Response, Respondent stated that each of the two Böwe Passant Model P546 generates approximately 5.5 gallons per week of Perc Wastewater, and that the Böwe Passant Model P5110 generates approximately 11 gallons per week of Perc Wastewater, totaling about 90 gallons (690 lbs) per month.
49. EPA representatives have reviewed the New York State Department of Environmental Conservation ("NYSDEC") manifest database, and have also reviewed shipping documents, including manifests, which Respondent submitted to EPA as part of the Response. EPA's representatives have calculated that Respondent shipped off-site using manifests an average of about 300 lbs of hazardous waste per month from April 2004 through July 2006.
50. In its Response, and in reference to "[m]issing manifest documentation", Respondent responded to EPA's request for copies of manifests and LDR forms by stating that it "has sent a letter... requesting copies of missing TSD copies and LDRs for the period June 15, 2004 to date." As of the date of this Complaint, EPA has not received from Respondent any of these "missing TSD copies and LDRs."
51. Copies of manifests submitted as part of the Response by Respondent did not include TSD to Generator copies of manifest numbers NYG5434533 (dated April 18, 2005), NYG5434209 (dated December 27, 2004) and NYG2019366 (dated November 12, 2004).

**COUNT 1 - Failure to Make Hazardous Waste Determinations**

52. Complainant realleges each allegation contained in paragraphs "1" through "51", inclusive, as if fully set forth herein.
53. Pursuant to 6 NYCRR § 372.2(a)(2), a person who generates a solid waste must determine if that waste is a hazardous waste using the procedures specified in that provision.
54. Pursuant to 6 NYCRR § 371.1(c), subject to certain inapplicable exclusions, a "solid waste" is any "discarded material" that includes "abandoned," "recycled" or "inherently waste-like materials" as those terms are further defined therein.

55. Pursuant to 6 NYCRR § 371.1(c)(3) materials are "solid wastes" if they are "abandoned" by being "disposed of," "burned or incinerated," or "accumulated, stored or treated before or in lieu of being abandoned by being disposed of, burned or incinerated."
56. At the time of the Inspection, and prior thereto, Respondent had been disposing of its Perc Wastewater as non-hazardous waste and had not made a hazardous waste determination with respect to this waste.
57. Perc wastewater referred to in paragraph "56", above, was generated by Respondent and was a "discarded material" and a "solid waste" as defined in 6 NYCRR § 371.1(c).
58. At the time of the Inspection, and/or at prior times thereto, Respondent had not determined if its Perc Wastewater identified in paragraph "56", above, constituted a hazardous waste.
59. At the time of the Inspection, and prior thereto, Respondent had been disposing of its spent fluorescent light bulbs as trash in the regular garbage.
60. The fluorescent light bulbs referred to in paragraph "59", above, were generated by Respondent and were a "discarded material" and a "solid waste" as defined in 6 NYCRR § 371.1(c).
61. At the time of the Inspection, and/or at prior times thereto, Respondent had not determined if its spent fluorescent light bulbs identified in paragraph "59", above, constituted a hazardous waste.
62. Respondent's failure to have made a hazardous waste determination with respect to its Perc Wastewater and its spent fluorescent light bulbs referred to in paragraphs "56" and "59", above, was a violation of 6 NYCRR § 372.2(a)(2).

#### **COUNT 2 - Storage of Hazardous Waste Without a Permit**

63. Complainant realleges each allegation contained in paragraphs "1" through "51", inclusive, as if fully set forth herein

#### **Legal Requirements for Permits & Exemptions**

64. Pursuant to each of the below provisions in this paragraph, the owner or operator of a hazardous waste management facility must obtain a permit or qualify for interim status in order to treat, store or dispose of any such waste:
  - a. Section 3005 of the Act, 42 U.S.C. § 6925; and

b. 6 NYCRR § 373-1.2(c).

65. To be exempt from the permit requirements of 6 NYCRR Part 373, a SQG that generates more than 100 kg but less than 1,000 kgs of non acute hazardous waste must comply with all of the provisions of 6 NYCRR § 372.2(a)(8)(iii).

**Respondent's failure to qualify for an exemption from the permitting requirements**

a. Mark containers with the accumulation start dates

66. Pursuant to 6 NYCRR §§ 372.2(a)(8)(iii)(‘d’) and 373-1(d)(1)(iii)(‘c’)(‘2’), a generator may store more than 100 kgs but less than 1,000 kgs of non acute hazardous waste on-site for a period of 180 days or less without being subject to the permitting provisions of 6 NYCRR Part 373 provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
67. 1. At the time of the Inspection, Respondent failed to have hazardous waste labels with an accumulation start date (*i.e.*, the date when hazardous waste started to be stored in the container) on containers of hazardous waste stored outdoors in an alcove area designated by Respondent as the Hazardous Waste Storage Area.

b. Notifications to police, fire departments and hospitals

68. Pursuant to 6 NYCRR §§ 372.2(a)(8)(iii)(‘d’) and 373-3.3(g)(1)(i), a generator may store more than 100 kgs but less than 1,000 kgs of non acute hazardous waste on-site for a period of 180 days or less without being subject to the permitting provisions of 6 NYCRR Part 373 provided that owners or operators of facilities make arrangements to familiarize police, fire departments, and emergency response teams with the layout of the Facility and the properties of hazardous waste handled by the Facility.
69. Pursuant to 6 NYCRR §§ 372.2(a)(8)(iii)(‘d’) and 373-3.3(g)(1)(iv), a generator may store more than 100 kgs but less than 1,000 kgs of non acute hazardous waste on-site for a period of 180 days or less without being subject to the permitting provisions of 6 NYCRR Part 373 provided that owners or operators of facilities make arrangements to familiarize local hospitals with the properties of hazardous waste handled by the Facility and the types of illnesses or injuries that could result from fire, explosions or releases at the Facility.
70. At the time of the Inspection, and at times prior thereto, Respondent had not notified the police, fire departments, and emergency response teams about the layout of its Facility and the properties of hazardous waste that Respondent generated and handled.

71. At the time of the Inspection, and at time prior thereto, Respondent had not made arrangements to familiarize local hospitals with the properties of hazardous waste handled by the Facility and the types of illnesses or injuries that could result from fire, explosions or releases at the Facility

c. Communication Device

72. Pursuant to 6 NYCRR § 372.2(a)(8)(iii)(e)(2)(i), a generator may store more than 100 kgs but less than 1,000 kgs of non acute hazardous waste on-site for a period of 180 days or less without being subject to the permitting provisions of 6 NYCRR Part 373 provided that the generator has a device, such as a telephone, located near a hazardous waste storage area capable of summoning emergency assistance.

73. At the time of the Inspection and, at times prior thereto, such a device as described in the preceding paragraph was not located near the hazardous waste storage area.

d. Postings

74. Pursuant to 6 NYCRR §§ 372.2(a)(8)(iii)(e)(2)(i) and 372.2(a)(8)(iii)(e)(2)(ii), a generator may store more than 100 kgs but less than 1,000 kgs of non acute hazardous waste on-site for a period of 180 days or less without being subject to the permitting provisions of 6 NYCRR Part 373 provided that the generator posts next to the telephone the name and number of the emergency coordinator, and the location of fire extinguishers and spill control materials.

75. At the time of the Inspection, the names and telephone numbers of emergency coordinators, and the location of fire extinguishers and spill control materials were not posted at Respondent's Facility.

**Respondent's Failure to Have Required Permit**

76. Respondent was subject to the permit requirements of Section 3005 of the Act, 42 U.S.C. § 6925; and 6 NYCRR § 373-1.2(c) for its Facility.

77. Upon information and belief, at the time of the Inspection and, at times prior thereto:

a. Respondent had been operating as a hazardous waste management facility at its Facility;

b. Respondent had been operating as a hazardous waste management facility without having obtained a RCRA permit for its Facility; and

c. Respondent had been operating as a hazardous waste management facility without having qualified for interim status at its Facility.

78. Respondent's storage of hazardous waste and operation of its Facility, a hazardous waste management facility, without having obtained a permit or qualifying for interim status constitutes a violation of Section 3005 of the Act, 42 U.S.C. § 6925; and 6 NYCRR § 373-1.2(c).

#### **COUNT 3 - Failure to Use a Manifest**

79. Complainant realleges each allegation contained in paragraphs "1" through "51", inclusive, as if fully set forth herein.

80. Pursuant to 6 NYCRR § 372.2(b)(5)(i), no generator shall offer a shipment of hazardous waste for transport off-site without an accompanying manifest.

81. At the time of the Inspection, Respondent had not used a manifest when it offered for shipment 210 lbs of hazardous waste on April 13, 2006.

82. Respondent's shipment of hazardous waste off-site without a manifest was a violation of 6 NYCRR § 372.2(b)(5)(i).

#### **COUNT 4 - Failure to Keep Copies of Manifests**

83. Complainant realleges each allegation contained in Paragraphs "1" through "51", inclusive, with the same force and effect as if fully set forth herein.

84. Pursuant to 6 NYCRR § 372.2(c)(1)(i), a generator must keep a copy of each complete manifest document as a record for at least three years from the date the waste was accepted by the initial transporter.

85. At the time of the Inspection, Respondent did not keep a copy of the TSD-to-Generator copy of manifest numbers NYG5434533, NYG2019366, and NYG5434209, dated April 18, 2005, November 12, 2004, and December 27, 2004, respectively.

86. In the NOV-IRL issued to Respondent, EPA informed Respondent of its failure to keep a copy of specified manifests. Respondent was asked to provide EPA with a description of actions taken to correct these violations and was asked to provide a copy of each of the above-referenced missing manifests.

87. In its response to the NOV-IRL, Respondent informed EPA that it was seeking copies of these manifests but EPA has not, as of March 20, 2007, received a copy of any of the requested manifests.

88. Respondent's failure to retain copies of manifests for three years was a violation of 6 NYCRR § 372.2(c) (1) (i).

**COUNT 5 - Failure to Submit Exception Reports**

89. Complainant realleges each allegation contained in Paragraphs "1" through "51", inclusive, with the same force and effect as if fully set forth herein.
90. Pursuant to 6 NYCRR § 372.2(c)(3) a generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date of shipment must immediately contact the transporter and/or disposal facility to determine the status of the shipment. If within 45 days of the date of shipment the generator has not received a signed copy of the manifest, an exception report must be submitted to the New York State Department of Environmental Conservation ("NYSDEC") within 45 days of the date of shipment from the generator.
91. At the time of the Inspection, Respondent did not have a copy of the TSD to Generator manifest numbers NYG5434533, NYG2019366, and NYG5434209, dated April 18, 2005, November 12, 2004, and December 27, 2004, respectively.
92. At the time of the Inspection, Respondent had not submitted exception reports for the three manifests noted in paragraph 91, above.
93. At the time of the Inspection, Respondent was asked if it had any Exception Reports. Respondent stated that it did not know what Exception Reports were as it relied on its transporter to properly dispose of its waste.
94. EPA's representative has reviewed the copies of manifests submitted to EPA as part of the Response. Respondent did not submit to EPA a copy of the TSD to Generator manifests numbers NYG5434533 (dated April 18, 2005), NYG5434209 (dated December 27, 2004) and NYG2019366 (dated November 12, 2004). Without having received a copy of these manifests, Respondent was unable to verify that the TSD facility had received the hazardous wastes Respondent had offered for shipment using these manifests.
95. Respondent's failure to submit exception reports as alleged in paragraph 93, above, was a violation of 6 NYCRR § 372.2(c)(3).

**COUNT 6 - Failure to Properly Complete Manifests**

96. Complainant realleges each allegation contained in Paragraphs "1" through "51", inclusive, with the same force and effect as if fully set forth herein.

97. 6 NYCRR § 372.2(b)(1) requires a generator who transports, or offers for transportation hazardous waste must prepare a manifest according to the manifest instructions included in Appendix 30 of this Title. Appendix 30 specifies that Items 9 and 10 of a manifest must designate the TSD facility's name, address, and ID number.
98. All of Respondent's manifest records for the period beginning at least June 2002 through April 2006 designated "National Waste Clean, Inc. 304 Pulaski Street, South Plainfield, NJ 07080" as the receiving TSD facility. National Waste Clean was not an authorized hazardous waste TSD facility during this time period. The facility that actually received these shipments of hazardous waste was "Service Sanitaires de Recyclage Expert, Inc., 8381 Place Mareien, Montreal - EST QC H1B 5W7".
99. Respondent's failure to properly complete its manifests, as alleged in paragraph 99, above, was a violation of 6 NYCRR § 372.2(b)(1).

## **II. PROPOSED CIVIL PENALTY**

The proposed civil penalty has been determined in accordance with Section 3008(a)(3) of the Act, 42 U.S.C. § 6928(a)(3). For purposes of determining the amount of any penalty assessed, Section 3008(a)(3) requires EPA to "take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements." To develop the proposed penalty in this complaint, the Complainant has taken into account the particular facts and circumstances of this case and used EPA's 2003 RCRA Civil Penalty Policy, a copy of which is available upon request or can be found on the Internet at the following address: <http://www.epa.gov/compliance/resources/policies/civil/rcra/rcpp2003-fnl.pdf>. This policy provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors to particular cases.

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, required EPA to adjust its penalties for inflation on a periodic basis. The penalty amounts were amended for violations occurring on or after January 31, 1997. The maximum civil penalty under Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), for violations occurring between January 31, 1997 through March 15, 2004 is \$27,500 per day of violation. 40 C.F.R. Part 19 (2003). The maximum civil penalty under Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), for violations after March 15, 2004 is \$32,500 per day of violation. 40 C.F.R. Part 19 (2005).

The Complainant proposes, subject to receipt and evaluation of further relevant information from the Respondent, that the Respondent be assessed the following civil penalty for the violations alleged in this Complaint. A penalty calculation worksheet and narrative explanation to support the penalty figure for each violation cited in this Complaint are included

in Attachment I, below. Matrices employed in the determination of individual and multi-day penalties are included as Attachments II, and III, below.

In view of the above-cited violations, and pursuant to the authority of Section 3008(a) (3) of RCRA, 42 U.S.C. § 6928(a) (3), and the RCRA Civil Penalty Policy, including the seriousness of the violations and any good faith efforts by the Respondent to comply with applicable requirements, the Complainant herewith proposes the assessment of a civil penalty in the total amount of thirty-five thousand and ninety-eight dollars (\$35,098) dollars as follows:

Count 1:                    \$10,400

Count 2:                    \$14,299

Counts 3 - 6:            \$ 10,399

**Total Proposed Penalty:    \$ 35,098**

### **III. COMPLIANCE ORDER**

Based upon the foregoing, and pursuant to the authority of Section 3008 of the Act, Complainant herewith issues the following Compliance Order to Respondent:

1. Within ten (10) calendar days of the effective date of this Compliance Order, Respondent shall, to the extent it has not done so, make the required determinations whether any and/or all of the solid wastes generated at the Facility, including Perc wastewater and spent fluorescent light bulbs, are hazardous wastes, and shall appropriately manage and dispose of (or recycle) any hazardous wastes.
2. Respondent shall either:
  - a. submit an application to the New York State Department of Environmental Conservation for a hazardous waste permit for its Facility, within thirty (30) calendar days of the effective date of this Compliance Order, and comply with all applicable rules and regulations, including paragraphs "3" through "6" below, until it obtains such permit; **or**,
  - b. comply with all conditions necessary to be exempt from hazardous waste permitting requirements, including paragraphs "3" through "6" below.
3. Within ten (10) calendar days of the effective date of this Compliance Order, Respondent shall, to the extent that it has not done so, post emergency information such as the name and telephone numbers of emergency coordinators and the location of fire extinguishers and spill control materials near a telephone in any hazardous waste storage area.



4. Within ten (10) calendar days of the effective date of this Compliance Order, Respondent shall, to the extent that it has not done so, undertake a program to maintain up-to-date arrangements or agreements with local hospitals, police, and emergency response teams to familiarize them with the layout of the Facility, properties of hazardous waste handled at the Facility and associated hazards, places where Facility personnel would normally be working, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions or releases at the Facility.

5. Within ten (10) calendar days of the effective date of this Compliance Order, Respondent shall use manifests for all shipments of hazardous waste, shall maintain all copies of manifests for at least three years from the date the waste was accepted by the initial transporter, and shall submit exception reports to the New York State Department of Environmental Conservation ("NYSDEC") if it does not receive, within 45 days of the date of shipment, a signed copy of the manifest that indicates shipments were received by a permitted TSD facility. Respondent shall ensure that it properly completes all manifests.

6. Within thirty (30) calendar days of the effective date of this Compliance Order, Respondent shall comply with all other applicable federal and state regulatory requirements for hazardous waste generators.

7. Regardless of Respondent's decision with regard to the options in paragraph 2, above, Respondent shall submit to EPA within thirty (30) calendar days of the effective date of this Compliance Order written notice of its compliance (accompanied by a copy of all appropriate supporting documentation) or noncompliance for each of the requirements cited in paragraphs "3" through "6" of this Compliance Order, above. If Respondent is in noncompliance with a particular requirement, the notice shall state the reasons for noncompliance and shall provide a schedule for achieving prompt compliance with the requirement.

8. All responses, documentation, and evidence submitted in response to this Compliance Order should be sent to:

Ronald Voelkel  
Environmental Scientist  
RCRA Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 22nd Floor  
New York, New York 10007-1866

This Compliance Order shall take effect thirty (30) days after service of this Order, unless by that date Respondent has requested a hearing pursuant to 40 C.F.R. § 22.15. See 42 U.S.C. § 6928(b) and 40 C.F.R. §§ 22.37(b) and 22.7(c).

Compliance with the provisions of this Compliance Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all other applicable RCRA statutory or regulatory (federal and/or state) provisions, nor does such compliance release Respondent from liability for any violations at its Facility. In addition, nothing herein waives, prejudices or otherwise affects EPA's right to enforce any applicable provision of law, and to seek and obtain any appropriate penalty or remedy under any such law, regarding Respondent's generation, handling and/or management of hazardous waste at its Facility.

#### **IV. NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES**

Pursuant to the terms of Section 3008(c) of RCRA and the Debt Collection Improvement Act of 1996, a violator failing to take corrective action within the time specified in a compliance order is liable for a civil penalty of up to \$32,500 for each day of continued noncompliance which occurs after March 15, 2004. Such continued noncompliance may also result in suspension or revocation of any permits issued to the violator whether issued by EPA or the State of New York.

#### **V. PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION**

The rules of procedure governing this civil administrative litigation have been set forth in 64 *Fed. Reg.* 40138 (July 23, 1999), entitled, "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION COMPLIANCE ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS," and which are codified at 40 C.F.R. Part 22. A copy of these rules accompanies this "Complaint, Compliance Order and Notice of Opportunity for Hearing."

##### **A. Answering The Complaint**

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty and/or the Compliance Order is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written answer to the Complaint, and such Answer must be filed within 30 days after service of the Complaint. 40 C.F.R. §§ 22.15(a) and 22.7(c). The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a).

Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. 40 C.F.R. § 22.15(b).

The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding) and (3) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of their defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

#### **B. Opportunity To Request A Hearing**

If requested by Respondent, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c). With regard to the Compliance Order in the Complaint, unless Respondent requests a hearing pursuant to 40 C.F.R. § 22.15 within thirty (30) days after the Compliance Order is served, the Compliance Order shall automatically become final. 40 C.F.R. § 22.37

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

#### **C. Failure To Answer**

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. § 22.15(d). If Respondent fails to file a timely [*i.e.* in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount, in federal court. Any default order requiring compliance action shall be effective and enforceable against Respondent without further proceedings on the date the default order becomes final under 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d).

#### **D. Exhaustion Of Administrative Remedies**

Where Respondent fails to appeal an adverse initial decision to the Agency's Environmental Appeals Board ("EAB"; see 40 C.F.R. § 1.25(e)) pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to judicial review. 40 C.F.R. § 22.27(d).

To appeal an initial decision to the EAB, Respondent must do so "[w]ithin thirty (30) days after the initial decision is served." 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.7(c), where service is effected by mail, "five days shall be added to the time allowed by these rules for the filing of a responsive pleading or document." Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

### **VI. INFORMAL SETTLEMENT CONFERENCE**

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. § 22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in the Complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant, or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this complaint should be directed to:

Carl R. Howard, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, Room 1623  
New York, New York 10007-1866  
212-637-3216

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference will be embodied in a written consent agreement. 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waive its right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). To conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminate this administrative litigation and the civil proceedings arising out of the allegations made in the complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

## **VII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE**

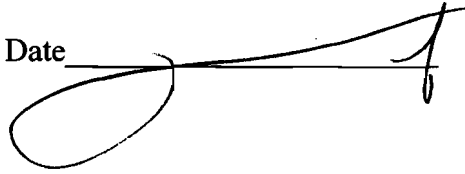
If, instead of filing an Answer, Respondent wishes not to contest the Compliance Order in the Complaint and wants to pay the total amount of the proposed penalty within thirty (30) days after

receipt of the Complaint, Respondent should promptly contact the Assistant Regional Counsel identified on the previous page.

Complainant:

Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency, Region 2

Date



MARCH 29, 2007

**To:** Mr. Dong Heui Son, President  
Jetomi Cleaners, Inc.  
d/b/a Queens Bridge Cleaners  
39-28 30<sup>th</sup> Street  
Long Island City, New York 11101

**cc:** Thomas Killeen, Chief  
Hazardous Waste Compliance Section  
Bureau of Hazardous Waste Management  
New York State Department of Environmental Conservation  
625 Broadway, 5<sup>th</sup> Floor  
Albany, New York 12233-7250

**CERTIFICATE OF SERVICE**

This is to certify that on the day of APR - 4, 2007, I caused to be mailed a true and correct copy of the foregoing "COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY FOR HEARING," bearing Docket Number RCRA-02-2007-7109, together with Attachments I and II (collectively henceforth referred to as the "Complaint"), and with a copy of the "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION COMPLIANCE ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS," 40 C.F.R. Part 22, by certified mail, return receipt requested, to Mr. Dong Heui Son, President, Jetomi Cleaners, Inc., d/b/a Queens Bridge Cleaners, 39-28 30<sup>th</sup> Street, Long Island City, New York 11101. I hand carried the original and a copy of the Complaint to the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2, 290 Broadway, 16<sup>th</sup> floor, New York, New York 10007-1866.

Dated: APR - 4, 2007  
New York, New York

Suzanne Baer

**ATTACHMENT 1**

**NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT  
Penalty Computation Worksheet (Count 1)**

Respondent: Jetomi Cleaners, Inc. d/b/a Queens Bridge Cleaners  
Facility Address: 39-28 30<sup>th</sup> Street, Long Island City, NY 11101

Requirement Violated:

6 NYCRR § 372.2(a)(2). Respondent failed to make determinations as to whether Perc Wastewater and spent fluorescent bulbs constituted hazardous wastes.

**PENALTY AMOUNT FOR COMPLAINT**

- |   |                |
|---|----------------|
| 1. Gravity based penalty from matrix  | \$8,450        |
| (a) Potential for harm.   | MODERATE       |
| (b) Extent of Deviation.  | MODERATE       |
| 2. Select an amount from the appropriate multi-day matrix cell.                 | \$1,950        |
| 3. Multiply line 2 by number of days of violation minus 1.                      | \$1,950        |
| 4. Add line 1 and line 3  | \$10,400       |
| 5. Percent increase/decrease for good faith.                                    | Not applicable |
| 6. Percent increase for willfulness/negligence.                                 | Not applicable |
| 7. Percent increase for history of noncompliance.                               | Not applicable |
| 8. Total lines 5 through 7.   | Not applicable |
| 9. Multiply line 4 by line 8.   | Not applicable |
| 10. Calculate economic benefit.   | Not applicable |
| 11. Add lines 4, 9 and 10 for penalty amount to be inserted into the complaint. | \$10,400       |



**NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT**  
**Penalty Computation Worksheet (Count 1)**

12. Gravity Based Penalty

1. Potential for Harm - The RCRA Civil Penalty Policy provides that the potential for harm should be based on two factors: the risk of human or environmental exposure and the adverse impact of the noncompliance on the regulatory scheme. Where an owner/operator of a facility generating solid waste fails to perform the required hazardous waste determination, the adverse impact on the regulatory scheme is maximized. This follows because if the owner/operator is unaware that the facility is generating a hazardous waste, there is a much greater likelihood that the owner/operator will not comply with the applicable provisions of the regulatory scheme. In this case, the Potential for Harm was determined to be MODERATE owing to the small number of fluorescent bulbs disposed of and the moderate amounts of Perc Wastewater that were discharged to the POTW.
2. Extent of Deviation - The extent of deviation present in this violation was determined to be MODERATE because the Respondent had made hazardous waste determinations for other waste streams.

The applicable cell ranges from \$6,500 to \$10,399. The mid point for the cell matrix was selected.

3. Multiple/Multi-day - Two different solid wastes were not properly identified as hazardous waste. In accordance with the RCRA Civil Penalty Policy, we have utilized the Multi-Day Penalty Matrix to account for the second of the two waste streams. The mid point of the cell matrix was selected consistent with the above.

13. Adjustment Factors

1. Good Faith - Based upon Facility specific factors and available information, that Respondent did not identify the violation and take corrective action prior to the EPA Inspection, no adjustment has been made at this time.
2. Willfulness/Negligence - Not applicable
3. History of Compliance - Not applicable
4. Ability to Pay - Not applicable
5. Environmental Project - Not applicable

6. Other Unique Factors - Not applicable

14. Economic Benefit - Determined to be less than \$3,500.

**NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT  
Penalty Computation Worksheet (Count 2)**

Respondent: Jetomi Cleaners, Inc. d/b/a Queens Bridge Cleaners  
Facility Address: 39-28 30<sup>th</sup> Street, Long Island City, NY 11101

Requirements Violated:

42 U.S.C § 6925, 6 NYCRR §§ 373-1.2. - Operating a Hazardous Waste Storage Facility Without a Permit

Respondent operated a hazardous waste management facility without having obtained a permit or qualifying for interim status. Respondent failed to comply with the requirements necessary for an exemption from permitting, as more specifically alleged in the body of the Complaint. Small and large quantity generators must comply with the hazardous waste container management requirements, the hazardous waste storage area requirements, and must meet certain preparedness and prevention requirements to be exempt from permitting.

**PENALTY AMOUNT FOR COMPLAINT**

- |   |                |
|---|----------------|
| 1. Gravity based penalty from matrix \$14,299                   |                |
| (a) Potential for harm.   | MODERATE       |
| (b) Extent of Deviation.  | MAJOR          |
| 2. Select an amount from the appropriate multi-day matrix cell. | None proposed  |
| 3. Multiply line 2 by number of days of violation minus 1.      | Not applicable |
| 4. Add line 1 and line 3  | \$14,299       |
| 2. Select an amount from the appropriate multi-day matrix cell. | Not applicable |
| 3. Multiply line 2 by number of days of violation minus 1.      | Not applicable |
| 4. Add line 1 and line 3  | \$14,299       |
| 5. Percent increase/decrease for good faith.                    | Not applicable |
| 6. Percent increase for willfulness/negligence.                 | Not applicable |
| 7. Percent increase for history of noncompliance.               | Not applicable |
| 8. Total lines 5 through 7.                                     | Not applicable |

9. Multiply line 4 by line 8.

Not applicable

10. Calculate economic benefit.

Not applicable

11. Add lines 4, 9 and 10 for penalty amount to be inserted into the complaint. \$14,299

**NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT  
Penalty Computation Worksheet (Count 2)**

12. Gravity Based Penalty

1. Potential for Harm -Potential for Harm - The potential for harm present in these violations was determined to be MODERATE. Operation without a permit is a serious violation and has a substantial adverse effect on the program. The Respondent effectively did not comply with most of the preparedness and prevention requirements in the event of illness or injuries resulting from the handling and management of hazardous waste at the Facility, including not having a communications device, not posting of emergency response team telephone numbers, not posting the location of emergency equipment, and not familiarizing emergency responders and hospitals with the Facility and not making arrangements with them in case of accidents. However, the potential for harm was reduced owing to the limited types of hazardous waste generated by the Facility, and the fact that emergency responders and hospitals could normally be expected to be familiar with the types of hazardous waste generated at dry cleaners.
2. Extent of Deviation -The extent of deviation present in this violation was determined to be MAJOR. The facility did not have the required hazardous waste permit, and many required regulations that must be met by SQGs to be exempt from RCRA permitting were violated.

The applicable cell ranges from \$10,400 to \$14,299. The high point for the cell matrix was selected based on the lack of compliance with these requirements.

3. Multiple/Multi-day - The Agency has exercised its enforcement discretion and is only seeking a penalty for the day of the Inspection and has used the high point of the penalty matrix to arrive at the appropriate penalty.

13. Adjustment Factors

1. Good Faith - Based upon facility specific factors and available information, that Respondent did not identify the violation and take corrective action prior to the EPA Inspection, no adjustment has been made at this time.
2. Willfulness/Negligence - Not applicable
3. History of Compliance - Not applicable
4. Ability to Pay - Not applicable
5. Environmental Project - Not applicable

6. Other Unique Factors - Not applicable

14. Economic Benefit - Determined to be less than \$3,500.

**NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT  
Penalty Computation Worksheet (Counts 3 - 6)**

Respondent: Jetomi Cleaners, Inc. d/b/a Queens Bridge Cleaners  
Facility Address: 39 -28 30<sup>th</sup> Street, Long Island City, NY 11101

Requirements Violated:

Count 3: 6 NYCRR § 372.2(b)(5)(i). Respondent failed to use a manifest when it offered for shipment hazardous waste from the Facility.

Count 4: NYCRR § 372.2(c)(1)(i). Respondent failed to retain a complete copy of its manifests for at least three years.

Count 5: 6 NYCRR § 372.2(c)(3). Respondent failed to timely submit exception reports after not receiving a signed TSD-to-Generator copy of manifests.

Count 6: 6 NYCRR § 372.2(b)(1) . Respondent failed to properly prepare its manifests by failing to identify the final disposal site of its hazardous waste.

**PENALTY AMOUNT FOR COMPLAINT**

- |  |                |
|--|----------------|
| 1. Gravity based penalty from matrix \$10,399                              |                |
| (a) Potential for harm.  | MODERATE       |
| (b) Extent of Deviation.   | MODERATE       |
| 2. Select the appropriate multiple day matrix.                             | Not applicable |
| 3. Multiply line 2 by the amount of the gravity based penalty.             | \$10,399       |
| 4. Percent increase/decrease for good faith.                               | Not applicable |
| 5. Percent increase for willfulness/negligence.                            | Not applicable |
| 6. Percent increase for history of noncompliance.                          | Not applicable |
| 7. Total lines 4 through 6.  | Not applicable |
| 8. Calculate economic benefit.   | Not applicable |
| 9. Add lines 3 and 8 for penalty amount to be inserted into the complaint. | \$10,399       |

**NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT  
Penalty Computation Worksheet (Counts 3 - 6)**

15. Gravity Based Penalty

1. Potential for Harm - The potential for harm present in these violations was determined to be MODERATE. The manifest requirements violated are fundamental "cradle-to-grave" requirements of the RCRA program in order to assure that hazardous wastes are properly disposed of and that the final disposal site of hazardous waste will not cause harm to health and the environment. However, notwithstanding problems with the manifests, except for fluorescent light bulbs, when Respondent shipped hazardous waste offsite, the waste appears to have ultimately been sent to an appropriate off-site receiving facility.
2. Extent of Deviation - The extent of deviation present in this violation was determined to be MODERATE. Respondent's manifest records for shipments of hazardous waste from its facility did not designate the TSD facility which actually received its wastes; Respondent failed to use hazardous waste manifests for certain shipments thereby preventing the maintenance of a "cradle-to-grave" disposal record of its hazardous waste; Respondent failed to keep a complete copy of three of its manifests; and Respondent failed to submit exception reports when it did not receive the completed manifests back from the TSD noting that Respondent's wastes had been received.

The applicable cell ranges from \$6,500 to \$10,399. The high point for the cell matrix was selected given that there were multiple violations of requirements relating to manifests.

3. Multiple/Multi-day: We have used our discretion not to impose multiple penalties for the violations and have utilized the high point of the cell matrix to arrive at the appropriate penalty.

16. Adjustment Factors

1. Good Faith - Based upon facility specific factors and available information, that Respondent did not identify the violation and take corrective action prior to the EPA Inspection, no adjustment has been made at this time.
2. Willfulness/Negligence - Not applicable
3. History of Compliance - Not applicable
4. Ability to Pay - Not applicable



5. Environmental Project - Not applicable
6. Other Unique Factors - Not applicable
17. Economic Benefit - Determined to be less than \$3,500.

ATTACHMENT II  
GRAVITY BASED PENALTY

EXTENT OF DEVIATION FROM REQUIREMENT				
P O T E N T I A L  f o r  H A R M		MAJOR	MODERATE	MINOR
	MAJOR	\$32,500 to 26,000	\$25,999 to 19,500	\$19,499 to 14,300
	MODERATE	\$14,299 to 10,400	\$10,399 to 6,500	\$6,499 to 3,900
	MINOR	\$3,899 to 1,950	\$1,949 to 650	\$649 to 130

### MULTI-DAY MATRIX

		EXTENT OF DEVIATION FROM REQUIREMENT		
P O T E N T I A L  f o r  H A R M		MAJOR	MODERATE	MINOR
	MAJOR	\$6,500 to 1,300	\$6,499 to 975	\$3,900 to 715
	MODERATE	\$2,860 to 520	\$2,080 to 325	\$1,00 to 195
	MINOR	\$780 to 130	\$390 to 130	\$130