

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

-----X
In the Matter of: :
: :
New Jersey Department :
of Corrections :
: :
Respondent. :
: :
Proceeding Under Section :
3008 of the Solid Waste :
Disposal Act, as amended. :
-----X

CONSENT AGREEMENT AND
FINAL ORDER

Docket No. RCRA-02-2014-7102

U.S. Environmental
Protection Agency-Reg 2
2014 DEC 18 AM 10:42
REGIONAL HEARING
CLERK

PRELIMINARY STATEMENT

This civil administrative proceeding was 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, 42 United States Code (U.S.C.) §§ 6901-6991 (together hereafter the "Act" or "RCRA").

The Complainant in this proceeding, Dore LaPosta, the Director of the Division of Enforcement and Compliance Assistance, Region 2 EPA, has been duly delegated the authority to institute and carry forward this proceeding.

The Respondent is New Jersey Department of Corrections.

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(b) in lieu of the regulations comprising the federal hazardous waste program (the Federal Program). The State of New Jersey was authorized by EPA in 199 to conduct a hazardous waste program (the "authorized State program"). 64 *Fed. Reg.* 41823 (August 2, 1999). There were subsequent changes in the scope of the authorized State program as a result of EPA's authorization of New Jersey's regulations incorporating by reference changes to the federal program promulgated by EPA between July 2, 1993 and July 31, 1998. 67 *Fed. Reg.* 76995 (December 16, 2002). These changes became effective February 14, 2003. Prior to such date, the authorized State program incorporated by reference, with some minor modifications, the federal program at 40 C.F.R. Parts 124, 260-266, 268 and 270, as set forth in the 1993 edition of the Code of Federal Regulations. See the New Jersey Register for New Jersey's authorized regulations constituting the original authorized State program. 28 *N.J.R.* 4606 (October 21, 1996). See 31 *N.J.R.* 166 (January 19, 1999) for the New Jersey regulations authorized in 2003. New Jersey is not authorized for any HSWA regulations adopted by EPA after July 31, 1998.

The Complainant issued a Complaint, Compliance Order and Notice of Opportunity for Hearing (the "Complaint") to Respondent on or about March 23, 2014. The Complaint alleged that Respondent failed to comply with RCRA and federally authorized New Jersey hazardous waste regulations for multiple waste streams at several of its New Jersey facilities. Complainant and Respondent conducted settlement negotiations which led to this agreement.

Complainant and Respondent agree, by entering into this Consent Agreement and Final Order ("CA/FO") pursuant to 40 C.F.R. § 22.18, that settlement of this matter upon the terms set forth in this CA/FO is an appropriate means of resolving this case without further litigation.

EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is the New Jersey Department of Corrections ("Respondent" or "New Jersey Department of Corrections" or "NJDOC"). Respondent's central offices are located at Stuyvesant Avenue and Whittles Road in Trenton, New Jersey.
2. Respondent operates and manages about 14 major prison facilities ("Correctional Institutions" or "Correctional Facilities") located throughout the State of New Jersey. The East Jersey State Prison has been in existence since before 1980.
3. DEPTCOR Industries ("DEPTCOR") is an "entity" of the New Jersey Department of Corrections that manufactures products such as furniture, license plates, and signs and labels, and provides services such as printing, graphics, and metal fabrication.
4. Respondent is a "person", as that term is defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10 (N.J.A.C. 7:26G-4.1(a)).¹
5. Pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, all persons conducting activities that generate hazardous waste are required to notify EPA of their hazardous waste activities.
6. The New Jersey Department of Corrections has notified EPA that it generates hazardous waste at several of its Correctional Facilities, and NJDOC was assigned hazardous waste identification numbers for those sites, including East Jersey State Prison, Edna Mahan Correctional Facility for Women, and Mountainview Youth Correctional Facility.
7. In the course of normal operations, and in the course of manufacturing activities as part of DEPTCOR operations, the Correctional Facilities operated and managed by the New Jersey Department of Corrections generate "solid waste," as that term is defined at 40 C.F.R. § 261.2 (N.J.A.C. 7:26G-5.1(a)).

¹ Words or phrases that have been defined with reference to statutory and/or regulatory provisions are subsequently used throughout the Complaint as so defined.

8. In the course of normal operations, and in the course of manufacturing activities as part of DEPTCOR operations, the Correctional Facilities operated and managed by the New Jersey Department of Corrections generate "hazardous waste," as that term is defined in 40 C.F.R. § 261 Subpart D (N.J.A.C. 7:26G-5.1(a)).
9. Solid and hazardous wastes generated by the New Jersey Department of Corrections at its facilities include, but are not limited to, waste paints and lacquers, paint booth filters, spent solvents, corrosive liquids, spent mercury lamps, lead batteries, off-specification glues and adhesives, used oil, discarded electronic wastes including cathode ray tubes (CRT), copier dispersant, and waste pharmaceuticals.
10. Some of the wastes described above exhibit the characteristic of ignitability, toxicity, and corrosivity.
11. The New Jersey Department of Corrections generates significant amounts of spent mercury lamps, a solid and potentially hazardous waste stream, at the three facilities inspected by EPA and perhaps at its other facilities.
12. Some of the spent lamps generated at the buildings operated and managed by the New Jersey Department of Corrections at the three facilities inspected by EPA and perhaps at its other facilities, exhibit the characteristic of toxicity under the Toxicity Characteristic Leaching Procedure (TCLP) for metals, in particular mercury.
13. New Jersey Department of Corrections was storing hazardous waste at the East Jersey State Prison on and before the EPA's March 27, 2013, Inspection.
14. On or about March 29, 2010 and April 21, 2010, a duly designated representative of EPA conducted a RCRA Compliance Evaluation Inspection of Respondent at its East Jersey State Prison ("East Jersey Prison") facility (the "First East Jersey Prison Inspection") in Avenel, New Jersey.
15. At the time of the First East Jersey Prison Inspection, multiple violations of RCRA regulations were observed by EPA's representative, including the haphazard storage of containers of hazardous waste in two open trailers.
16. As a result of the violations observed during the First East Jersey Prison Inspection, EPA issued a September 7, 2010 Notice of Violation.
17. On or about January 16, 2013, a duly designated representative of EPA conducted a follow-up RCRA Compliance Evaluation Inspection of Respondent at its East Jersey State Prison facility ("Second East Jersey Prison Inspection").
18. At the time of the Second East Jersey Prison Inspection, multiple violations of RCRA regulations were observed by an EPA representative, including the haphazard storage of containers of hazardous waste in three open trailers; many of the containers were corroded, deteriorated, and/or were precariously stacked.

19. As a result of the violations observed during the Second East Jersey Prison Inspection, EPA issued a February 14, 2013 Notice of Violation.
20. On or about March 25, 2010, a duly designated representative of EPA conducted a RCRA Compliance Evaluation Inspection of Respondent at its Edna Mahan Correctional Facility for Women ("Edna Mahan Facility") ("First Edna Mahan Facility Inspection") in Clinton, New Jersey.
21. At the time of the First Edna Mahan Facility Inspection, EPA's representative concluded that RCRA regulations had been violated.
22. As a result of the violations observed during the First Edna Mahan Inspection, EPA issued a July 30, 2010 Notice of Violation.
23. On or about March 27, 2013, a duly designated representative of EPA conducted RCRA Compliance Evaluation Inspections of Respondent at its Edna Mahan Facility in Clinton, New Jersey, and its Mountainview Youth Correctional Facility in Annandale, New Jersey ("March 27, 2013 Inspections").
24. At the time of the March 27, 2013 Inspections, the EPA representative concluded that RCRA regulations had been violated. The same day, as a result of EPA's inspection, Respondent sent EPA a letter in which it described certain corrective actions it had taken at the Mountainview Youth Correctional Facility.
25. On or about September 7, 2010, in response to violations found during the First East Jersey Prison Inspection, EPA issued NJDOC East Jersey State Prison a Notice of Violation and RCRA Section 3007 Information Request Letter ("First East Jersey NOV-IRL").
26. The NOV portion of the First East Jersey NOV-IRL cited the following four violations:
 - a. failure to make determinations as to whether or not solid wastes it generates is a hazardous waste, 40 C.F.R. § 262.11;
 - b. failure to maintain and operate its facility to minimize the possibility of unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, 40 C.F.R. § 265.31;
 - c. failure to ensure that its wastes were disposed of at an appropriate facility, 40 C.F.R. § 261.5; and,
 - d. failure to 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, 40 C.F.R. § 262.40.

27. The IRL portion of the First East Jersey NOV-IRL requested, among other things, information and documentation regarding the facility's generation and disposal of hazardous waste.
28. On October 20, 2010, Respondent submitted its Response to the IRL ("First East Jersey Prison Response"). Respondent noted that its storage container for its waste fluorescent bulbs "should have been kept in a more organized fashion" and described the recycling program it was initiating. Regarding its disposal of hazardous waste, Respondent attached a printout from one disposal facility listing shipments of hazardous waste from the East Jersey Prison.
29. On or about February 14, 2013, in response to violations found during the Second East Jersey Prison Inspection, EPA issued NJDOC East Jersey State Prison a Notice of Violation and RCRA Section 3007 Information Request Letter ("Second East Jersey NOV-IRL").
30. The NOV portion of the Second East Jersey NOV-IRL cited the following nine violations:
 - a. failure to make determinations as to whether or not solid wastes it generates is a hazardous waste, 40 C.F.R. § 262.11;
 - b. failure to maintain and operate its facility to minimize the possibility of unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, 40 C.F.R. § 265.31;
 - c. failure to label containers of hazardous waste with the words "Hazardous Waste" or with other words identifying their contents, 40 C.F.R. § 262.34(a)(3);
 - d. failure to mark containers of hazardous waste with accumulation start dates, 40 C.F.R. § 262.34(a)(2);
 - e. failure to keep containers of hazardous waste closed except when necessary to add or remove waste, 40 C.F.R. § 265.173(b);
 - f. failure to inspect areas where containers of hazardous waste are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion and other factors on a weekly basis, 40 C.F.R. § 265.174;
 - g. failure to maintain aisle space between rows of hazardous waste containers to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, 40 C.F.R. § 265.35;
 - h. failure to manage spent Universal waste in a way that prevents releases of any Universal waste or component of Universal waste to the environment, 40 C.F.R. § 273.13(d); and,
 - i. failure to label or mark Universal waste lamp containers with the phrases "Universal Waste – Lamp(s)": or "Waste Lamp(s)" or "Used Lamp(s)" 40 C.F.R. § 273.14(e).

31. The IRL portion of the Second East Jersey Prison NOV-IRL requested, among other inquiries, information and documentation regarding the haphazard storage of hundreds of containers of solid waste, including hazardous waste, placed in three open trailers, and documentation, including analytical results, relating to hazardous waste determinations.
32. On April 16, 2013, Respondent submitted its Response to the Second IRL ("Second East Jersey Prison 2013 Response").
33. In its Second East Jersey Prison 2013 Response, Respondent submitted the following information:
 - a. "(S)storage trailers ... have been emptied of all waste" and "chemicals have all been...shipped to proper disposal locations"; hazardous waste manifests showing that 6,080 pounds of four waste streams, ignitable waste including "waste paint" (D001), "waste flammable liquids" including spent solvents and waste thinners (D001), "waste corrosive liquids" (D002), and toxic wastes (including waste mercury lamps) were shipped off site;
 - b. "[Neither] The Department of Corrections nor specifically the State USE Industries/DEPTCOR owns any analytical equipment or instrumentation that can determine whether or not spray booth filters, off-spec paints and lacquers waste are or are not hazardous waste." "DEPTCOR has solicited five quotations from vendors who are qualified in conducting analytical testing and providing the required documentation..." to make hazardous waste determinations of waste generated in their furniture shop; submitted Material Safety Data Sheet (MSDS) data for sealers, lacquers, finishers, Polycrtylic paint, and paint thinners indicated that most chemical products used in manufacturing operations were "Extremely Flammable";
 - c. "Scrap barrel(s)" of waste sealers, lacquers, finishers, Polycrylic paint, and paint thinners, were shipped to DEPTCOR Central Warehouse for disposal without usage of hazardous waste manifests;
 - d. "All future chemicals, will be properly marked as such as example; flammable, non flammable, waste lamps and other types of hazardous wastes."
 - e. "All future wastes will be ... marked and dated as they have been placed [in] the storage containers."
 - f. "Lamps were not properly stored" and "[a] label has been made up to be affixed to each container of future waste lamps."
 - g. "(A) request to construct a cement pad with 3 new storage containers to be placed on the pad has been submitted to the Department of Corrections Division of Operations" and "This pad and storage container site will correct many of the issues that are part of this violation notice", i.e. to minimize the possibility of the uncontrolled release of hazardous waste to the environment;
 - h. "All future wastes will be in closed storage containers".
 - i. "All future wastes will be inspected weekly and noted in log book"; and
 - j. "Based upon weekly inspections, the build up of materials will not occur to the point of there not being an available aisle in which to enter area and be able to travel from the front to the back of the storage area."

34. On or about July 30, 2010, in response to violations found during the First Edna Mahan Inspection, EPA issued NJDOC Edna Mahan Facility a Notice of Violation and RCRA Section 3007 Information Request Letter (“Edna Mahan NOV-IRL”).
35. The NOV portion of the Edna Mahan NOV-IRL cited the following four violations:
 - a. failure to make determinations as to whether or not solid wastes it generates is a hazardous waste, 40 C.F.R. § 262.1;
 - b. failure to label containers of hazardous waste with the words “Hazardous Waste” or with other words identifying their contents, 40 C.F.R. § 262.34(a)(3);
 - d. failure to 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, 40 C.F.R. § 262.40; and,
 - e. failure to manage spent Universal waste in a way that prevents releases of any Universal waste or component of Universal waste to the environment, 40 C.F.R. § 273.13(d).
36. The IRL portion of the Edna Mahan NOV-IRL requested, among other things, information and documentation regarding generation and disposal of hazardous waste at the Edna Mahan Facility. The IRL portion of this NOV-IRL requested, among other things, information and documentation regarding the types and quantities of lamps purchased and utilized by the facility during the period May 2007 to May 2010, including off-site shipment/disposal or treatment of such wastes, as well as a narrative describing the method used to crush spent lamps by the facility.
37. On August 27, 2010, Respondent submitted its Response to the Edna Mahan NOV-IRL (“Edna Mahan Response”).
38. In its Edna Mahan Response, Respondent stated “the facility has eliminated the use of a bulb crusher and no longer places the crushed bulbs in a dumpster.”
39. In its Edna Mahan Response, when asked for analytical results and or documentation used in determining whether solid waste is or is not a hazardous waste, or a narrative describing how it used generator knowledge, Respondent did not provide any such analytical results or narrative. Instead, Respondent submitted August 2010 policy guidance documents on internal management procedures.
40. Pursuant to 40 C.F.R. § 262.11 (N.J.A.C. 7:26 G-6.1(a)), a person who generates a solid waste must determine if that waste is a hazardous waste using the procedures specified in that provision.
41. Pursuant to 40 C.F.R. § 261.2(a)(1) (N.J.A.C. 7:26 G-5.1(a)), 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.

42. Pursuant to 40 C.F.R. § 261.2(b) (N.J.A.C. 7:26 G-5.1(b)), materials are solid wastes if they are abandoned by being:
 - a. disposed of;
 - b. burned or incinerated; or
 - c. accumulated, stored, or treated before or in lieu of being abandoned by being disposed of, burned or incinerated.
43. In the course of its operations, both prior to and as of the dates of the Inspections, Respondent has generated solid waste (as defined in 40 C.F.R. 261.2(a)(1) (N.J.A.C. 7:26 G-5.1(a))), at the three facilities inspected by EPA and perhaps at its other facilities, some of which was later managed as hazardous waste, including but not limited to ignitable, corrosive, and toxic characteristic hazardous waste, as defined in 40 C.F.R. § 261.3 (N.J.A.C. 7:26 G-5.1(a)).
44. Respondent, at several of its Correctional Facilities, including *inter alia* East Jersey Prison, the Edna Mahan Facility and the Mountainview Facility, and in the course of its operations, both prior to and as of the dates of the aforementioned Inspections, generated materials which were waste or waste-like due to their being stored in corroded and/or open containers and/or which were unlabeled and/or which had been stored for an extensive period of time without reasonable prospects of being used or sold as a product or product ingredient and/or which were being stored in lieu of disposal at the above-noted Correctional Facilities.
45. In the course of its operations, both prior to and as of the dates of the aforementioned Inspections, Respondent at several of its Correctional Facilities, including *inter alia* East Jersey Prison, and the Edna Mahan Facility, had not determined whether wastes it had generated constituted hazardous waste.
46. Respondent's failures to have made timely hazardous waste determinations for the aforementioned wastes at its East Jersey Prison, and Edna Mahan Facility, constitute multiple violations of 40 C.F.R. § 262.11 (N.J.A.C. 7:26 G-6.1(a)).
47. Pursuant to 40 C.F.R. § 265.171 (N.J.A.C. 7:26 G-9.1(a)), if a container holding hazardous waste is not in good condition, then the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or otherwise manage the waste consistent with the requirements of the regulations.
48. At the time of the Second East Jersey Prison Inspection, Respondent had multiple containers of wastes, including waste paints, "corrosives", spent mercury lamps, and copier dispersant, in three open trailers; many of the containers of waste paints were corroded, and a large number of containers with SAVIN copier dispersant number 4537, which has a flashpoint of 102°F, were in boxes that were collapsing.
49. Respondent's failures to transfer hazardous waste from containers that were not in good condition to containers in good condition at its East Jersey Prison, constitute multiple violations of 40 C.F.R. § 265.171 (N.J.A.C. 7:26 G-9.1(a)).

50. Pursuant to 40 C.F.R. § 265.31 (N.J.A.C. 7:26 G-9.1(a)), a facility 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.
51. At the time of the Second East Jersey Prison Inspection, Respondent haphazardly placed multiple containers of wastes, including waste paints, "corrosives", spent mercury lamps, and copier dispersant, in three open trailers accessible by anyone from the facility parking lot;
 - a. Many of the containers of waste paints were corroded, deteriorated, and/or were precariously stacked so as to provide inadequate aisle space for any inspection of the containers;
 - b. A container labeled "corrosive" was open; and,
 - c. A large number of containers of SAVIN copier dispersant number 4537, which has a flashpoint of 102°F and therefore was ignitable, were in boxes that were collapsing near the edge of one of the trailers, threatening to cause an uncontrolled release of an ignitable substance into the environment.
52. Respondent's aforementioned failures to maintain and operate the East Jersey Prison to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents into the air, soil or surface water which could threaten human health or the environment, constitute multiple violations of 40 C.F.R. § 265.31 (N.J.A.C. 7:26 G-9.1(a)).
53. The parties have agreed to settle this matter as per the terms noted below.

CONSENT AGREEMENT

Pursuant to Section 3008 of the Act, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. §22.18, it is hereby agreed by and between the parties and Respondent knowingly and voluntarily agrees as follows:

1. Commencing on the effective date of the Final Order, to the extent it has not done so, Respondent shall in accordance with 40 C.F.R. § 262.11 (N.J.A.C. 7:26 G-6.1(a)), make the required determinations whether any and/or all of the solid wastes previously generated and still stored at its Correctional Facilities, specifically East Jersey Prison, and the Edna Mahan Facility, are hazardous wastes. For future generated waste, Respondent shall make timely determinations, in accordance with the above noted regulations, as to whether solid waste it generates constitutes hazardous waste.
2. By no later than five (5) days after the effective date of the Final Order, to the extent it has not done so, Respondent shall in accordance with 40 C.F.R. § 264.171 (N.J.A.C. 7:26 G-8.1(a)), transfer hazardous waste from any containers at the East Jersey Prison that are not in good condition to containers that are in good condition. Respondent shall comply with this requirement henceforth.

3. Commencing on the effective date of the Final Order, Respondent shall in accordance with 40 C.F.R. § 265.31 (N.J.A.C. 7:26 G-9.1(a)), maintain and operate its East Jersey Prison so as 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.

4. Within ninety (90) calendar days of the effective date of the Final Order, Respondent at all thirteen (13) of its Correctional Facilities shall comply with all regulatory requirements applicable to hazardous waste generators or to an owner and operator which accumulates and/or stores hazardous waste at its facilities.

5. All responses, documentation, and evidence submitted in connection with this Consent Agreement 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, 21st Floor
New York, New York 10007-1866

6. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies specific factual allegations contained in the Complaint.

7. Respondent shall pay a civil penalty to EPA in the total amount of **SIXTY-NINE THOUSAND DOLLARS (\$69,000.00)**. Payment of the civil penalty shall be made by cashier's or certified check or by Electronic Funds Transfer ("EFT"). If the payment is made by check, then the check shall be made payable to the "**Treasurer, United States of America**" and shall be mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO. 63197-9000

8. The check shall be identified with a notation thereon listing **In the Matter of New Jersey Department of Corrections, Docket No. RCRA-02-2014-7102**. If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment:
68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency."

6) Name of Respondent: **In the Matter of New Jersey Department of Corrections**

7) Case Number: **RCRA-02-2014-7102**

Whether the payment is made by check or EFT, Respondent shall promptly thereafter furnish reasonable proof that such payment has been made to both:

Carl R. Howard
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, N.Y. 10007-1866

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, N.Y. 10007-1866
Attn: Karen Maples

9. Payment of sixty-nine thousand dollars (\$69,000.00) must be received on or before forty-five (45) calendar days after the date of signature of the Final Order, which is located at the end of this CA/FO. The date by which payment must be received shall hereinafter be referred to as the "Due Date."

- a. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of Treasury for collection or other appropriate action.
- b. Furthermore, if payment is not received on or before its due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.
- c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

10. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

11. This CA/FO is being voluntarily and knowingly entered into by the parties to resolve (upon full payment of the civil penalty) the civil and administrative claims alleged in the Complaint. However, nothing herein shall be read to preclude EPA or the United States from

pursuing appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

12. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all the terms of settlement are set forth herein.

13. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

14. By executing this Consent Agreement, Respondent explicitly waives its right to request or to seek any hearing on the Complaint or on any of the allegations asserted therein, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.

15. By executing this Consent Agreement, Respondent waives its right to appeal the proposed Final Order accompanying the Consent Agreement.

16. This CA/FO and any provision herein shall not be construed as an admission of liability in any criminal or civil action or other administrative or legal proceeding except in one to enforce or achieve compliance with the terms of this Consent Agreement and its accompanying Final Order.

17. The undersigned signatory to this Consent Agreement for the Respondent certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

18. The provisions of this CA/FO shall be binding upon Respondent, its officials, officers, agents, and all authorized representatives.

20. Each party hereto agrees to bear its own costs and fees in this matter.

21. Respondent consents to service upon Respondent of a copy of this CA/FO by an EPA employee other than the Regional Hearing Clerk.

22. Pursuant to 40 C.F.R. §22.31(b), the Effective Date of the Final Order herein shall be the date when it is filed with the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2.

**In the Matter of New Jersey Department of Corrections
Docket No. RCRA-02-2014-7102**

RESPONDENT: New Jersey Department of Corrections

BY: *Gary M. Lanigan*

Printed Name: Gary M. Lanigan

Title: Commissioner

Date: 12/9/14

COMPLAINANT: U.S. Environmental Protection Agency, Region 2

BY: 

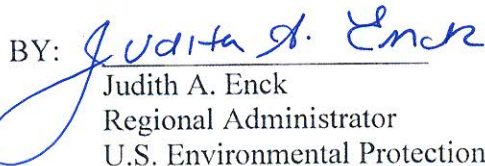
Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866

DATE: DECEMBER 19, 2014

**In the Matter of New Jersey Department of Corrections
Docket No. RCRA-02-2014-7102**

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 3008 of the Act and 40 C.F.R. § 22.18(b)(3). The Effective Date of this Order shall be the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31(b).

BY: 
Judith A. Enck
Regional Administrator
U.S. Environmental Protection Agency -
Region 2
290 Broadway
New York, New York 10007-1866

DATE: 12/17/14

**In the Matter of New Jersey Department of Corrections
Docket No. RCRA-02-2014-7102**

CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing Consent Agreement and Final Order bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and one copy by hand to:

Office of the Regional Hearing Clerk
U.S. EPA- Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Electronic Filing:

The Honorable M. Lisa Buschmann
Administrative Law Judge
EPA Office of Administrative Law Judges

Copy by Certified Mail Return Receipt Requested:

Melinda S. Haley, Esq.
Special Legal Advisor
Office of the Commissioner
State of New Jersey
Department of Corrections
P.O. Box 863
Trenton, New Jersey 08625-0863

Dated: Dec 18, 2014
New York, New York

