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6 **UNITED STATES**  
7 **ENVIRONMENTAL PROTECTION AGENCY**  
8 **REGION IX**

9 **IN THE MATTER OF:**

10 COMMONWEALTH PORTS AUTHORITY,

11  
12 Respondent.  
13

**Docket No.**  
RCRA-9-2008-0015

**CONSENT AGREEMENT  
AND  
FINAL ORDER  
PURSUANT TO 40 C.F.R.  
SECTIONS 22.13 and 22.18**

14 **CONSENT AGREEMENT**

15 Complainant, the United States Environmental Protection Agency, Region IX  
16 (“Complainant” or “EPA”), and Respondent, Commonwealth Ports Authority (“Respondent”),  
17 the parties herein, having agreed that settlement of this matter is in the public interest and that  
18 entry of this Consent Agreement and Final Order, pursuant to 40 C.F.R. Sections 22.13 and  
19 22.18, (“CA/FO”), without further litigation is the most appropriate means of resolving this  
20 matter;

21 NOW, THEREFORE, Complainant and Respondent hereby agree as follows:

22 A. **PRELIMINARY STATEMENT**

23 1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1)  
24 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C.  
25 § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative  
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1 Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits  
2 ("Consolidated Rules"), 40 C.F.R. Part 22. Complainant is the United States  
3 Environmental Protection Agency, Region IX. Respondent is the Commonwealth Ports  
4 Authority ("CPA"), a public corporation, created in 1981 by the U.S. Commonwealth of  
5 the Northern Mariana Islands ("CNMI") Public Law No. 2-48, and organized under the  
6 laws of the CNMI.

7 2. Respondent operates the Saipan International Airport ("SIA") on the Island of Saipan, in  
8 the CNMI. The SIA is a Federal Aviation Administration ("FAA") certified facility  
9 serving international and inter-island air travel.

10 3. Located between the Philippine Sea and the Pacific Ocean, the island of Saipan is  
11 approximately five and a half (5.5) miles wide and twelve and a half (12.5) miles long.  
12 The SIA is located near the southeastern tip of the island, adjacent to the Pacific Ocean,  
13 and covers approximately two square miles of area.

14 4. At the time of the violations alleged, Respondent was conducting auto and machinery  
15 maintenance activities and waste burning activities at designated areas of the SIA  
16 (hereinafter referred to as the "Facility"). The Facility is located in the northern area of  
17 the SIA.

18 5. Respondent generated, treated, stored and disposed of solid waste and hazardous waste at  
19 the Facility, including aviation gas, motor oil, used motor oil, used oil-based paint,  
20 solvent, trichloroethylene ("TCE") contaminated rags, oil-based inks, plastics, computer  
21 devices, animal carcasses, glass, and other solid and hazardous wastes.

22 6. On March 07, 2005, the Facility had approximately 100 open or leaking containers of  
23 used oil, waste oil-based paint, and solvents. All of the containers were severely  
24 corroded.

25 7. This CA/FO, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b), simultaneously commences  
26 and concludes this proceeding, wherein EPA alleges that Respondent treated, stored and  
27

1 disposed of hazardous waste in violation of Sections 3002, 3004, 3005, 3010 and 3014 of  
2 RCRA, 42 U.S.C. §§ 6922, 6924, 6925, 6930 and 6935, and 40 C.F.R. §§ 262.11,  
3 262.34, 265.11, 265.31, 265.171, 265.173, 265.174, 270.1 and 279.22.

4 B. GENERAL ALLEGATIONS

5 8. Respondent is, and at all times referred to herein was, a "person" as defined in Section  
6 1004(15) of RCRA, 42 U.S.C. §6903(15), and 40 C.F.R. §§ 260.10 and 270.2.

7 9. Respondent was the "owner" and/or "operator" of a "facility" as defined in 40 C.F.R.  
8 §§ 260.10 and 270.2 at the time of the violations alleged.

9 10. Respondent was a "generator" of "hazardous waste" as defined in Section 1004(5) of  
10 RCRA, 42 U.S.C. §6903(5) and 40 C.F.R. §§260.10 and 261.3 at the time of the  
11 violations alleged.

12 11. Respondent was engaged in the "storage" of "hazardous waste" as defined in Sections  
13 1004(5) and (33) of RCRA, 42 U.S.C. §6903(5) and (33), and 40 C.F.R. §§260.10 and  
14 261.3, at the time of the violations alleged.

15 12. Respondent was engaged in the "disposal" of "hazardous waste" as defined in Sections  
16 1004(3) and (5) of RCRA, 42 U.S.C. §6903(3) and (5), and 40 C.F.R. §§ 260.10, 261.3  
17 and 270.2, at the time of the violations alleged.

18 13. Respondent was engaged in the "treatment" of "hazardous waste" as defined in Sections  
19 1004(3) and (34) of RCRA, 42 U.S.C. §6903(3) and (34), 40 C.F.R. § 260.10 at the time  
20 of the violations alleged.

21 14. The Facility is not an "existing hazardous waste management facility" as defined in 40  
22 C.F.R. § 260.10.

23 15. Hazardous wastes at the Facility include, but are not limited to, used oil-based paint,  
24 solvents, and TCE contaminated rags.

25 16. Respondent was, therefore, subject to Sections 3002, 3004, 3005, 3010 and 3014 of  
26 RCRA, 42 U.S.C. §§ 6922, 6924, 6925, 6930 and 6935, and regulations adopted pursuant  
27

1 thereto, at the time of the violations alleged.

2 17. On March 07, 2005, EPA conducted a RCRA inspection at the Facility. Based upon the  
3 findings EPA made during the inspection and additional information obtained subsequent  
4 to the inspection, EPA determined that Respondent violated Sections 3002, 3004, 3005,  
5 3010 and 3014 of RCRA, 42 U.S.C. §§ 6922, 6924, 6925, 6930 and 6935, and 40 C.F.R.  
6 §§ 262.11, 262.34, 265.11, 265.31, 265.171, 265.173, 265.174, 270.1 and 279.22.

7 18. Respondent is therefore subject to the powers vested in the EPA Administrator by Section  
8 3008 of RCRA, 42 U.S.C. § 6928.

9 19. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue  
10 orders assessing a civil penalty for any past or current violation, or requiring compliance  
11 immediately or within a specified time for violation of any requirement of Subtitle C of  
12 RCRA, Sections 3001 - 3023 of RCRA, 42 U.S.C. §§ 6921 - 6939e.

13 20. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA  
14 Regional Administrator for Region IX, who has redelegated this authority to the Director  
15 of the Waste Management Division.

16 C. ALLEGED VIOLATIONS

17 COUNT I

18 (Failure to Notify EPA of Waste Activity)

19 21. Paragraphs 1 through 20 above are incorporated herein by this reference as if they were  
20 set forth here in their entirety.

21 22. Section 3010 of RCRA, 42 U.S.C. §6930, requires that any person generating hazardous  
22 waste or owning or operating a facility for treatment, storage, or disposal of hazardous  
23 waste file a notification with EPA.

24 23. 40 C.F.R. §265.11 requires that every owner or operator of a hazardous waste facility  
25 apply to EPA for an EPA identification number.

26 24. Respondent was storing, treating and disposing of hazardous waste at the Facility on and  
27

1 before March 07, 2005.

2 25. As of March 07, 2005, Respondents had never submitted a Notification of Hazardous  
3 Waste Activity to EPA or applied for an EPA identification number as required by  
4 Section 3010 of RCRA, 42 U.S.C. §6930.

5 26. Respondents' failure to notify EPA and to apply for an EPA identification number  
6 violated Section 3010 of RCRA, 42 U.S.C. §6930, and 40 C.F.R. §265.11.

7 COUNT II

8 (Failure to Transfer to Containers in Good Condition)

9 27. Paragraphs 1 through 26 above are incorporated herein by this reference as if they were  
10 set forth here in their entirety.

11 28. 40 C.F.R. § 265.171 requires that the owner or operator transfer hazardous waste from a  
12 container that is not in good condition to a container that is in good condition.

13 29. On March 07, 2005, EPA's inspector observed that containers of hazardous waste at the  
14 Facility had clearly been releasing their contents, and that many of the containers were  
15 severely corroded and leaking.

16 30. Respondent's failure to transfer such hazardous wastes into containers in good condition  
17 violated 40 C.F.R. § 265.171.

18 COUNT III

19 (Failure to Close Containers)

20 31. Paragraphs 1 through 30 above are incorporated herein by this reference as if they were  
21 set forth here in their entirety.

22 32. 40 C.F.R. § 265.173(a) requires that containers holding hazardous waste must always be  
23 closed during storage, except when it is necessary to add or remove waste. 40 C.F.R.

24 § 265.173(b) requires that containers holding hazardous waste must not be opened,  
25 handled, or stored in a manner which may rupture the container or cause it to leak.

26 33. On March 07, 2005, EPA's inspector observed approximately 80-90 containers of waste  
27

1 paint (waste code D001) at the Facility. The containers were severely corroded, many  
2 were left open, and many were leaking waste paint onto the pavement.

3 34. Respondent's failure to close containers of hazardous waste and to prevent the containers  
4 from leaking violated 40 C.F.R. §§ 265.173(a) and (b).

5 COUNT IV

6 (Failure to Conduct Weekly Inspections)

7 35. Paragraphs 1 through 34 above are incorporated herein by this reference as if they were  
8 set forth here in their entirety.

9 36. 40 C.F.R. § 265.174 requires that the owner or operator inspect areas at least weekly  
10 where containers of hazardous waste are stored for leaks from and deterioration in the  
11 containers from corrosion or other factors.

12 37. Respondent stored waste oil (waste code D001), solvent, trichloroethylene ("TCE")  
13 contaminated rags, oil-based inks, plastics, computer devices, and other unidentified  
14 hazardous wastes at the Facility.

15 38. On March 07, 2005, containers of hazardous waste at the Facility were corroded and  
16 leaking and no practice of weekly inspections had ever been instituted at the Facility.

17 39. Respondent's failure to conduct weekly inspections of hazardous waste storage areas at  
18 the Facility violated 40 C.F.R. § 265.174.

19 COUNT V

20 (Treatment, Storage and Disposal of Hazardous Waste Without a Permit)

21 40. Paragraphs 1 through 39 above are incorporated herein by this reference as if they were  
22 set forth here in their entirety.

23 41. 40 C.F.R. § 270.1(c) requires each person owning or operating a RCRA hazardous waste  
24 treatment, storage or disposal facility to have a permit.

25 42. Respondent does not have a permit or grant of interim status to treat, store or dispose of  
26 hazardous waste under 40 C.F.R. § 270.1.

- 1 43. On March 07, 2005, EPA's inspector observed that Respondent was burning TCE  
2 contaminated rags and other solid and hazardous wastes at the Facility. Respondent was  
3 also engaged in the storage and disposal of partially burned waste, waste ash, used  
4 solvent, TCE contaminated rags and waste paint at the Facility.
- 5 44. The waste treated, stored and disposed of at the Facility included wastes generated at  
6 other facilities.
- 7 45. 40 C.F.R. § 262.34 provides that generators of hazardous waste may accumulate  
8 hazardous waste onsite for a limited period of time, without a permit or grant of interim  
9 status, provided the generator complies with the requirements which are set forth or  
10 referenced by 40 C.F.R. § 262.34. Failure to comply with the time limits or any of the  
11 requirements set forth in or referenced by 40 C.F.R. § 262.34 subjects the generator to the  
12 permitting requirements of 40 C.F.R. § 270.1.
- 13 46. Respondent violated several of the requirements set forth or referenced in 40 C.F.R.  
14 § 262.34.
- 15 47. 40 C.F.R. § 262.34(a)(2) requires that generators who accumulate hazardous waste onsite  
16 without a permit or grant of interim status shall label containers of hazardous waste with  
17 the accumulation period start date. Generators who fail to label containers of hazardous  
18 waste with the accumulation start date fail to meet the requirements of 40 C.F.R.  
19 § 262.34(a)(2) and are subject to the permitting requirements of 40 C.F.R. § 270.1.
- 20 48. 40 C.F.R. § 262.34(a)(3) requires that generators who accumulate hazardous waste onsite  
21 without a permit or grant of interim status shall label or mark containers of hazardous  
22 waste with the words "Hazardous Waste." Generators who fail to label containers of  
23 hazardous waste with the words "Hazardous Waste" fail to meet the requirements of 40  
24 C.F.R. § 262.34(a)(3) and are subject to the permitting requirements of 40 C.F.R. § 270.1.
- 25 49. On March 07, 2005, EPA's inspector observed that none of the containers of hazardous  
26 waste at the Facility were labeled with an accumulation start date or with the words  
27

1 "Hazardous Waste."

2 50. Respondent's failure to mark the containers of hazardous waste at the Facility with the  
3 words "Hazardous Waste" and with the accumulation start date violated the labeling  
4 requirements of 40 C.F.R. §§ 263.34(a)(2) and (3). Therefore, Respondent has violated  
5 40 C.F.R. § 270.1.

6 51. 40 C.F.R. §262.34 requires that large and small quantity generators who accumulate  
7 hazardous waste onsite without a permit or grant of interim status comply with the  
8 requirements of 40 C.F.R. § 265.171. 40 C.F.R. § 265.171 requires that the owner or  
9 operator transfer hazardous waste from a container that is not in good condition to a  
10 container that is in good condition. Failure to comply with the requirements referenced  
11 by 40 C.F.R. § 262.34 subjects the generator to the permitting requirements of 40 C.F.R.  
12 § 270.1.

13 52. On March 07, 2005, EPA's inspector observed that containers of hazardous waste at the  
14 Facility had clearly been releasing their contents, and that many of the containers were  
15 severely corroded and leaking.

16 53. Respondent's failure to transfer such hazardous wastes into containers in good condition  
17 violated 40 C.F.R. § 265.171. Therefore, Respondent has violated 40 C.F.R. § 270.1.

18 54. 40 C.F.R. §262.34 requires that large and small quantity generators who accumulate  
19 hazardous waste onsite without a permit or grant of interim status comply with the  
20 requirements of 40 C.F.R. § 265.173. 40 C.F.R. § 265.173(a) requires that containers  
21 holding hazardous waste must always be closed during storage, except when it is  
22 necessary to add or remove waste. 40 C.F.R. § 265.173(b) requires that containers  
23 holding hazardous waste must not be opened, handled, or stored in a manner which may  
24 rupture the container or cause it to leak. Failure to comply with the requirements  
25 referenced by 40 C.F.R. § 262.34 subjects the generator to the permitting requirements of  
26 40 C.F.R. § 270.1.

- 1 55. On March 07, 2005, EPA's inspector observed approximately 80-90 containers of waste  
2 paint (waste code D001) at the Facility. The containers were severely corroded, many  
3 were left open, and many were leaking waste paint onto the pavement.
- 4 56. Respondent's failure to close containers of hazardous waste and to prevent the containers  
5 from leaking violated 40 C.F.R. §§ 265.173(a) and (b). Therefore, Respondent has  
6 violated 40 C.F.R. § 270.1.
- 7 57. 40 C.F.R. §262.34 requires that large and small quantity generators who accumulate  
8 hazardous waste onsite without a permit or grant of interim status comply with the  
9 requirements of 40 C.F.R. § 265.174. 40 C.F.R. § 265.174 requires that the owner or  
10 operator inspect areas at least weekly where containers of hazardous waste are stored for  
11 leaks from and deterioration in the containers from corrosion or other factors. Failure to  
12 comply with the requirements referenced by 40 C.F.R. § 262.34 subjects the generator to  
13 the permitting requirements of 40 C.F.R. § 270.1.
- 14 58. Respondent stored waste oil (waste code D001), solvent, TCE contaminated rags, oil-  
15 based inks, plastics, computer devices, and other unidentified hazardous wastes at the  
16 Facility.
- 17 59. On March 07, 2005, containers of hazardous waste at the Facility were corroded and  
18 leaking and no practice of weekly inspections had ever been instituted at the Facility.
- 19 60. Respondent's failure to conduct weekly inspections of hazardous waste storage areas at  
20 the Facility violated 40 C.F.R. § 265.174. Therefore, Respondent has violated 40 C.F.R.  
21 § 270.1.

22 COUNT VI

23 (Failure To Make A Hazardous Waste Determination)

- 24 61. Paragraphs 1 through 60 above are incorporated herein by this reference as if they were  
25 set forth here in their entirety.
- 26 62. 40 C.F.R. § 262.11 requires that a person who generates solid waste determine if that  
27

1 waste is hazardous waste.

2 63. Respondent generated solvents, waste oil-based paint, ash from burning TCE  
3 contaminated rags, aviation gas, and used motor oil at the Facility.

4 64. As of March 07, 2005, Respondent had never completed a hazardous waste determination  
5 for wastes generated at the Facility.

6 65. Respondent's failure to make a waste determination violated 40 C.F.R. § 262.11.

7 COUNT VII

8 (Failure To Minimize Releases of Hazardous Wastes)

9 66. Paragraphs 1 through 65 above are incorporated herein by this reference as if they were  
10 set forth here in their entirety.

11 67. Respondents stored or disposed of waste oil-based paint, solvents, and TCE contaminated  
12 rags, which are "hazardous waste" as defined in Section 1004(5) of RCRA, 42 U.S.C.  
13 § 6903(5), and 40 C.F.R. §§ 260.10 and 261.3.

14 68. 40 C.F.R. §265.31 requires that hazardous waste facilities must be maintained and  
15 operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-  
16 sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface  
17 water which could threaten human health or the environment.

18 69. On March 07, 2005, EPA's inspector observed that Respondent was storing used paint  
19 and solvent in open containers at the Facility and in containers that were severely  
20 corroded and leaking.

21 70. On March 07, 2005, EPA's inspector observed releases of paint to the ground at the  
22 Facility, and open containers of paints and solvents that were allowed to evaporate into  
23 the open air.

24 71. Therefore, Respondent violated 40 C.F.R. § 265.31.



1 returning them to service.

2 82. On March 07, 2005, an approximately 500 - 1000 gallon corroded container of used oil at  
3 the Facility was leaking oil onto the ground. The soil around the container was saturated  
4 with released oil. There were no visible attempts to stop, contain or clean up the release.

5 83. Respondent's failure to properly stop, contain, clean up and manage releases of used oil  
6 and to repair or replace leaking used oil containers violated 40 C.F.R. §279.22(d).

7 COUNT XI

8 (Failure to Comply with the Spill Prevention, Control and Countermeasures requirements)

9 84. Paragraphs 1 through 83 above are incorporated herein by this reference as if they were  
10 set forth here in their entirety.

11 85. Under 40 C.F.R. §279.22, used oil generators are subject to all applicable Spill  
12 Prevention, Control and Countermeasures ("SPCC") requirements at 40 C.F.R. Part 112.

13 86. As of March 07, 2005, Respondents did not have an SPCC Plan for this Facility as  
14 required by 40 C.F.R. §112.3.

15 87. Respondents' failure to have an SPCC Plan violated the requirements of 40  
16 C.F.R. § 279.22.

17 D. CIVIL PENALTY

18 88. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as amended by the Debt Collection  
19 Improvement Act of 1996, 40 C.F.R. Part 19, authorizes a civil penalty of up to THIRTY-  
20 TWO THOUSAND AND FIVE HUNDRED DOLLARS (\$32,500) per day for each  
21 violation of Subtitle C of RCRA, 42 U.S.C. § 6921 et seq.

22 89. Based upon the facts alleged herein and upon those factors which EPA must consider  
23 pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil  
24 Penalty Policy, including the seriousness of the violations, any good faith efforts by  
25 Respondents to comply with applicable requirements, and any economic benefit accruing  
26 to Respondents, as well as such other matters as justice may require, EPA proposes that  
27

1 Respondents be assessed THIRTY-TWO THOUSAND AND FIVE HUNDRED  
2 DOLLARS (\$32,500) as the civil penalty for the violations alleged herein. The proposed  
3 penalties is consistent with the "RCRA Civil Penalty Policy," dated June 2003, as  
4 adjusted by the Debt Collection Improvement Act.

5 90. The effect of the settlement described above is conditional upon the accuracy of  
6 Respondent's representations to EPA concerning Respondent's financial resources as  
7 memorialized in Respondent's September 2006, September 2007 and November 2007  
8 correspondence to EPA.

9 E. ADMISSIONS AND WAIVERS

10 91. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations  
11 set forth in Section B of this CA/FO. Respondent consents to and agrees not to contest  
12 EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its  
13 terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel  
14 compliance with this CA/FO in any enforcement proceedings, either administrative or  
15 judicial, or to impose sanctions for violations of this CA/FO.

16 92. Respondent neither admits nor denies any allegations of fact or law set forth in Section C  
17 of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the  
18 allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing  
19 on any issue relating to the factual allegations or legal conclusions set forth in this  
20 CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42  
21 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without  
22 adjudication. In addition, Respondent hereby waives any rights Respondent may have to  
23 appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

24 F. PARTIES BOUND

25 93. This CA/FO shall apply to and be binding upon Respondent and its agents, successors  
26 and assigns and upon all persons acting under or for Respondent, until such time as the  
27

1 civil penalty required under Section D has been paid in accordance with Section G, all  
2 compliance tasks have been completed, and any delays in performance and/or stipulated  
3 penalties have been resolved. At such time as those matters are concluded, this CA/FO  
4 shall terminate and constitute full settlement of the violations alleged herein.

5 94. No change in ownership or corporate, partnership or legal status relating to the Facility  
6 will in any way alter Respondent's obligations and responsibilities under this CA/FO.

7 95. The undersigned representative of Respondent hereby certifies that he is fully authorized  
8 by Respondent to enter into this CA/FO, to execute and to legally bind Respondent.

9 G. PAYMENT OF CIVIL PENALTY

10 96. Respondent hereby consents to the assessment of a civil penalty in the amount of  
11 THIRTY-TWO THOUSAND AND FIVE HUNDRED DOLLARS (\$32,500) in  
12 settlement of the civil penalty claims of the United States for the violations of Sections  
13 3002, 3004, 3005, 3010 and 3014 of RCRA, 42 U.S.C. §§ 6922, 6924, 6925, 6930 and  
14 6935, and 40 C.F.R. §§ 262.11, 262.34, 265.11, 265.31, 265.171, 265.173, 265.174,  
15 270.1 and 279.22, alleged in Section C above.

16 97. Respondent shall submit payment of the civil penalty of THIRTY-TWO THOUSAND  
17 AND FIVE HUNDRED DOLLARS (\$32,500) within thirty (30) calendar days of the  
18 Effective Date of this CA/FO. The Effective Date of this CA/FO is the date that the Final  
19 Order contained in this CA/FO, having been approved and issued by either the Regional  
20 Judicial Officer or Regional Administrator, is filed. Payment shall be made by Funds  
21 Transfer Deposit (EPA Form 2570-6) through the Federal Reserve Communication  
22 System (FRCS) to the account of the U.S. Treasury at the Federal Reserve Bank of New  
23 York. At the time payment is so made, a copy of EPA Form 2570-6 shall be sent to:

24 Regional Hearing Clerk (RC-1)  
25 U.S. Environmental Protection Agency - Region IX  
26 75 Hawthorne Street  
27 San Francisco, CA 94105

1 and

2 James Polek (WST-3)  
3 Waste Management Division  
4 U.S. Environmental Protection Agency - Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

5 98. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM  
6 6-8000), the payment must be received within thirty (30) calendar days of the Effective  
7 Date of this CA/FO to avoid additional charges. If payment is not received within thirty  
8 (30) calendar days, interest will accrue from the Effective Date of this CA/FO at the  
9 current rate published by the United States Treasury as described at 40 C.F.R. § 13.11(a).  
10 A late penalty charge will be imposed after thirty (30) calendar days with an additional  
11 charge for each subsequent 30-day period, in accordance with 40 C.F.R. § 13.11(b). A  
12 6% per annum penalty will further apply on any principal amount not paid within ninety  
13 (90) calendar days of the due date, as described at 40 C.F.R. § 13.11(c). Respondent  
14 further will be liable for stipulated penalties as set forth below for any payment not  
15 received by its due date.

16 H. DELAY IN PERFORMANCE AND STIPULATED PENALTIES

17 99. In addition to the interest and per annum penalties described above, in the event that  
18 Respondent fails to pay the full amount of the penalty within the time specified in  
19 Section G, Respondent agrees to pay Complainant a stipulated penalty in the amount of  
20 up to ONE THOUSAND DOLLARS (\$1,000.00) for each day the default continues.

21 100. All penalties shall begin to accrue on the date that performance is due or a violation  
22 occurs, and shall continue to accrue through the final day of correction of the  
23 noncompliance. Nothing herein shall prevent the simultaneous accrual of separate  
24 penalties for separate violations.

25 101. All penalties owed to EPA under this Section shall be due within thirty (30) days of  
26 receipt of a notification of noncompliance. Such notification shall describe the

27

1 noncompliance and shall indicate the amount of penalties due. Interest at the current rate  
2 published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to  
3 accrue on the unpaid balance at the end of the thirty-day period.

4 102. All penalties under this Section shall be made payable by certified or cashier's check to  
5 "Treasurer of the United States" and shall be remitted to:

6 US Environmental Protection Agency  
7 Fines and Penalties  
8 Cincinnati Finance Center  
9 PO Box 979077  
10 St. Louis, MO 63197-9000

11 103. All payments shall indicate the name of the Facility, any EPA identification number of  
12 the Facility, Respondent's name and address, and the EPA docket number of this action.  
13 At the time payment is made, Respondent shall send a copy of the payment transmittal to:

14 James Polek(WST-3)  
15 Waste Management Division  
16 U.S. Environmental Protection Agency - Region IX  
17 75 Hawthorne Street  
18 San Francisco, CA 94105

19 104. The payment of stipulated penalties shall not alter in any way Respondent's obligation to  
20 complete the performance required hereunder.

21 105. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any  
22 other remedies or sanctions which may be available to EPA by reason of Respondent's  
23 failure to comply with any of the requirements of this CA/FO.

24 I. CERTIFICATION OF COMPLIANCE

25 106. Upon signing this CA/FO, Respondent certifies under penalty of law to EPA that the  
26 Respondent has fully complied with the requirements of Sections 3002, 3004, 3005, 3010  
27 and 3014 of RCRA, 42 U.S.C. §§ 6922, 6924, 6925, 6930 and 6935, and 40 C.F.R.  
28 §§ 262.11, 262.34, 265.11, 265.31, 265.171, 265.173, 265.174, 270.1 and 279.22, that

1 formed the basis for the violations alleged in the Complaint. This certification of  
2 compliance is based upon true, accurate and complete information, which the signatory  
3 can verify personally or regarding which the signatory has inquired of the person or  
4 persons directly responsible for gathering the information.

5 J. RESERVATION OF RIGHTS

6 107. EPA expressly reserves all rights and defenses that it may have.

7 108. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and  
8 remedies, both legal and equitable, including the right to require that Respondent perform  
9 tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory  
10 and regulatory powers, authorities, rights and remedies, both legal and equitable, which  
11 may pertain to Respondent's failure to comply with any of the requirements of this  
12 CA/FO, including without limitation, the assessment of penalties under Section 3008(c)  
13 of RCRA, 42 U.S.C. § 6928(c). This CA/FO shall not be construed as a covenant not to  
14 sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or  
15 criminal, which EPA has under RCRA, the Comprehensive Environmental Response,  
16 Compensation and Liability Act of 1980, as amended ("CERCLA"), or any other  
17 statutory, regulatory or common law enforcement authority of the United States.

18 109. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of  
19 its obligations to comply with any applicable local, state, or federal laws and regulations.

20 110. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise  
21 preclude EPA from taking additional enforcement actions should EPA determine that  
22 such actions are warranted except as they relate to Respondent's liability for federal civil  
23 penalties for the specific alleged violation and facts as set forth in Section C of this  
24 CA/FO.

25 111. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does  
26 not relieve Respondent of any obligation to obtain and comply with any local, state, or  
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1 federal permits. Compliance by Respondent with the terms of this CA/FO shall not  
2 relieve Respondent of any obligations to comply with RCRA or any other applicable  
3 local, state, or federal laws and regulations.

4 112. EPA reserves its right to seek reimbursement from Respondent for any additional costs  
5 incurred by the United States which may result or arise from the alleged counts set forth  
6 in Section C. Notwithstanding compliance with the terms of this CA/FO, Respondent is  
7 not released from liability, if any, for the costs of any response actions taken by EPA.

8 K. OTHER CLAIMS

9 113. Nothing in this CA/FO shall constitute or be construed as a release from any other claim,  
10 cause of action or demand in law or equity by or against any person, firm, partnership,  
11 entity or corporation for any liability it may have arising out of or relating in any way to  
12 the generation, storage, treatment, handling, transportation, release, or disposal of any  
13 hazardous constituents, hazardous substances, hazardous wastes, pollutants, or  
14 contaminants found at, taken to, or taken from the Facility.

15 114. Nothing in this CA/FO relieves Respondent's obligation to comply with any requirements  
16 of RCRA Order Nos. 7003-09-05-0001 or 7003-09-06-0001.

17 L. MISCELLANEOUS

18 115. This CA/FO may be amended or modified only by written agreement executed by both  
19 EPA and Respondent.

20 116. The headings in this CA/FO are for convenience of reference only and shall not affect  
21 interpretation of this CA/FO.

22 117. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this  
23 proceeding.

24 118. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective  
25 on the date that the Final Order contained in this CA/FO, having been approved and  
26 issued by either the Regional Judicial Officer or Regional Administrator, is filed.

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**IT IS SO AGREED,**

For Respondent **COMMONWEALTH PORTS AUTHORITY**

74 June 2008

Date



Lee C. Cabrera  
Acting Executive Director  
Commonwealth Ports Authority

For Complainant **U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX**

8/20/08

Date



Jeff Scott  
Director  
Waste Management Division  
United States Environmental Protection Agency,  
Region IX

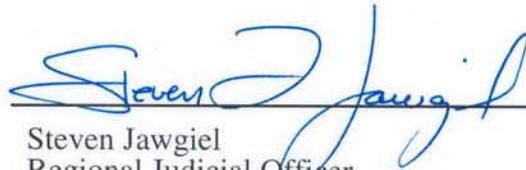
1  
2 **FINAL ORDER**  
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6 **IT IS HEREBY ORDERED** that this Consent Agreement and Final Order ((U.S. EPA Docket  
7 No. RCRA **0015** ) be entered and that Respondent pay a civil penalty in the  
8 amount of THIRTY-TWO THOUSAND AND FIVE HUNDRED DOLLARS (\$32,500) by  
9 Funds Transfer Deposit through the Federal Reserve Communication System to the account of  
10 the U.S. Treasury at the Federal Reserve Bank of New York, within thirty (30) days after the  
11 Effective Date of this Consent Agreement and Final Order. A copy of the Funds Transfer  
12 Deposit Form shall be sent to the EPA Region IX addresses specified in Section I of this Consent  
13 Agreement and Final Order within such 30-day period.

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15 This Final Order shall be effective upon filing.  
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18  
19 08/15/08

20 Date

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23 Steven Jawgiel  
24 Regional Judicial Officer  
25 United States Environmental Protection Agency,  
26 Region IX  
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**CERTIFICATE OF SERVICE**

**I hereby certify that the original copy of the foregoing Consent Agreement and Final Order has been filed with the Regional Hearing Clerk, Region IX, and that copies have been sent**

**by Certified Mail, Return Receipt Requested, to:**

**Lee C. Cabrera, Acting Executive Director  
Commonwealth Ports Authority  
Saipan International Airport  
P.O. Box 501055  
Saipan, MP 96950-1055**

CERTIFIED MAIL NO. 7007-3020-0000-9807-2085

**by Regular Mail to:**

**Robert Tenorio Torres  
Attorney at Law  
Plata Drive, Whispering Palms (Chalan Kiya)  
Box 503758 CK  
Saipan, MP 96950**

**by Hand Delivery to:**

**Letitia D. Moore  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105**

8/18/08  
**Date**

  
\_\_\_\_\_  
**Danielle Carr  
Regional Hearing Clerk**