CERTIFICATE OF SERVICE

I hearby certify that the **Default Order and Initial Decision** by Regional Judicial Officer Helen Ferrara in the matter of **Ponce Airlines Services, Inc. a/k/a Ponce Airlines Services, Docket No. RCRA-02-2005-7107** is being served on the parties because the respondent's mail was returned unclaimed by the post office. This order is being reserved on the parties as indicated below:

Over Night Mail - and Regular Mail

Mr. Lazaro Canto Portal, President
Ponce Airlines Services
P.O. Box 37688
San Juan, Puerto Rico 00937-0688

Environmental Appeals Board
U.S. Environmental Protection Agency
Colorado Building, Suite 600
1341 G. Street, N.W.
Washington, D.C. 20005
(w/copy of official file)

Pouch Mail -

Assistant Administrator for
Enforcement & Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2201A)
Washington, D.C. 20460

Regular Mail -

Lourdes del Carmen Rodriguez, Esq.
Office of Regional Counsel
USEPA - Region II
Caribbean Field Division
Centro Europa Bldg.
1492 Ponce de Leon Avenue, Suite 417
San Juan, Puerto Rico 00907

Karen Maples
Regional Hearing Clerk
USEPA - Region II

Dated: August 15, 2006

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007

In the Matter of: **IN THE MATTER OF:** **Ponce Airlines Services, Inc.** **a/k/a Ponce Airline Services,** **Respondent.**	**Docket No. RCRA-02-2005-7107**

DEFAULT ORDER AND INITIAL DECISION

This is a proceeding under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a). The proceeding is governed by procedures set forth in the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("*Consolidated Rules*") codified at 40 C.F.R. Part 22. The Complainant, the Director of the Caribbean Environmental Protection Division for Region 2 of the United States Environmental Protection Agency ("EPA"), has moved for a Default Order finding the Respondent, Ponce Airlines Services, Inc., a/k/a Ponce Air Services, liable for the violation of Section 3008 of the Solid Waste Disposal Act ("SWDA"), 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"), and its implementing regulations.

The Complainant requests assessment of a civil penalty in the amount of Thirty-two Thousand and Five Hundred Dollars ($32,500) and that Respondent is ordered to perform injunctive relief as proposed by the Complainant.

Pursuant to the Consolidated Rules, and based upon the record of this matter and the following Findings of Fact, Conclusions of Law and Determination of Remedy, Complainant's *Motion for Entry of Default* is hereby GRANTED. The Respondent is hereby found in default and a civil penalty is assessed against it in the amount of $32,500. In addition, Respondent is ordered to perform the injunctive relief requested by Complainant.

BACKGROUND

Complainant initiated this proceeding by filing a *Complaint, Compliance Order, and Notice of Opportunity for Hearing* ("*Complaint*") on June 27, 2005 against Respondent. In its *Complaint*, the Complainant alleged that Respondent violated provisions of the Act.

The *Complaint* explicitly stated on page 8, in the section entitled Failure to Answer, that

> 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 of the 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 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 thirty (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).

The *Complaint* was served upon Respondent on July 1, 2005. To date, an Answer has not been filed by the Respondent.

On December 23, 2005, Complainant filed a *Motion for Entry of Default ("Motion")*. It was served on Respondent by certified mail return receipt requested. To date, the Respondent has not filed a Response to the *Motion.*

FINDINGS OF FACT

Pursuant to 40 C.F.R. §§ 22.17(c) and 22.27(a), and based upon the entire record, I make the following findings of fact:

1. Respondent is a corporation that was organized pursuant to, and has existed under, the laws of the Commonwealth of Puerto Rico. Respondent is a tenant of the Puerto Rico Ports Authority ("PRPA") at the Luis Munoz Marin International Airport ("LMMIA") in Carolina, Puerto Rico. Respondent provides cargo and ground handling services at the LMMIA.
2. Respondent owns and/or operates a facility ("Respondent's facility"), located in a lot between a disposal site of the PRPA and a parking lot, and facing "Empresas Santana," at the LMMIA. This privately owned facility, which was no longer in operation at the time of the inspection, provided, among other things, preventive maintenance and mechanic services for Respondent's ground support equipment and vehicles, including oil changes.
3. Respondent has a second facility ("Respondent's second facility"), located in a corner next to a disposal site at the LMMIA, which second facility is not the subject of this Order.

4. On June 29, 1998, EPA issued a Complaint, Compliance Order and Notice of Opportunity for Hearing ("1998 Complaint"), Docket No. II-RCRA-98-0305, against the Respondent for one of the facilities owned and/or operated by the Respondent at the LMMIA. The Complaint alleged violations under RCRA and the used oil management program, specifically, releases of used oil at that facility.

5. On May 13, 1999, the Regional Administrator approved and signed a Consent Agreement and Consent Order settling the abovementioned 1998 Complaint. The Respondent agreed, as part of the settlement, to comply and maintain compliance with any applicable requirements of 40 C.F.R. Part 279.

6. For violations at Respondent's second facility, Complainant filed a Complaint against Respondent pursuant to Section 3008 of the Act, 42 U.S.C. § 6928 on September 30, 2004. On June 8, 2006, the undersigned issued a Default Order and Initial Decision, granting the civil penalty and injunctive relief sought by Complainant in the Complaint.

7. On or about April 30, 2004, an EPA representative, Miguel Batista, conducted a RCRA Compliance Evaluation Inspection, or "CEI," of Respondent's facility to determine Respondent's compliance with the applicable federal regulations for the management of used oil ("Inspection").

8. At the time of the Inspection, the EPA representative observed *inter alia* new and old used oil releases throughout the facility, lack of labels on the containers of used oil, absorbent material contaminated with used oil, and hazardous wastes. In addition, EPA observed that there were no labels on the containers of hazardous wastes, open containers, and failure to note hazardous waste accumulation start dates, all as set forth in the CEI Report (Exhibit 2 to

the *Motion*).

9. EPA notified Respondent's representative of the discoveries summarized above during a Closing Interview at the end of the Inspection.

10. On or about December 29, 2004, EPA sent to Respondent a letter with four attachments (Exhibit 3 to the *Motion*). Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, EPA issued to Respondent a *Notice of Violation* ("NOV") (Attachment I to the December 29, 2004 letter) for violations the EPA representatives observed during the Inspection. The NOV noted the following violations: failure to label or mark containers used to store used oil with the words "Used Oil" as required by 40 C.F.R. § 279.22; failure to stop the release of used oil to the environment upon detection of a release, and to contain the released used oil, clean up and manage properly the released used oil and other materials and, if necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service, as required by 40 CFR § 279.22(d); failure to label or mark clearly each container or tank in which hazardous waste was being accumulated with the words "Hazardous Waste", as required by 40 CFR § 262.34(a)(3); failure to mark the date upon which each period of hazardous waste accumulation begins upon each container of hazardous waste, as required by 40 CFR § 262.34(a)(2); failure to determine if a solid waste that is being generated is a hazardous waste, as required by 40 CFR § 262.11; failure to comply with 40 CFR §§ 261.2(a) and (b), 261.4(b)(13), which state that used oil filters which have been disposed or, and any used oil contained therein, both constitute solid wastes and address the proper disposal of used oil filters. The December 29, 2004 NOV required Respondent to take immediate actions to correct the violations described in the NOV.

11. As Attachment II to the December 29th letter, EPA also issued an *Information Request Letter* ("*Information Request*") pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), requiring Respondent to provide a response within 30 days of receipt of the letter or to request an extension within 10 days of receipt by Respondent. The Respondent was required to submit in its response certain information and to include a description of actions that Respondent had taken to correct the violations specified in the NOV.

12. As indicated by the return receipt card (Exhibit 4 to the *Motion*), Respondent received the December 29th letter, together with the NOV and the *Information Request*, no later than January 11, 2005.

13. EPA did not receive a response within 30 days of receipt of the *Information Request* by Respondent, or a request by Respondent for an extension.

14. Complainant filed a *Complaint* (Exhibit I to the Complainant's *Motion for Entry of Default*) against Respondent pursuant to Section 3008 of the Act, 42 U.S.C. § 6928 on June 29, 2005, seeking a civil penalty of Thirty-two Thousand and Five Hundred Dollars ($32,500) and injunctive relief as set forth in the *Compliance Order* included in the *Complaint.*

15. Respondent was served with a copy of the *Complaint* and a copy of the *Consolidated Rules* by certified mail return receipt requested on July 1, 2005.

16. Respondent did not file an answer to the *Complaint* within 30 days of receipt and has not filed an answer as of the date of this Order.

17. On December 23, 2005, Complainant filed a *Motion for Entry of Default* ("*Motion*"). It was served on Respondent by certified return receipt requested.

18. To date, the Respondent has not filed a Response to the *Motion.*

CONCLUSIONS OF LAW

Pursuant to 40 C.F.R. §§ 22.17(c) and 22.27(a), and based upon the entire record, I reach the following conclusions of law:

1. Jurisdiction is conferred by Section 3008 of RCRA, 42 U.S.C. § 6928.

2. Respondent is a "person" as defined in Section 1004(15) of the Act, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.

3. Respondent owns or operates a "facility," as that term is defined in 40 C.F.R. § 260.10, referred to throughout this document as "Respondent's facility." (Paragraph 2 of the Findings of Fact, above).

4. "Used oil" is any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities, as that term is defined in 40 C.F.R. § 279.1.

5. A "used oil generator" is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation, as that term is defined in 40 C.F.R. § 279.20(a).

6. The used oil generated and stored at Respondent's facility is subject to the requirements of 40 C.F.R. Part 279, Subpart C.

7. By reason of its activities at the facility, Respondent is a "used oil generator".

8. As set forth in paragraph 10 of the Findings of Fact, above, EPA issued to Respondent a NOV for the following violations which the EPA representatives observed during the Inspection: failure to label or mark containers used to store used oil with the words "Used

Oil" as required by 40 C.F.R. § 279.22; failure to stop the release of used oil to the environment upon detection of a release, and to contain the released used oil, clean up and manage properly the released used oil and other materials and, if necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service, as required by 40 CFR § 279.22(d); failure to label or mark clearly each container or tank in which hazardous waste was being accumulated with the words "Hazardous Waste", as required by 40 CFR § 262.34(a)(3); failure to mark the date upon which each period of hazardous waste accumulation begins upon each container of hazardous waste, as required by 40 CFR § 262.34(a)(2); failure to determine if a solid waste that is being generated is a hazardous waste, as required by 40 CFR § 262.11; failure to comply with 40 CFR §§ 261.2(a) and (b), 261.4(b)(13), which state that used oil filters which have been disposed or, and any used oil contained therein, both constitute solid wastes and address the proper disposal of used oil filters.

9. Pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any officer, employee or representative of the United States Environmental Protection Agency, furnish information relating to such wastes.

10. Respondent failed to respond to Complainant's Section 3007 *Information Requ*est within 30 days of receipt thereof, and did not request an extension of time to respond. To date, Respondent has not responded to the *Information Request.*

11. Respondent's failure to respond to the *Information Request* constitutes a violation of Section 3007 of RCRA, 42 U.S.C. § 6927.

12. Section 3008(a)(3) of the Act, 42 U.S.C. § 6928(a)(3), as amended by the Debt Collection Act of 1996, implemented by the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, provides that any person who violates any requirement of this subchapter shall be liable to the United States for a civil penalty up to $32,500 for each day of noncompliance for violations occurring on or after March 15, 2004.

13. The *Complaint* in this proceeding was lawfully and properly served upon Respondent in accordance with 40 C.F.R. § 22.5(b)(1).

14. Respondent was required to file an answer to the *Complaint* within thirty (30) days of service of the *Complaint.* 40 C.F.R § 22.15(a).

15. Respondent's failure to file an Answer to the *Complaint,* or otherwise respond to the *Complaint*, constitutes a default by Respondent pursuant to 40 C.F.R. § 22.17(a).

16. Respondent's default constitutes an admission of the allegations set forth in the *Complaint* and a waiver of the Respondent's right to a hearing on such factual allegations. 40 C.F.R. §§ 22.17(a) and 22.15(d).

17. Complainant's *Motion for Entry of Default Order* was lawfully and properly served on Respondent. 40 C.F.R. § 22.5(b)(2).

18. Respondent was required to file any response to the *Motion* within fifteen (15) days of service. 40 C.F.R. § 22.16(b).

19. Respondent's failure to respond to the *Motion* is deemed to be a waiver of any objection to the granting of the *Motion.* 40 C.F.R. § 22.16(b).

20. Respondent's failure to file a timely Answer or otherwise respond to the *Complaint* is grounds for the entry of an Order on Default against the Respondent assessing a civil

penalty and ordering injunctive relief for the aforementioned violation pursuant to 40 C.F.R. § 22.17(a).

DETERMINATION OF REMEDY

According to 40 C.F.R. § 22.17(c), "[when the Presiding Officer finds that default has occurred he shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued." 40 C.F.R. § 22.17(c) also states, "[the relief proposed in the complaint or the motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act."

As more fully set out below, I find that the Complainant's proposed civil penalty of Thirty-two Thousand and Five Hundred Dollars ($32,500), as well as the injunctive relief which Complainant requests, is fair and consistent with the statutory factors under RCRA 3008(a)(3) and EPA's 2003 RCRA Civil Penalty Policy.[1]

In this case, the relief proposed in the *Complaint* and requested in the *Motion* includes the performance of injunctive relief, as follows:

> Respondent shall, within thirty (30) days of the effective date of this Default Order, comply with a full and accurate response to the *Information Request.*

The injunctive relief proposed in the paragraph above is consistent with the record of this proceeding and the Act, and will be ordered.

As aforementioned, the relief proposed in the *Complaint* and requested in the *Motion* also includes the assessment of a penalty of $32,500. With respect to penalty, 40 C.F.R. § 22.27(b)

[1] 40 C.F.R. § 22.27(b) directs that the Presiding Officer consider, in addition to any factors enumerated in the statute, any civil penalty guidelines issued under the statute.

provides that the Presiding Officer shall determine the amount of the civil penalty

> ". . . based on the evidence in the record and in accordance with any penalty criteria set forth in the Act. The Presiding Officer shall consider any civil penalty guidelines issued under the Act. The Presiding Officer shall explain in detail in the initial decision how the penalty to be assessed corresponds to any penalty criteria set forth in the Act . . . If the Respondent has defaulted, the Presiding Officer shall not assess a penalty greater than that proposed by Complainant in the complaint, the prehearing exchange, or the motion for default, whichever is less."

Complainant based its proposed penalty upon the facts alleged in the *Complaint* and upon those factors which EPA must consider pursuant to section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the seriousness of the violations and any good faith efforts by the Respondent to comply with applicable requirements. As set forth in the *Complaint* and *Motion,* in developing the proposed penalty, the Complainant considered the particular facts and circumstances of the case, and the factors identified in EPA's 2003 RCRA Civil Penalty Policy ("*Penalty Policy*"), including the gravity component, any applicable adjustment factors and the economic benefit of noncompliance.

Complainant based its proposed penalty on calculations it performed under the *Penalty Policy,* attaching a penalty calculation worksheet and narrative explaining the reasoning behind the proposed penalty as Attachment I to the *Complaint.* Matrices employed in the determination of individual and multi-day penalties were included as Attachments II and III to the *Complaint.*

Under the Penalty Policy, two factors are considered in determining the gravity-based component, the potential for harm and the extent of deviation from a statutory or regulatory requirement. Each factor is assigned a value of major, moderate, or minor. A matrix then

provides a penalty range for the gravity-based component. The matrix includes a range of penalties from a high of $32,500 for a violation that is found to be major/major to a low of $129 for a violation that is considered minor/minor.

Once the gravity-based component is determined, a multi-day component is added, as appropriate, to account for the duration of violations. That sum, consisting of the gravity-based and multi-day components, is then adjusted for case specific circumstances, and an amount is added to reflect the economic benefit, if any, gained through noncompliance.

As set forth above, Respondent failed to respond to a Section 3007 request for information, in violation of Section 3007 of RCRA, 42 U.S.C. § 6927, for which violation Complainant proposes a penalty of $32,500. In arriving at its assessment for the gravity-based component, Complainant reasonably found the potential for harm presented by this violation was major. The RCRA Civil Penalty Policy provides that the potential for harm should be based on two factors: 1) the adverse impact of the noncompliance on the regulatory scheme, and 2) the risk of human or environmental exposure.

The RCRA regulatory scheme is seriously undermined when an owner/operator of a facility where violations have been noted in a CEI fails to respond to a Section 3007 Request for Information. Responses to Information Requests are necessary to ensure that important information is obtained and, if necessary, immediately acted upon. Failure to provide EPA with the requested information and documentation render it impossible for EPA to evaluate the compliance at the facility. Failure to comply with the Section 3007 Information Request also increases the likelihood that the facility owner/operator does not correct the noted violations, and the facility is operated outside of the RCRA regulatory universe. This type of violation can result

in multiple sequential violations involving the numerous violations. Therefore, I find that Respondent's failure to respond to the *Information Request* had a substantial adverse effect on the basic purpose of the RCRA program.

Ultimately, failure to respond to an Information Request regarding violations at the facility noted in a CEI increases the risk of human and environmental exposure. At the time of the CEI on April 30, 2004, the Complainant's representative observed a number of apparent violations at the facility, including new and old used oil releases throughout the facility, lack of labels on the containers of used oil, absorbent material contaminated with used oil, and hazardous wastes. In addition, EPA observed a lack of labels on the containers of hazardous wasters, open containers, and failure to note hazardous waste accumulation start dates. It should be emphasized that the spills or releases seemed to have reached outside the facility by the time of the April 2004 inspection. The Inspection also revealed Respondent's lack of good faith in complying with the applicable regulatory requirements, despite the fact that EPA had formally notified the Respondent of similar violations at another facility and issued other complaints against Respondents for these violations. Complainant notes in its Narrative Explanation to Support Complaint Amount (Attachment 1 to the *Complaint*) that the apparent used oil spills and/or releases had the potential to cause, or may have already caused, substantial damage to the environment.

Based on the facts set forth in the record, I conclude that the Complainant is correct in designating the potential for harm as major.

Next, I must consider whether the extent to which the Respondent deviated from the regulatory scheme was major. Respondent was well aware of the numerous violations noted

during the April 30, 2004 inspection at its facility which formed the basis for this Section 3007 *Information Request.* Despite the fact that the Complainant's representatives briefed Respondent's representatives regarding these apparent violations during a Closing Interview at the end of the CEI, and that Respondent was officially notified of these violations in the December 29, 2004 NOV, which accompanied the *Information Request*, the Respondent did not provide the Complainant with any written response whatsoever to the *Information Request* covering the Respondent's facility and the violations noted therein.

Respondent was instructed to provide this information because Complainant had determined that response to the inquiries set forth in the RCRA Section 3007 *Information Request* was necessary to evaluate the compliance of the subject facility. In the Instructions and Definitions (Attachment III to the December 2004 letter), the Respondent was instructed that if it could not provide complete or precise answers or the requested documentation, Respondent was to provide the information and documentation available, with an appropriate explanation for the limited answers or unavailability of the documentation.

The Penalty Policy provides that the "extent of deviation" relates to the degree to which the violation renders inoperative the requirement violated. In its analysis of the extent of deviation, Complainant considered that although the Respondent was aware of the statutory basis for the *Information Request,* as well as its obligation under the statute to provide a timely response thereto, Respondent totally disregarded the requirements of Section 3007 of RCRA, 42 U.S.C. § 6927. I believe that Complainant reasonably found the extent of deviation from requirements was major in arriving at its assessment for the gravity-based component.

The Penalty Assessment Matrix in the Penalty Policy provides a penalty range up to

$32,500 for a violation with a potential for harm classified as major and an extent of deviation classified as major. Complainant chose the highest point of the range, $32,500 for the gravity-based component of the penalty for the violation, based on its assessment of relevant factors summarized above. The selection of the highest point in the major/major range was warranted by the record set forth above, including the fact that, in evaluating the potential for harm factor, the Complainant correctly concluded that both the risk of exposure to humans and the adverse effect on the RCRA program posed by the violation were substantial.

Because failure to respond to a Section 3007 *Information Request* is considered a one time event, no calculations were made to reflect multiple days of violation. The Complainant concluded that any economic benefit resulting from this violation was negligible. Complainant made no further adjustments, up or down, in the penalty amount for other case specific adjustment factors provided in the penalty policy, including good faith efforts to comply/lack of good faith; degree of willfulness or negligence; history of compliance; ability to pay, environmental project and other unique factors.

In reviewing the record, I noted Respondent's apparent heightened degree of willfulness regarding this violation. Respondent had total control over the events constituting the violation and obviously knew of the legal requirements which were violated. Further, I note Respondent's history of noncompliance with RCRA as well as its implementing regulations. Respondent had been previously subject to EPA enforcement action under RCRA for used oil violations on two prior occasions, as set forth in paragraphs 4 through 6 of the Findings of Fact herein. Of course, because Complainant selected the maximum penalty for a one time violation under the statute as amended, it is not possible to make an upward adjustment to account for either of these factors.

However, I believe that the presence of these aggravating factors further justifies the selection of the maximum daily penalty.

As stated above, I conclude that the penalty sought in the amount of $32,500 and the requested injunctive relief is fully supported by the application of the statutory factors for determining a civil penalty in Section 3008(a)(3) of RCRA as well as the applicable Penalty Policy. Further, the record supports the penalty amount as well as the ordering of injunctive relief.

DEFAULT ORDER

Pursuant to the Consolidated Rules at 40 C.F.R. Part 22, including 40 C.F.R. § 22.17, a DEFAULT ORDER AND INITIAL DECISION is hereby ISSUED. Respondent is hereby ORDERED as follows:

1. Respondent is assessed a civil penalty in the amount of $32,500.

   a. Respondent shall pay the civil penalty by certified or cashier's check payable to the "Treasurer of the United States of America" within thirty (30) days after this default order has become a final order pursuant to 40 C.F.R. § 22.27(c). The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such payment shall be remitted to:

Regional Hearing Clerk
EPA Region 2
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

b. A copy of the payment shall be mailed to:

Regional Hearing Clerk
EPA Region 2
290 Broadway, 16th Floor
New York, New York 10007

2. Respondent shall take the following actions and provide evidence of compliance within the time periods specified below pursuant to section 3008(a) of RCRA, 42 U.S.C. § 6928(a):

Within thirty (30) days of the effective date of this Default Order, comply with a full and accurate response to the *Information Request.*

For the paragraphs above, Respondent shall apply the instructions and definitions set forth in Attachment III to the December 29, 2004 letter, Instructions and Definitions, and complete the Certification of Answers to Responses to Request for Information, Attachment IV to the December 29, 2004 package.

All responses and documentation submitted in response to this Order should be sent to:

Miguel A. Batista
Enforcement & Superfund Branch
Caribbean Environmental Projection Division
U. S. Environmental Protection Agency, Region 2
Centro Europa Building, Suite 417
1492 Ponce deLeon Avenue
San Juan, Puerto Rico 00907

3. This Default Order constitutes an Initial decision pursuant to 40 C.F.R. §§ 22.17(c) and 22.27(a). Pursuant to 40 C.F.R. § 22.27(c), this Initial Decision shall become a final order forty-five (45) days after its service upon the parties unless (1) a party moves to reopen the hearing, (2) a party appeals the initial decision to the Environmental Appeals Board, (3) a party moves to set aside the default order, or (4) the Environmental Appeals Board chooses to review

the initial decision sua sponte.

IT IS SO ORDERED.

Dated: August 15, 2006

Helen S. Ferrara
Presiding Officer