

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Allied Waste of Ponce, Inc.
P.O. Box 7104
Ponce, Puerto Rico 00732

Municipality of Salinas Sanitary Landfill
NPDES MSGP Number PRR05BK74

RESPONDENT

DOCKET NUMBER CWA-02-2011-3355

PROCEEDING PURSUANT TO SECTION
309(G) OF THE CLEAN WATER ACT,
33 U.S.C. § 1319(G), TO ASSESS CLASS
I CIVIL PENALTY

2011 SEP 13 A 11:13
HEARING

U.S. ENVIRONMENTAL
PROTECTION AGENCY
REGION 2

**ADMINISTRATIVE COMPLAINT, FINDINGS OF VIOLATION,
NOTICE OF PROPOSED ASSESSMENT OF AN ADMINISTRATIVE PENALTY,
AND NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. Statutory and Regulatory Authorities

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing (Complaint) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(g)(2)(A) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g)(2)(A). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Caribbean Environmental Protection Division (CEPD) of EPA, Region 2 (Complainant).

2. Pursuant to Section 309(g) (2) (A) of the Act, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (CROP), 40 C.F.R. Part 22 a copy of which is attached, Complainant hereby requests that Regional Administrator assess a civil penalty against Allied Wastes of Ponce, Inc. (hereinafter, the "Respondent"), as a result of Complainant's determination that the Respondent is in violation of Section 301 of the Act, 33 U.S.C. §1311 for failure to comply with certain requirements of the National Pollutant Discharge Elimination System (NPDES) Multi- Sector General Permit for storm water discharges associated with industrial activities.

3. Section 301(a) of the Act, 33 U.S.C. § 1311(a), provides in part that "[e]xcept as in compliance with this Section and Sections ...402, and 404 of the Act, the discharge of any pollutant by any person shall be unlawful."

4. Section 308(a)(A) of the Act, 33 U.S.C. § 1318(a)(A), establishes that whenever required to carry out the objective of the Act, the Administrator shall require the owner or operator of any point source to, among other things :establish and maintain such records; make such reports; install, use and monitor such equipment or methods; sample such effluents; and provide such other information as may be required in order to carry out Section 402 of the Act, 33 U.S.C. § 1342.

5. Section 402 of the Act, defines NPDES as the national program for, among other things, issuing and enforcing permits.

6. Section 402 of the Act, authorizes the Administrator to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the Act and such conditions as the Administrator determines are necessary.

7. Section 402 (p) (2) (B) of the Act, requires a permit with respect to a discharge associated with industrial activity.

8. The Administrator of EPA has promulgated regulations at 40 C.F.R. §122.26(a)(1)(ii) and § 122.26(b)(14) which require operators to obtain a NPDES permit for storm water discharges associated with industrial activity, including construction activity.40 C.F.R. § 122.5(b) requires permits for the discharge of any pollutant from any point source into bodies of the United States.

9. The Act and its implementing regulations and applicable NPDES permit contain the following definitions:

- a) "Discharge of a pollutant" as any addition of any pollutant to navigable waters and/or waters of the United States from any point source. Section 502(12) of the Act, 33 U.S.C. § 1362(12), and 40 CFR § 122.2;
- b) "Facility," as any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to the regulations of the NPDES program. 40 CFR § 122.2
- c) "Municipal separate storm sewer system" or MS4 means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains).
- d) "Navigable waters" as the waters of the United States, including the territorial seas., pursuant to Section 502(7) of the Act, 33 U.S.C. §

1362(7); "Waters of the United States" means all waters such as lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, among others, and their tributaries. 40 C.F.R. § 122.2

- e) "Operator" for the purposes of the NPDES storm water general permit is defined at Appendix A of the Storm Water Discharges Associated with Industrial Activity as any entity with a storm water discharge associated with industrial activity that meets either of the following two criteria:
 - (i) The entity has operational control over industrial activities, including the ability to modify those activities; or
 - (ii) The entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit).
- f) "Owner" or "operator" means the owner or operator of any "facility" or "activity" subject to regulation under the NPDES program. See 40 C.F.R. § 122.2
- g) "Point source" as any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Section 502(14) of the Act, 33 U.S.C. § 1362(14), and 40 CFR § 122.2;
- h) "Pollutant" as including, among others, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water. Section 502(6) of the Act, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2;
- i) "Storm water associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. See 40 C.F.R. § 2.26(b)(14).

10. On October 30, 2000, EPA reissued the NPDES Storm Water Multi-Sector General Permit (MSGP) pursuant to Section 402 of the Act, 33 U.S.C. §1342. The MSGP became effective on October 30, 2000 and expired on October 30, 2005. The permit was reissued on September 29, 2008 and it expires on September 29, 2013:

- a) Section 2 of the MSGP requires that an operator use control measures (including best management practices) to reduce an/or eliminate effluents.
- c) Section 2.1.2.3 requires that an operator regularly inspect, test, maintain and repair all industrial equipment and systems to avoid situations that may result in leaks, spills, and other releases of pollutants in storm water discharged to receiving waters.
- d) Section 2.1.2.5 requires that an operator stabilize exposed areas and contain runoff using structural and/or non-structural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants. In selecting, installing and implementing appropriate control measures, the operator is encouraged to use BMPs for erosion and sedimentation.
- e) Section 2.1.2.6 requires that an operator manage storm water runoff to minimize pollutants in the discharges by selecting, designing and implementing appropriate control measures.
- f) Section 4.2 requires an operator to conduct quarterly visual assessment of its storm water discharges.
- g) Section 4.3 requires an operator to conduct annual comprehensive site inspections while covered under the permit.
- h) Section 5 of the MSGP requires that an operator must prepare and implement a SWPPP for its facility before submitting a NOI.
- i) Section 5.1 indicated the contents of the SWPP in order to be covered under the permit.
- j) Section 5.2 requires that an operator shall review and revise the SWPPP: whenever necessary to address conditions specified under Section 3.1 the selection (review and revise design, installation, and implementation of its control measures to ensure that the condition is eliminated), and whenever the condition requires review to determine if modifications are needed as specified under Section 3.2 of the permit.

11. Operators of facilities engaged in managing and disposal of non-hazardous wastes are required to apply for and obtain NPDES permit coverage for the discharges of storm water contaminated by contact with or that has come into contact with, any

overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations. 40 C.F.R. §122.26(b)(14)(iii).

12. The EPA regulations at 40 C.F.R. §122.26(e)(1)(i) require that operators of facilities engaged in managing and disposal of non-hazardous wastes to obtain an NPDES permit under 40 C.F.R. §122.26(a)(1), shall submit an individual NPDES permit application no later than October 1, 1992, if the facility is not part of a group application (as described in 40 C.F.R. §122.26(c)(2)), or is not authorized by an NPDES storm water general permit for industrial activities

II. Jurisdictional Findings

13. Respondent, Allied Waste of Ponce, Inc. is incorporated in the Commonwealth of Puerto Rico, and authorized to do business in Puerto Rico. Its physical address is Bo. La Cotorra, Ave. Baramaya Final, Ponce, Puerto Rico, 00731. Respondent is a person within the meaning of Section 502(5) of the Act, 33 U.S.C. §1362(5).

14. At all relevant times, Respondent was the operator of the Facility.

15. The Municipality of Salinas Sanitary Landfill, (the "Facility") is located at State Road PR-3, Km. 152.7, Aguirre Ward, Salinas, Puerto Rico, 00751. The Facility is a municipal solid waste management landfill of approximately 25 acres, dedicated to sanitary landfill activities. The landfill is in the process of expanding its operation by approximately 49 more acres. The Facility is best described by the Primary Standard Industrial Classification (SIC) code 4953.

16. Respondent's Facility was and is, at all relevant times, a point source as defined in Section 502 (14) of the Act, 33 U.S.C. §1362(14).

17. Respondent submitted a Notice of Intent to EPA, dated April 20, 2001, to seek coverage under the 2000 MSGP Permit. EPA granted Permit coverage to Respondent's Facility, beginning on April 20, 2001, permit number for the facility is PRR05BK74.

18. At all relevant times, Respondent's Facility was subject to the requirements and conditions of the Permit.

19. As the operator of the Facility, Respondent is engaged in the management and disposal of non-hazardous wastes generated in municipal, commercial and industrial activities throughout the Island of Puerto Rico.

20. Storm water runoff from the Facility discharge into the Caribbean Sea, a water of the United States.

III. Findings of Violations

21. Complainant realleges paragraphs 11-20, above.

22. On September 17, 2010, a representative of EPA Region 2 conducted a Compliance Evaluation Inspection ("CEI") of the Facility. At the time of the Inspection, EPA's representative found that Respondent had failed to:

- a) Conduct comprehensive site evaluations, as required by Part 4.3 of the Permit.
- b) Have a Facility's Storm Water Pollution Prevention Plan that meets the minimum requirements of Part 4.2 of the Permit, and includes routine facility inspections; comprehensive site compliance evaluation; quarterly visual examination; and benchmark monitoring reports, as required by Part 5.1.5.2.
- c) Implement effective erosion and sediment controls, necessary to minimize erosion and sedimentation in order to avoid the discharge of pollutants, as required by Part 2.1.2.5 and Part 2.1.2.6 of the Permit.
- d) Have Best Management Practices (BMPs) in place and implemented as required by Part 2.1.1 of the Permit.
- e) Prevent discharges of its storm water runoff which eventually discharges into a ditch that runs along the south part of the facility and then flows into an unmade creek that eventually reaches the Caribbean Sea through the Bahia de Jobos.
- f) Amend its SWPPP whenever there is a change in design, construction, operation, or maintenance at the Facility that has a significant effect on the discharge, or potential to discharge, of pollutants from the Facility.
- g) Maintain and have in operating conditions the BMPs identified in the SWPPP as required by Part 2.1.2.3 of the Permit

23. EPA issued the Administrative Order CWA-02-2011-3104 ("Compliance Order"), dated December 20, 2010, against Respondent to address the violations mentioned above. The Compliance Order incorporated findings of violations, and ordered Respondent among other things, to cease and desist the discharge of pollutants into waters of the United States from the Facility and to submit a plan of action that addresses the deficiencies noted in the Compliance Order.

24. On January 20, 2011, EPA conducted a second CEI of Respondent's Facility, In order to determine Respondent's compliance with the Compliance Order.

25. On June 7, 2011, EPA sent a letter to Respondent, where it described the findings of the CEI. At the time of the Inspection, EPA's representative found that Respondent continued to be in violation of:

- a) Part 5.1.2 of the Permit by having an incomplete SWPPP.
- b) Part 4.3 of the Permit by its failure to conduct comprehensive site evaluations.
- c) Parts 6.2.1 and 6.2.2 of the Permit by its failure to conduct benchmark and effluent limits based monitoring.
- d) Part 4.2 of the Permit, the SWPPP did not include minimum requirements such as quarterly visual examinations, comprehensive site evaluations, routine facility inspections and benchmark monitoring reports, required under Part 5.1.5.2 of the Permit.
- e) Part 2.1.1 of the Permit which requires that Respondent have in place and implement BMPs. EPA found that Respondent needed to implement additional controls to prevent erosion at the old cells slopes and needed to remove sediments from the storm water retention pond.
- f) Part 2.1.2.5 of the Permit by its failure to prevent discharges of its storm water runoff which eventually discharges into a ditch that runs along the south part of the facility and then flows into an unmade creek that eventually reaches the Caribbean Sea through the Bahia de Jobos.

26. Respondent submitted a response letter to EPA dated June 30, 2011.

27. Based on the findings in paragraphs 21-26, above, Respondent is liable for violations of Section 301(a) of the Act, 33 U.S.C. §1311(a), as specified below.

a. Claim 1 - Failure to review and revise SWPPP

Respondent failed to update the Facility's SWPPP to address changes in conditions at the Facility. This is considered a **One-time** occurrence.

b. Claim 2 - Failure to implement adequate control measures

Respondent failed to implement adequate erosion control measures as required by Part 2.1.2.5 of the MSGP from September 17, 2010 (date when EPA conducted the first CEI of the Facility) to June 30, 2011 (date when Respondent submitted a response letter dated June 30, 2011 to EPA). Respondent failed to implement adequate erosion control measures on the old cells slopes at the Facility **for approximately 287 days**.

c. **Claim 3 - Failure to conduct required visual monitoring and compliance (effluent limit) monitoring**

Respondent failed to conduct Quarterly Visual Assessments according to the procedures and the documentation required in Part 4.2 of the MSGP. Respondent did not perform these inspections in the 3rd and 4th Quarter of Year 2009. Respondent also failed to conduct the annual effluent limit monitoring as required by Part 6.2.2.1 and Part 8.L.10 of the MSGP for the monitoring period of year 2009. Respondent failed to conduct Quarterly Visual Assessments of discharges **on two occasions**. Respondent failed to conduct effluent monitoring **on one occasion**.

d. **Claim 4 - Failure to inspect or document inspections**

Respondent failed to conduct and document the Comprehensive Site Inspections as required in Part 4.3 of the MSGP for the years 2009 and 2010. Respondent failed to conduct and document the Comprehensive Site Inspections **on two occasions**.

The EPA will notify the Commonwealth of Puerto Rico regarding this proposed action by mailing a copy of this Complaint and Notice and offering an opportunity for the Commonwealth to confer with EPA on the proposed penalty assessment.

IV. Notice of Proposed Order Assessing a Civil Penalty

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties (Final Order) to Respondent assessing a penalty of **\$35,870**. The proposed penalty has been determined in accordance with the applicable factors under Section 309(g) (3) of the Act, 33 U.S.C. § 1319(g) (3). EPA is required to take in consideration the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. EPA has also taken in consideration the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires EPA to adjust penalties for inflation on a periodic basis.

Based on the Findings set forth above, Respondent has been found to have violated in numerous occasions the NPDES regulations and the Act. Respondent failed to comply with certain requirements of the 2008 MSGP. Respondent is culpable for the violations. EPA took into account Respondent's knowledge of the NPDES regulations, the 2008 MSGP, and the risks to human health and the environment posed by the discharges of storm water runoff from the Facility into the Caribbean Sea, a water of the United States.

The violations discussed in this Complaint are serious since Respondent's failure to comply with the requirements of the permit could cause a potential amount of pollutants

to reach surface water that could cause direct and indirect negative effects on human health and the environment. Respondent knew of its obligations under the NPDES regulations, the Permit, and the Act. Respondent does have a prior history of violations under the NPDES program. EPA may issue a final Order Assessing Administrative Penalties thirty (30) days after Respondent's receipt of this Notice, unless Respondent, within that time files an answer to the Complaint and, requests a hearing on this Notice pursuant to the following section.

V. Procedures Governing This Administrative Litigation

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, which have been codified at 40 C.F.R. Part 22. A copy of these rules accompanies this Complaint.

A. Answering the Complaint

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

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

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

Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. 40 C.F.R. § 22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent dispute (and thus intends to place at issue in the proceeding), (3) the basis for opposing the proposed relief, and (4) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent's failure to affirmatively raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent

stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity to Request a Hearing

If requested by Respondent in the Answer, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c).

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

Should Respondent request a hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure to Answer

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

VI. Informal Settlement Conference

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

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

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to the EPA attorney named in Section VIII, Paragraph 2, below.

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

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

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

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

VII. Resolution of this Proceeding Without Hearing or Conference

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty within 30 days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address noted above), a copy of the check or other instrument of payment. 40 C.F.R. § 22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Assistant Regional Counsel identified on Section VIII, paragraph 2. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "**Treasurer, United States of America**", in the full amount of the penalty assessed in this complaint to the following addressee:

**Regional Hearing Clerk
U. S. Environmental Protection Agency, Region 2
PO Box 360188
Pittsburgh, Pennsylvania 15251.**

Pursuant to 40 C.F.R. § 22.18(a) (3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order in accordance with 40 C.F.R. § 22.18(a) (3). In accordance with 40 C.F.R. § 22.45(c)(3), no Final Order shall issue until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint. Further, pursuant to 40 C.F.R. § 22.18(a) (3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VIII. Filing of Documents

1. The original and one copy of the Answer and any Hearing Request and all subsequent documents filed in this action shall be sent to:

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

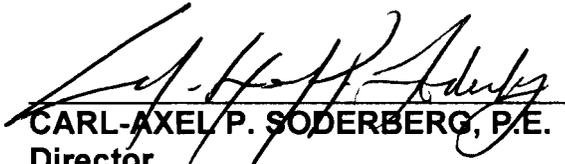
2. A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

**Lourdes del Carmen Rodriguez, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
1492 Ponce de León Ave., Suite 417
San Juan, Puerto Rico 00907-4127
Telephone: (787) 977-5819
Fax: (787) 729-7748
rodriguez.lourdes@epa.gov.**

IX. General Provisions

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated thereunder, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), for the violations alleged herein.

ISSUED THIS 12th DAY OF September, 2011.



CARL-AXEL P. SODERBERG, P.E.

Director,
Caribbean Environmental Protection Division
United States Environmental Protection Agency - Region 2
1492 Ponce de León Ave., Suite 417
San Juan, Puerto Rico 00907-4127

To: **Mr. Alfredo Gerena**
General Manager
Allied Waste of Ponce, Inc.
P.O. Box 7104
Ponce, Puerto Rico 00732

cc: **Mr. Roberto Ayala**
Director
Water Quality Area
PR Environmental Quality Board
P. O. Box 11488
San Juan, PR 00910

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

IN THE MATTER OF:
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P.O. Box 7104
Ponce, Puerto Rico 00732

Municipality of Salinas Sanitary Landfill
NPDES MSGP Number PRR05BK74

RESPONDENT

PROCEEDING PURSUANT TO
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WATER ACT, 33 U.S.C. § 1319(G), TO
ASSESS CLASS I CIVIL PENALTY

Docket No. CWA-02-2011-3355

CERTIFICATE OF SERVICE

This is to certify that on this date, I caused to be mailed a true and correct copy of the foregoing "ADMINISTRATIVE COMPLAINT, FINDINGS OF VIOLATION, NOTICE OF PROPOSED ASSESSMENT OF AN ADMINISTRATIVE PENALTY, AND NOTICE OF OPPORTUNITY TO REQUEST A HEARING" and with a copy of the "Consolidated Rules of Practice Governing the Administrative Assessments of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22, by:

Certified Mail/Return Receipt Requested, to:

Mr. Alfredo Gerena
General Manager
Allied Waste of Ponce, Inc.
P.O. Box 7104
Ponce, Puerto Rico

The Original and a copy for filing by Overnight Mail to:

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

Dated:

September 12, 2011


San Juan, Puerto Rico

