

**THE PORT AUTHORITY OF NY & NJ**

Darrell Buchbinder, General Counsel  
*Christopher M. Hartwyk, First Deputy General Counsel*

December 5, 2011

Ms. Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2011 DEC -5 A 9:48  
REGIONAL HEARING  
CLERK

Re: In the Matter of Port Authority of New York and New Jersey  
EPA Region 2, Docket No. RCRA-02-2011-7110

Dear Ms. Maples,

Enclosed please find for filing an original and copy of the Port Authority of New York and New Jersey's Answer to Complaint and Request for Hearing.

Very truly yours,

By: 

Lawrence A. Estrada, Esq.  
Port Authority of NY & NJ  
225 Park Avenue South, 13<sup>th</sup> Floor  
New York, NY 10003  
(212) 435-3426

cc: Hon. Helen Ferrara, Regional Judicial Officer  
Stuart Keith, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2011 DEC -5 A 9:48  
REGIONAL HEARING  
CLERK

-----x  
In the Matter of:

Docket No.: RCRA-02-2011-7110

The Port Authority of New York and  
New Jersey

Respondent

RESPONDENT THE PORT AUTHORITY  
OF NEW YORK AND NEW JERSEY  
ANSWER TO COMPLAINT AND  
REQUEST FOR HEARING

Proceeding Under Section 3008 of the  
Sold Waste Disposal Act, as amended  
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Respondent The Port Authority of New York and New Jersey (the "Port Authority"), by its undersigned counsel, as and for its answer to the Complaint filed by the Environmental Protection Agency alleges, upon information and belief, as follows:

**Jurisdiction**

1. Neither admits nor denies the allegations of paragraph "1" as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph "2" and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

**Respondent**

3. Denies the allegations of paragraph "3" except admits that the Port Authority owned, operated, maintained and/or controlled those portions of the named facilities and their associated premises which were not owned, operated, maintained and/or controlled by others pursuant to lease, license, permit, contract or written agreement and/or by reason of their using or

conducting operations at the premises and respectfully refers all questions of law for determination by the Presiding Judicial Officer.

4. Denies the allegations of paragraph “4” in the form alleged, except admits that the Port Authority is involved in interstate transportation.

**General Allegations**

5. Neither admits nor denies the allegations of paragraph “5” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

6. Neither admits nor denies the allegations of paragraph “6” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

7. Neither admits nor denies the allegations of paragraph “7” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

8. Neither admits nor denies the allegations of paragraph “8” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

9. Admits the allegations of paragraph “9”.

10. Admits the allegations of paragraph “10”.

11. Admits the allegations of paragraph “11”.

12. Admits the allegations of paragraph “12”.

13. Neither admits nor denies the allegations of paragraph “13” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

14. Neither admits nor denies the allegations of paragraph “14” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “15”, except admits that an EPA representative conducted inspections at the Lincoln Tunnel and to the extent said paragraph contains legal conclusions to which no response is required, respectfully refers all matters of law for determination by the Presiding Judicial Officer.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “16”, except admits that an EPA representative conducted inspections at the Bus Terminal Facility and to the extent said paragraph contains legal conclusions to which no response is required, respectfully refers all matters of law for determination by the Presiding Judicial Officer.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “17”, except admits that an EPA representative conducted inspections at the Port Authority Technical Facility and to the extent said paragraph contains legal conclusions to which no response is required, respectfully refers all matters of law for determination by the Presiding Judicial Officer.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “18”, except admits that an EPA representative conducted inspections at

Newark Liberty International Airport and to the extent said paragraph contains legal conclusions to which no response is required, respectfully refers all matters of law for determination by the Presiding Judicial Officer.

19. Admits the allegations of paragraph “19”.

20. Denies the allegations of paragraph “20” in the form alleged, except admits that the Port Authority received a letter from the EPA requesting information concerning the Lincoln Tunnel.

21. Admits the allegations of paragraph “21”.

22. Denies the allegations of paragraph “22” in the form alleged, except admits that the Port Authority received documents purporting to be a Notice of Violation and a letter from the EPA requesting information concerning certain Port Authority facilities.

23. Denies the allegations of paragraph “23” in the form alleged, except admits the Port Authority responded to the documents sent to it by the EPA

#### **Answering Count 1**

24. The Port Authority incorporates its responses to paragraphs “1” through “23” as if fully set forth herein.

25. Neither admits nor denies the allegations of paragraph “25” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

26. Neither admits nor denies the allegations of paragraph “26” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

27. Neither admits nor denies the allegations of paragraph “27” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

28. Denies the allegations of paragraph “28”.

29. Denies the allegations of paragraph “29”.

30. Denies the allegations of paragraph “30”.

31. Denies the allegations of paragraph “31”.

32. Respectfully refers the Presiding Judicial Officer to the cited document as the best evidence of its contents.

33. Denies the allegations of paragraph “33” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

34. Denies the allegations of paragraph “34” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

35. Denies the allegations of paragraph “35” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

36. Denies the allegations of paragraph “36”.

37. Denies the allegations of paragraph “37” and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

38. Denies the allegations of paragraph “38”.

## Answering Count 2

39. The Port Authority incorporates its responses to paragraphs “1” through “38” as if fully set forth herein.

40. Neither admits nor denies the allegations of paragraph “40” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

41. Neither admits nor denies the allegations of paragraph “42” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

42. Admits the allegations of paragraph “42”.

43. Neither admits nor denies the allegations of paragraph “43” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

44. Neither admits nor denies the allegations of paragraph “44” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

45. Neither admits nor denies the allegations of paragraph “45” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

46. Neither admits nor denies the allegations of paragraph “46” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

47. Neither admits nor denies the allegations of paragraph “47” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

48. Admits the allegations of paragraph “48”.

49. Denies the allegations of paragraph “49” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

50. Respectfully refers the Judicial Hearing Officer to the cited document as the best evidence of its contents.

51. Denies the allegations of paragraph “51” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “52”, except admits that an EPA representative conducted inspections at the Port Authority Technical Center.

53. Denies the allegations of paragraph “53” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

54. Neither admits nor denies the allegations of paragraph “54” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “55”, except admits that an EPA representative conducted an inspection



at Newark Liberty International Airport and specifically denies that the drum labeled “1735” contained hazardous waste. The manifest for the drum labeled “1735” is attached as Exhibit A.

56. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “56”, except specifically denies that the drum labeled “1735” contained hazardous waste.

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “57”, except admits that an EPA representative conducted an inspection at Newark Liberty International Airport.

58. Denies the allegations of paragraph “58” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

59. Denies the allegations of paragraph “59” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

60. Denies the allegations of paragraph “60” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

61. Neither admits nor denies the allegations of paragraph “61” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

62. Respectfully refers the Judicial Hearing Officer to the cited document as the best evidence of its contents.

63. Denies the allegations of paragraph “63” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

64. Admits the allegations of paragraph “64”.

65. Neither admits nor denies the allegations of paragraph “65” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

66. Respectfully refers the Judicial Hearing Officer to the cited document as the best evidence of its contents.

67. Denies the allegations of paragraph “67” in the form alleged and respectfully refers the Judicial Hearing Officer to the document referred to as the best evidence of its contents.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph “68”, except admits that an EPA representative conducted an inspection at the Port Authority Technical Facility.

69. Denies the allegations in paragraph “69” and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

70. Neither admits nor denies the allegations of paragraph “70” as they contain legal conclusions to which no response is required and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

71. Denies the allegations of paragraph “71” and respectfully refers all matters of law for determination by the Presiding Judicial Officer.

### **Affirmative Defenses**

Without waiving or limiting any defenses otherwise available, the Port Authority hereby asserts the following defenses:

1. The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

2. Inasmuch as the Port Authority is a governmental agency not subject to penalties, any monetary amount sought or received would be a payment in lieu of penalty.

3. The proposed “civil penalty” is unwarranted as it is based on alleged violations that are not supported by the facts. Even assuming the soundness of the alleged violations, the Port Authority believes the proposed calculation is unjustified with respect to the gravity components and the failure to adjust for good faith. The proposed “civil penalty” is not consistent with the nature, extent and environmental impact of the alleged violations or with the civil penalties obtained by EPA in cases addressing similar violations.

4. The Complaint alleges claims based on facts in dispute regarding the nature of the materials stored at the Facilities and the applicable requirements under RCRA. The Port Authority is in the process of determining the facts surrounding the claims alleged in the Complaint but believe at this time, pending further investigation, that the alleged waste materials which are the subject of the allegations of paragraph “30” were not hazardous wastes abandoned within the meaning of 40 C.F.R. §261.2 at the time of the EPA inspection. In fact, these materials were exempt as samples under 40 C.F.R §261.4(d)(1). As such, these materials were not subject to the determination requirements underlying the claims in the Complaint.

5. In addition, the Port Authority believes that the alleged waste materials which are subject of the allegations of paragraphs “28” and “29” of the Complaint were not hazardous wastes abandoned within the meaning of 40 C.F.R. §261.2 at the time of the EPA inspection.

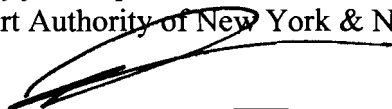
**Request for Hearing**

The Port Authority hereby requests a hearing on this matter.

Dated: New York, New York  
December 5, 2011

Respectfully Yours,

JAMES M. BEGLEY, ESQ.  
*Attorney for Respondent*  
The Port Authority of New York & New Jersey

By:   
Lawrence A. Estrada, Esq.  
225 Park Avenue South, 13<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3426

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> of December, I caused the foregoing Answer to the Complaint and Request for Hearing to be served by hand as follows:

Original and One Copy

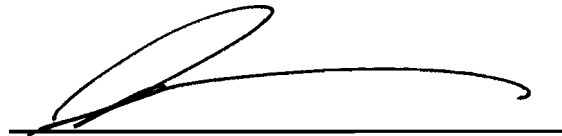
Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

Copy

Hon. Helen S. Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

Copy

Stuart Keith  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

  
\_\_\_\_\_  
Lawrence A. Estrada, Esq.

**Exhibit A**



E. HAZARDOUS CHARACTERISTICS

- Radioactive, Compressed Gas, Infectious, Flammable Solid, Toxic, Organic Peroxide, Explosive, Shock Sensitive, Pyrophoric, Reactive Metals, Oxidizer, Corrosive, Other Describe, Corrosive, None of the above

F. IDENTIFY THE HEALTH HAZARD CHARACTERISTICS FROM THE TABLE BELOW

- Immediate (Acute) Health Hazard: None, Highly Toxic, Toxic, Irritant, Sensitizer, Corrosive, Other Hazardous Chemicals with an adverse effect on a target organ that generally occurs as a result of short term exposure and with a short duration, Carcinogens, Other Hazardous Chemicals with an adverse effect on a target organ that generally occurs as a result of long term exposure and with a long duration. Delayed (Chronic) Health Hazard

G. SHIPPING INFORMATION

- Bulk Liquid, Bulk Solid, Bulk Sludge, Other Describe, Drums (Steel), Drums (Poly), Shipping Frequency, Quantity, Per year

H. MANIFEST INFORMATION

Is this a DOT Hazardous Material? Proper DOT shipping name (49CFR table 172.101) Non regulated material, Rq. Units (lb/kg), DOT Hazard Class / Division, UN/UA, Packing Group (select one), Additional descriptions requirements (49CFR 172.203), Emergency response telephone number (49CFR 172.604) (201) 239-3500, Contact (print name) PA Police

I. WASTE CHARACTERISTICS

Is this a US EPA Hazardous Waste? US EPA Hazardous Waste Number(s), Hazard Codes, If yes, if the waste is a characteristic hazardous waste, does it contain underlying hazardous constituents (as defined at 40CFR 268.2(l)) Above the Universal Treatment Standard, State Non-Hazardous Waste Number(s) ID27, Does this waste contain any PCBs? Are PCBs TSCA Regulated?, Does this waste contain any herbicides, pesticides, dioxin or residues thereof?, Is this waste prohibited from land disposal under 40CFR Part 268?, If yes, list waste subcategory description, if applicable, Is this waste a (check one) Non-Wastewater Wastewater?, Benzene NESHAP applicability: Is waste subject to management under National Emission Standards for Benzene Waste Operations as provided in 40CFR Part 61 Subpart FF?, Does this waste contain any N-Nitroso-N-Methylurea?, If this waste is a RCRA Hazardous Waste, does it contain VOCs in concentrations >=500 PPM (40CFR Subpart CC)?, Are there any special handling instructions for the disposal of this waste?

J. AUTHORIZATION TO CORRECT WMPS

I AUTHORIZE CLEAN EARTH OF NORTH JERSEY TO MAKE CORRECTIONS TO THIS WMPS. CORRECTIONS MUST BE CONSISTENT WITH THE RESULTS OF SAMPLE ANALYSIS AND REGULATORY REQUIREMENTS. I UNDERSTAND THAT A CORRECTED COPY OF THE WMPS WILL BE SENT TO ME.

Signature [Signature]

K. SPECIAL HANDLING COMMENTS

EWR 1735 (LLAPU Drierite Refill)

L. OFFICIAL USE ONLY

M. APPROVAL

Safety, Environ

N. POLYCHLORINATED BIPHENYL (PCB), HERBICIDE, INSECTICIDE/ALUMINUM AND REACTIVE METAL WARRANTY

I hereby warrant that the material transferred to Clean Earth of North Jersey (CENJ) for transportation, treatment, storage and/or disposal is not radioactive waste, does not contain >1% asbestos and is not contaminated by either Polychlorinated Biphenyl or Herbicide/Pesticide/Insecticide or Dioxins or Furans of any value unless it is listed in Section C and approved by CENJ, nor does it contain Elemental Aluminum or Reactive Metal Paste, Powder, or Pigment unless it is listed in Section C and approved by CENJ and hereby agree to indemnify and hold CENJ harmless from any costs, damages, or other liability resulting from breach of this warranty or any other terms and conditions of this Waste Material Profile Sheet, including the indemnification listed on the back page.

O. The information on this Waste Material Profile Sheet (WMPS) may have been prepared by other individuals. By signing Section O of this WMPS, I certify that all information, including any attached information, is complete and is an accurate representation of the waste and its known or suspected hazards.

11/16/2010, Dorian Bailey, Agent for the PA of NY and NJ, [Signature]

Clean Earth of North Jersey has all of the appropriate permits for and will accept the waste that has been characterized/identified by this Approved Waste Material Profile Sheet.



## WASTE MATERIAL PROFILE SHEET INSTRUCTIONS

The following information is required of all waste to be considered for transportation, storage, treatment or disposal. It is used to determine that the waste may be transported, stored, treated or disposed of in a legal, safe and environmentally sound manner. All questions must be answered and completed in ink. Response of "NONE" or "NOT APPLICABLE" should be made if appropriate. Most items required are self-explanatory. Other items need definition or instruction as follows:

### PART A - GENERATOR INFORMATION

**GENERATOR NAME AND ADDRESS-** As notified to EPA.

**MAILING ADDRESS-** Should be the location that will manage the returned waste profile sheets and manifest.

**US EPA ID-** For the facility generating the waste.

**TECHNICAL CONTACT-** A person who could give additional information about the waste, if needed.

**COMMON NAME OF WASTE-** A name which will be generally descriptive of the waste; a generic classification (e.g., paint, oil and water).

**PROCESS GENERATING WASTE-** Specific descriptive process or source which generates the waste.

### PART B - PHYSICAL/CHEMICAL CHARACTERISTICS OF WASTE

**ODOR-** If present, describe as well as possible (e.g., solvent, acrid, sweet).

**COLOR-** Self explanatory.

**PHYSICAL STATE-** Check as many as apply.

**FLASH POINT/IGNITABILITY-** A value attained using the appropriate testing method as set forth in 40CFR Part 261.21.

**AIR REACTIVE-** Will ignite spontaneously in air.

**SHOCK SENSITIVE-** Normally unstable and readily undergoes violent change without detonating.

**GENERATES TOXIC FUMES-** In sufficient quantity to endanger human health or the environment when mixed with water, acid or base.

**PERCENT LIQUID/SOLID-** List the % total solids, suspended solids, free liquids and water.

**SPECIFIC GRAVITY-** The weight of the water compared to the weight of an equal volume of the waste.

### PART C - CHEMICAL COMPOSITION

List all organic and/or inorganic components of the waste using specific chemical names. If trade names are used, Material Safety Data Sheets or other documents which adequately describe the composition of the waste must be provided. For each component indicate expected percent or range in which the component is present. In case of extreme pH (less than 2 or greater than 12.5) indicate specific acid or caustic species. Any hazardous components present in "trace" amounts and not specifically mentioned in PARTS D, F and/or H should be included, even if specific concentrations are not known. Any components listed in PARTS D, F, and/or H which exceed 10,000 PPM (1%) must be included. Components must total to 100% including water, earth or other components. If a unit of measure other than percent must be used,

indicate that unit. Indicate which, if any, of the constituents are listed in SARA, Title III, Section 313. This list can be found at 40CFR Part 372. Also, indicate which, if any, of the constituents are listed in SARA, Title III, EHS Section 302. This list can be found at 40 CFR Part 355; Appendices A and B.

### PART D - TOXICITY CHARACTERISTIC

Use the appropriate line to indicate the actual level, specified ranges or if below regulated level for each toxicity characteristic as defined by 40CFR Part 261.24.

### PART E - HAZARDOUS CHARACTERISTICS

Complete if the waste exhibits any of the hazardous characteristics as per OSHA 29CFR Part 1910.1200 Hazard Communications Standard.

### PART F - SARA/OSHA

See below for detailed directions.

### PART G - SHIPPING INFORMATION

Indicate method of shipment and type of container. If drums, they must be as specified in 49CFR Part 173, 178 or 179. Indicate quantity to be shipped during specified time frame (e.g., 10 drums per month).

### PART H - MANIFEST INFORMATION

Is the waste a US DOT hazardous material as defined in 49CFR Part 172.101? If yes, enter the **SHIPPING NAME, HAZARD CLASS/DIVISION, DOT ID NUMBER, R.Q.** (Reportable Quantity) as defined in 49CFR and identify applicable **PACKAGING GROUP**. Enter the technical names of at least two most predominant components which contribute to the hazards of the mixture or solution for all proper shipping names found in 49CFR Part 172.203 (k)3. Enter the Emergency Response Telephone number and contact name as required by 49CFR Part 172.604.

### PART I - WASTE CHARACTERISTICS

Use this section to properly list all applicable US EPA/STATE Hazardous Waste Numbers and identify any waste that may be prohibited from land disposal under 40CFR Part 268.

### PART J - AUTHORIZATION TO CORRECT WMPS

Provide generator's signature in this section to allow CENJ to make corrections on the WMPS that are consistent with the results of sample analysis and regulatory requirements. Signing this section will help expedite the approval

process in the event corrections need to be made.

### PART K - SPECIAL HANDLING/ COMMENTS

Use this section to alert the handlers of the waste of any precautions that should be taken or if the waste requires special safety or personal protective equipment. Use this space to list any additional information that may help in managing this waste.

### PARTS N/O - WARRANTIES/ SIGNATURE

Please read these warranties carefully. If any of these warranties cannot be certified, state the reason in Section K, Comments. The generator of the waste must sign and date the Generator's Waste Material Profile Sheet.

### \*PART F - CONTINUED, Instructions on Health Hazard Characterization

Identify by checking the box which most appropriately describes the hazardous characteristics as defined below:

#### NONE

Self-explanatory.

#### HIGHLY TOXIC

- (a) A chemical that has a median lethal dose (LD50) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.
- (b) A chemical that has a median lethal dose (LD50) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between 2 and 3 kilograms each.
- (c) A chemical that has a median lethal concentration (LC50) in the air of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter or less of mist, fume or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

#### TOXIC

- (a) A chemical that has median lethal dose (LD50) of more than 50 milligrams per kilogram but not more than 500 milligrams per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.
- (b) A chemical that has a median lethal dose (LD50) of more than 200 milligrams per kilogram but not more than 1000 milligrams per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of

albino rabbits weighing between 2 and 3 kilograms each.

(c) A chemical that has a median lethal concentration (LC50) in air of more than 200 parts per million but not more than 2000 parts per million by volume of gas or vapor, or more than two milligrams per liter but not more than 20 milligrams per liter of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

#### **IRRITANT**

Irritant means a chemical substance or mixture, not a corrosive which on immediate, prolonged or repeated contact with normal living tissues induces a local inflammatory response in the skin, eyes or mucous membranes per 16CFR Part 1500.41.

#### **SENSITIZER**

Sensitizer means a chemical substance or mixture that causes a substantial number of persons to develop a hypersensitive reaction in normal tissue upon reapplication of the chemical substance or mixture through an allergic or photodynamic reaction.

#### **CORROSIVE**

Corrosive Material means a chemical liquid or solid that causes visible destruction or irreversible alteration in human skin tissue at the site of contact or in the case of leakage from its packaging, a liquid that has a severe corrosion rate on steel.

(1) A Material is considered to be destructive or to cause irreversible alteration in skin tissue if, when tested on the intact skin of the albino rabbit by the method described in Appendix A of 49CFR Part 173, the structure of the tissue at the site of contact is destroyed or changed irreversibly after an exposure period of 4 hours or less.

(2) A liquid is considered to have a severe corrosive rate if its corrosion rate exceeds 0.250 inch per year (IPY) on steel (SAE 1020) at a test temperature of 103F.

#### **OTHER HAZARDOUS CHEMICALS . . .**

##### **Short Term**

Acute (short term) refers to the adverse effects that normally are evident immediately or shortly after the exposure. Appropriate information on the effects of inhalation and skin or eye exposure should be entered here. The information should be in the form of simple symptomatic statements such as "pale and nauseous," "dizzy feeling," "weak," "irritation," etc. Again, refer to supplier MSDSs, the NPCA Labeling Guide or any other appropriate source for hazard warning language.

##### **CARCINOGENS**

Carcinogen means a chemical which has been demonstrated to cause cancer in humans or to cause cancer in animals and, therefore, is considered capable of causing cancer in humans. A chemical is considered to be a carcinogen if:

(a) it has been evaluated by the International Agency for Research on Cancer (IARC) and found to be a carcinogen or potential carcinogen; or

(b) it is listed as a carcinogen or potential carcinogen in the Annual Report on Carcinogens published by the National Toxicology Program (NTP) (latest edition); or  
(c) it is regulated by OSHA as a carcinogen.

#### **OTHER HAZARDOUS CHEMICALS . . .**

##### **Long Term**

Chronic (long term, cumulative) refers to the adverse effects that develop slowly over a long period of time or upon repeated prolonged exposure. Appropriate information on the effects of chronic overexposure should be reported here. Evidence of carcinogenicity, asbestosis, sensitization, etc., should be indicated here. Known or suspect mutagens or teratogens must also be identified here. Mutagen means those chemical or physical effects which can alter genetic material in an organism and results in physical or functional changes in all subsequent generations. Teratogen means a chemical which has been demonstrated to cause physical defects in the developing embryo.

##### **SAMPLES**

If the generator cannot properly characterize their waste, a representative sample must accompany each Waste Material Profile Sheet submitted to CENJ. The only exception would be for virgin material where a Material Safety Data Sheet (MSDS) has been submitted with the Profile Sheet.

All samples must be taken according to 40CFR Part 261 Appendix I or the New Jersey DEP Field Sampling Procedures Manual.

All samples must be packaged according to US DOT, US EPA and any other applicable regulations.

Each sample container must be properly labeled to comply with NJAC 7:26 - 8.2(A) 12ii and NJAC 8:59 - Subchapter 5 and any other applicable regulations.

A CENJ Chain of Custody Record must be completed and submitted with each sample. Samples which are not properly classified, described, packaged, marked, labeled and in the proper condition to transport according to the applicable regulations of the US DOT, OSHA, NJ DEP, New Jersey Worker and Community Right-to-Know Act and/or any other applicable regulations may be rejected and returned at the generator's expense.

##### **INDEMNITY**

Customer hereby agrees to indemnify and hold CENJ harmless from and against any and all loss, damage, suits, liability and expenses (including, but not limited to, reasonable investigation and legal expenses) arising out of any claim for loss of or damage to property, including CENJ's property, and injuries to or death of persons, including customer's or CENJ's employees, caused by or resulting from the negligence or willful misconduct or violation of any federal, state or local laws or regulations of customer, its employees or agents. CENJ hereby agrees to indemnify and hold customer harmless from and against all loss, damage, suits, liability and expenses (including, but not limited to, reasonable

investigation and legal expenses) arising out of any claim for loss of or damage to property, including customer's property, and injuries to or death of persons, including CENJ's or customer's employees, to the extent caused by or resulting from the negligence or willful misconduct of CENJ, its employees or agents.

##### **DISTRIBUTION OF COPIES**

Retain a copy for your records. Send a copy of this Generator's Waste Material Profile Sheet and attachments within the sample shipping package, ensuring that if the sample leaks, the paperwork will remain intact. Send this package to the address below.

**Clean Earth of North Jersey, Inc.**  
**115 Jacobus Avenue**  
**Kearny, NJ 07032**  
**T 973-344-4004**  
**F 973-344-8652**

# MATERIAL SAFETY DATA SHEET

IDENTITY: INDICATING DRIERITE  
DESCRIPTION: 1/8" TO 1/4 GRANULES

DATE PREPARED: 11-15-2000

## SECTION I

MANUFACTURERS NAME : W.A. HAMMOND DRIERITE CO., LTD.  
ADDRESS: P.O. BOX 460, 138 DAYTON AVE., XENIA, OHIO 45385  
EMERGENCY PHONE NUMBER: 937-376-2927  
INFORMATION PHONE NUMBER: 937-376-2927

## SECTION II

### INGREDIENTS

CHEMICAL IDENTITY	%	OSHA PEL	ACGIH TLV	UNITS	C.A.S.#	TSCA#
CALCIUM SULFATE,	97	15	10	mg/M <sup>3</sup>	7778-18-9	A739-8876
COBALT CHLORIDE	3	0.05*	0.05*	mg/M <sup>3</sup>	7646-79-9	A451-6434

\*(AS COBALT METAL)

### HAZARDOUS MATERIAL IDENTIFICATION SYSTEMS (HMIS)

HEALTH	FLAMMABILITY	REACTIVITY	PROTECTIVE EQUIPMENT
1	0	1	E

## SECTION III

### PHYSICAL/CHEMICAL CHARACTERISTICS

SPECIFIC GRAVITY: (H<sub>2</sub>O-1) : 1.87  
SOLUBILITY IN WATER: 0.25 GRAMS PER LITER  
MELTING POINT: 1450 C DECOMPOSES  
APPEARANCE: BLUE GRANULES; NO ODOR

## SECTION IV

### FIRE AND EXPLOSION HAZARD DATA

FLASH POINT: NONE  
EXTINGUISHER MEDIA: NOT COMBUSTABLE  
SPECIAL FIRE FIGHTING PROCEDURES: NONE  
UNUSUAL FIRE AND EXPLOSION HAZARDS: NONE

## SECTION V

### REACTIVITY DATA

STABILITY: STABLE  
INCOMPATIBLE (MATERIALS TO AVOID): STRONG ACIDS  
HAZARDOUS DECOMPOSITION BYPRODUCTS: SO<sub>3</sub> @ 1450 C Cl<sub>2</sub> @318 C  
HAZARDOUS POLYMERIZATION: WILL NOT OCCUR

## SECTION VI

### HEALTH HAZARD DATA

EYES: PARTICLES MAY CAUSE IRRITATION  
SKIN: THIS MATERIAL IS NOT TOXIC. MAY DRY OR IRRITATE SKIN  
INHALATION: MAY CAUSE AN IRRITATION OR RESPIRATORY ORGANS OF SENSITIVE PERSONS RESULTING IN THE OBSTRUCTION OF AIRWAYS WITH SHORTNESS OF BREATH.  
INGESTION: MAY CAUSE VOMITING, DIARRHEA, AND SENSATION OF WARMTH.  
SIGNS AND SYMPTOMS OF OVER EXPOSURE: EYES, NOSE, THROAT, OR RESPIRATORY IRRITATION

### CARCINOGENICITY OF INGREDIENTS:

MATERIAL	IARC	NTP	OSHA
ALL	NOT LISTED	NOT LISTED	NOT LISTED
COBALT CHLORIDE	YES*	NO	NO

\*(COBALT & COBALT COMPOUNDS ARE CLASSIFIED AS GROUP 2B)

MEDICAL CONDITIONS GENERALLY AGGRAVATED BY EXPOSURE:

PRE-EXISTING UPPER RESPIRATORY AND LUNG DISEASE SUCH AS, BUT NOT LIMITED TO BRONCHITIS, EMPHYSEMA & ASTHMA

**EMERGENCY AND FIRST AID PROCEDURES:**

**EYES:** FLUSH WITH WATER. IF IRRITATION CONTINUES OBTAIN MEDICAL ATTENTION

**DUST INHALATION:** REMOVE TO FRESH AIR

**SKIN:** WASH WITH WATER

**INGESTION:** IF PATIENT IS CONSCIOUS, INDUCE VOMITING. OBTAIN MEDICAL ATTENTION

**SECTION VII**

**SPILL OR LEAKAGE PROCEDURES**

**STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED:**

SWEEP OR VACUUM MATERIAL INTO APPROPRIATE WASTE CONTAINER FOR DISPOSAL. AVOID DUSTING CONDITIONS

**WASTE DISPOSAL METHOD:** THIS MATERIAL CAN BE DISPOSED OF IN ACCORDANCE WITH PROCEDURES ACCEPTABLE UNDER FEDERAL, STATE, AND LOCAL REGULATIONS.

**PRECAUTIONS TO BE TAKEN IN HANDLING AND STORING:** KEEP CONTAINER CLOSED. STORE IN COOL DRY PLACE. AVOID GENERATING DUST.

**SECTION VIII**

**CONTROL MEASURES**

**RESPIRATORY PROTECTION:** MASK NIOSH/OSHA APPROVED FOR DUST

**VENTILATION:** TO MEET TLV REQUIREMENTS

**EYES:** SAFETY GLASSES OR GOGGLES

**OTHER PROTECTIVE EQUIPMENT:** GLOVES OR PROTECTIVE CLOTHING NOT USUALLY NECESSARY BUT MAY BE DESIRABLE IN SPECIFIC WORK SITUATIONS.

**SECTION IX**

**REFERENCES**

U.S. DEPARTMENT OF LABOR - OSHA FORM APPROVED OMB NO. 1218-0072 OSHA HAZARD COMMUNICATION STANDARD-29 CFR 1910. 1200 U.S. GYPSUM CO. & SHEPARD CHEMICAL

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