



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. 2

2009 JUL -2 PM 3:13

REGIONAL HEARING  
CLERK

JUN 30 2009

**CERTIFIED MAIL- RETURN RECEIPT REQUESTED**

Ivan K. Fong, General Counsel  
Office of General Counsel  
U.S. Department of Homeland Security  
Mail Stop 3650  
Washington, D.C. 20528

Re: **In the Matter of U.S. Department of Homeland Security**  
**Docket No. RCRA-02-2009-7505**

Dear Mr. Fong:

Enclosed is the Complaint, Compliance Order and Opportunity for Hearing in the above-referenced proceeding. The Complaint alleges violations of the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 *et seq.* related to the U.S. Customs and Border Protection facility in Old San Juan, Puerto Rico.

You have the right to a formal hearing to contest any of the allegations in the Complaint and/or to contest the penalty proposed in the Complaint. If you wish to contest the allegations and/or the penalty proposed in the Complaint, you must file an Answer within **thirty (30)** days of your receipt of the enclosed Complaint with the Regional Hearing Clerk of the Environmental Protection Agency ("EPA"), Region 2, at the following address:

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

If you do not file an Answer within thirty (30) days of receipt of this Complaint and have not obtained a formal extension for filing an Answer from the Regional Judicial Officer of Region 2, a default order may be entered against you and the entire proposed penalty may be assessed.

Whether or not you request a formal hearing, you may request an informal conference with EPA to discuss any issue relating to the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement and to have an informal conference with EPA. However, a request for an informal


conference *does not* substitute for a written Answer, affect what you may choose to say in an Answer, or extend the thirty (30) days by which you must file an Answer requesting a hearing.

You will find enclosed a copy of the "Consolidated Rules of Practice," which govern this proceeding. (A brief discussion of some of these rules appears in the latter part of the Complaint.)

EPA encourages the use of Supplemental Environmental Projects, where appropriate, as part of any settlement. I am enclosing a brochure on "EPA's Supplemental Environmental Projects Policy." Please note that these are only available as part of a negotiated settlement and are not available if this case has to be resolved by a formal adjudication.

If you have any questions or wish to schedule an informal conference, please contact the attorney whose name is listed in the Complaint.

Sincerely,

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Marcelino Borges, Director  
Field Operations  
U.S. Customs and Border Protection San Juan  
#1 La Puntilla Street  
San Juan, PR 00901

Karen Maples, Regional Hearing Clerk (without enclosures)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.  
2009 JUL -2 PM 3:13  
REGIONAL HEARING  
CLERK

In the Matter of

U.S. DEPARTMENT OF  
HOMELAND SECURITY

Respondent

Proceeding Under Section 9006  
of the Solid Waste Disposal Act,  
as amended

COMPLAINT, COMPLIANCE ORDER,  
AND NOTICE OF OPPORTUNITY  
FOR HEARING

Docket No. RCRA-02-2009-7505

**COMPLAINT**

This is a civil administrative proceeding instituted pursuant to Section 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. § 9601 *et seq.* (hereinafter collectively referred to as the "Act"). Complainant in this proceeding, Dore LaPosta, Director, Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2, ("EPA"), who has been duly delegated the authority to institute this action, alleges the following:

1. Respondent is the U.S. Department of Homeland Security ("Respondent"). Respondent is comprised of a number of components, including U.S. Customs and Border Protection ("CBP") all of which are within the executive branch of the Federal government.
2. Respondent is a department of the United States and a "person" within the meaning of Section 9001(5) of the Act, 42 U.S.C. § 6991(5), and Rule 105 of the Puerto Rico Underground Storage Tank Regulation (hereinafter "PRUSTR").
3. Respondent is the "owner" and "operator" of an "underground storage tank" or "UST" system, as those terms are defined in Section 9001 of the Act, 42 U.S.C. § 6991, and in Rule 105 of PRUSTR, that is located at the facility of its component CBP San Juan, at #1 La Puntilla St., Old San Juan, Puerto Rico 00901 (the "Facility").
4. Respondent owns and operates one UST system that was installed in 1992 at the Facility. The UST system is a "new tank system" (as the term is defined in Rule 105 of PRUSTR) and is subject to the requirements set out in Rule 201 of PRUSTR.

5. Pursuant to Sections 2002, 9002 and 9003 of the Act, 42 U.S.C. §§ 6912, 6991a, and 6991b, EPA promulgated rules setting forth requirements for owners and operators of UST systems, set forth at 40 C.F.R. Part 280. Pursuant to the Puerto Rico Public Policy Environmental Act of 1970, the Commonwealth of Puerto Rico Environmental Quality Board (“PREQB”) promulgated Underground Storage Tank Regulations on November 7, 1990, setting forth requirements for owners and operators of UST systems.
6. Pursuant to 40 C.F.R. Part 281, the Commonwealth of Puerto Rico received State Program Approval, as set forth in the Federal Register, 63 Fed. Reg. 4589 - 4591 (January 30, 1998) (Volume 63, Number 20).
7. The federal codification and description of the State Program Approval of the Commonwealth of Puerto Rico UST program are set forth at 40 C.F.R. § 282.102.
8. Pursuant to 40 C.F.R. § 280.12, PREQB is the “implementing agency” responsible for enforcing the requirements of the Act and the regulations promulgated thereunder.
9. EPA retains independent authority to exercise its enforcement authorities under Section 9006 of Subtitle I of RCRA, 42 U.S.C. § 6991e, for violations of approved Commonwealth of Puerto Rico regulations. EPA issued notice to the Commonwealth of Puerto Rico pursuant to Section 9006(a)(2), 42 U.S.C. § 6991e(a)(2), prior to issuing the administrative Complaint in this proceeding.
10. On or about May 22, 2008, pursuant to Section 9005 of the Act, 42 U.S.C. § 6991d, two authorized representatives of EPA (“Representatives”) inspected the Facility. The purpose of this inspection was, in part, to determine the Respondent’s compliance with the Act and Rules set forth in PRUSTR (“May 2008 Inspection”).
11. On or about October 20, 2008, EPA sent CBP a letter, as well as an Information Request Letter (“IRL”) and a Notice of Violation (“NOV”) for the Facility, which were issued pursuant to Sections 9005(a) and 9006 of the Act, 42 U.S.C. §§ 6991d(a) and 6991e.
12. EPA’s IRL sought general information about the UST system owned and/or operated by the Respondent at the Facility, information about any actions taken to correct the violations that were identified during the May 2008 Inspection, and information about measures to prevent recurrence of the violations cited in the NOV.
13. On or about November 26, 2008, CBP submitted to EPA a response to the NOV and IRL (“November 26, 2008 Response”).
14. During the May 2008 Inspection and for all time periods relevant to this Complaint, the UST System at the Facility has stored diesel fuel for use in an emergency generator. It has been and remains subject to the UST requirements set forth in PRUSTR, with the exception of release detection requirements.

15. During the May 2008 Inspection and for all time periods relevant to this Complaint, the UST system at the Facility was a "petroleum UST system" as that term is defined in Rule 105 of PRUSTR.

**Count 1**

**Respondent's Failure to Provide Corrosion Protection  
for Steel Piping in Contact with the Ground**

16. Complainant realleges each allegation contained in Paragraphs "1" through "15" with the same force and effect as if fully set forth herein.
17. Pursuant to Rule 201(B) of PRUSTR, metal piping in contact with the ground and routinely containing regulated substances must be protected from corrosion.
18. During the May 2008 Inspection, the EPA Representatives observed bare metal piping from the UST tank to the emergency generator in direct contact with the ground. The Representatives did not observe any form of corrosion protection for the UST piping. In response to the Representatives' oral request for documentation and records, Facility representatives could not provide any evidence of corrosion protection.
19. The bare metal piping in direct contact with the ground at the Facility, as referenced in paragraph 18, above, routinely contained regulated substances, including diesel fuel.
20. EPA's NOV cited the corrosion protection violation for the UST system at the Facility. In addition, the IRL specifically requested records documenting corrosion protection and the two most recent corrosion protection tests for the UST system at the Facility.
21. In its November 26, 2008 Response, Respondent's component CBP did not provide any corrosion protection records regarding the Facility. In its Response to EPA's questions regarding the violation and its correction, CBP stated, "No corrosion protection is installed on the underground steel piping. CBP is in the process of obtaining contract support for the installation of ... corrosion-protected underground fuel lines."
22. For the period of time beginning with installation of the UST system (May 1992) until at least the November 26, 2008 Response, CBP failed to provide corrosion protection for steel piping in contact with the ground at the Facility, as required by Rule 201(B) of PRUSTR.
23. Respondent's component CBP's failure to provide corrosion protection for metal piping in contact with the ground at the Facility constitutes a violation by Respondent of Rule 201(B) of PRUSTR.

**Count 2**  
**Respondent's Failure to Have Overfill Prevention Equipment on  
CBP's UST System**

24. Complainant realleges each allegation contained in Paragraphs "1" through "23" with the same force and effect as if fully set forth herein.
25. Pursuant to Rule 201(C) of PRUSTR, "... to prevent ... overfilling associated with the regulated substance transfer to the UST system, owners and operators must use ... overfill prevention equipment."
26. During the May 2008 Inspection, the Representatives observed that the UST system had no overfill prevention equipment.
27. In the NOV Response, dated November 26, 2008, CBP stated that it was in the process of obtaining contract support for the installation of overfill protection.
28. Between the UST system installation in May 1992 and at least the November 26, 2008 Response, CBP did not have overfill prevention equipment on its UST system.
29. Respondent's component CBP's failure to have overfill prevention equipment on its UST system constitutes a violation by Respondent of Rule 201(C) of PRUSTR.

**PROPOSED CIVIL PENALTY**

Section 9007 of the Act and Section 9006(d)(2)(A) of the Act, 42 U.S.C. § 6991e (d)(2)(A), authorizes the assessment of a civil penalty against a federal department or agency of up to \$10,000 for each tank for each day of violation of any requirement or standard promulgated by the Administrator. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996), required EPA to adjust its penalties for inflation on a periodic basis. EPA issued a Civil Monetary Penalty Inflation Adjustment Rule on December 31, 1996, 61 Fed. Reg. 69360 on February 13, 2004, 69 Fed. Reg. 7121 and on December 11, 2008, 73 Fed. Reg. 75340, codified at 40 C.F.R. Part 19.

Under Table I of the Civil Monetary Penalty Inflation Adjustment Rule, the maximum civil penalty under 42 U.S.C. § 6991e(d)(2) for each tank for each day of violation occurring after March 15, 2004 and before January 13, 2009 is \$11,000. The maximum penalty for violations occurring after January 12, 2009 is \$16,000.

The penalties are proposed pursuant to the "U.S. EPA Penalty Guidance for Violations of UST Requirements" dated November 1990 ("UST Guidance"). The penalty amounts in this guidance were amended by a September 21, 2004 document entitled, "Modifications to EPA Penalty

Policies to implement the Civil Monetary Penalty Inflation Rule (pursuant to the Debt Collection Improvement Act of 1996, Effective on October 1, 2004)” and a December 29, 2008 document entitled “Amendments to EPA’s Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009).” (These documents are available upon request.) This UST guidance provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors to particular cases.

Based upon the facts alleged in this Complaint and taking into account factors such as the seriousness of the violations and any good faith efforts by the Respondent to comply with the applicable requirements, the Complainant proposes, subject to receipt and evaluation of further relevant information, to assess the following civil penalties:

<b><u>Count 1:</u></b>	<b>Respondent’s Failure to Provide Corrosion Protection for Steel Piping in Contact with Ground .....</b>	<b>\$41,051</b>
<b><u>Count 2:</u></b>	<b>Respondent’s Failure to Have Overfill Prevention Equipment for CBP’s UST System .....</b>	<b>\$12,571</b>
<b>Total Proposed Penalty Amount</b>		<b><u>\$53,622</u></b>

Penalty Computation Worksheets explaining the rationale for the proposed civil penalties in this case are attached to this Complaint.

**COMPLIANCE ORDER**

Based on the foregoing, and pursuant to the authority of Sections 9006 and 9007 of the Act, 42 U.S.C. § 6991e and 6991f, Complainant issues the following Compliance Order to the Respondent, which shall take effect thirty (30) days after service of this Order (i.e., the effective date) unless by that date Respondent has requested a hearing on the parts applicable to it, pursuant to 40 C.F.R. § 22.15. See 42 U.S.C. § 6991(e)(b) and 40 C.F.R. §§ 22.37(b) and 22.7(c):

1. Respondent shall attain compliance and maintain the UST system at the CBP Facility in compliance with the applicable requirements found in Part 2 (Rule 201) of PRUSTR, including but not limited to corrosion protection and overfill prevention.
2. Respondent shall submit, within fifteen (15) days of the effective date of this Order, records documenting compliance with Rules 201 (B) and (C) for the UST system at its Facility.
3. If Respondent is unable, by the end of the 15-day period, to comply with paragraph 2 above, Respondent shall notify EPA in writing within the 15-day period. The notice shall explain the reasons for the noncompliance and shall also provide a schedule for achieving expeditious compliance with the requirement.

4. In all documents or reports submitted to EPA pursuant to this Compliance Order, the Respondent shall, by its officers, certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading, by including and signing the following statement:

I certify that the information contained in this written notice and the accompanying documents is true, accurate, and complete. As to the identified portions of this response for which I cannot personally verify accuracy, I certify under penalty of law that this response and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage that system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant potential penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

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Signature of Authorized Representative of Respondent

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Name Printed

---

Title

Respondent shall submit the documents specified above to:

**Charles Zafonte**  
**Enforcement Officer**  
**U.S. EPA Region 2**  
**Compliance Assistance and Program Support Branch**  
**290 Broadway, 21<sup>st</sup> Floor**  
**New York, NY 10007-1866**

#### **NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES**

Pursuant to Sections 9006(a)(3) and 9007 of the Act, 42 U.S.C. Section 699e(a)(3) and 6991(f), and in accordance with the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-34, 110 Stat. 1321 (1996) and the regulations promulgated thereunder (see the Civil Monetary Inflation Rule, 73 Fed. Reg. 75340 (December 11, 2008) to be codified at 40 C.F.R. Part 19), a violator failing to comply with a Compliance Order within the time specified in the Order is liable for a civil penalty up to \$37,500 for each day of continued noncompliance.



## **PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION**

The rules of procedure governing this civil administrative litigation have been set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled, "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", and which are codified at 40 C.F.R. Part 22 (hereinafter "Consolidated Rules"). A copy of these rules accompanies this "Complaint, Compliance Order and Notice of Opportunity for Hearing" (hereinafter referred to as the "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 and/or the Compliance Order 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 30 days after service of the Complaint. See 40 C.F.R. §§ 22.15(a) and 22.7(c). 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. See 40 C.F.R. § 22.15(a).

Respondent's Answers to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint. See 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so state in its Answer, the allegation is deemed denied. See 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 disputes (and thus intend to place at issue in the proceeding) and (3) whether Respondent requests a hearing. See 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 their 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 the Respondent in its Answers, a hearing upon the issues raised by the Complaint and Answer may be held. See 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 Answers raise issues appropriate for adjudication. See 40 C.F.R. § 22.15(c). With regard to compliance orders in the Complaint, unless Respondent requests a hearing pursuant to 40 C.F.R. § 22.15 within 30 days after such orders are served, such orders shall automatically become final. See 40 C.F.R. § 22.37.

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.

### C. Failure To Answer

If Respondent fails in its Answers to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. See 40 C.F.R. § 22.15(d). If Respondent fails to file timely [*i.e.* in accordance with the thirty (30)-day period set forth in 40 C.F.R. § 22.15(a)] Answers to the Complaint, Respondent may be found in default upon motion. See 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. See 40 C.F.R. § 22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any default order 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 under 40 C.F.R. § 22.27(c). See 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final default order against Respondent, and to collect the assessed penalty amount. 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). See 40 C.F.R. § 22.17(d).

### D. Exhaustion Of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its opportunity to confer with the Administrator. See 40 C.F.R. § 22.31(e).

In order to appeal an initial decision to EPA's Environmental Appeals Board ("EAB"); [see 40 C.F.R. § 1.25(e)], Respondent must do so "within thirty (30) days after the initial decision is served upon the parties." See 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.07(c), where

service is effected by mail," five days shall be added to the time allowed by these rules for the filing of a responsive pleading or document." Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

### **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. See 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:

**Beverly Kolenberg  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 17<sup>th</sup> floor  
New York, New York 10007-1866  
(212) 637- 3167**

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. See 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.

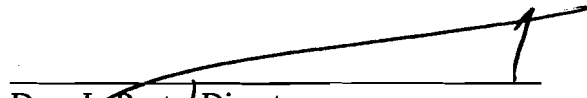
Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement. See 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the final order that is to accompany the consent agreement. See 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. See 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the 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 their obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

**RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE**

If, instead of filing an Answer, Respondent wishes not to contest the compliance order in the Complaint and want to pay the total amount of the proposed penalty within 30 days after receipt of the Complaint, Respondent should promptly contact the Assistant Regional Counsel identified on the previous page.

Dated: JUNE 30, 2009

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 21<sup>st</sup> Floor  
New York, NY 10007-1866

TO: Ivan K. Fong, General Counsel  
Office of General Counsel  
U.S. Department of Homeland Security  
Mail Stop 3650  
Washington, D.C. 20528

cc: Marcelino Borges, Director  
Field Operations  
U.S. Customs and Border Protection San Juan  
#1 La Puntilla Street  
San Juan, PR 00901

Enclosure

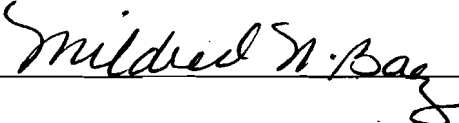
**CERTIFICATE OF SERVICE**

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, Compliance Order, and Notice of Opportunity for Hearing, bearing Docket Number RCRA-02-2008-7505, and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, by certified mail, return receipt requested, to:

Ivan K. Fong, General Counsel  
Office of General Counsel  
U.S. Department of Homeland Security  
Mail Stop 3650  
Washington, D.C. 20528

I hand-carried the original and a copy of the foregoing Complaint to the Office of Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: JUL - 2, 2009  
New York, New York

  
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Enclosure: Penalty Computation Worksheets for the proposed civil penalties