



State of New Jersey
DEPARTMENT OF CORRECTIONS
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Lt. Governor

U.S. Environmental
Protection Agency-Reg 2
2014 JUL 11 AM 7:32
REGIONAL HEARING
CLERK
M. LANIGAN
Commissioner

July 1, 2014

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

RE: Answer In the Matter of the State of New Jersey Department of Corrections
Docket Number: RCRA-02-2014-7102

Dear Regional Hearing Clerk:

Please accept this missive as the New Jersey Department of Corrections' Answer to the referenced Complaint.

As to allegations one through forty (1-40), forty-two through forty-six (42-46) and forty-nine through fifty-seven (49-57) the NJDOC admits to the factual representations set out in the Complaint.

As to forty-one, the NJDOC denies the allegations. In fact, in an undated letter to Ronald Voelkel referencing the Notice of Violation, the Edna Mahan Correctional Facility (EMCF), provided a narrative explaining how generator knowledge was utilized to determine whether solid waste was hazardous waste. (see attached)

Additionally, the NJDOC denies forty-seven (47) and forty-eight (48) because of the implication that EMCF was in violation at the time of the second inspection. There is nothing in the body of the complaint that speaks to any specific violation observed during its 2013 inspection. Both EMCF and Mountainview Youth Correctional Facility (MYCF) remediated violations shortly after their initial inspections.

Notwithstanding the above admissions, the penalties imposed are excess and should be adjusted for several reasons. The potential for harm in count one should not be classified as MAJOR as the areas where the violations occurred are areas which are accessed by a limited number of people. Moreover, the NJDOC was aware of classification of the waste it stored.

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With regards to East Jersey State Prison (EJSP), while not properly stored, the NJDOC took precautions to store the waste in a remote area of the facility. As to MYCF, the waste was stored in a shop which at the time was not in use. The batteries were temporarily stored pending return to the vendor for core value reimbursement. To correct the violation, the batteries were placed in a location in which a sign was installed at the area indicating "Universal Waste". Although signage was added to attain compliance, the prior storage could hardly be characterized as significantly hazardous to staff or inmates, merely due to the absence of the "Universal Waste" notation.

The NJDOC made good faith efforts to come into compliance. In all instances, remedial action was taken after the initial compliance. With regards to EJSP, remedial actions were taken after the 2010 inspections. However, by the time of the 2013 inspection, they were again cited for similar violations. Since that time, a number of measures including securing funding for the construction of a cement pad for storage containers, have been taken to ensure continued compliance. As to MYCF and EMCF, there is no specific indication that the remedial actions taken shortly after the initial inspections were insufficient.

In conclusion, there should be a substantial reduction in the penalty due to mitigating factors of lack of severity and good faith attempts to remediate soon after the inspections.

The NJDOC requests an informal conference in this matter.

Very truly yours,



Melinda S. Haley, Esq.
Special Legal Advisor
Office of the Commissioner

c: Carl R. Howard, Esq., Assistant Regional Counsel, Office of Regional Counsel
Dore La Posta, Director, Division of Enforcement and Compliance Assistance