THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
District Health Partners, LP d/b/a The George Washington University Hospital	:	**U.S. EPA Docket No. RCRA-03-2021-0010**
900 23rd St., NW	:	**Proceeding under Section 3008(a) and**
Washington, DC 20037	:	**(g) of the Resource Conservation and**
	:	**Recovery Act, as amended, 42 U.S.C.**
Respondent.	:	**Section 6928(a) and (g)**
	:	
	:	
The George Washington University Hospital	:	
900 23rd St., NW	:	
Washington, DC 20037	:	
Facility.		

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant" or "EPA") and District Health Partners, LP, ("Respondent") (collectively, EPA and Respondent are referred to as the "Parties"), pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. §§ 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. RCRA Section 3008(a)(1), 42 U.S.C. Section 6928(a)(1), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant's civil penalty claims against Respondent under RCRA (or the "Act") for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. Factual allegations or legal conclusions in this Consent Agreement that are based on provisions of federally-authorized District of Columbia Municipal Regulations ("DCMR") requirements.

5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated January 2, 2020, EPA notified the District of Columbia Department of Energy and the Environment ("DOEE") of EPA's intent to commence this administrative action against Respondent in response to the alleged violations of RCRA Subtitle C and the District of Columbia ("DC") Hazardous Waste Regulations that are set forth herein.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.

7. Except as provided in Paragraph 11, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of the Consent Agreement and Final Order.

9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.

10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

EPA'S ALLEGATIONS AND FINDINGS

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

13. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).

14. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).

15. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

16. On March 25, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. §6926(b), and 40 C.F.R. Part 271, Subpart A, the District of Columbia was granted authorization to administer a state hazardous waste management program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The provisions of the District of Columbia's revised authorized hazardous waste management program, through the 1985 final authorization, became requirements of RCRA Subtitle C, enforceable by EPA pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g). The provisions of the District of Columbia's authorized program were published in the District of Columbia Register on September 28, 1984, and were set forth at Chapter 20 of the District of Columbia Municipal Regulations ("DCMR"), Section 4000 et seq. These hazardous waste management regulations incorporated by reference the provisions of 40 C.F.R. Parts 260-265 (July 1, 1982 ed.) and 40 C.F.R. Parts 270 (July 1, 1983 ed.) with certain amendments thereto set forth in 20 DCMR Section 4001. At the time of the 1985 final authorization the District of Columbia was not granted authorization to administer its authorized program in lieu of certain provisions of Hazardous and Solid Waste Amendments ("HSWA") enacted on November 8, 1984 (Pub. L. No. 98-616), which amended Subtitle C of RCRA. These provisions remained exclusively enforceable by EPA in the District of Columbia pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

17. On November 9, 2001, the District of Columbia was granted authorization to administer its revised hazardous waste management program ("DC Hazardous Waste Regulations"), effective November 9, 2001 (66 Fed. Reg. 46961). The revised program was published in the District of Columbia Register on January 5, 2001 and was set forth at 20 DCMR §§ 4000 et seq. A subsequent revision of the DC Hazardous Waste Regulations was authorized by EPA on August 20, 2018 (83 Fed. Reg. 42036). The provisions of the District of Columbia's 2004 authorized hazardous waste management regulations, through the 2018 authorization, have become requirements of RCRA Subtitle C enforceable by EPA pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g). The DC Hazardous Waste Regulations includes authority to implement some, but not all, HSWA provisions. To the extent that the District of Columbia's revised program does not include such HSWA authorities, EPA has exclusive authority to enforce such provisions.

18. When EPA last approved the DC Hazardous Waste Regulations on August 20, 2018, EPA approved the District of Columbia's incorporation by reference of the then current federal regulations which were in effect as of July 1, 2004. As a result, 40 C.F.R. § 262.34 (2004) is the currently enforceable version of that RCRA regulation in the District of Columbia. On November 28, 2016, EPA re-codified the generator permit exemption, effective on May 30, 2017. The federal requirements previously found in 40 C.F.R. § 262.34 are now re-codified at 40 C.F.R. §§ 262.15 – 262.17. The Code of Federal Regulation citations used herein are to the 2004 Federal regulations in effect at the time of the DC Hazardous Waste Regulations were approved.

19. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA's regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment if a civil penalty against any person who violates any requirement of Subtitle C of RCRA.

20. This Consent Agreement and the accompanying Final Order address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, and certain provisions of the DC Hazardous Waste Regulations, set forth at 20 DCMR §§ 4000 et seq. at its facility.

21. Respondent's facility, known as The George Washington University Hospital, is located at 900 23rd Street, NW, Washington, DC 20037 ("Facility") and is further described below.

22. Respondent is and was at the time of the violations alleged herein, the owner and operator of The George Washington University Hospital, and doing business in the District of Columbia.

23. Respondent is, and at the time of the violations alleged herein, a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10.

24. Respondent is, and at the time of the violations alleged herein has been, the "owner" and "operator" of a "facility," described in Paragraph 24, below, as the terms "facility," "owner" and "operator" are defined in 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10.

25. The Facility referred to in Paragraph 23, above, including all of its associated equipment and structures, is a medical hospital.

26. Respondent is assigned EPA RCRA ID No. DCD981743479.

27. Respondent is and, at all times relevant to this Consent Agreement and Final Order has been, a "generator" of, and has engaged in the "storage" in "containers" at the Facility of material as described below that are "solid wastes" and "hazardous wastes" as those terms are defined by 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10.

28. On March 26, 2019, representatives of EPA conducted an EPA Compliance Evaluation Inspection ("EPA CEI") at Respondent's Facility.

29. Respondent generates lab wastes at the Facility which include alcohols, xylene, formaldehyde, and other wastes which are hazardous wastes (varying EPA Hazardous Waste Nos. including D001, D002, D004, D005, D007, D008, D011 D012, D013, D022, F003, U154) within the meaning of 20 DCMR § 4261.1, which incorporates by reference 40 C.F.R. § 261 because they exhibit the characteristic of ignitability, corrosivity, toxicity, and/or are listed hazardous wastes.

30. Respondent generates medical and pharmaceutical wastes at the Facility which are hazardous waste (varying EPA Hazardous Waste Nos. including D001, D002, D005, D006, D007, P001, P042, P043, P075, P105, U002, U015, U123, U154, U239) within the meaning of 20 DCMR § 4261.1, which incorporates by reference 40 C.F.R. § 261 because they exhibit the characteristic of ignitability, corrosivity, toxicity, and/or are listed hazardous wastes.

31. Respondent generates waste aerosol cans at the Facility which are a hazardous waste (EPA Hazardous Waste No. D001) within the meaning of 20 DCMR § 4261.1, which incorporates by reference 40 C.F.R. § 261.21 because they exhibit the characteristic of ignitability.

COUNT I
Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status

32. The preceding paragraphs are incorporated by reference.

33. 20 DCMR § 4270.1 which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.

34. Respondent does not have a hazardous waste treatment or storage permit or interim status pursuant to 20 DCMR § 4270, which incorporates by reference 40 C.F.R. § 270.1(b), for the treatment or storage of hazardous waste at the Facility.

35. 20 DCMR § 4262.4 which incorporates by reference 40 C.F.R. § 262.34(c)(1) with exceptions noted herein, provides that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or § 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with 40 C.F.R. 262.34(a) or (d) provided, as required by 20 DCMR § 4262.4(a)(2), the generator does not accumulate the hazardous waste on site for more than ninety (90) days total.

36. 20 DCMR § 4262.4 which incorporates by reference 40 C.F.R. § 262.34(c)(1) with exceptions noted herein, provides that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 40 C.F.R. § 261.31 or § 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with 40 C.F.R. 262.34(a) or (d) provided, as required by 20 DCMR § 4262.4(a)(1), each satellite container is properly labeled with the date upon which each period of accumulation began.

37. 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a), provides that a large quantity generator of hazardous waste may accumulate hazardous waste on site in containers for 90 days or less without a permit or without having interim status provided that, among other things, the hazardous waste is not stored on site for greater than 90 days.

38. 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), and by further reference the container management requirements of 40 C.F.R. § 265.173, provides that a large quantity generator of hazardous waste may accumulate hazardous waste on site in containers for 90 days or less without a permit or without having interim status provided that, among other things, the generator keeps containers of hazardous waste closed except when adding or removing waste.

39. 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), and by further reference the container management requirements of 40 C.F.R. § 265.174, provides that a large quantity generator of hazardous waste may accumulate hazardous waste on site in containers for 90 days or less without a permit or without having interim status provided that, among other things, the generator, at least weekly, inspects areas where containers are stored, looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

40.. 20 DCMR § 4262.1 incorporates by reference the generator accumulation and permit exemption requirements and conditions of 40 C.F.R. § 262.34(a)(4), and, by further reference the preparedness and prevention requirements of 40 C.F.R. § 265.31, which provides that a large quantity generator of hazardous waste may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that, among other things, the facility is maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

41. 20 DCMR § 4262.1 incorporates by reference 40 C.F.R. § 262.34(a)(4), which provides that a large quantity generator of hazardous waste may accumulate hazardous waste on site in containers for 90 days or less without a permit or without having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. § 265.35. 40 C.F.R. § 265.35 requires that the generator maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, *unless* aisle space is not needed for any of these purposes.

42. 20 DCMR § 4262.1 incorporates by reference 40 C.F.R. § 262.34(a)(4), which provides that a large quantity generator of hazardous waste may accumulate hazardous waste on site in containers for 90 days or less without a permit or without having interim status provided that, among other things, the generator complies with the requirements of 40 C.F.R. § 265.54(d). 40 C.F.R. § 265.54 requires the facility contingency plan must be reviewed, and immediately amended, if necessary, whenever the list of emergency coordinators changes.

43. At the time of the EPA CEI, Respondent had stored the following containers, for the purpose of satellite accumulation, for longer than 90 days in violation 20 DCMR § 4262.4(a)(2):

a. One container used to collect hazardous waste located in the Pharmacy at the Facility dated September 27, 2018, 91 days past the 90-day limit;

b. One container used to collect hazardous waste located in the "chemo room" of Pharmacy at the Facility dated March 13, 2017, 654 days past the 90-day limit;

c. Two containers used to collect hazardous waste located in the Cardiology Room at the Facility dated December 24, 2018 and November 15, 2018, 3 days and 42 days past the 90-day limit, respectively;

d. Two containers used to collect hazardous waste located in Med Room 42096 at the Facility dated May 25, 2018 and October 23, 2018, 216 days and 65 days past the 90-day limit, respectively;

e. Two containers used to collect hazardous waste located in Med Room 41096 dated March 23, 2018 and July 12, 2018, 279 days and 168 days past the 90-day limit, respectively;

f. One container used to collect hazardous waste located in Med Room 51096 at the Facility dated March 23, 2018, 279 days past the 90-day limit;

g. One container used to collect hazardous waste located in Med Room 52096 at the Facility dated March 23, 2018, 279 days past the 90-day limit; and,

h. One container used to collect hazardous waste located in Med Room 52006 at the Facility dated June 15, 2018, 195 days past the 90-day limit.

44. At the time of the EPA CEI, Respondent failed to mark the following satellite containers with the start accumulation date in violation of 20 DCMR § 4262.4(a)(1):

a. Two containers of hazardous waste located in 4N Med Room at the Facility; and,

b. One container of hazardous waste located in the 5N Med Room 52006 at the Facility.

45. At the time of the EPA CEI, Respondent stored three containers in a 90-day hazardous waste accumulation area, identified by Respondent as the Pathology Waste Cage, with start accumulation dates of June 27, 2018, September 5, 2018 and August 15, 2018, 183, 113, and 134 days over the 90-day limit respectively, in violation of 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a).

46. At the time of the EPA CEI, a satellite container located in the 5N Med Room 52006 at the Facility was open while waste was not being added or removed from this container in contravention of the requirements of 20 DCMR § 4262.1, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), and by further reference the container management requirements of 40 C.F.R. § 265.173.

47. At the time of the EPA CEI, Respondent failed to conduct adequate weekly inspections of hazardous waste accumulation areas as evidenced by the electronic forms for weekly inspection documentation that appeared to be pre-filled, some completed with both "yes" and "no" checked in numerous columns of the inspection checklist and the hazardous waste accumulation areas where weekly inspections had occurred had containers of hazardous waste that were open, not marked with start accumulation dates, and containers that had been accumulated for greater than 90 days, all of which would have been identified had Respondent's weekly inspections of the Facility HWAAs been adequate, in violation of 20 DCMR § 4262.1 incorporates by 40 C.F.R. § 262.34(a)(1)(i), and, by further reference the containment management requirements of 40 C.F.R. § 265.174.

48. At the time of the EPA CEI, waste material in the HWAA known as the Pathology Waste Cage, as well as Lab Waste Cage HWAA at the Facility, had uncontained vials, papers, trash and other wastes, in violation of 20 DCMR § 4262.1 which incorporates by reference the generator accumulation and permit exemption requirements and conditions of 40 C.F.R. § 262.34(a)(4), and, by further reference the preparedness and prevention requirements of 40 C.F.R. § 265.31.

49. At the time of the EPA CEI, the entrance to the Pathology Waste Cage HWAA was blocked by dumpsters and trash in violation of 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), and by further reference the requirements of 40 C.F.R. § 265.35.

50. At the time of the EPA CEI, Respondent listed a person as the Emergency Coordinator in its Facility Contingency Plan who had left Respondent's employment seven months prior to the EPA CEI, in violation of 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a)(4), with further reference to 40 C.F.R. § 265.54(d).

51. At the time of the EPA CEI, Respondent failed to qualify for the "less than 90-day" generator accumulation exemption of 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.34(a) with exceptions relevant herein (*see* Paragraphs 42 - 49), by failing to satisfy the conditions for such exemptions referred to in Paragraphs 34 - 41, above, and as described in Paragraphs 42 - 49, above.

52. At the time of the EPA CEI, Respondent's Facility was a hazardous waste treatment, storage or disposal "facility" as that term is defined in 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10 with respect to the storage of hazardous waste as described above.

53. At the time of the EPA CEI, Respondent was required by 20 DCMR § 4270.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the hazardous waste storage activities described in this count and failed to obtain such permit.

54. In failing to comply with 20 DCMR § 4270.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count II
Failure to Make Hazardous Waste Determinations

55. The preceding paragraphs are incorporated by reference.

56. 20 DCMR § 4262.1, which incorporates by reference 40 C.F.R. § 262.11 with exceptions not relevant herein, provides that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the following methods:

(a) The person should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.

(b) The person must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.

(c) For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in subpart C of 40 C.F.R. Part 261 by either:

(1) Testing the waste according to the methods set forth in subpart C of 40 C.F.R. Part 261, or according to an equivalent method approved by the Administrator under 40 C.F.R. § 260.21; or

(2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

57. At the time of the EPA CEI, Respondent had not made hazardous waste determinations for waste aerosol cans.

58. The waste material described in Paragraph 55 above are "solid wastes" within the meaning of 20 DCMR § 4262.1, which incorporates by reference 40 C.F.R. § 262.11.

59. At the time of the EPA CEI, Respondent violated 20 DCMR § 4262.1 which incorporates by reference 40 C.F.R. § 262.11, by failing to make hazardous waste determinations for solid waste at the Facility.

60. In failing to comply with 20 DCMR § 4262.1, which incorporates by reference 40 C.F.R. § 262.11, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count III
Failure to Maintain and Operate a Facility to Minimize the Possibility of a Fire, Explosion or any Unplanned Sudden or Non-Sudden Release of Hazardous Waste

61. The preceding paragraphs are incorporated by reference.

62. 20 DCMR 4264.1, which incorporates by reference 40 C.F.R. § 264.31, requires that facilities must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

63. At the time of the EPA CEI, waste material in the Pathology Waste Cage HWAA at the Facility, as well as the Lab Waste Cage HWAA at the Facility, had uncontained vials, papers, trash and other wastes.

64. In failing to comply with 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.31, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count IV
Failure to Maintain Aisle Space

65. The preceding paragraphs are incorporated by reference.

66. 20 DCMR 4264.1 which incorporates by reference 40 C.F.R. § 264.35, requires that the generator maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, *unless* aisle space is not needed for any of these purposes.

67. At the time of the EPA CEI, the entrance to the Pathology Waste Cage HWAA at the Facility was blocked by dumpsters and trash.

68. In failing to comply with 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.35, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count V
Failure to Amend Contingency Plan

69. The preceding paragraphs are incorporated by reference.

70. 20 DCMR § 4264.1 incorporates by reference 40 C.F.R. § 264.54(d), which requires facilities *inter-alia,* the facility contingency plan must be reviewed, and immediately amended, if necessary, whenever the list of emergency coordinators changes.

71. At the time of the EPA CEI, Respondent's Contingency Plan listed a person as the Emergency Coordinator who had not been employed by Respondent for the previous seven months.

72. In failing to comply with 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.54(d), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count VI
Failure to Keep Containers Holding Hazardous Waste Closed Except when Adding or Removing Waste

73. The preceding paragraphs are incorporated by reference.

74. 20 DCMR § 4264.1 incorporates by reference the container management requirements of 40 C.F.R. § 265.173, which require facilities to keep containers of hazardous waste closed except when adding or removing waste.

75. At the time of the EPA CEI, a hazardous waste container in the 5N 52006 Med Room at the Facility was open, and waste was not being added or removed from this container.

76. In failing to comply with 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.173, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count VII
Failure to Conduct Adequate Weekly Inspections

77. The preceding paragraphs are incorporated by reference.

78. 20 DCMR 4264.1 which incorporates by reference 40 C.F.R.§ 264.174, requires that at least weekly, the generator inspect areas where hazardous waste containers are stored. The generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

79. At the time of the EPA CEI, Respondent failed to conduct adequate inspections of the HWAAs at the Facility as follows: 1) electronic forms for weekly inspection documentation appeared to be pre-filled; 2) weekly inspection forms had both "yes" and "no" checked in numerous columns of the inspection checklist; 3) HWAAs where weekly inspections had occurred had containers of hazardous waste that were open, not marked with accumulation start dates, and that had been accumulated for greater than 90 days.

80. In failing to comply with 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.174, Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count VIII
Failure to Send Land Disposal Restriction Notifications

81. The preceding paragraphs are incorporated by reference.

82. 20 DCMR 4268.1 which incorporates by reference 40 C.F.R. § 268.7(a)(2), provides that if a generator chooses not to make a determination of whether his waste must be treated, then with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste and place a copy in the file.

83. At the time of the EPA CEI, the Facility had not sent, nor did it maintain documentation of LDR notifications for three hazardous waste streams to each separate TSD facility to which the waste had been sent, specifically:

a. For hazardous waste generated at the Facility identified as EPA Hazardous Waste No. D011, there was no LDR notification to the TSD facility, Cycle Chem, Inc., attached to manifest #009463786FLE.

b. On line 2 of hazardous waste manifest #009789299FLE, the hazardous waste was described as waste medicine containing nicotine and warfarin. There were no P-listed waste codes on the manifest or an associated LDR notification.

c. There was no LDR notification associated with manifests for hazardous waste identified as EPA Hazardous Waste Codes D001 and U154 transferred to TSD facility Republic Environmental Service.

84. In failing to comply with 20 DCMR § 4268.1, which incorporates by reference 40 C.F.R. § 268.7(a)(2), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

Count IX
Failure to Demonstrate Length of Time
Universal Waste Lamps had been Accumulating

85. The preceding paragraphs are incorporated by reference.

86. Respondent is a small quantity handler of universal waste.

87. 20 DCMR 4273.11 incorporates by reference 40 C.F.R. § 273.15(c), which requires that a small quantity handler of universal waste who accumulates universal waste be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

(3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

88. At the time of the EPA CEI, Respondent stored three containers of universal waste lamps with no accumulation start date on the containers. Facility representatives had no other documentation to determine how long the universal waste lamps had been accumulating at the Facility.

89. In failing to comply with 20 DCMR § 4273.1, which incorporates by reference 40 C.F.R. § 273.13(d), Respondent is subject to the assessment of penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g).

CIVIL PENALTY

90. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of ONE HUNDRED EIGHT THOUSAND THREE HUNDRED FOUR DOLLARS ($108,304.00), which Respondent shall be liable to pay in accordance with the terms set forth below.

91. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy") which reflects the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation,* pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

92. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2021-0010;

b. All checks shall be made payable to the "United States Treasury";

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

https://www.epa.gov/financial/makepayment

e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously via email to:

Joyce A. Howell
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
1650 Arch Street
Philadelphia, PA 19103-2029
howell.joyce@epa.gov

93. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

94. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

95. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).

96. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid.

97. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

98. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

99. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

100. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

101. Respondent certifies to EPA, by its signature below, after Respondent's personal investigation and to the best of its knowledge and belief, that it is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

102. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of RCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

103. This Consent Agreement and Final Order CAFO resolves only EPA's claims against Respondent for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

104. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

105. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

106. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

[SIGNATURES TO APPEAR ON THE FOLLOWING PAGE]

IMO District Health Partners, d/b/a/ The George Washington University Hospital
Docket No. RCRA-03-2021-0010

For Respondent:

DISTRICT HEALTH PARTNERS, d/b/a/ THE GEORGE WASHINGTON UNIVERSITY HOSPITAL

Date: 11/17/2020

By: KRS

Name: Kimberly Russo

Title: CEO

IMO District Health Partners, d/b/a/ The George Washington University Hospital
Docket No. RCRA-03-2021-0010

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 12/17/2020

By: KAREN MELVIN Digitally signed by KAREN MELVIN Date: 2020.12.17 07:32:17 -05'00'

Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 01/08/2021

By: JOYCE HOWELL Digitally signed by JOYCE HOWELL Date: 2021.01.08 11:00:46 -05'00'

Joyce A. Howell
Sr. Assistant Regional Counsel
U.S. EPA – Region III

IMO District Health Partners, d/b/a/ The George Washington University Hospital
Docket No. RCRA-03-2021-0010

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
District Health Partners, LP, d/b/a/ The George Washington University Hospital 900 23rd St., NW Washington, DC 20037	:	**U.S. EPA Docket No. RCRA-03-2021-0010**
	:	
	:	**Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6928(a) and (g)**
Respondent.	:	
	:	
The George Washington University Hospital 900 23rd St., NW Washington, DC 20037	:	
	:	
Facility.		

FINAL ORDER

Complainant, the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, District Health Partners, LP, d/b/a/ The George Washington University Hospital, have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), IT IS HEREBY ORDERED that Respondent pay a civil penalty of **ONE HUNDRED EIGHT THOUSAND THREE HUNDRED FOUR DOLLARS ($108,304.00)**, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of this Consent Agreement and Final Order is the date on which such Final Order is filed with the Regional Hearing Clerk.

01/12/2021
Date:

JOSEPH LISA
Digitally signed by JOSEPH LISA
Date: 2021.01.12 12:04:14 -05'00'

Joseph J. Lisa
Regional Judicial Officer
U.S. EPA, Region III

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
District Health Partners, LP, d/b/a/	:	**U.S. EPA Docket No. RCRA-03-2021-0010**
The George Washington University	:	
Hospital	:	**Proceeding under Section 3008(a) and**
900 23rd St., NW	:	**(g) of the Resource Conservation and**
Washington, DC 20037	:	**Recovery Act, as amended, 42 U.S.C.**
	:	**Section 6928(a) and (g)**
Respondent.	:	
	:	
	:	
The George Washington University	:	
Hospital	:	
900 23rd St., NW	:	
Washington, DC 20037		
Facility.		

CERTIFICATE OF SERVICE

I certify that on 1/12/21, the original and one (1) copy of the foregoing ***Consent Agreement and Final Order***, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, via electronic mail:

Adam G. Sowatzka
King & Spalding LLP
1180 Peachtree Street, NE
Atlanta, GA 30309
E: asowatzka@kslaw.com

Joyce A. Howell
Senior Assistant Regional Counsel
ORC – 3RC40
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103
Howell.joyce@epa.gov

Dated: 1/12/21

BEVIN ESPOSITO

Digitally signed by BEVIN ESPOSITO
Date: 2021.01.12 13:49:08 -05'00'

Regional Hearing Clerk