

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103-2852**

In the Matter of:	:	
	:	
District of Columbia Water and Sewer Authority	:	U.S. EPA Docket No. RCRA-03-2022-0102
1385 Canal Street, SE	:	
Washington, DC 20003	:	Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act (RCRA), as amended,
Respondent,	:	42 U.S.C. § 6928(a) and (g).
	:	
Blue Plains Advanced Wastewater Treatment Plant	:	
5000 Overlook Ave., SW	:	
Washington, DC 20032	:	
	:	
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”) and the District of Columbia Water and Sewer Authority (“Respondent”) (collectively the “Parties”), pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), 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. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), 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 the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under Subtitle C of RCRA, as amended, 42 U.S.C. §§ 6901 *et seq.*

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 (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by letter dated June 15, 2022, EPA notified the District of Columbia Department of Energy and Environment of EPA’s intent to commence this administrative action against Respondent in response to violations of RCRA Subtitle C that are alleged 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 the Paragraph above, Respondent neither admits nor denies the specific factual allegations and legal conclusions 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 this 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 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 FINDINGS OF FACT AND CONCLUSIONS OF LAW

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. 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 of a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
14. Effective March 22, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, EPA granted the District of Columbia 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 the 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).
 15. Effective November 9, 2001, EPA granted the District of Columbia authorization to administer its revised hazardous waste management program (“DC Hazardous Waste Management Regulations” or “DCHWMR”), (66 Fed. Reg. 46961, November 9, 2001). 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. EPA authorized a subsequent revision of the DCHWMR on August 20, 2018 (83 Fed. Reg. 42036). The provisions of the District of Columbia’s 2004 authorized hazardous waste management regulations, as revised by 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 DCHWMR 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.
 16. When EPA last authorized the DCHWMR 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 when referring to the federal regulations incorporated by reference into the DCHWMR are to the 2004 Federal regulations in effect at the time the DC Hazardous Waste Regulations were authorized.

17. Respondent operates the facility, owned by the District of Columbia, known as the Blue Plains Advanced Wastewater Treatment Plant, located at 5000 Overlook Avenue, SW, Washington, DC 20032 (“the Facility”) and it is further described below.
18. Respondent is an independent authority, created by the District Government in 1996 as the District of Columbia Water and Sewer Authority (“DC Water”), to provide water and wastewater treatment services to the region.
19. Respondent is, and at the time of the violations alleged herein, was 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.
20. Respondent is and was at the time of the violations alleged herein, the operator of the Facility, and doing business in the District of Columbia.
21. Respondent is, and at the time of the violations alleged herein has been, the “operator” of a “facility,” as the terms “facility” and “operator” are defined in 20 DCMR § 4260.1, which incorporates by reference 40 C.F.R. § 260.10.
22. 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.
23. On or before August 18, 1980, Respondent’s predecessor submitted a Notice of Hazardous Waste Activity (“Notification”) for the Facility to the DC Department of Energy and Environment and to the EPA, Region III, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, identifying the Facility as a Small Quantity Generator of hazardous waste. Subsequently, the Facility was assigned EPA ID No. DCD000797761.
24. At all times relevant to the violations alleged herein, including at least from February 25, 2019 through February 5, 2020, Respondent generated waste lead paint blast grit at the Facility which is a toxic hazardous waste (EPA Hazardous Waste No. D008) within the meaning of 20 DCMR § 4261.1, which incorporates by reference 40 C.F.R. § 261.24, because it exhibited the characteristic of toxicity.
25. At all times relevant to the violations alleged herein, including at least from February 25, 2019 through February 5, 2020, Respondent was a “generator” of “solid waste” and “hazardous waste” and was engaged in the temporary “storage” in “containers” at the Facility of D008 lead-based paint waste.
26. On June 7, 2021, EPA, Region III sent an Information Request Letter (“IRL”) to the Respondent, concerning the Facility, to examine the Respondent’s compliance with the federally-authorized DCHWMR and any applicable federal hazardous waste regulations.

27. On July 16, 2021, DC Water, through its legal counsel, responded to EPA's IRL.
28. On January 18, 2022, Respondent submitted additional information regarding potential violations of RCRA and the DCHWMR.
29. Based on the information provided by Respondent, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally-authorized DCHWMR requirements promulgated thereunder, and certain applicable federal hazardous waste regulations.

Count I
Operation Without a Permit or Interim Status

30. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
31. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), 40 C.F.R. §§ 262 & 270 require, with certain exceptions, that a person who owns or operates a facility which treats, stores or disposes of hazardous waste must first obtain a permit or interim status for the facility. DC Water violated Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 20 DCMR § 4270.1, which incorporates by reference the RCRA permit program requirements and provisions of 40 CFR § 270.1(b), by storing hazardous waste without a permit.
32. At the time of the June 7, 2021 IRL, Respondent did not possess, nor did Respondent ever possess, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 20 DCMR § 4270.1, which incorporates by reference 40 C.F.R. § 270.1(b), a permit or interim status for the storage of hazardous waste at the Facility.
33. Although Respondent may have attempted to comply with the conditions for exemption from the permit requirements regarding generator accumulation of hazardous waste found at 40 C.F.R. § 262.34, which is incorporated by reference at 20 DCMR § 4262.1, Respondent did not qualify for this exemption because of its failure to comply with all of the conditions for this exemption.

Accumulation of Hazardous Waste On Site for a Period Greater Than 90 days

34. One of the conditions of 20 DCMR § 4262.1, which incorporates by reference 40 CFR § 262.34(a), is that a generator may accumulate hazardous waste on-site for up to 90 days without a permit if the generator complies with the conditions for the permit exemption.
35. At the time of the June 7, 2021 IRL, Respondent had stored hazardous waste at the facility and exceeded the 90-day hazardous waste storage limitation in several instances as follows:

Table 1 - Waste Generation and Removal Timeframe

Dates of D008 Hazardous Waste (HW) Generation	Pump #	Quantity of D008 HW Generated	90-Day Storage Limitation Date	Date D008 HW Shipped Offsite	# of Days In Exceedance of 90 Day Storage Limitation
Feb. 25-28, 2019	Pump #9	1.9 tons	May 26, 2019	Oct. 2, 2019	Exceeded 90-day limit by 128 days
March 18-20, 2019	Pump #9 Siphon Vents 6-9	4.4 tons	June 19, 2019	Oct. 2, 2019	Exceeded 90-day limit by 105 days
April 1-10, 2019	Pump #9 Siphon Vents 1-5	5.4 tons	July 9, 2019	Oct. 2, 2019	Exceeded 90-day limit by 83 days
July 19-23, 2019	Pump #3	1.9 tons	Oct. 21, 2019	Oct. 2, 2019	Did not exceed 90-day limit
Oct. 28-30, 2019	Pump #5	1.9 tons	Jan. 28, 2020	Sept. 28, 2020	Exceeded 90-day limit by 244 days
Nov. 18-20, 2019	Pump #8	1.9 tons	Feb. 18, 2020	Sept. 28, 2020	Exceeded 90-day limit by 223 days
Feb. 4-5, 2020	Pump #6	1.9 tons	May 5, 2020	Sept. 28, 2020	Exceeded 90-day limit by 146 days
Sept. 2-4, 2020	Pump #7	1.9 tons	Dec. 3, 2020	Sept. 28, 2020	Did not exceed 90-day limit

- 36. Respondent stored the lead-based paint waste (D008) in the hazardous waste accumulation area (“HWAA”) located at the project site/building (Grit Chamber building #2).
- 37. As shown in Table 1 above, based on the dates of accumulation and the two dates that the shipments occurred, six quantities of the D008 waste were stored for periods beyond the 90-day hazardous waste storage limit required under the generator permit exemption.

Failure to Provide Hazardous Waste Management Training

- 38. One of the conditions 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), which incorporates by further reference the requirements of 40 C.F.R. § 265.16, “Personnel training,” is that a generator must provide initial and annual training for personnel to ensure compliance with the RCRA requirements. The facility must keep documentation of such training.
- 39. Respondent did not provide documentation of training for one Blue Plains Facility employee. On September 28, 2020, that employee had signed Manifest # 001101547WAS, under the generator signature, for shipment of hazardous waste from the Facility, without evidence of having received the requisite hazardous waste management training in accordance with 20 DCMR § 4262.1, which incorporates 40 C.F.R. § 262.34(a)(4), which incorporates by further reference the requirements of 40 C.F.R. § 265.16, “Personnel training”.
- 40. In addition, during calendar years 2019 and 2020, Respondent had four (4) contractor personnel working at the Facility who engaged in the management of hazardous waste at the Facility who did not have the requisite hazardous waste management training.

41. During calendar years 2019 and 2020, both the Respondent employee and the four (4) contractor personnel mentioned above were untrained in hazardous waste management while managing hazardous waste at the Facility.

Failure to Conduct Weekly Inspections

42. One of the requirements 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)(1), which incorporates by further reference the containment management requirements of 40 C.F.R. § 265.174, requires that, at least weekly, the generator must inspect areas where containers are stored. The generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.
43. According to Respondent's July 16, 2021 response to EPA's June 7, 2021 IRL, the Facility only inspects its Main Hazardous Waste Storage Shed on a monthly basis, as stated in its response to Questions 4.a to 4.c of the IRL and as shown in monthly inspection checklists from June 2018 through June 2021.
44. According to the Respondent's IRL response, the project site HWAA at Grit Chamber building #2 was only inspected 1-2 times a month when contractors were on site. Since the contractors were not always on site, the HWAA would go months at a time without being inspected.
45. Respondent failed to conduct weekly inspections at both the Main Hazardous Waste Storage Shed, and at Grit Chamber Building #2, from June 2018 to June 2021.
46. In failing to meet the above permit exemption conditions from June 2018 to June 2021, which are incorporated by reference within 20 DCMR § 4262.1, which incorporates by reference 40 CFR § 262.34(a), Respondent did not qualify for the permit exemption and engaged in the storage of hazardous waste without a permit. Therefore, Respondent is in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 20 DCMR § 4270.1, which incorporates by reference the RCRA permit program requirements and provisions of 40 CFR § 270.1(b), by operating a hazardous waste storage facility without a permit. Respondent is therefore subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Count II

Failure to Conduct Weekly Inspections of Hazardous Waste Accumulation Areas

47. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
48. One of the requirements of 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.174, is that, at least weekly, a facility which stores hazardous waste must inspect areas where containers are stored.

49. As described further in Paragraph 43 above, in its July 16, 2021 response to EPA's IRL, the Respondent indicated that the Blue Plains Facility inspects its HWAA at the Main Hazardous Waste Storage Shed monthly.
50. Based on its IRL response, the Facility failed to inspect its Main Hazardous Waste Storage Shed 156 times, from June 2018 to June 2021.
51. According to Respondent's July 16, 2021 response to EPA's June 7, 2021 IRL, the Facility only inspected the project site (HWAA Grit Chamber Building #2) 1-2 times a month, and those inspections of Grit Chamber Building #2 only occurred when the contractors were on site. The Grit Chamber Building #2 would go months at a time without being inspected.
52. Due to its failure to conduct numerous weekly inspections between June 2018 to June 2021, both at the Main Hazardous Waste Storage Shed and at Grit Chamber Building #2 from June 2018 to June 2021, the Facility was in violation of 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.174.
53. In failing to comply with the requirements of 20 DCMR § 4264.1, which incorporates by reference 40 C.F.R. § 264.174, Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

Count III
Failure to Give Employees Hazardous Waste Training

54. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
55. One of the requirements of 20 DCMR § 4264.1, which incorporates 40 C.F.R. § 264.16 by reference, is that a facility must provide hazardous waste management training to all personnel identified in their job descriptions as having hazardous waste management duties.
56. During calendar years 2019 and 2020, both an employee of Respondent and four (4) contractor personnel working at the Facility managed D008 waste but did not have hazardous waste management training.
57. Due to the failure to provide hazardous waste management training to both the Respondent's employee and the four (4) contractor personnel mentioned above who worked at the Facility, during calendar years 2019 and 2020, Respondent was in violation of 20 DCMR § 4264.1, which incorporates 40 C.F.R. § 262.34(a)(4) and 40 C.F.R. § 264.16 by reference.
58. In failing to comply with the requirements of 20 DCMR § 4264.1, which incorporates 40 C.F.R. § 264.16 by reference, Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

**Count IV
Failure to File Biennial Report**

59. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
60. One of the requirements of 20 DCMR § 4262.1, which incorporates 40 C.F.R. § 262.41 by reference, and 20 DCMR § 4201.8(a), is that a generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the Director of the DC Department of Energy and the Environment (“DOEE”) by March 1 of each even numbered year.
61. In its response to Question #3 of EPA’s June 7, 2021 IRL, Respondent stated that personnel changes that occurred when the Operations Safety Manager retired in November 2019 resulted in a critical knowledge gap at the Facility. Due to the changes in personnel, the Facility failed to submit the 2019 Biennial Report during the 2020 calendar year.
62. Respondent’s failure to submit the 2019 Biennial Report during the 2020 calendar year was a violation of 20 DCMR § 4262.1, which incorporates 40 C.F.R. § 262.41 by reference, and 20 DCMR § 4201.8(a).
63. In failing to comply with the requirements of 20 DCMR § 4262.1, which incorporates 40 C.F.R. § 262.41 by reference, and 20 DCMR § 4201.8(a), Respondent is subject to the assessment of penalties under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g).

CIVIL PENALTY

64. 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 SEVENTY-THREE THOUSAND FIVE-HUNDRED THIRTY-THREE dollars (\$173,533.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
65. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the following: 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 and May 2020 (“RCRA Penalty Policy”), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6928(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.

66. 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.*, **U.S. EPA Docket No. RCRA-03-2022-0102**;
- 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 **by email** to:

Daniel T. Gallo
Assistant Regional Counsel
gallo.dan@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

67. 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.

68. 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).
69. 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 from the date of initial notice of the fully executed and filed Consent Agreement and Final Order 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).
70. 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 any civil penalties that are not paid within the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the civil penalty remains unpaid.
71. 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).
72. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
73. The parties consent to service of the Final Order by e-mail at the following valid email addresses: gallo.dan@epa.gov (for Complainant), and gregory.hope@dcwater.com (for Respondent, as legal counsel).

GENERAL SETTLEMENT CONDITIONS

74. 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.

75. Respondent certifies to EPA, based on personal investigation and to the best of its knowledge and belief, 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

76. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

77. 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

78. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties 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

79. 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

80. 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

81. 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.

For Respondent: District of Columbia Water and Sewer Authority

Date: 8/29/2022

By:



(Digital signature and date)
David L. Gadis, CEO and General Manager
District of Columbia Water and Sewer Authority
Respondent

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & 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.

By:

(Digital signature and date)
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

By:

(Digital signature and date)
Daniel T. Gallo
Assistant Regional Counsel
U.S. EPA – Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	
District of Columbia Water and Sewer Authority	:	U.S. EPA Docket No. RCRA-03-2022-0102
1385 Canal Street, SE	:	Proceeding under Section 3008(a) and (g) of the
Washington, DC 20003	:	Resource Conservation and Recovery Act
	:	(RCRA), as amended,
Respondent.	:	42 U.S.C. § 6928(a) and (g).
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FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, the District of Columbia Water and Sewer Authority, 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October 1990 RCRA Civil Penalty Policy, as revised in June 2003 and May 2020 (“RCRA Penalty Policy”), which reflects the statutory penalty criteria and factors set forth at Section 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.

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6928(a) and (g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of ***ONE-HUNDRED SEVENTY-THREE THOUSAND FIVE-HUNDRED THIRTY-THREE dollars (\$173,533.00)***, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the 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 the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By:

(Digital signature and date)
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

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[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency,
Region III