

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**Philadelphia, Pennsylvania 19103-2029**

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	:	U.S. EPA Docket No. CWA-03-2021-0100
In the Matter of:	:	Proceedings to Assess Class II
	:	Administrative Penalty
	:	Section 309(g) of the Clean Water Act
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	:	
WVA Manufacturing, LLC.	:	
P.O. Box 248.	:	
Route 60 E	:	
Alloy, WV 25002-0248	:	
	:	
	:	
Respondent.	:	
	:	

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the NPDES Enforcement Section of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and WVA Manufacturing (“Respondent”) (collectively the “Parties”), pursuant to Section 309(g) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidates Rules of Practice”) 40 C.F.R Part 22. Section 309(g) of the Act authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake 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 (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against the Respondent under Section 309(g) (of 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. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6).
5. Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), authorizes the assessment of administrative penalties against any person who violates any National Pollutant Discharge Elimination System (“NPDES”) permit condition or limitation in an amount not to exceed \$10,000 per day for each day of violation, up to a total penalty amount of \$125,000.
6. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), any person who has violated any NPDES permit condition or limitation after November 2, 2015 where the penalty is assessed on or after December 23, 2020, the maximum administrative penalty per day for each day of violation is up to \$22,584, up to a total penalty amount of \$282,293. (Part 19 also specifies the maximum penalties applicable to other time periods.)

### **GENERAL PROVISIONS**

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
8. Except as provided in the Paragraph above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
9. 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.
10. 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.
11. 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.
12. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

13. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

14. 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.
15. Respondent is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.
16. At all times relevant to this Order, upon information and belief, Respondent was a corporation and the owner and operator of a facility engaged in the production of ferroalloys and metallurgical and chemical-grade silicon metals and silicon-based specialty alloys ("Facility"), which falls under Standard Industrial Classification (SIC) code 3313, located in Alloy, West Virginia.
17. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States, except in compliance with a permit issued pursuant to the NPDES program under Section 402 of the Act, 33 U.S.C. § 1342.
18. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. sections 122.2 and 122.26 provide that, with some exceptions not relevant here, storm water discharges are "point sources" subject to NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).
19. 40 C.F.R. § 122.26(b)(13) defines "Storm water" as "storm water runoff, snow melt runoff, and surface runoff and drainage."
20. At the Facility, the Respondent has been at all relevant times engaged in operations that discharge stormwater and industrial wastewater from several discharge outlets to the Kanawha River. The Kanawha River is a tributary of the Ohio River, both of which are "waters of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
21. Each conveyance from the Facility is a "point source" as that term is defined in 40 C.F.R. § 122.2.

22. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b) provides that the Administrator may authorize a state to issue a NPDES permit.
23. A NPDES permit is required for discharges of storm water associated with industrial activity. Section 402(p) of the Act, 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a),(c); 40 C.F.R. § 122.21.
24. Pursuant to 40 C.F.R § 122.26(b)(14)(ii), facilities classified as, inter alia, Standard Industrial Classification Group 33, including Industry Group 331 (Steel Works, Blast Furnaces and Rolling and Finishing Mills), are engaged in “industrial activity” within the meaning of Section 402(p) of the Act and 40 C.F.R. § 122.
25. West Virginia has been approved by EPA to administer the NPDES program in the State.
26. Pursuant to the authority of the Act, the NPDES program approval, and the West Virginia Water Pollution Control Law, West Virginia issued West Virginia National Pollutant Discharge Elimination System (“WV NPDES”) Permit No. WV0000167 to WVA Manufacturing, effective June 19, 2011, which was set to expire on May 19, 2016 (“2011 Permit”) and was administratively continued.
27. Pursuant to the authority of the Act, the NPDES program approval, and the West Virginia Water Pollution Control Law, West Virginia issued WV NPDES Permit No. WV0000167 to WVA Manufacturing, effective April 1, 2018, which will expire on June 30, 2022 (“2018 Permit”). The 2018 Permit superseded the 2011 Permit.
28. The 2011 and 2018 Permits (“the Permits”) authorize the terms for the discharge of stormwater and industrial wastewater at the Facility in accordance with their terms.
29. On April 20, 2018, WVA Manufacturing filed a “Notice of Appeal” of the 2018 Permit and a “Motion for Stay” of the permit limits for total organic carbon, total suspended solids and oil and grease. On June 15, 2018 the West Virginia Environmental Quality Board ordered the permit limits for TOC, TSS and oil and grease at outlets 002, 003, 004, 004 and 007 be stayed from the 2018 Permit’s effective date until resolution of the appeal or other order from the board. Therefore, the permit limits for those outlets revert to those established in the 2011 Permit until the appeal is resolved. This appeal was resolved on August 26, 2020 by Order of the West Virginia Environmental Quality Board.
30. On June 25, 2018, representatives of EPA Region III and EPA National Enforcement Investigations Center, (jointly “the Inspection Team”) conducted an inspection at the Facility to evaluate Respondent’s compliance with certain portions of the Permits (“the Inspection”).

31. During the Inspection, the Inspection Team reviewed Respondent's Permits, SWPPP, sampling procedures, operations and current site conditions.
32. The Inspection Team prepared an inspection report from the Inspection ("Inspection Report"), which included multiple observations regarding Respondent's compliance with the requirements of the Permit.
33. EPA sent a copy of the Inspection Report to the Respondent on October 16, 2018. WVA Manufacturing responded to the report in a letter dated November 14, 2018.
34. Based on the June 2018 inspection and on review of the information provided in response to the Inspection Report, EPA has identified the following violations of the Permits and of Section 301 of the Act.

**Count I**  
**Failure to Sample at Approved Monitoring**  
**Locations**

35. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
36. Part A.001 (Discharge Limitations and Monitoring Requirements: Permit Limits) of the Permits specifies that, with respect to the sampling location for Outlet 001. C, "Samples taken in compliance with the monitoring requirements shall be taken .... At the manhole approximately forty-seven (47) feet upstream from the end of the twenty-four-inch C I pipe."
37. During the Inspection, WVA Manufacturing staff stated that WVA Manufacturing had not collected samples at Outlet 001 for at least 12 months.
38. During the Inspection, WVA Manufacturing staff also stated that after consultation with staff at West Virginia Department of Environmental Protection, WVA Manufacturing began sampling at an alternate location in June 2018 due to safety concerns caused by restricted access to the original sampling location for Outlet 001.
39. From on or about June 2017 until June 2018, Respondent's failure to collect samples at the approved monitoring location is a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

**Count II**  
**Failure to Collect Composite Samples**

40. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
41. The 2018 Permit specifies how WVA Manufacturing is required to collect composite samples. Appendix A.III.7.d states that a “‘Composite sample’ is a combination of individual samples obtained at regular intervals over a period of time. Either the volume of each individual sample is proportional to discharge flow rates or the sample interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite the maximum time period between the individual samples shall be 2 hours.
42. During the Inspection, the Inspection Team observed Respondent’s contractor, ALS Environmental (“ALS”), collect 24-hour composite samples that were not in proportion to discharge flow rates.
43. On June 25, 2018, Respondent’s failure to ensure that composite sampling was collected in a manner that conforms with Appendix A.III of the 2018 Permit constitutes violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

**Count III**  
**Failure to Calibrate Monitoring Equipment**

44. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
45. Appendix A.III.3 of the 2018 Permit requires samples to “be taken, preserved and analyzed in accordance with the latest edition of 420 C.F.R. Part 136 unless other test procedures have been specified elsewhere in the permit.”
46. The required method for measuring the temperature specified at 40 C.F.R. Part 136 (Standard Method 2550 B-2010) is to periodically check the device’s bias (within the temperature range of use) against a reference thermometer certified by the National Institute of Standards and Technology.
47. During the Inspection, the Inspection Team observed WVA Manufacturing staff measure temperature at the outlets using a pH meter. WVA Manufacturing staff confirmed that the meter had not been calibrated for temperature measurements.

48. On June 25, 2018, Respondent's failure to calibrate monitoring equipment as required by permit conditions constitutes a violation of the 2018 Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

**Count IV**  
**Failure to Practice Good Housekeeping Measures**

49. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

50. Section C.1 of the 2018 Permit requires the permittee to "...practice good housekeeping including maintaining the facility grounds. There shall be no scattered parts, equipment, debris, etc. Any and all drums shall either be stored in a covered area or kept on pallets and properly sealed."

51. Information gathered during a February 6, 2018 inspection conducted by the State of West Virginia Department of Environmental Protection indicates that there was over 27,000 tons of silica fume stored at the Facility and that good housekeeping measures were not followed, as material was being stored outside and uncovered, and therefore had the potential to create runoff that would impact ground water quality.

52. During the Inspection, the Inspection Team observed debris on facility grounds, including an unprotected storm water drain inlet near the warehouse area and silica fume storage bags and black material in a depression near outlet 005.

53. From February 6, 2018 through June 25, 2018, Respondent's failure to practice good housekeeping on site constituted violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

**Count V**  
**Failure to Implement**  
**SWPPP**

54. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
55. Section C.15 of the 2018 Permit requires that “[t]he permittee [sic] implement and maintain the approved storm water pollution prevention plan (SWPPP) for the site. ... The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with the industrial activity. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce pollutants in storm water discharges associated with the industrial activity at the facility and to assure compliance with terms and conditions of the permit. Maintain all stormwater discharge control measures in effective operating conditions, in accordance with good engineering practice.”
56. Section 4.2 of the SWPPP states that “[a]n inventory of materials stored having the potential to contribute pollutants to the storm water or groundwater is presented in Table 1 – Material Inventory”.... The table includes “Description and quantity of material stored ....Secondary containment details including type of containment, capacity, materials of construction, etc.”
57. Section 4.4.8 of the SWPPP states “The fume storage area is located at the south end of the Alloy plant property. Excess or off-grade silica fume is stored on a concrete pad until it can be sold or sent to an off-site landfill. Any storm water gathered in the area would drain to an area in the plant that used to contain a coal pile that serviced the steam generating facility, which ceased operations in October 2017.”
58. Section 5.4 of the SWPPP states that “Good housekeeping practices are an effective way of preventing materials from entering surface waters and allowing materials to come in contact with soil, which may lead to groundwater contamination.”
59. During the Inspection, the Inspection Team observed that the silica fume storage area at the south end of the facility is not maintained to direct all storm water runoff to the old coal pile impoundment, as described in the SWPPP.
60. During the Inspection, the Inspection Team observed that excess or off-grade silica fume was not all stored on a concrete pad, as specified in the SWPPP.



61. During the Inspection, the Inspection Team reviewed the SWPPP and identified that “Table 1, Material Inventory” was not provided in WVA Manufacturing’s response to the Inspection Report. There was no quantification in the amount of silica fume stored on site.
62. Information gathered during a September 10, 2020 inspection conducted by the State of West Virginia Department of Environmental Protection shows that excess or off-grade silica fume was not all stored on a concrete pad.
63. From June 25, 2018 through September 10, 2020, Respondent’s failure to implement the SWPPP as required by the 2018 Permit constitutes a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

#### **IV. 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 and five thousand dollars (\$105,000), 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 CWA Section 309(d), 33 U.S.C. § 1319(d), including the seriousness of the violations, prior history of violations, any good faith effort to comply, economic benefit or savings resulting from the violations, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case pursuant to the statutory penalty criteria and factors set forth in of Section 309(g) of the CWA, 33 U.S.C. § 1319(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.*, CWA-03-2021-0100
- 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:

Morgan E. Rog  
Assistant Regional Counsel  
rog.morgan@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 the effective date of this 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 as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
69. Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. 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 effective date of this Consent Agreement and Final Order. 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 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.
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.

### **GENERAL SETTLEMENT CONDITIONS**

73. 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.
74. 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**

75. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with the Order Issued Under the Solid Waste Management Act, West Virginia Code, Chapter 22, Article 15, Order No. SW-21-004, issued to Respondent by the West Virginia Department of Environmental Protection on January 7, 2021, which will address the violations alleged herein.

### **OTHER APPLICABLE LAWS**

76. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state or 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 the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

### **RESERVATION OF RIGHTS**

77. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] 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 the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, 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**

78. 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**

79. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, filed with the Regional Hearing Clerk, and served on Respondent by certified mail, or ten (10) days after conclusion of the public notice and comment period described in 40 C.F.R. § 22.45(b), whichever is later.

### **ENTIRE AGREEMENT**

80. 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.

In Re: WVA Manufacturing  
EPA Docket No. CWA-03-2021-0100

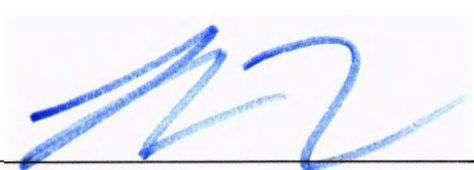
For Respondent:

WVA Manufacturing, LLC

Date:

9/27/21

By:



Brian D'Amico  
Director and Secretary  
WVA Manufacturing, LLC

In Re: WVA Manufacturing  
EPA Docket No. CWA-03-2021-0100

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: \_\_\_\_\_

By: \_\_\_\_\_

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

Attorney for Complainant:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Morgan E. Rog  
Assistant Regional Counsel  
U.S. EPA – Region III

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**In the Matter of:**

***WVA Manufacturing, LLC,***

**Respondent.**

**EPA Docket No. CWA-03-2021-0100**

**FINAL ORDER**

**Proceeding under Section 309(g) of the  
Clean Water Act**

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, WVA Manufacturing, LLC, 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*, the statutory factors set forth in Section 309(d) of the Clean Water Act ("CWA"), 33 U.S.C. § 309(d).

**NOW, THEREFORE, PURSUANT TO** Section 309 of the CWA, 33 U.S.C. Section 309(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 AND FIVE THOUSAND DOLLARS (\$105,000.00)***, 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 the Clean Water Act and the regulations promulgated thereunder.



The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after this Final Order is filed with the Regional Hearing Clerk, pursuant to 33 U.S.C. §1319(g)(5).

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Date

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