

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

In the matter of:

**Potomac Electric Power Company
701 Ninth Street, N.W.
Washington, DC 20068**

Respondent,

**Benning Service Center
3300 Benning Road NE
Washington, DC 20019**

Facility.

:
:
: **U.S. EPA Docket RCRA-03-2017-0120**
:
:
: **Proceeding under Section 3008(a) and (g)**
: **of the Resource Conservation and**
: **Recovery Act, as amended,**
: **42 U.S.C. § 6928(a) and (g)**
:
:
:
:
:
:

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division ("Complainant"), U.S. Environmental Protection Agency, Region III ("EPA" or the "Agency"), and Potomac Electric Power Company ("Respondent"), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and the accompanying Final Order simultaneously commence and conclude this administrative proceeding against the Respondent.

20170226 14:12:14

3. 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).
4. 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. The provisions of the District of Columbia's 2001 authorized hazardous waste management regulations, through this 2001 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.
5. 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.
6. This Consent Agreement ("CA") and the accompanying Final Order ("FO") (collectively, the "CAFO") 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. Respondent's facility, known as the Benning Service Center, is located at 3300 Benning Road NE, Washington, DC 20019 ("Facility") and is further described below.

7. Factual allegations or legal conclusions in this CA that are based on provisions of federally-authorized DCMR requirements cite those respective provisions as the authority for such allegations or conclusions.
8. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated March 31, 2016, EPA notified the District of Columbia Department of the Environment (“DDOE”) of EPA’s intent to commence this administrative action against Respondent in response to the alleged violations of RCRA Subtitle C and the DC Hazardous Waste Regulations that are set forth herein.

II. GENERAL PROVISIONS

9. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
10. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in the CAFO, except as provided in 9, above.
11. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
12. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
13. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
14. Respondent shall bear its own costs and attorney’s fees.
15. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, or any regulations promulgated and/or authorized thereunder.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

16. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:

17. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
18. Respondent is a corporation incorporated in both the Commonwealth of Virginia and the District of Columbia. Respondent is now, and was at the time of the violations alleged herein, a “person” as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 20 DCMR § 5400.1.
19. The Facility is located on a 77-acre parcel and consists of several buildings. The Facility serves as the base of operations for maintenance and construction of Respondent’s electric transmission and distribution system in the District of Columbia, system engineering, vehicle fleet maintenance and refueling, and central warehousing for materials, supplies, and equipment.
20. On or about August 18, 1980, Respondent submitted a Notification of Hazardous Waste Activity (“Notification”) for the Facility, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, to EPA, Region III, identifying the Facility as a generator of hazardous waste. Subsequently, the Facility was assigned EPA I.D. Number DCD000819516. Respondent is a Large Quantity Generator of hazardous waste at the Facility.
21. At all times relevant to the allegations set forth in this CA, Respondent is, and has been, the “operator” and the “owner” of the Facility, as those terms are defined in DCMR 5400.1, during the period of the violations alleged in this CAFO.
22. As described below, at all times relevant to the allegations set forth in this CA, Respondent is, and has been, a “generator” of “solid waste” and “hazardous waste” at the Facility, as those terms are defined in 20 DCMR § 5400.1.
23. At all times relevant to the allegations set forth in this CA, and as described below, Respondent is, and has been, engaged in the “storage” of “solid waste” and “hazardous waste” in “containers” at the Facility, as those terms are defined in 20 DCMR § 5400.1.
24. At all times relevant to the allegations set forth in this CA, Respondent’s Facility is, and has been, a hazardous waste storage “facility” as that term is defined in 20 DCMR § 5400.1.
25. On May 12, 2015, two duly-authorized representatives of EPA (“EPA Inspectors”) conducted a Compliance Evaluation Inspection at the Facility (the “CEI” or “Inspection”) to examine the Respondent’s compliance with the DC Hazardous Waste Regulations and applicable federal hazardous waste regulations.
26. On January 24, 2017, EPA sent a Request to Show Cause and Request for Information (“Show Cause letter”) to Respondent advising it of EPA’s preliminary findings of violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before

reaching any final conclusions as to the Respondent’s compliance with the DC Hazardous Waste Regulations and federal hazardous waste regulations at the Facility.

- 27. On the basis of EPA’s findings during the Inspection and Respondent’s response to EPA’s Show Cause letter, EPA alleges that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain requirements of the DC Hazardous Waste Regulations promulgated thereunder, and certain applicable federal hazardous waste regulations.

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

- 28. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
- 29. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 20 DCMR § 4600.6 provide that, with exceptions not relevant to this matter, no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
- 30. 20 DCMR § 4202.6 provides that “[a] generator who accumulates waste on-site shall be an operator of a storage facility and shall subject to the requirements of Chapter 44,” with exceptions not relevant here.
- 31. 20 DCMR § 4202.7 provides, in pertinent part:
 “A generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without having interim status, provide that:

* * *

(b) . . . The waste shall be placed

(1) in containers and the generator complies with § 4415;

* * *

- (c) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- (d) While being accumulated on-site each container and tank is labeled or marked clearly with the words “Hazardous Waste”; and
- (e) The generator complies with the requirements for owners and operators in §§ 4405, 4409, 4410, and 5000.14(d).”

32. Although the provisions of 20 DCMR § 4202.7 provide hazardous waste generators with an exemption from the permitting requirements for the temporary accumulation (90 days or less) of hazardous waste generated by a facility (referred to here as the “90-day accumulation exemption”), Respondent failed to meet the conditions necessary to qualify for the exemption set forth in 20 DCMR § 4202.7.
33. At the time of the Inspection on May 12, 2015, the following acts or omissions prevented Respondent from meeting the regulatory permit exemption requirements in 20 DCMR § 4202.7:
 34. On May 12, 2015, in the Paint Shop, there was a 5-gallon container labeled “Dirty Varsol,” (EPA Hazardous Waste No. D001). This container was not marked with the date that hazardous waste accumulation began. Respondent failed to clearly mark the date upon which the hazardous waste began accumulating, in contravention of the applicable permit exemption condition set forth at 20 DCMR § 4202.7(c).
 35. On May 12, 2015, in the Paint Shop, the 5-gallon drum container storing “Dirty Varsol,” (EPA Hazardous Waste No. D001) was not marked with the words “Hazardous Waste.” Therefore, Respondent failed to label or clearly mark a hazardous waste container with the words “Hazardous Waste,” in contravention of the applicable permit exemption condition set forth at 20 DCMR § 4202.7(d).
 36. On May 12, 2015, in the Sea Container, there was one cardboard box and one drum containing D008 hazardous waste. Respondent failed to keep these containers holding hazardous waste closed during storage, as further described in Count II, below, in contravention of 20 DCMR § 4415.5 and the applicable permit exemption condition set forth at 20 DCMR § 4202.7(b)(1).
 37. On May 12, 2015, in the Sea Container, there was one 55-gallon drum and one cardboard box storing broken mercury-containing waste lamps (EPA Characteristic Hazardous Waste D009). These containers were not marked with the words “Hazardous Waste.” Therefore, Respondent failed to label or clearly mark two hazardous waste containers with the words “Hazardous Waste,” in contravention of the applicable permit exemption condition set forth at 20 DCMR § 4202.7(d).
 38. On May 12, 2015, in the Sea Container, there was one 55-gallon drum and one cardboard box storing broken mercury-containing waste lamps (EPA Characteristic Hazardous Waste D009). Each container had broken lamps in it. Respondent failed to keep these containers holding hazardous waste closed during storage, as further described in Count II, below, in contravention of 20 DCMR § 4415.5 and the applicable permit exemption condition set forth at 20 DCMR § 4202.7(b)(1).
39. During the week of May 11, 2015, Respondent failed to perform an adequate weekly inspection of the hazardous waste accumulation area in the Sea Container, as further described in Count III, below, in contravention of 20 DCMR § 4415.7, and the applicable permit exemption condition set forth at 20 DCMR § 4202.7(b)(1).

40. On May 12, 2015, Respondent failed to have an adequate Contingency Plan for the Facility, as further described in Count V, below, in contravention of 20 DCMR §§ 4410.4 and 4410.7, and the applicable permit exemption condition set forth at 20 DCMR § 4202.7(e).
41. For each of the reasons and during each of the dates and time periods identified in Paragraph 33 through 40, above, Respondent failed to comply with the permit exemption conditions set forth in 20 DCMR § 4202.7 as identified in Paragraphs 31, above, for temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator at the Facility, as required pursuant to 20 DCMR § 4202.7, and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
42. Respondent has never had a permit or interim status, pursuant to 20 DCMR § 4202.8 or Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the storage of hazardous waste at the Facility.
43. For each of the reasons and during each of the dates and time periods identified in Paragraph 33 through 40, above, Respondent engaged in the operation of a hazardous waste storage facility (*i.e.*, the Facility) without having interim status or obtaining a permit for the Facility pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, or 20 DCMR Chapter 46.
44. From May 10, 2015 through May 16, 2015, Respondent violated Section 3005(a) of RCRA, 42 U.S.C. § 6925(a) and 20 DCMR § 4600.6, by operating a hazardous waste storage facility (*i.e.*, the Facility) without a permit, interim status or valid exemption to the permitting/interim status requirements.

COUNT II

(Failure to Keep Hazardous Waste Containers Closed)

45. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
46. 20 DCMR § 4415.5 provides that “[a] container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.”
47. At the time of the Inspection on May 12, 2015, in the Sea Container at the Facility, there was an approximately 4-foot square cardboard box, containing lead-contaminated rags and other materials (EPA Characteristic Hazardous Waste D008). The lid of the cardboard box was not closed properly.
48. At the time of the Inspection on May 12, 2015, in the Sea Container at the Facility, there was one 55-gallon drum, containing lead contaminated transformer flushing oil (EPA Characteristic Hazardous Waste D008). The drum had a loose, broad funnel in its bung that did not have a securable lid.

49. At the time of the Inspection on May 12, 2015, in the Sea Container, there was one 55-gallon drum and one cardboard box storing broken mercury-containing waste lamps (EPA Characteristic Hazardous Waste D009). Each container had broken lamps in it, and each container was open.
50. On May 12, 2015, Respondent violated 20 DCMR § 4415.5 by failing to keep closed during storage, except when it is necessary to add or remove waste, two cardboard boxes and two 55-gallon drums containing hazardous waste in the Sea Container at the Facility.

COUNT III

(Failure to Conduct Effective Inspections of Less Than 90-Day Hazardous Waste Storage Areas)

51. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
52. 20 DCMR § 4415.7 requires that, “[a]t least weekly, the owner and operator [of a hazardous waste facility] shall inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.”
53. In addition, 20 DCMR § 4415.6 provides that “[a] container holding hazardous waste shall not be opened, handled or stored in a manner that may rupture the container or cause it to leak.”
54. On May 11, 2015, a representative of Respondent performed a weekly inspection of hazardous waste storage area in the Facility’s Sea Container. In his report, Facility representative stated, “AREA OK.”
55. At the time of the Inspection on May 12, 2015, the EPA Inspectors observed an open cardboard box containing lead-contaminated rags (EPA Hazardous Waste No. D008) and an open 55-gallon drum containing lead contaminated (EPA Hazardous Waste No. D008) transformer flushing oil in the Sea Container, creating a potential for the container to leak.
56. At the time of the Inspection on May 12, 2015, the EPA Inspectors observed one open 55-gallon drum and one open cardboard box storing broken mercury-containing waste lamps (EPA Characteristic Hazardous Waste D009). Each container had broken lamps in it, creating a potential for the container to leak.
57. During the week of May 10 through 16, 2015, Respondent violated 20 DCMR § 4415.7 by failing to adequately inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

COUNT IV**(Failure to Maintain Fire Protection Equipment)**

58. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
59. 20 DCMR § 4409.4 requires that “[a]ll facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency.”
60. On May 12, 2015, the inspection tag on the fire extinguisher located in the Sea Container hazardous waste storage area at the Facility had expired 15 months earlier, in February 2014.
61. On May 12, 2015, the fire extinguisher and fire suppression system located in 90-day storage area in Building 68 at the Facility had inspection tags which had expired 22 months earlier, in July 2013.
62. From July 2013 through May 12, 2015, Respondent violated 20 DCMR § 4409.4 by failing to test and maintain all fire protection equipment as necessary to assure its proper operation in time of emergency.

COUNT V**(Failure to Maintain Adequate Contingency Plan)**

63. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
64. 20 DCMR § 4410.2 provides that “[e]ach owner and operator [of a hazardous waste facility] shall have a contingency plan for his or her facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water.”
65. 20 DCMR § 4410.4 provides that “[t]he contingency plan shall describe the actions facility personnel shall take . . . in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water at the facility.”
66. 20 DCMR § 4410.7 provides that “[t]he plan shall list names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator . . . and this list shall be kept up to date.”

67. At the time of the Inspection on May 12, 2015, the copy of the Facility's Integrated Contingency Plan, dated March 2010, which served as the required contingency plan, that was available for review was missing a description of the actions facility personnel would take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water at the facility.
68. On May 12, 2015, the Facility's Integrated Contingency Plan, dated March 2010, which served as the required contingency plan, was missing the list of the Facility's emergency coordinators.
69. On May 12, 2015, Respondent violated the requirements of 20 DCMR § 4410.7 by failing to include, in the Facility's contingency plan, the names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator.
70. On May 12, 2015, Respondent violated the requirements of 20 DCMR § 4410.4 by failing to include, in the Facility's contingency plan, a description of the actions facility personnel would take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water at the facility.

IV. CIVIL PENALTIES

71. Respondent agrees to pay a civil penalty in the amount of **\$54,000.00 (FIFTY-FOUR THOUSAND DOLLARS)** in full and final settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations and facts alleged and set forth in Section III ("EPA Findings of Fact and Conclusions of Law") of this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a fully executed copy of this CAFO is mailed or hand-delivered to Respondent.
72. The civil penalty settlement amount set forth in Paragraph 71, immediately above, was determined after consideration of the statutory factors set forth 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 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). Complainant has also considered the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, and the July 27, 2016 Memorandum by EPA Assistant Administrator, Cynthia Giles, entitled, "Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation," (effective August 1, 2016). The settlement in this

proceeding is consistent with the provisions and objectives of Section 3008 of RCRA, and its implementing regulations.

73. Payment of the civil penalty set forth in Paragraph 71, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 75 through 78, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this Consent Agreement, i.e., RCRA03-2017-0120;
- b. All checks shall be made payable to **"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
Fine and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Customer service contact: 513-487-2091

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1818

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option: WWW.PAY.GOV/paygov/

Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

or by contacting Craig Steffen at 513-487-2091

- 74. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029;

and

Natalie Katz
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

75. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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 or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
76. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty 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).
77. The costs of the Agency'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 - Cash 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.
78. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
79. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

V. CERTIFICATIONS

80. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent is in compliance with all relevant provisions of the current DC Hazardous Waste Regulations and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this Consent Agreement.

VI. OTHER APPLICABLE LAWS

81. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

VII. RESERVATION OF RIGHTS

82. This CAFO resolves only EPA's claims for civil penalties for the specific violations and facts which are alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the 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. In addition, 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. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

83. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this Consent Agreement.

IX. PARTIES BOUND

84. This CAFO shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this CAFO.

X. EFFECTIVE DATE

85. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.


XI. ENTIRE AGREEMENT

86. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties,

covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

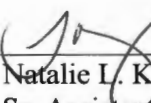
For Respondent:

Date: APRIL 13, 2017

By: 
Name: JACK STRAUSMAN
Title: VICE PRESIDENT, SUPPORT SERVICES

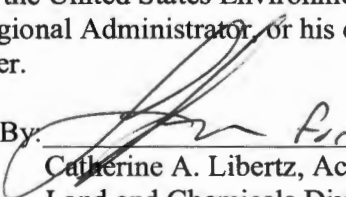
For the Complainant:

Date: April 18, 2017

U.S. Environmental Protection Agency, Region III
By: 
Natalie L. Katz
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 4/21/2017

By: 
Catherine A. Libertz, Acting Director
Land and Chemicals Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the matter of:

**Potomac Electric Power Company
701 Ninth Street, N.W.
Washington, DC 20068**

Respondent,

**Benning Service Center
3300 Benning Road NE
Washington, DC 20019**

Facility.

:
:
: **U.S. EPA Docket RCRA-03-2017-0120**
:
:
: **Proceeding under Section 3008(a) and (g)**
: **of the Resource Conservation and**
: **Recovery Act, as amended,**
: **42 U.S.C. § 6928(a) and (g)**
:
:
:
:
:

CERTIFICATE OF SERVICE

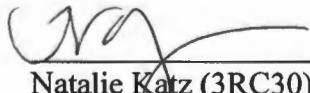
I certify that on the date noted below, I sent by UPS Next Day Delivery, a copy of the Consent Agreement and Final Order to the addressee(s) listed below:

Eric J. Murdock
Hunton & Williams LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037

Wesley L. McNealy
Director, Environmental Health and Safety
Pepeco Holdings, Inc.
701 Ninth Street, N.W.
Washington, DC 20068

The original and one copy of were hand-delivered to, and filed with, the Regional Hearing Clerk, U.S. EPA Region III.

Dated: 4/26/17



Natalie Katz (3RC30)
Senior Assistant Regional Counsel
EPA Region III
1650 Arch Street
Philadelphia, PA 19103

RECEIVED
2017 APR 26 PM 12:14
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA