



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 16 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Sid J. Trant, Attorney at Law
Bradley Arant Boult Cummings, LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203-2119

SUBJ: Baptist Hospital
Consent Agreement and Final Order (CAFO)
Docket No. RCRA-04-2012-4000(b)

Dear Mr. Trant:

Enclosed, is a copy of the executed Consent Agreement and Final Order (CA/FO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rule of Practice, 40 C.F.R. § 22.6. Please make note of the provisions in Section VI of the CA/FO, with respect to payment of the assessed penalty, which is due within 30 days from the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

If you have any questions, please feel free to contact me at (404) 562-9677.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Luetscher".

Gregory D. Luetscher
Associate Regional Counsel
Office of Environmental Accountability

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF)	DOCKET NO.: RCRA-04-2012-4000(b)
)	
Baptist Hospital)	
200 Church Street)	Proceeding Under Section 3008(a) of the
Nashville, Tennessee 37236)	Resource Conservation and Recovery Act
)	42 U.S.C. § 6928(a)
EPA ID No.: TND 069 090 694)	
)	
<u>Respondent</u>)	

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EPA REGION IV
2012 FEB 16 PM 2:08
HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action pursuant to the Tennessee Code Annotated (T.C.A.) §§ 68-212-101 *et seq.*, as amended (Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921 – 6939(e)). This action is seeking civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of T.C.A. and the regulations promulgated pursuant thereto, set forth at Tenn. Comp. R. & Regs. (Tennessee Rule, or TR), Chapter 1200-01-11, (40 Code of Federal Regulations (C.F.R.) Parts 260 - 266, 268, 270 and 273).
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination, or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, United States Environmental Protection Agency (EPA) Region 4.
5. Respondent is Baptist Hospital, a community hospital licensed for 683 acute and rehabilitation-care beds. Respondent is a non-profit corporation incorporated in the State of Tennessee and doing business in the State of Tennessee (Tennessee or State) at 200 Church Street, Nashville, Tennessee.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Tennessee received final authorization from EPA to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Tennessee authorized program are found at T.C.A. §§ 68-212-101 et seq. and TR Chapter 1200-01-11.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states upon their federal effective date regardless of their authorization status, and are implemented by EPA until a state is granted final authorization with respect to those requirements. The State of Tennessee received final authorization for certain portions of HSWA, including those recited herein.
8. Although EPA has granted the State of Tennessee authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the requirements of the authorized state program. This authority is exercised by EPA in the manner set forth in the Memorandum of Agreement between EPA and the State of Tennessee.
9. As the State of Tennessee's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations alleged herein will be to the authorized Tennessee program; however, for ease of reference, the federal citations will follow in parentheses.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State of Tennessee before issuance of this CA/FO.
11. T.C.A. 68-212-101, et seq., (Section 3002 of RCRA, 42 U.S.C. § 6922) requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found in TR Chapter 1200-01-11-.03 (40 C.F.R. Part 262).

12. T.C.A. 68-212-101, et seq. (Section 3004 of RCRA, 42 U.S.C. § 6924) requires the promulgation of standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these requirements are found at TR Chapter 1200-1-11-.06 (40 C.F.R. Part 264).
13. T.C.A. 68-212-108, et seq. (Section 3005 of RCRA, 42 U.S.C. § 6925) sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at TR Chapter 1200-01-11-.05 (interim status) and 1200-01-11-.06 (permitted) (40 C.F.R. Parts 264 (permitted) and 265 (interim status)).
14. Pursuant to TR 1200-1-11-.01(2)(a) (40 C.F.R. § 260.10), "*owner*" means the person who owns a facility or part of a facility and "*operator*" means the person responsible for the overall operation of a facility.
15. Pursuant to TR 1200-1-11-.01(2)(a) (40 C.F.R. § 260.10), a "*person*" includes, inter alia, an individual, firm, corporation, partnership, or association.
16. Pursuant to TR 1200-1-11-.01(2)(a) (40 C.F.R. § 260.10), a "*generator*" is any person, by site, whose act or process produces hazardous waste identified or listed in TR 1200-1-11-.02 (40 C.F.R. Part 261) or whose act first causes a hazardous waste to be subject to regulation.
17. Pursuant to TR 1200-1-11-.01(2)(a) (40 C.F.R. § 260.10), a "*facility*" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
18. Pursuant to TR 1200-1-11-.02(1)(b)1.(i) (40 C.F.R. § 261.2), a "*solid waste*" is any "*discarded material*" that is not otherwise excluded by regulation.
19. Pursuant to TR 1200-1-11-.02(1)(b)1.(ii) (40 C.F.R. § 261.2(a)(2)(i)), a "*discarded material*" is any material which, inter alia, is "*abandoned*."
20. Pursuant to TR 1200-1-11-.02(1)(b)2.(iii) (40 C.F.R. § 261.2(b)(3)), materials are solid wastes if they are "*abandoned*" by being disposed of, burned or incinerated, or accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.
21. Pursuant to TR 1200-01-11-.02(1)(c) (40 C.F.R. 261.1), a solid waste is a "*hazardous waste*" if it meets any of the criteria set forth under TR 1200-01-11-.02(1)(c)1.(ii) and is not excluded from regulation under TR 1200-01-11-.02(1)(c)1.(i) (40 C.F.R. § 261.3).
22. Pursuant to TR 1200-01-11-.02(4)(b)(1) (40 C.F.R. § 261.31), certain solvents, including but not limited to xylene, from non-specific sources which are listed for ignitability are F003 hazardous wastes.

23. Pursuant to TR (1200-01-11-.02(4)(d)(5) (40 C.F.R. § 261.31), certain off-spec commercial chemical products, container residues, and spill residues when discarded or when intended to be discarded are listed as acute hazardous wastes due to toxicity, reactivity, ignitability and corrosivity and have been assigned hazardous waste numbers with a "P" or a "U" prefix.
24. Pursuant to TR 1200-01-11-.02(3)(e)2. (40 C.F.R. § 261.24), a solid waste that exhibits the characteristic of toxicity for cadmium is a hazardous waste identified with EPA Hazardous Waste No. D006 and a solid waste that exhibits the characteristic of toxicity for lead is a hazardous waste identified with EPA Hazardous Waste No. D008.
25. Pursuant to TR 1200-1-11-.01(2)(a) (40 C.F.R. § 273.9) "*universal waste*" means any of the hazardous wastes listed in TR 1200-01-11-.12(1)(a) that are managed under the universal waste requirements of TR 1200-01-11-.12 (40 C.F.R. Part 273).
26. Pursuant to TR 1200-1-11-.01(2)(a) (40 C.F.R. § 273.9), "*universal waste handler*" means a generator of universal waste.
27. Pursuant to TR 1200-1-11-.01(2)(a) (40 C.F.R. § 273.9), "*small quantity handler of universal waste*" means a universal waste handler who does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, thermostats, or lamps calculated collectively) at any time.
28. Pursuant to TR 1200-1-11-.03(1)(b) (40 C.F.R. § 262.11), any person who generates a solid waste must determine if the waste is a hazardous waste using a method prescribed in the regulations.
29. Pursuant to TR 1200-1-11-.12(2)(d)4.(i)(I) (40 C.F.R. § 273.13(d)(1)), a small quantity handler of universal waste handling lamps must contain any such lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. These containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.
30. Pursuant to TR 1200-01-11-.12(2)(e)1. (40 C.F.R. § 273.14(a)), a small quantity handler of universal waste must label or mark its universal waste to identify what type of universal waste it is; specifically, universal waste batteries (i.e., each battery) or a container in which such batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Battery(ies)", or "Waste Battery(ics)," or "Used Battery(ies)."
31. Pursuant to TR 1200-1-11-.12(2)(e)5. (40 C.F.R. § 273.14(e)), universal waste lamps or a container or package in which such items are contained must be labeled or marked clearly to identify the type of universal waste using either the phrase "Universal Waste-Lamps(s)" or "Waste Lamp(s)", or "Used Lamp(s)."

32. Pursuant to TR 1200-01-11-.03(4)(e)2. (40 C.F.R. § 262.34(a)), a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status provided the generator complies with the management requirements in TR 1200-01-11-.03(4)(e)2.-5. (40 C.F.R. § 262.34(a)-(e)) (hereinafter referred to as the "40 C.F.R. § 262.34(a) permit exemption" or the "permit exemption").
33. Pursuant to TR 1200-01-11-.03(4)(e)2.(ii) (40 C.F.R. § 262.34(a)(2)), a generator may accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
34. Pursuant to TR 1200-01-11-.03(4)(e)2.(iii) (40 C.F.R. § 262.34(a)(3)), a generator may accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided, while being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste."
35. Pursuant to TR 1200-01-11-.03(4)(e)5.(i) (40 C.F.R. § 262.34(c)(1)(i)), a generator may accumulate as much as 55 gallons of hazardous waste (or one quart of acutely hazardous waste) in containers at or near any point of generation where wastes initially accumulate, without a permit or without having interim status, provided the generator complies with TR 1200-01-11-.05(9)(d)1. (40 C.F.R. § 265.173(a)), which requires that a container holding hazardous waste must always be closed during storage except when it is necessary to add or remove waste.
36. Pursuant to TR 1200-01-11-.03(4)(e)5.(i)(II) (40 C.F.R. § 262.34(c)(1)(ii)), a generator may accumulate as much as 55 gallons of hazardous waste (or one quart of acutely hazardous waste) in containers at or near any point of generation where wastes initially accumulate (i.e., "satellite accumulation areas") without a permit or without having interim status, provided the generator marks the containers either with the words "Hazardous Wastes" or with such other words that identify the contents of the containers.
37. Pursuant to TR 1200-01-11-.03(4)(c)(3) (40 C.F.R. § 262.34(b)), a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of TR Chapter 1200-1-11-.06 (40 C.F.R. Part 264), TR Chapter 1200-01-11-.05 (40 C.F.R. Part 265), and the permit requirements of TR Chapter 1200-01-11-.07 (40 C.F.R. Part 270).

IV. EPA ALLEGATIONS AND DETERMINATIONS

38. Respondent is a "person" as defined in TR 1200-01-11-.01(2)(a) (40 C.F.R. § 260.10).

39. Respondent is the "owner" and "operator" of a "facility" located at 200 Church Street, Nashville, Tennessee, as those terms are defined in TR 1200-01-11-.01(2)(a) (40 C.F.R. § 260.10).
40. On February 25, 2010, a Compliance Evaluation Inspection (CEI) of the facility was conducted by inspectors from the EPA and from the Tennessee Department of Environment and Conservation/Division of Solid and Hazardous Waste Management (TDEC).
41. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6907, on August 23, 2010, EPA submitted an Information Request Letter (IRL) to Respondent in order to obtain additional information about Respondent's conduct of its hazardous waste management program at the facility.
42. During the CEI, Respondent informed EPA's inspector that numerous pharmaceutical products typically included in the facility's formulary could be classified as hazardous waste upon disposal but, as of the date of the CEI, the facility did not manage such wastes as hazardous wastes.
43. During the CEI, the EPA inspector was informed by Respondent that pharmaceutical compounds inventoried at the facility included several items which, when discarded, would constitute an acute "P" or "U" listed hazardous waste.
44. During the CEI, Respondent informed the EPA inspector and subsequently explained in its IRL response, that Respondent's typical methods for disposing of pharmaceutical hazardous waste at the facility involved either including such wastes with its disposal of medical wastes or its disposal of non-hazardous solid waste, or by discharging it to the sanitary sewer.
45. During the CEI, the EPA inspector observed a small bin in the 90-day hazardous waste storage area containing fourteen (14) small, closed bottles of laboratory waste.
46. During the CEI, the EPA inspector was informed that Respondent neither knew the source of the fourteen (14) bottles of laboratory waste, nor whether any of the fourteen (14) bottles of laboratory waste contained a hazardous waste. However, in its response to EPA's IRL, Respondent acknowledged that these fourteen (14) bottles of laboratory waste contained hazardous waste.
47. *EPA therefore alleges* that Respondent violated TR 1200-01-11-.03(1)(b) (40 C.F.R. § 262.11), by failing to make hazardous waste determinations on solid waste generated at the facility.
48. During the CEI, the EPA inspector observed that Respondent was storing fourteen (14) bottles of laboratory waste in the 90-day hazardous waste storage area that were not marked with an accumulation start date.

49. *EPA therefore alleges* that Respondent violated T.C.A. 68-212-108 et seq. (Section 3005 of RCRA, 42 U.S.C. § 6925) for storing hazardous waste without a permit or having interim status because, having failed to comply with TR 1200-01-11-.03(4)(e)2.(ii) (40 C.F.R. § 262.34(a)(2)) which requires that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container, Respondent failed to meet a requirement of the 40 C.F.R. § 262.34(a) permit exemption.
50. During the CEI, the EPA inspector observed that Respondent was storing fourteen (14) containers of lab waste in the 90-day hazardous waste storage area that were not labeled or marked clearly with the words "Hazardous Waste."
51. *EPA therefore alleges* that Respondents violated T.C.A. 68-212-108 et seq. (Section 3005 of RCRA, 42 U.S.C. § 6925) for storing hazardous waste without a permit or having interim status because, having failed to comply with TR 1200-01-11-.03(4)(e)2.(iii) (40 C.F.R. § 262.34(a)(3)) which requires that each container is labeled or clearly marked with the words "Hazardous Waste," Respondent failed to meet a requirement of the 40 C.F.R. § 262.34(a) permit exemption.
52. During the CEI, the EPA inspector observed that Respondent was storing scraps of waste cadmium/zinc/lead-alloy from the molding process in an open, small (less than 5-gallon), satellite-accumulation container in the Mold Room. A solid waste that exhibits the characteristic of toxicity for cadmium is a D006 hazardous waste and a solid waste that exhibits the characteristic of toxicity for lead is a D008 hazardous waste.
53. *EPA therefore alleges* that Respondent violated T.C.A. 68-212-108 et seq. (Section 3005 of RCRA, 42 U.S.C. § 6925) for storing hazardous waste without a permit or having interim status because, having failed to comply with TR 1200-01-11-.05(9)(d)1. (40 C.F.R. § 265.173(a)) which provides that such a container must always be closed during storage except when it is necessary to add or remove waste, Respondent failed to meet a TR 1200-01-11-.03(4)(c)2.(i) (40 C.F.R. § 262.34(c)(1)(i)) condition of the 40 C.F.R. § 262.34(a) permit exemption.
54. During the CEI, the EPA inspector observed that Respondent was storing waste paraffin-xylene bottoms in an un-labeled 2.5-gallon plastic satellite-accumulation container in the Pathology/Histology room. Xylene, as a solvent from non-specific sources listed for ignitability, is a F003 hazardous waste.
55. *EPA therefore alleges* that Respondent violated T.C.A. 68-212-108 et seq. (Section 3005 of RCRA, 42 U.S.C. § 6925) for storing hazardous waste without a permit or having interim status because, having failed to comply with TR 1200-01-11-.03(4)(e)2.(ii) (40 C.F.R. § 262.34(c)(1)(ii)) which requires a generator to mark the containers in his satellite accumulation areas with the words "Hazardous Waste" or with other words that identify the contents of the containers, Respondent failed to meet a requirement of the 40 C.F.R. § 262.34(a) permit exemption.

56. During the CEI, the EPA inspector observed that Respondent was storing two unlabeled boxes of waste mercury lamps and two unlabeled 55-gallon drums of crushed lamps.
57. Respondent, as a person that handles universal waste (batteries, pesticides, thermostats, or lamps) but does not accumulate more than 5,000 kilograms of such waste (calculated collectively) at any time, is a "*small quantity handler of universal waste*" within the meaning of TR 1200-1-11-.01(2)(a) (40 C.F.R. § 273.9).
58. *EPA therefore alleges* that Respondent violated TR 1200-1-11-.12(2)(e)5. (40 C.F.R. § 273.14(e)), which requires that universal waste lamps, or a container or package in which such items are contained, must be labeled or marked clearly to identify the type of universal waste using either the phrase "Universal Waste-Lamps(s)" or "Waste Lamp(s)", or "Used Lamp(s)."
59. During the CEI, the EPA inspector observed that Respondent was storing two open boxes of waste mercury lamps.
60. *EPA therefore alleges* that Respondent violated TR 1200-1-11-.12(d)4.(i)(I) (40 C.F.R. § 273.13(d)(1)), which requires that a small quantity handler of universal waste lamps contain any such lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. These containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.
61. During the CEI, the EPA inspector observed that Respondent was storing universal waste batteries in four unlabeled containers.
62. *EPA therefore alleges* that Respondent violated TR 1200-01-11-.12(2)(e)1. (40 C.F.R. § 273.14(a)), which requires that a small quantity handler of universal waste label or mark the universal waste to identify what type of universal waste it is; specifically, universal waste batteries (i.e., each battery) or a container in which such batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Battery(ies)", or "Waste Battery(ies)," or "Used Battery(ies)."

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations, and Determinations, the parties agree to the following:

63. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

64. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
65. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
66. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.
67. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
68. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
69. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized Tennessee hazardous waste program.
70. The parties agree that compliance with the terms of this CA/FO shall resolve all of Respondent's liability for civil penalties for the violations alleged and facts stipulated in this CA/FO.
71. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

72. Respondent consents to the payment of a civil penalty in the amount of *EIGHTEEN THOUSAND SIX HUNDRED TWENTY AND 00/00* DOLLARS (\$18,620.00) payable within thirty (30) calendar days of the effective date of this CA/FO.
73. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearinghouse (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: *Treasurer, United States of America*, and the facility name and docket number for this matter shall be referenced on the face of the check. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-4087

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking
Environmental Protection Agency
808 17th Street NW
Washington, DC 20074
Contact: Jesse White, (301) 887-6548

Respondent shall submit a copy of each payment to the following addressees:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8690

and to:

Doug McCurry, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

74. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
 - c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
75. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

76. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
77. No change in ownership, partnership, corporate or legal status relating to the facility will in

any way alter Respondent's obligations and responsibilities under this CA/FO.

78. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

79. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at the facility may present an imminent and substantial endangerment to human health and the environment.
80. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CA/FO.
81. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the facility.
82. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

IX. OTHER APPLICABLE LAWS

83. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

84. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Gregory D. Luetscher
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(404) 562-9677
luetscher.greg@epa.gov

85. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Sid J. Trant
Attorney
Bradley Arant Boult Cummings LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203-2119

XI. SEVERABILITY

86. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO, or the application of this CA/FO to any party or circumstances, is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

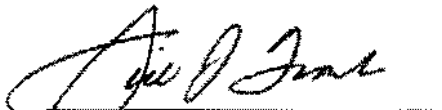
XII. EFFECTIVE DATE

87. The effective date of this CA/FO shall be the date on which the fully executed CA/FO is filed with the Regional Hearing Clerk.

In the matter of Baptist Hospital, Docket No. RCRA-04-2012-4000(b):


AGREED AND CONSENTED TO:

For the Respondent



Sid J. Trant
Attorney at Law
For the U.S. Environmental Protection Agency

Date: 01/26/2012



César Zapata, Chief
RCRA and OPA Enforcement
and Compliance Branch
RCRA Division

Date: 02/13/2012

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF)	DOCKET NO.: RCRA-04-2012-4000(b)
)	
Baptist Hospital)	
200 Church Street)	Proceeding Under Section 3008(a) of the
Nashville, Tennessee 37236)	Resource Conservation and Recovery Act
)	42 U.S.C. § 6928(a)
EPA ID No.: TND 069 090 694)	
)	
<u>Respondent</u>)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 16th day of February, 2012

BY: Susan B. Schub
Susan B. Schub
Regional Judicial Officer
U.S. EPA, Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Baptist Hospital, Nashville, Tennessee, **Docket Number: RCRA-04-2012-4000(b)** on the parties listed below in the manner indicated:

Gregory D. Luetscher
Associate Regional Counsel
U.S. Environmental Protection Agency,
Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9677

(Via EPA's internal mail)


Quantindra Smith
RCRA and OPA Enforcement
and Compliance Branch
U.S. Environmental Protection Agency
61 Forsyth Street, S.W.
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(Via EPA's internal mail)

Sid J. Trant
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Bradley Arant Boult Cummings LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203-2119

(Via Certified Mail - Return Receipt
Requested)

2-16-12
Date


Patricia Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511