



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 29 2017.

**CERTIFIED MAIL RETURN RECEIPT**

Joshua C. Lee  
Metropolitan Attorney  
Department of Law  
P.O. Box 196300  
Nashville, Tennessee 37219

Re: Nashville General Hospital, EPA ID. No.: TNR000042242  
Consent Agreement and Final Order, Docket No. RCRA-04-2017-4003(b)

Dear Mr. Lee,

Enclosed, please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-reference matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

Thank you for assistance in resolving this matter. If you have questions, please feel free to contact me at 404-562-8590 or by email at [lamberth.larry@epa.gov](mailto:lamberth.larry@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth  
Chief, Enforcement and Compliance Branch  
Resource Conservation and Restoration Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF: )  
)  
Hospital Authority of The Metropolitan Government )  
of Nashville and Davidson County )  
1818 Albion Street )  
Nashville, Tennessee 37208-2918 )  
EPA ID No.: TNR000042242 )  
)  
Respondent )  
\_\_\_\_\_ )

DOCKET NO.: RCRA-04-2017-4003(b)

Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

HEARING CLERK

2017 SEP 29 PM 4: 58

USEPA REGION 4  
OFFICE OF REGIONAL  
COUNCIL

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the Tennessee Hazardous Waste Management Act of 1977 (THWMA), Tennessee Code Annotated (Tenn. Code Ann.) § 68-212-101 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at Chapter 0400-12-01 of the Rules and Regulations of the State of Tennessee (Tenn. Comp. R. & Regs.) [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks the imposition of civil penalties and injunctive relief pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Tenn. Comp. R. & Regs. 0400-12-01.01 through 0400-12-01.10 [40 C.F.R. Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 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) and (3).
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, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is the Hospital Authority of The Metropolitan Government of Nashville and Davidson County (d/b/a/ Nashville General Hospital), a corporation organized under the laws of Tennessee. Respondent is the owner and /or operator of a hospital located at 1818 Albion Street, Nashville, Tennessee (the Facility).

## III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Tennessee (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at THWMA, Tenn. Code Ann. § 68-212-101 *et seq.* and Tenn. Comp. R. & Regs. 0400-12-01.01 through 0400-12-01.10.
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 regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Tennessee has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
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 before issuance of this CA/FO.
11. Section 68-212-107(d) of the THWMA, Tenn. Code Ann. § 68-212-107(d) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Tenn. Comp. R. & Regs. 0400-12-01-.03 [40 C.F.R. Part 262].
12. Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [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 Tenn. Comp. R. & Regs. 0400-12-01-.06 (permitted) and Tenn. Comp.

R. & Regs. 0400-12-01-.05 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Section 68-212-106(a)(2) of the THWMA, Tenn. Code Ann. § 68-212-106(a)(2) [Section 3010(a) of RCRA, 42 U.S.C. § 6930(a)], any person who is generating a waste which is considered hazardous by the established criteria or list shall notify the department in writing of the quantities and composition of wastes generated and the method by which such person intends to store, treat or dispose of such wastes.
14. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(b) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
15. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(d)2. [40 C.F.R. § 261.4(b)].
16. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c)1.(ii) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(b) - (e) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D0043.
  - a. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(b) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
  - b. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(c) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
  - c. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(d) [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.
  - d. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is a hazardous waste identified with the EPA Hazardous Waste Number D007.
  - e. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that

exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for mercury is a hazardous waste identified with the EPA Hazardous Waste Number D009.

- f. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for selenium is a hazardous waste identified with the EPA Hazardous Waste Number D010.
  - g. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(a) and Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(3)(e) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for silver is a hazardous waste identified with the EPA Hazardous Waste Number D011.
17. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(a) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], certain off-spec commercial chemical products, container residues, and spill residues when discarded or when intended to be discarded are solid wastes and those listed in Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33(e)], are “listed” acute hazardous wastes due to toxicity or reactivity, and are identified with the EPA Hazardous Waste Numbers P001 through P205.
- a. Upon disposal, warfarin when present in concentrations of greater than 0.3 percent is a listed hazardous waste under Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33(e)] and is identified with the EPA Hazardous Waste Number P001.
  - b. Upon disposal, nicotine is a listed hazardous waste under Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33(e)] and is identified with the EPA Hazardous Waste Number P075.
  - c. Upon disposal, physostigmine salicylate is a listed hazardous waste under Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33(e)] and is identified with the EPA Hazardous Waste Number P188.
18. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(a) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], certain off-spec commercial chemical products, container residues, and spill residues when discarded or when intended to be discarded are solid wastes and those listed in Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33(f)], are “listed” toxic wastes due to

toxicity, reactivity, ignitability and corrosivity, and are identified with the EPA Hazardous Waste Numbers U001 through U411.

- a. Upon disposal, mitomycin C is a listed hazardous waste under Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33(f)] and is identified with the EPA Hazardous Waste Number U010.
  - b. Upon disposal, cyclophosphamide is a listed hazardous waste under Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33(f)] and is identified with the EPA Hazardous Waste Number U058.
  - c. Upon disposal, daunomycin is a listed hazardous waste under Tenn. Comp. R. & Regs. 0400-12-01-.02(4)(d) [40 C.F.R. § 261.33(f)] and is identified with the EPA Hazardous Waste Number U059.
19. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(e) [40 C.F.R. §§ 261.5(a) and (b)], a generator is a conditionally exempt small quantity generator (“CESQG”) in a calendar month if he generates no more than 100 kilograms of hazardous waste or 1 kilogram of acute hazardous waste and complies with Tenn. Comp. R. & Regs. 0400-12-01-.02(1) [40 C.F.R. § 261.5].
  20. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
  21. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Tenn. Comp. R. & Regs. 0400-12-01-.01(2) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
  22. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], “manifest” means a shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A) or an electronic manifest, originated and signed in accordance with the applicable requirements of 40 C.F.R. Parts 262 - 265.
  23. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], “on-site” means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way, which it controls and to which the public does not have access, is also considered on-site property.
  24. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
  25. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], a “person” includes a corporation.

26. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
27. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(c) [40 C.F.R. § 262.12], a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Commissioner of the Tennessee Department of Environment and Conservation.
28. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2. [40 C.F.R. § 262.34(a)], a generator of greater than 1,000 kilograms of hazardous waste or 1 kilogram of acute hazardous waste per calendar month is a large quantity generator (LQG) and may accumulate hazardous waste on-site for 90 days or less, without a permit or interim status, provided that the generator complies with the management requirements of Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)2.(i)-(v) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
29. Pursuant to Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)6 [40 C.F.R. § 262.34(d)], a generator of greater than 100 kilograms but less than 1,000 kilograms of hazardous waste per month is a small quantity generator (SQG) and may accumulate hazardous waste on-site for 180 days or less, without a permit or interim status, provided that the generator complies with the management requirements of Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e)6(i)-(v) [40 C.F.R. § 262.34(d)(1)-(5)] (hereinafter referred to as the “SQG Permit Exemption”).

#### IV. EPA ALLEGATIONS AND DETERMINATIONS

30. Respondent is a “person” as defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].
31. Respondent is the “owner/operator” of a “facility” located at 1818 Albion Street, Nashville, Tennessee, as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10].
32. Respondent is a “generator” of “hazardous waste” as those terms are defined in Tenn. Comp. R. & Regs. 0400-12-01-.01(2)(a) [40 C.F.R. § 260.10] and Tenn. Comp. R. & Regs. 0400-12-01-.02(1)(c) [40 C.F.R. § 261.3].
33. Respondent owns and/or operates a full service hospital, which provides health services to the surrounding community.
34. The EPA conducted a record review consisting of biennial reports, State notification records, and the Respondent’s hazardous waste manifests, generated during the time period of 2011 through 2015, to ensure generator compliance with the RCRA requirements during the relevant time period.
35. During the record review, the EPA discovered that during the relevant time period, the Respondent generated and offered for transport for treatment, storage, or disposal hazardous

wastes bearing the following hazardous waste codes: D001, D002, D003, D007, D009, D010, D011, P001, P075, P188, U010, U058, and U059.

36. During the record review, the EPA determined that the Respondent had not notified the authorized State in writing of the quantities and composition of wastes generated and the method by which they intended to store, treat or dispose of such wastes.
37. The EPA therefore alleges that Respondent violated Section 68-212-106(a)(2) of the THWMA, Tenn. Code Ann. § 68-212-106(a)(2) [Section 3010(a) of RCRA, 42 U.S.C. § 6930(a)], by failing to notify the department in writing of the quantities and composition of wastes generated and the method by which such person intends to store, treat or dispose of such wastes.
38. During the record review, the EPA determined that in one or more calendar months of the relevant time period, the Respondent generated and stored toxic, acute and/or listed hazardous waste streams in excess of the small and/or large quantity generator threshold amounts, without having met the requirements of the SQG and/or LQG Permit Exemptions as described below:
  - a. During the time period beginning December 12, 2011 and ending January 20, 2015 the Respondent on average generated 372 pounds of hazardous waste per month.
  - b. Assuming that all waste stored at the facility was shipped at the time of the previous shipment, the Respondent generated more than 220 pounds (100 kg) of hazardous waste per month on average beginning December 12, 2011 and ending January 20, 2015.
  - c. On at least one occasion on June 7, 2013 (manifest 000502396WAS) more than 2.2 pounds (1 kg) of acute hazardous waste was managed at the facility.

Specifically, the facility had not trained its employees in hazardous waste management, developed and implemented a facility specific contingency plan, conducted weekly inspections, or submitted biennial reports.

39. The EPA therefore alleges Respondent violated Section 68-212-108 of the THWMA, Tenn. Code Ann. § 68-212-108 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to meet the conditions of the LQG and/or SQG Permit Exemptions set forth in Tenn. Comp. R. & Regs. 0400-12-01-.03(4)(e) [40 C.F.R. § 262.34], which allows a generator to manage hazardous waste without a permit or interim status.
40. During the record review, the EPA determined that the Respondent had not obtained an EPA Identification number, prior to storing and offering for transport hazardous wastes.
41. The EPA therefore alleges that the Respondent violated Tenn. Comp. R. & Regs. 0400-12-01-.03(1)(c) [40 C.F.R. § 262.12], by failing to obtain an EPA identification number prior to storing and offering for transport hazardous waste.

## **V. TERMS OF AGREEMENT**

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

42. 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.



43. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
44. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
45. 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, 44 U.S.C. § 3501 *et seq.*
46. 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.
47. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
48. 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.
49. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
50. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
51. Each party will pay its own costs and attorneys' fees.

## VI. WORK TO BE PERFORMED

52. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions within One Hundred and Twenty (120) calendar days of the effective date of this Order, Respondent shall provide in writing the following to the EPA:
  - a. Respondent shall certify that it has assessed all its solid waste streams to determine the accurate waste codes and that it has developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating in compliance with RCRA and the regulations promulgated there under, including, but not limited to, procedures for:
    - i. Making hazardous waste determinations;
    - ii. Managing hazardous wastes;
    - iii. Reporting, transporting, and disposing of hazardous waste;

iv. Preparing the manifests; and,

v. Meeting the requirements of the land disposal requirements.

b. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 Notification, and within the prescribed time period; and,

c. Respondent shall provide, with its certification, a copy of Respondent's SOP as described in subparagraph A above.

53. In all instances in which this CA/FO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Hospital Authority of The Metropolitan Government of Nashville and Davidson County and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CA/FO shall be sent to the following:

U.S. Environmental Protection Agency  
Resource Conservation and Restoration Division  
Enforcement and Compliance Branch  
Hazardous Waste Enforcement and Compliance Section  
Attn: Brooke York  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

## VII. PAYMENT OF CIVIL PENALTY

54. Utilizing the RCRA Civil Penalty Policy, the EPA calculated an initial penalty for Respondent's RCRA violations. Respondent alleged an inability to pay the proposed penalty and submitted the required financial documents to support its claim. After review of those documents, the EPA determined that payment of the initial proposed penalty is clearly beyond the means of Respondent. Therefore the EPA has made consideration for the nominal penalty of ONE THOUSAND DOLLARS (\$1,000.00).

55. Respondent consents to the payment of a civil penalty in the amount of ONE THOUSAND DOLLARS (\$1,000), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.

56. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (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 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  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1818

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:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: John Schmid, (202) 874-7026  
REX (Remittance Express): 1-866-234-5681

57. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

And to:

Brooke York, Environmental Engineer  
Hazardous Waste Compliance and Enforcement Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division, US EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

58. If Respondent fails to remit the civil penalty as agreed to herein, the 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 or, if paying in installments, not paid in accordance with the installment schedule provided above. 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).
59. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

**VIII. PARTIES BOUND**

60. 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.
61. 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.

62. 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.

#### **IX. RESERVATION OF RIGHTS**

63. 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 handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
64. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
65. 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 storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

#### **X. OTHER APPLICABLE LAWS**

66. 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.

#### **XI. SERVICE OF DOCUMENTS**

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

F. Marshall Binford, Jr  
Associate Regional Counsel  
Office of RCRA/CERCLA Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia, 30303-8960  
(404) 562-9543

68. 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:

Joshua C. Lee  
Metropolitan Attorney

Department of Law  
P.O. Box 196300  
Nashville, Tennessee, 37219  
(615) 880-3784

**XII. SEVERABILITY**

69. 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.

**XIII. EFFECTIVE DATE**

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

*In the matter of Hospital Authority of The Metropolitan Government of Nashville and Davidson County, Docket No. RCRA-04-2017-4003(b):*


**AGREED AND CONSENTED TO:**

**RESPONDENT**

By:   
Joseph Webb, D.Sc., FACHE  
RESPONDENT'S SIGNATORY  
TITLE: Chief Executive Officer

Dated: 9/28/17

**United States Environmental Protection Agency**

By:   
Larry Lamberth, Chief  
Enforcement and Compliance Branch  
RCRA Division  
22

Dated: 09/29/17

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

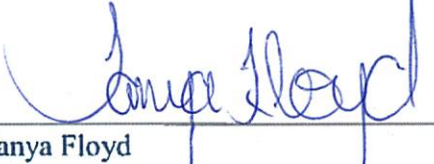
IN THE MATTER OF: ) DOCKET NO.: RCRA-04-2017-4003(b)  
)  
Hospital Authority of The Metropolitan Government) Proceeding Under Section 3008(a) of the  
of Nashville and Davidson County ) Resource Conservation and Recovery Act,  
1818 Albion Street ) 42 U.S.C. § 6928(a)  
Nashville, Tennessee 37208-2918 )  
EPA ID No.: TNR000042242 )  
)  
Respondent )  
\_\_\_\_\_ )

**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 29<sup>th</sup> day of September 2017.

BY:

  
\_\_\_\_\_  
Tanya Floyd  
Regional Judicial Officer  
EPA Region 4

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Hospital Authority of The Metropolitan Government of Nashville and Davidson County, Docket Number: RCRA-04-2017-4003(b), and have served the parties listed below in the manner indicated:

Marshall Binford  
Assistant/Associate Regional Counsel  
Office of RCRA, OPA and UST Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

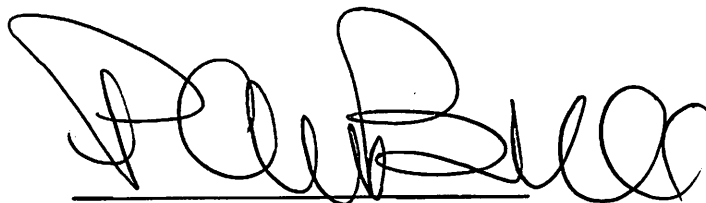
Quantindra Smith  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Joshua C. Lee  
Metropolitan Attorney  
Department of Law  
P.O. Box 196300  
Nashville, Tennessee, 37219  
(615) 880-3784

(Via Certified Mail - Return Receipt Requested)

Date: 9-29-17



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9511