

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE FILLED OUT BY ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: JEFFREY S. NAST 2/29/12  
Name of Contact person Date

in the EPA REGION III ORC at (215) 814-2652  
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS  Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt  This is a modification

Name of Person and/or Company/Municipality making the payment  
MARYVIEW HOSPITAL

The Total Dollar Amount of Receivable 42,360.<sup>00</sup>  
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2012-011

The Site-Specific Superfund Acct. Number \_\_\_\_\_

The Designated Regional/HQ Program Office OFFICE OF LAND <sup>and Chemicals Division</sup> ENFORCEMENT

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number \_\_\_\_\_  
If you have any questions call: \_\_\_\_\_  
Name of Contact Date

in the Financial Management Office, phone number: \_\_\_\_\_

**JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:**

- |  |                              |
|--|------------------------------|
| 1. Rosemarie Pacheco<br>Environmental Enforcement Section<br>Lands Division, Room 130044<br>1425 New York Avenue, N.W.<br>Washington, D.C. 20005 | 2. Originating Office (ORC)  |
|  | 3. Designated Program Office |

**ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:**

- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 3. Regional Counsel          |

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

RECEIVED

2012 MAR 22 PM 3:03

REGIONAL HEARING CLERK  
EPA REGION III, PHILA, PA

In Re: :  
: :  
Maryview Hospital : Docket No. RCRA-03-2012-0111  
3636 High Street :  
Portsmouth, VA 23707 :  
: :  
RESPONDENT : CONSENT AGREEMENT  
: :  
3636 High Street : Proceeding under 3008(a) and (g) of  
Portsmouth, VA 23707 : Resource Conservation and Recovery  
: Act, *as amended*, 42 U.S.C. § 6928(a) and (g)  
: :  
FACILITY :

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement ("CA") is entered into by the Director, Land and Chemicals Division, United States Environmental Protection Agency, Region III ("Complainant" or "EPA"), and Maryview Hospital ("Maryview" or "Respondent"), pursuant to 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. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order ("FO," hereinafter jointly referred to as the "CA/FO") both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA at Respondent's facility at 3636 High Street, Portsmouth, VA 23707 (the "Facility").
2. On December 18, 1984, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, Virginia was granted final 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 authorized Virginia hazardous waste management regulations ("VaHWMR") were revised, effective September 29, 2000 (*see* 65 *Fed. Reg.* 46606 (July 31, 2000)), June 20, 2003 (*see* 68 *Fed. Reg.* 36925 (June 20, 2003)), July 10, 2006 (*see* 71 *Fed. Reg.* 27216 (May 10, 2006)) and July 30, 2008 (*see* 73 *Fed. Reg.* 44168 (July 30, 2008)). The current provisions of the VaHWMR ("2003 VaHWMR") are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. Section 6928(a).

3. The 2003 VaHWMR, with exceptions not relevant to this matter, incorporates by reference the federal hazardous waste regulations as set forth in the July 1, 2001 Code of Federal Regulations. Citations in this CA to the 2003 VaHWMR will set forth the appropriate federal regulation as well as the Virginia provision which incorporates such federal regulation by reference.
4. This CA is entered into by Complainant and Respondent to address the violations alleged in the Findings of Fact, as set forth below.
5. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this CA, as set forth in this CA/FO.
6. For the purposes of this proceeding only, Respondent neither admits nor denies the Findings of Fact contained in this CA, except as provided in Paragraph 5, above.
7. For the purposes of this proceeding only, Respondent neither admits nor denies the Conclusions of Law contained in this CA, except as provided in Paragraph 5, above.
8. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations herein or to appeal the FO attached hereto.
9. The settlement agreed to by the parties in this CA reflects the desire of the parties to resolve this matter without litigation.
10. Respondent consents to the issuance of this CA and to the attached FO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
11. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

**Notice of Action to the Commonwealth of Virginia**

12. EPA has given the Commonwealth of Virginia prior notice of the issuance of this CA/FO in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In accordance with 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law:

13. As set forth in Paragraphs 6 and 7, above, Respondent neither admits nor denies these Findings of Fact and Conclusions of Law, but agrees to this settlement to avoid further litigation, as set forth in Paragraph 9, above.

14. Respondent is, and was at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), and 9 VAC 20-60-260.A, which incorporates by reference 40 C.F.R. § 260.10 with exceptions not relevant herein.
15. Respondent is and, at all times relevant to the violations alleged in this CA, was the “owner” and “operator” of a “facility” located at 3636 High Street, Portsmouth, Virginia (“the Facility”), as those terms are defined in 9 VAC 20-60-260.A, which incorporates by reference 40 C.F.R. § 260.10 with exceptions not relevant herein and has been assigned EPA ID No. VAD982662728.
16. On August 23, 2010, EPA, accompanied by representatives of the Virginia Department of Environmental Quality (“VADEQ”), conducted an inspection (the “Inspection”) at the Facility. At the time of the Inspection, and at all times relevant to the violations alleged in this CA/FO, Respondent was a “small quantity generator” of greater than 100 kg but less than 1000kg of “hazardous waste” in a calendar month at the Facility as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference into 9 VAC 20-60-260.A.
17. At the time of the Inspection, Respondent was engaged in the “storage” of “hazardous waste” in “containers” at the Facility as described herein, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference into 9 VAC 20-60-260.A.

**COUNT I**  
**(Operating Without a Permit)**

18. The allegations of Paragraphs 1 through 17 of this Consent Agreement are incorporated herein by reference.
19. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), 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.
20. 9 VAC 20-60-262 (which incorporates by reference 40 C.F.R. § 262.34 (a)) provides that a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that, *inter alia*:
  - a. The waste is placed in containers and the generator complies with 40 C.F.R. Section 265, Subparts I, AA, BB and CC;
  - b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
  - c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words “Hazardous Waste”; and
  - d. The generator complies with the requirements for owners or operators set

forth in 40 C.F.R. Sections 265, Subparts B, C and D, 265.16 and 268.7(a)(5).

21. 9 VAC 20-60-262 (which incorporates by reference 40 C.F.R. Section 262.34 (c)(1)) provides that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status provided he complies with 40 C.F.R. Sections 265.171, 265.172, and 265.173(a) and marks the containers with the words "Hazardous Waste" or other words that identify the contents of the containers.

**Failure to Label Containers:**

22. At the time of the Inspection, Respondent engaged in the storage of hazardous waste generated at the Facility including:
  - a. Four 55-gallon black metal drums labeled "waste xylene" (F003/D001 hazardous waste);
  - b. Two large black containers labeled "RCRA hazardous waste";
  - c. Nineteen 1-gallon cans of paints and stains (D001 hazardous waste); and
  - d. One red metal container labeled "xylene chemical waste" (F003/D001 hazardous waste).
23. Nineteen 1-gallon cans of paints and stains were not marked with the words "Hazardous Waste" as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a)(3).

**Failure to Mark Containers with Accumulation Start Dates:**

24. Four 55-gallon black metal drums labeled "waste xylene" and two large black containers labeled "RCRA hazardous waste", were not marked with the date upon which each period of accumulation of the hazardous waste contained therein began, as required by 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a)(2).

**Failure to Keep Containers Closed:**

25. 40 C.F.R. Part 265, Subpart I (which is incorporated by reference in 40 C.F.R. Section 262.34(a)(1)(i) which, in turn, is incorporated by reference in 9 VAC 20-60-262), includes 40 C.F.R. Section 265.173(a), which provides that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.
26. At the time of the Inspection, Respondent was storing at the Facility a 55-gallon drum of xylene that was not closed and one red plastic container of xylene that was not closed, even though it was not necessary to add or remove hazardous waste, in violation of 40

C.F.R. Section 265.173(a) (which is incorporated by reference in 40 C.F.R. Section 262.34(a)(1)(i) which, in turn, is incorporated by reference in 9 VAC 20-60-262).

27. At the time of the Inspection, Respondent failed to qualify for the “less than 180 day” generator accumulation exemption of 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34(d), for the activities described in Paragraphs 22-26, above, by failing to satisfy the conditions for such exemption as set forth in 9 VAC 20-60-262.A, which incorporates by reference 40 C.F.R. § 262.34(d).
28. Respondent’s Facility is a hazardous waste treatment, storage or disposal “facility”, as that term is defined by 9 VAC 20-60-270.A, with respect to the activities described in Paragraphs 22 through 26, above.
29. Respondent has never had a permit or interim status pursuant to 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), or Section 3005 of RCRA, 42 U.S.C. § 6925, for the storage of hazardous waste at the Facility.
30. Respondent was required by 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the activities described in Paragraphs 22 though 26, above.
31. Respondent violated 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by storing hazardous waste in containers at the Facility, as described above, without a permit, interim status or valid exemption.

**COUNT II**  
**(Failure to Make a Hazardous Waste Determination)**

32. The allegations of Paragraphs 1 through 31 of this Consent Agreement are incorporated herein by reference.
33. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. Section 262.11, provides that a person who generates a solid waste, as defined in 40 C.F.R. Section 261.2, must, determine if that waste is a hazardous waste using the following method:
  - (a) He should first determine if the waste is excluded from regulation under 40 C.F.R. Part 261.4;
  - (b) He must then determine if the waste is listed as a hazardous waste in the subpart D of 40 C.F.R. Part 261;
  - (c) If the waste is not listed in Subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in Subpart C of 40 C.F.R. Part 261 by either:

- (A) testing the waste, or
- (B) applying knowledge of the hazardous characteristic of the waste in light of the material or processes used.

- 34. Respondent uses Paclitaxel combined with alcohol, EPA Hazardous Waste No. D001, for chemotherapy treatment and disposes and stores unused portions of such waste in an unmarked yellow container in the soiled utility room at the Facility. This waste was, at the time of the violation alleged herein, "solid waste" as this term is defined in 9 VAC 20-60-260.A, which incorporates by reference 40 C.F.R. § 261.2, with exceptions not relevant hereto.
- 35. As of the date of the Inspection, Respondent failed to determine whether its "solid wastes" described in Paragraph 34, above, were hazardous wastes by applying knowledge of the hazardous characteristics of the waste or by testing the waste as provided in 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.11.
- 36. Respondent violated 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.11, by failing to perform hazardous waste determinations for the solid wastes generated at the Facility referred to in Paragraph 34 above.

**COUNT III**  
**(Failure to Keep Containers Closed)**

- 37. The allegations of Paragraphs 1 through 36 of this Consent Agreement are incorporated herein by reference.
- 38. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. Section 264.173(a), provides that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.
- 39. At the time of the Inspection, Respondent was storing at the Facility one of the waste xylene containers described in Paragraph 22.a., above, and the waste xylene container described in Paragraph 22.d., above, which were open, even though it was not necessary to add or remove hazardous waste, in violation of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. Section 264.173(a).

**COUNT IV**  
**(Failure to Label Universal Waste)**

- 40. The allegations of Paragraphs 1 through 39 of this Consent Agreement are incorporated herein by reference.
- 41. 9 VAC 20-60-273.A, which incorporates by reference 40 C.F.R. § 273.14(a), requires universal waste batteries (i.e., each battery), or a container in which the 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)."

42. At the time of the Inspection, Respondent was a "small quantity handler of universal waste" as that term is defined at 40 C.F.R. § 273.9, and was storing universal waste batteries in a cardboard box that contained spent alkaline, lead, and nickel-cadmium batteries in the area just outside the biomedical engineering room. This container was not labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."
43. At the time of the Inspection, Respondent failed to store universal waste batteries in a container with proper labels or markings, in violation of 9 VAC 20-60-273.A, which incorporates by reference 40 C.F.R. § 273.14(a).

### COUNTY

#### **(Failure to Demonstrate Accumulation Time for Universal Waste)**

44. The allegations of Paragraphs 1 through 43 of this Consent Agreement are incorporated herein by reference.
45. 9 VAC 20-60-273.A, which incorporates by reference 40 C.F.R. § 273.15(c), requires that a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler must make this demonstration by:
  - a. Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
  - b. Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
  - c. Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
  - d. Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
  - e. Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or



- f. Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.
46. At the time of the Inspection, Respondent was a “small quantity handler of universal waste” as that term is defined at 40 C.F.R. § 273.9, and was storing universal waste batteries in a cardboard box that contained spent alkaline, lead, and nickel-cadmium batteries in the area just outside the biomedical engineering room. This container was not labeled or marked clearly with any date or dates nor were any of the individual items in the container labeled or marked clearly with any date or dates, indicating when the universal waste became a waste or was received. Respondent did not maintain any on-site inventory system with regard to universal waste accumulation dates. Respondent did not place the universal waste in a specific accumulation area that was identified with a date of accumulation.
47. At the time of the Inspection, Respondent failed to demonstrate the length of time that the universal waste had been accumulated from the date it became a waste or was received, in violation of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 273.15(c).

**COUNT VI**  
**(Failure to Post Emergency Information)**

48. The allegations of Paragraphs 1 through 47 of this CA/FO are incorporated herein by reference.
49. 9 VAC 20-60-273.A, which incorporates by reference 40 C.F.R. §§ 262.34(d)(5)(ii), requires a generator of hazardous waste to post next to the telephone the following information: (a) the name and telephone number of the emergency coordinator; (b) the location of fire extinguishers and spill control material, and, if present, fire alarm; and (c) the telephone number for the fire department, unless the facility has a direct alarm.
50. At the time of the inspection, the Facility did not have posted next to the telephone the name and telephone number of the emergency coordinator; the location of fire extinguishers and spill control material, and, if present, fire alarm; and the telephone number for the fire department, in violation of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(d)(5)(ii).

**COUNT VII**  
**(Failure to Perform Weekly Inspections)**

51. The allegations of Paragraphs 1 through 50 of the CA/FO are incorporated herein by reference as though fully set forth at length.

52. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(d)(2), which in turn requires compliance with 40 C.F.R. §§ 265.174, requires that the owner or operator shall inspect areas where hazardous waste containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors.
53. From September 1, 2006 until September 1, 2011, Respondent failed to perform weekly inspections of the main hazardous waste accumulation areas at the Facility.
54. From September 1, 2006 through September 1, 2011, Respondent failed to conduct weekly inspections of containers of hazardous waste, which were being stored at the Facility, looking for leaks and for deterioration of such containers caused by corrosion and other factors.
55. Respondent's act and/or omission as alleged in Paragraph 54, above, constitutes a violations of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(d)(2), which in turn requires compliance with 40 C.F.R. §§ 265.174.

### **III. CIVIL PENALTIES**

56. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA/FO, Respondent consents to the assessment of a civil penalty in the amount of **\$42,360.00**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct signed copy of this CA/FO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CA/FO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent.
57. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of the violations and good faith efforts of the Respondent to comply, as provided for in Section 3008(a)(3) of RCRA, 42 U.S.C. Section 6928(a)(3).
58. Respondent shall remit payment for the civil penalty set forth in Paragraph 56, above, by certified check or cashier's check, or by electronic funds transfer, in the following manner:
  - A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2012-0111;
  - 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—Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Contact: 513-487-2105 or 513-487-2091

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

U.S. Bank  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by check in any currency drawn with no USA branches shall be addressed to:

Cincinnati Finance  
U.S. 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:

U.S. Treasury REX/Cashlink ACH Receiver

ABA=051036706  
Account No.: 310006, U.S. Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical Location of U.S. Treasury Facility  
5700 Rivertech Court  
Rivertech, Maryland 20737

Contact: 1-866-234-5681

H. On-Line Payment Option:

WWW.PAY.GOV

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

Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/payment\\_instructions.htm](http://www.epa.gov/ocfo/finservices/payment_instructions.htm)

I. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CA/FO. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Jeffrey S. Nast  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

59. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this CA/FO.

60. Pursuant to 31 U.S.C. Section 3717 and 40 C.F.R. Section 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
61. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a true and correct copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the 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. Section 13.11(a).
62. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. Section 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.
63. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. Section 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

#### **IV. CERTIFICATION OF COMPLIANCE**

64. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CA/FO, is in compliance with the provisions of RCRA, Subtitle C, 42 U.S.C. §§ 6901 *et seq.*, and the Commonwealth of Virginia's federally authorized hazardous waste program set forth at 9 VAC 20-60-260 *et seq.* at the Facility referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facility's compliance with Subtitle C of RCRA.

#### **V. OTHER APPLICABLE LAWS**

65. Nothing in this CA/FO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

#### **VI. RESERVATION OF RIGHTS**

66. This CA/FO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, 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 there under, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CA/FO.

#### **VII. FULL AND FINAL SATISFACTION**

67. The settlement set forth in this CA/FO shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the CA/FO.

#### **VIII. PARTIES BOUND**

68. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CA/FO.

#### **IX. EFFECTIVE DATE**

69. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

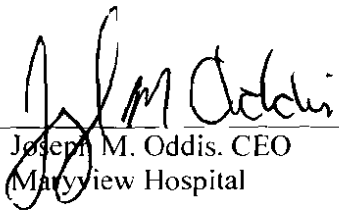
#### **X. ENTIRE AGREEMENT**

70. This CA/FO 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 CA/FO.

**For the Respondent:**

**Maryview Hospital**


Date: 2/27/2012

By:   
Joseph M. Oddis, CEO  
Maryview Hospital

**For the Complainant:**

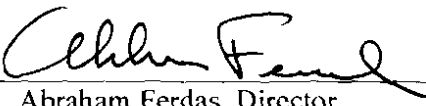
**U.S. Environmental Protection Agency, Region III**

Date: 2/29/2012

By:   
Jeffrey S. Nast  
Sr. Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 3/2/12

By:   
Abraham Ferdas, Director  
Land and Chemicals Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, PA 19103-2029**

<b>In Re:</b>	:	
	:	
<b>Maryview Hospital</b>	:	<b>Docket No. RCRA-03-2012-0111</b>
<b>3636 High Street</b>	:	
<b>Portsmouth, VA 23707</b>	:	
	:	
<b>RESPONDENT</b>	:	<b>FINAL ORDER</b>
	:	
	:	
<b>3636 High Street</b>	:	
<b>Portsmouth, VA 23707</b>	:	
	:	
	:	
<b>FACILITY</b>	:	

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, **Maryview Hospital**, have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT

Respondent shall pay a civil penalty in the amount of FORTY-TWO THOUSAND THREE-HUNDRED SIXTY DOLLARS (\$42,360.00) as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.



The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 3/19/12

BY: Renee Sarajian  
Renee Sarajian  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, PA 19103-2029**

**In Re:** :  
: **Docket No. RCRA-03-2012-0111**  
**Maryview Hospital** :  
**3636 High Street** :  
**Portsmouth, VA 23707** :  
: **CERTIFICATE OF SERVICE**  
**RESPONDENT** :  
:   
:   
**3636 High Street** :  
**Portsmouth, VA 23707** :  
:   
:   
**FACILITY** :

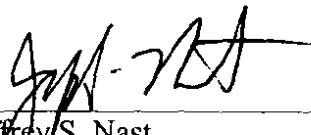
I certify that on the date noted below, I sent by Overnight Delivery Service, a copy of the Consent Agreement and Final Order, In Re: Maryview Hospital, Docket No. RCRA-03-2012-0111, to the persons and addresses listed below. The original Consent Agreement and Final Order were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III.

**Joseph M. Oddis, CEO  
Maryview Hospital  
3636 High Street Portsmouth, VA 23707**

and

**Christopher T. Albert, Esq.  
Hunton & Williams, LLP  
951 East Byrd Street  
Richmond, Virginia 23219**

Dated: 3/22/12

  
\_\_\_\_\_  
Jeffrey S. Nast  
Sr. Assistant Regional Counsel  
Office of Regional Counsel  
EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029