



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

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAY 05 2015

Steve McCormack
Office of Regional Counsel (02M), Rm. 2E127
Miami VA Healthcare System
1201 N.W. 16th Street
Miami, Florida 33125

Re: Miami VA Healthcare System (MVAHS)
Consent Agreement and Final Order
Docket Number: RCRA-04-2015-4002(b)

Dear Mr. McCormack:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above referenced matter. The CA/FO was effective upon filing. As a reminder, please make payment of the \$18,000.00 civil penalty, which is due within thirty (30) calendar days of the effective date of the CA/FO. A copy of the check, wire transfer or online payment should be submitted to the following people:

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

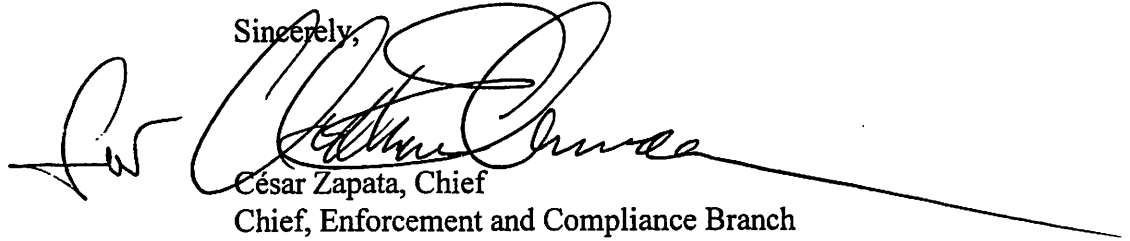
and to:

Larry L. Lamberth, Chief
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

In addition to the payment of a civil penalty, within thirty (30) calendar days of the effective date of this CA/FO, Respondent shall implement a comprehensive RCRA hazardous waste and universal pharmaceutical waste training program at the facility. Following the implementation of the training program, Respondent will certify that the facility is in compliance with RCRA and the authorized Florida hazardous waste program.

If you have any questions, please feel free to contact Parvez Mallick, of my staff, at (404) 562-8594. Legal questions should be directed to Teresa Mann at (404) 562-9572.

Sincerely,

A handwritten signature in black ink, appearing to read "Cesar Zapata", written over a horizontal line. The signature is stylized and cursive.

César Zapata, Chief
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

cc: Michelle DeGrandi

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2015-4002(b)
)	
U.S. Dept. of Veterans Affairs,)	
Miami VA Healthcare System)	
1201 N.W. 16th Street)	Proceeding Under Section 3008(a) of the
Miami, Florida 33125)	Resource Conservation and Recovery Act,
)	42 U.S.C. § 6928(a)
EPA ID No.: FLD 981 466 618)	
)	
Respondent)	
_____)	

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EPA REGION IV
MAY -5 PM 12:39
TRAINING CLERK

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 Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. § 403.702 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at Rule 62-730 et seq. of the Florida Administrative Code Annotated (Fla. Admin. Code Ann. r.) [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270]. This action seeks injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Fla. Admin. Code Ann. r. 62-730 et seq. [40 C.F.R. Parts 260 through 270, and 273].
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 U.S. Dept. of Veterans Affairs, Miami VA Healthcare System, a department of the United States federal government. Respondent is the owner and /or operator of a hospital, located at 1201 N.W. 16th Street, Miami, Florida 33125 (the Facility), that provides health care services to veterans.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization from the EPA to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Florida authorized program are found at Fla. Stat. § 403.702 et seq. and Fla. Admin. Code Ann. r. 62-730 et seq.
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. Florida 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).
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 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [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 Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].

12. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [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 Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261] or whose act first causes a hazardous waste to become subject to regulation.
13. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a Federal Agency.
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [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 Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [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.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [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.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D0043.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [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 Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for silver is identified with the EPA Hazardous Waste Number D011.
20. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005(a) of RCRA, 42 U.S.C. § 6925(a)], sets forth the requirement that facilities that treat, store, or dispose of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180 and 62-730.220 [40 C.F.R. Parts 264, 265 and 270].

21. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)], a generator of greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month is a Small Quantity Generator (SQG), and may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, as required by Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the applicable conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(1)-(5)] (hereinafter referred to as the “SQG Permit Exemption”).
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(5)(ii)(A-C)], a condition of the SQG Permit Exemption, a generator is required to post next to the telephone the name and telephone number of the emergency coordinator, the location of fire extinguishers and spill control material, and the telephone number of the fire department (unless the facility has a direct alarm).
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.37], and is a condition of the SQG Permit Exemption, a generator is required to attempt to make arrangements with the local authorities identified, as appropriate for the type of waste handled at his facility and the potential need for the services of these authorities.
24. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(2)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.174], and is a condition of the SQG Permit Exemption, a generator is required to, at least weekly, inspect areas where containers are stored looking for leaking containers and for deterioration of containers caused by corrosion or other factors. In addition, Fla. Admin. Code Ann. r. 62-730.160(6) requires that written documentation of such inspections be kept at least three years from the date of the inspection.
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acutely hazardous waste, as listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.33(e)], in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status, as required by Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the “SAA Permit Exemption”).
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark satellite

- accumulation containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
27. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.9], “Universal Waste” includes hazardous waste lamps as described in Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.5], hazardous waste batteries as described in Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.2], and pursuant to Fla. Admin. Code Ann. r. 62-730.186(4)(m), hazardous waste pharmaceuticals as defined in Fla. Admin. Code Ann. r. 62-730.186(4)(e).
 28. Pursuant to Fla. Admin. Code Ann. r. 62-730.186(4)(e), a hazardous waste pharmaceutical means a “non-viable” “pharmaceutical,” as defined in Fla. Admin. Code Ann. r. 62-730.186(4)(i) and 62-730.186(4)(h), respectively, that exhibits a characteristic as described in 40 C.F.R. Part 261, Subpart C or is listed hazardous waste pursuant to 40 C.F.R. Part 261, Subpart D. If the waste formulation includes a commercial chemical product listed in Subpart D as the sole active ingredient, then the entire formulation is considered a hazardous waste pharmaceutical, unless excluded by 40 C.F.R. § 261.3(g). A pharmaceutical becomes a waste when it is no longer “viable,” as defined Fla. Admin. Code Ann. 62-730.186(4)(n); when a decision is made to discard the pharmaceutical; or when the pharmaceutical is abandoned as described in 40 C.F.R. § 261.2(b).
 29. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.9], a Large Quantity Handler of Universal Waste (LQH UW) is a universal waste handler who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time or and pursuant to Fla. Admin. Code Ann. r. 62-730.186(4)(f), a waste handler who accumulates universal pharmaceutical waste (UPW) consisting of more than one kilogram total of pharmaceuticals listed in 40 C.F.R. § 261.33(e), as adopted in subsection Fla. Admin. Code r. 62-730.030(1) as acute hazardous waste (“p-listed wastes”). The designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the universal waste, identified in Fla. Admin. Code Ann. r. 62-730.186(4)(f) is accumulated.
 30. Pursuant to Fla. Admin. Code Ann. r. 62-730.186(3), if hazardous waste pharmaceuticals are not managed as UPW in accordance with the Florida UPW rules set forth in Fla. Admin. Code Ann. R 62-730.186, they shall be managed in accordance with Fla. Admin. Code Ann. r. 62-730 et seq. [40 C.F.R. Parts 260 through 270] as hazardous waste, and shall be disposed of at a permitted hazardous waste treatment, storage or disposal facility.
 31. Pursuant to Fla. Admin Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.33(d)(1)], a LQH UW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment by containing lamps in closed containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps.

32. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.34(e)], a LQHUW must label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s)” or “Used Lamp(s).”
33. Pursuant to Fla. Admin. Code Ann. r. 62-730.186(7)(b), a LQHUW handler shall clearly label those containers and tanks accumulating waste pharmaceuticals with the phrase “Universal Pharmaceutical Waste” or “Universal Waste Pharmaceuticals,” and keep records of what is going into each container sufficient to allow safe handling and proper disposal of the universal pharmaceutical waste.
34. Pursuant to Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.35(a) and (c)], except when handling UPW, a LQHUW may accumulate universal waste no longer than one year and must be able to demonstrate the length of time that its universal waste has been accumulated from the date that it becomes a waste or was received.
35. Pursuant to Fla. Admin. Code Ann. r. 62-730.186(8)(d), a LQHUW, when handling UPW, may accumulate UPW for no longer than 6 months from the date the UPW are generated, unless the requirements of Fla. Admin. Code. R. 62-730.186(8)(c) are met, and must be able to demonstrate the length of time that the UPW has accumulated from the date that it became a waste.

IV. EPA ALLEGATIONS AND DETERMINATIONS

36. Respondent is a Federal Agency of the United States, as defined in Section 1004(4) of RCRA, 42 U.S.C. § 6903(4).
37. Respondent is a department of the executive branch of the Federal Government and is subject to the requirements of Section 6001 of RCRA, 42 U.S.C. § 6961.
38. Respondent is a “person” as that term is defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
39. Respondent is the “owner/operator” of a “facility” located at 1201 N.W. 16th Street, Miami, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
40. Respondent is a “generator” of “hazardous waste” as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10] and Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3].
41. Respondent notified FDEP that it is a SQG of hazardous waste as that term is defined in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)] and that it is a LQHUW as that term is defined in Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.9] and Fla. Admin. Code Ann. r. 62-730.186(4)(f), in the March 5, 2014 Waste Generator

- Notification (EPA Form 8700-12) provided to FDEP. The hazardous waste that Respondent generates includes chemotherapy waste, biomedical wastes, universal pharmaceutical wastes, and partial doses of hazardous waste pharmaceuticals.
42. Respondent is an accredited comprehensive medical provider that owns and operates a hospital that provides general medical, surgical, inpatient and outpatient mental health services to veterans in three South Florida counties, Miami-Dade, Broward and Monroe.
 43. On June 23, 2014, the EPA conducted a multi-media inspection (MMI) of the Respondent's Facility, which included an evaluation of the Facility's compliance with RCRA. The RCRA findings of the MMI were documented in a RCRA Compliance Evaluation Inspection Report that was mailed to the Respondent on October 22, 2014.
 44. At the time of the MMI, the EPA observed two containers accumulating spent fixer waste (D011) in the X-ray processors room, located in the satellite accumulation area near the research and development area. The two containers were not labeled or marked with the words "Hazardous Waste" or with other words that identify the contents of the containers.
 45. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(4)] by not complying with the labeling requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)].
 46. At the time of the MMI, the EPA noted, and Respondent later confirmed, that between April 22, 2013 and April 14, 2014, Respondent had not conducted seven weekly inspections of the hazardous waste containers stored in the Facility's 180-Day Hazardous Waste Accumulation Area.
 47. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status because Respondent failed to meet a condition of the SQG Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. 262.34(d)(2)], by not complying with the inspection requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.174].
 48. At the time of the MMI, EPA observed that Respondent had not posted next to the telephone the name and phone number of the emergency coordinator, the location of fire extinguishers and spill control material, and the telephone number of the fire department.
 49. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status,

- because Respondent failed to meet a condition of the SQG Permit Exemption by not complying with the emergency preparedness requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(5)(A-C)].
50. At the time MMI, Respondent was unable to provide documents showing that Respondent had made arrangements with the local authorities identified, as appropriate, for the type of waste handled at the facility and the potential need for the services of those authorities.
 51. The EPA therefore alleges that Respondent violated Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status because Respondent failed to meet a condition of the SQG Permit exemption set forth by not complying with the local authority arrangement requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.37].
 52. At the time of the MMI, the EPA observed universal waste lamps in numerous locations in the Facility's warehouse that were in open containers, including a broken fluorescent lamp improperly contained in a roll off dumpster designated for the disposal of solid waste.
 53. The EPA therefore alleges that Respondent violated Fla. Admin. Code. r.62-730.185(1) [40 C.F.R. § 273.33(d)(1)], by failing to manage universal waste lamps in closed containers in a way that prevents releases of any universal waste to the environment.
 54. At the time of the MMI, EPA observed that Respondent had failed to label or clearly mark the universal waste lamps, or a container/box in which the lamps are contained, with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," and failed to mark the lamp containers/boxes with an accumulation start date.
 55. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.34(e)] by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps."
 56. At the time of the MMI, the EPA observed nine containers containing UPW that were not labeled as "Universal Pharmaceutical Waste" or "Universal Waste Pharmaceuticals".
 57. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.186(7)(b), by failing to label the UPW containers with the words "Universal Pharmaceutical Waste" or "Universal Waste Pharmaceutical.

58. At the time of the MMI, the EPA observed that Respondent had failed to demonstrate the length of time that its universal waste lamps and batteries had been accumulated from the date that the universal waste lamps and batteries became a waste or were received.
59. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.185(1) [40 C.F.R. § 273.35(a) and (c)] by failing to demonstrate the length of time that the facility's universal waste had been accumulated from the date that the universal waste became a waste or was received.
60. At the time of the MMI, the EPA observed twenty three containers containing UPW at the Facility. Respondent was unable to demonstrate the accumulation time for twenty one of the twenty three UPW containers.
61. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.186(8)(d), for failing to be able to demonstrate the length of time that the UPW had accumulated from the date that it became a waste in twenty one containers.

V. TERMS OF AGREEMENT

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

62. 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.
63. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
64. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement, and any right to confer with the Administrator.
65. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO.
66. 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.
67. 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.

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. 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.
70. Each party will pay its own costs and attorneys' fees.
71. Respondent certifies to EPA by its signature herein that it is presently in compliance with the provisions of RCRA referenced herein.
72. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA, Subtitle C, 42 U.S. C. §§ 6921- 6939e, or any regulations promulgated thereunder.

VI. DEMONSTRATION OF COMPLIANCE

73. Within thirty (30) calendar days of the effective date of this CA/FO, Respondent shall implement a comprehensive RCRA hazardous waste and Florida's universal pharmaceutical waste training program at the facility. Following the implementation of the training program, Respondent will certify that the facility is in compliance with RCRA and the authorized Florida hazardous waste program.

VII. PAYMENT OF CIVIL PENALTY

74. Respondent consents to the payment of a civil penalty in the amount of EIGHTEEN THOUSAND DOLLARS (\$18,000), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
75. 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

76. 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:

Larry Lamberth, Chief
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

77. In accordance with 40 C.F.R. § 13.3, any debt owed to the EPA as a result of Respondent's failure to make timely payments in accordance with Paragraph 74 above, shall be resolved by negotiation between the EPA and Respondent or by referral to the General Accounting Office.

VIII. PARTIES BOUND

78. 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.
79. 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.
80. 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

81. 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.
82. 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.
83. 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

84. 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

85. 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:

Teresa Mann
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
(404) 562-9572

86. 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:

Paul M. Russo, HHSA, FACHE, RD
Medical Center Director
U.S. Dept. of Veterans Affairs,
Miami VA Healthcare System
1201 N.W. 16th Street
Miami, Florida 33125

XII. SEVERABILITY

87. 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.

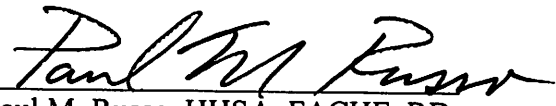
XIII. EFFECTIVE DATE

88. 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 U.S. Dept. of Veterans Affairs, Miami VA Healthcare System, Docket No. RCRA-04-2015-4002(b):

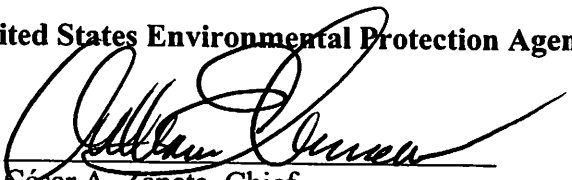
AGREED AND CONSENTED TO:

U.S. Dept. of Veterans Affairs, Miami VA Healthcare System

By: 
Paul M. Russo, HHSA, FACHE, RD
Medical Center Director
U.S. Dept. of Veterans Affairs,
Miami VA Healthcare System

Dated: 4-8-15

United States Environmental Protection Agency

By: 
César A. Zapata, Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
US EPA Region 4

Dated: 4/20/2015

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**


IN THE MATTER OF:

U.S. Dept. of Veterans Affairs,)	DOCKET NO.: CRA-04-2015-4002(b)
Miami VA Healthcare System)	
1201 N.W. 16th Street)	Proceeding Under Section 3008(a) of the
Miami, Florida 33125)	Resource Conservation and Recovery Act,
EPA ID No.: FLD 981 466 618)	42 U.S.C. § 6928(a)
)	
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 5th day of May, 2015

BY: 
Carol F. Baschon
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 **U.S. Dept. of Veterans Affairs, Miami VA Healthcare System**, Docket Number: RCRA-04- RCRA-04-2015-4002(b), and have served the parties listed below in the manner indicated:

Teresa Mann
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)

Parvez Mallick
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

(Via EPA's Electronic Mail)

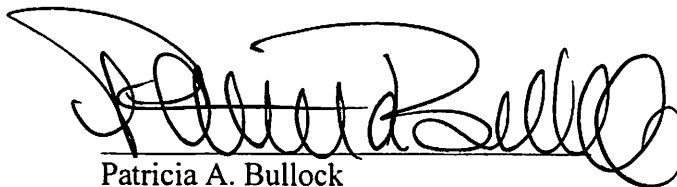
Quantindra Smith
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

(Via EPA's Electronic Mail)

Michelle M. DeGrandi
Environmental Attorney
Office of General Counsel (025A)
U.S. Dept. of Veterans Affairs
14312 Hayes Street
Overland Park, KS 66221

(Via Certified Mail-Return
Receipt Requested)

Date: 5-5-15



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