

**STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

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<b>IN THE MATTER OF:</b>	)	<b>DIVISION OF SOLID WASTE</b>
	)	<b>MANAGEMENT</b>
<b>CHATTANOOGA-HAMILTON COUNTY</b>	)	
<b>HOSPITAL AUTHORITY</b>	)	
<b>TND 07-490-9094</b>	)	<b>CASE NO. HWM 18-0046</b>
	)	
	)	
<b>RESPONDENT</b>	)	

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**DIRECTORS CONSENT ORDER AND ASSESSMENT**

**PARTIES**

**I.**

David Salyers, P.E., is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation (the "Department") and, among other duties and responsibilities, he is charged with the responsibility for administering and enforcing Tennessee Code Annotated ("Tenn. Code Ann.") § 68-212-101 *et seq.*, the *Tennessee Hazardous Waste Management Act*, and Tenn. Code Ann. § 68-211-1001 *et seq.*, the *Used Oil Collection Act*, (together the "Acts"). Patrick J. Flood is the duly appointed Director of the Division of Solid Waste Management (the "Division" or "DSWM"). He has received written delegation from the Commissioner to administer and enforce the Acts.

**II.**

Chattanooga-Hamilton County Hospital Authority (the "Respondent") is a domestic non-profit corporation, authorized to do business in Tennessee. Its agent for service of process is National Registered Agents, Inc., 300 Montvue Road, Knoxville, TN.

## **JURISDICTION**

### **III.**

When the Commissioner finds that provisions of the Acts are not being carried out, the Commissioner or his representative (the "Commissioner") is authorized by Tenn. Code Ann. §§ 68-212-111 and 68-211-1012 to issue an order for correction to the responsible party. Further, the Commissioner is authorized by Tenn. Code Ann. §§ 68-212-114 and 68-211-1012 to assess damages and civil penalties against any person who violates any provision of the Acts or any rule, regulation, or standard adopted pursuant to the Acts. Rules governing hazardous waste and used oil management have been promulgated pursuant to Tenn. Code Ann. § 68-212-107 and are effective as the Tenn. Comp. R. & Regs. 0400-12-01 through 0400-12-02 (the "Rules").

### **IV.**

The Respondent is a "person" within the meaning of Tenn. Code Ann. § 68-212-104(14).

### **V.**

For the purpose of enforcing the Act or any rule or regulation authorized by the Act, or enforcing any requirement of an order issued by the Commissioner, the Commissioner is authorized by Tenn. Code Ann. § 68-212-107 to enter any place where wastes (which the Commissioner has reason to believe may be hazardous) are, may be, or may have been generated, stored, transported, treated, disposed of, or otherwise handled. The Commissioner also has authority to inspect any samples of any waste, samples of any containers or labeling for such wastes, samples of ambient air, surface waters, and ground waters at the facility or site, as well as the authority to inspect and copy any records, reports, test results, or other information relating to the purposes of the Act.

## FACTS

### **VI.**

The Respondent operates a regional medical center (the “facility”), which includes an academic teaching hospital, a children’s hospital and a Level I Trauma Center. The facility is located at 975 East 3<sup>rd</sup> Street, Chattanooga, TN. The Respondent is a Large Quantity Generator of hazardous waste, a Small Quantity Generator of universal waste and a Used Oil generator. The facility generates hazardous wastes primarily from the operation of two pharmacies which include chemotherapy drugs, one medication dispensary room located on each patient room floor, and a genetics laboratory. Universal waste and used oil are generated by routine maintenance operations. The facility has an Environmental Protection Agency (“EPA”) installation identification number of TND 07-490-9094.

### **VII.**

#### The September 19, 20, 21 and 27, 2018 Compliance Evaluation Inspection

On September 19, 20, 21 and 27, 2018 the DSWM conducted a Compliance Evaluation Inspection (“CEI”) at the Respondent’s facility. As a result of the CEI, a Notice of Violation (“NOV”) was issued to the Respondent on November 2, 2018. The NOV cited the following violations detailed in Sections VIII through XXIII:

1. Failure to place accumulation start dates on six 55-gallon drums, one 30-gallon drum and sixteen 8-gallon or smaller containers staged in 90-day storage areas.
2. Failure to label on six 55-gallon drums, one 30-gallon drum and sixteen 8-gallon or smaller containers staged in 90-day storage areas with the words “Hazardous Waste”.
3. Failure to close two 8-gallon and four 2-gallon containers of hazardous waste.
4. Failure to submit Hazardous Waste Annual Reports for calendar years 2015, 2016 and 2017.

5. Failure to submit Hazardous Waste Generator Annual Fees for calendar years 2015, 2016 and 2017.
6. Failure to notify the Division of the generation of five active hazardous waste streams.
7. Failure to include the EPA installation identification number on two hazardous waste manifests.
8. Failure to conduct weekly inspections of the facility's 90-day storage areas.
9. Failure to provide records of the training of employees who handle hazardous waste.
10. Failure to provide job titles, job descriptions and the amount and type of training for employees who handle hazardous waste.
11. Failure to properly containerize universal waste lamps.
12. Failure to properly label universal waste lamps.
13. Failure to provide adequate aisle space in the central accumulation 90-day hazardous waste storage area.
14. Failure to properly label one 10-gallon container of universal waste batteries located in the less-than-90-day storage area.
15. Failure to have a consolidated facility Contingency Plan.
16. Failure to have a facility Hazardous Waste Reduction Plan.

#### **VIII.**

- 1. Failure to place accumulation start dates on six 55-gallon drums, one 30-gallon drum and sixteen 8-gallon or smaller containers staged in 90-day areas.**

The Division inspector observed six 55-gallon drums, one 30-gallon drum and one 15-gallon drum of hazardous waste in the 90-day hazardous waste storage portion of the central accumulation area that did not have accumulation start dates. The Division inspector also observed a total of sixteen 8-gallon or smaller containers located in the facility pharmacies and medication dispensing rooms that each contained greater than one quart of acute hazardous

waste. These areas were therefore considered to be 90-day storage areas instead of satellite accumulation areas, and the containers were required to be marked with accumulation start dates.

#### **IX.**

- 2. Failure to label on six 55-gallon drums, one 30-gallon drum and sixteen 8-gallon or smaller containers staged in 90-day areas with the words "Hazardous Waste".**

The Division inspector observed six 55-gallon drums and one 30-gallon drum of hazardous waste in the 90-day storage portion of the central accumulation area that were not labeled with the words "Hazardous Waste". The Division inspector also observed a total of sixteen 8-gallon or smaller containers located in the facility pharmacies and medication dispensing rooms that were not labeled with the words "Hazardous Waste".

#### **X.**

- 3. Failure to close two 8-gallon containers of hazardous waste in the Children's Pharmacy and four 2-gallon containers of hazardous waste located in the medication dispensary rooms on the 4<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> floors.**

The Division inspector observed two 8-gallon containers of hazardous waste in the Children's Pharmacy and four 2-gallon containers of hazardous waste located in the medication dispensary rooms on the 4<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> floors which were not closed. Facility personnel closed these containers during the CEI.

#### **XI.**

- 4. Failure to submit Hazardous Waste Annual Reports for calendar years 2015, 2016 and 2017.**

The Division inspector observed that the Respondent had not submitted Hazardous Waste Annual Reports for the 2015, 2016 and 2017 calendar years.

#### **XII.**

- 5. Failure to submit hazardous waste generator Annual Fees for calendar years 2015, 2016 and 2017.**

The Division inspector observed that the Respondent had not submitted hazardous waste generator Annual fees for the 2015, 2016 and 2017 calendars years.

### **XIII.**

**6. Failure to notify the Division of the generation of five active hazardous waste streams.**

The Division inspector observed that the Respondent had not notified the Division on the generation of five active hazardous waste streams.

### **XIV.**

**7. Failure to include the EPA installation identification number on two hazardous waste manifests.**

The Division inspector observed that the facility's EPA installation identification number had not been placed on two hazardous waste manifests. Facility personnel instead incorrectly identified the facility as a Conditionally Exempt Small Quantity Generator.

### **XV.**

**8. Failure to conduct weekly inspections of the 90-day storage areas.**

The Division inspector noted that the Respondent had not conducted weekly inspections of any the of the facility's 90-day storage areas.

### **XVI.**

**9. Failure to provide records of the training of employees who handle hazardous waste.**

The Respondent could not provide records of training for employees who handle hazardous waste.

### **XVII.**

**10. Failure to provide job titles, job descriptions and the amount and type of training for employees who handle hazardous waste.**

The Division inspector noted that the Respondent's training records did not have proper job titles, job descriptions and the amount of type or training required for employees who handle hazardous waste.

**XVIII.**

**11. Failure to properly containerize universal waste lamps.**

The Division inspector observed several loose universal waste lamps in the less-than-90-day storage portion of the central accumulation area.

**XIX.**

**12. Failure to properly label universal waste lamps.**

The Division inspector observed five boxes of universal waste lamps in the less-than-90-day storage portion of the central accumulation area that were not labeled appropriately.

**XX.**

**13. Failure to provide adequate aisle space in the 90-day storage portion of the central accumulation area.**

The Division inspector noted that there was inadequate aisle space in the 90-day storage portion of the central accumulation area and could not verify the conditions of several of the drums and other containers.

**XXI.**

**14. Failure to properly label one 10-gallon container of universal waste batteries located in the 90-day storage portion of the central accumulation area.**

The Division inspector observed one 10-gallon container of universal waste batteries in the 90-day storage area of the central accumulation area that was not properly labeled.

**XXII.**

**15. Failure to provide a consolidated copy of the facility's Contingency Plan.**

The Division inspector observed that, while elements of the required Contingency Plan were present in various documents, the Respondent was unable to provide a comprehensive Contingency Plan.

#### **XXIII.**

##### **16. Failure to provide a copy of the facility's Hazardous Waste Reduction Plan.**

The Division inspector observed that the Respondent had not developed a facility Hazardous Waste Reduction Plan.

#### **XXIV.**

On January 16, 2019 the Division issued a Show Cause Opportunity letter to the Respondent. During the Show Cause meeting held on February 7, 2019, the Respondent was able to demonstrate on-going actions to correct all violations cited in the November 2, 2018 NOV.

#### **XXV.**

##### The February 5, 2019 Follow Up Inspection

On February 5, 2019 the Division conducted a follow-up inspection and noted that violations cited in the November 2, 2018 NOV had been corrected, with the exceptions of the submittal of amended Annual Reports and the submittal of updated hazardous waste stream notifications. During the follow-up inspection, the Division inspector observed 4 new violations:

1. One satellite accumulation container in the 9<sup>th</sup> floor medication dispensing room was not closed. Facility personnel corrected this violation during the follow-up inspection.
2. The name of the destination facility was not included on the 2016 off-site shipping report. This violation was corrected on February 22, 2019.
3. The Respondent had exceeded the 7 day timeframe for weekly inspections of the 90-day storage portion of the central accumulation area on 3 occasions since September of 2018. This violation is uncorrectable.



4. One 30-gallon container of universal waste batteries in the 90-day storage portion of the central accumulation area was not labeled. Facility personnel labeled this container during the follow-up inspection.

**XXVI.**

On February 22, 2019 the Respondent submitted amended Hazardous Waste Annual Reports for 2015, 2016 and 2017 as well as updated waste stream generation notifications to the Division's Waste Activity Audit Section.

**XXVII.**

On March 8, 2019 the Division sent a letter to the Respondent documenting the findings of the February 5, 2019 follow-up inspection.

**XXVIII.**

On March 21, 2019 the Respondent paid all hazardous waste generator Annual Fees, including late penalties and interest.

**XXIX.**

During the course of investigation, the Division incurred DAMAGES in the amount of FOUR THOUSAND ONE HUNDRED SIXTY TWO DOLLARS AND FIFTY CENTS (\$4,162.50).

**VIOLATIONS**

**XXX.**

The Respondent failed to place accumulation start dates on containers of hazardous waste as required by Rule 0400-12-01-.03(4)(e)2.(ii).

Rule 0400-12-01-.03(4)(e)2.(ii) states:

- (4) Pre-transport Requirements
  - (e) Accumulation Time

2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

- (ii) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

By failing to place accumulation start dates on containers of hazardous waste, the Respondent violated Rule 0400-12-01-.03(4)(e)2.(ii).

### **XXXI.**

The Respondent failed to label containers of hazardous waste with the words "Hazardous Waste" as required by Rule 0400-12-01-.03(4)(e)2.(iii).

Rule 0400-12-01-.03(4)(e)2.(iii) states:

(4) Pre-transport Requirements

(e) Accumulation Time

2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

- (iii) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste";

By failing to label containers of hazardous waste with the words "Hazardous Waste", the Respondent violated Rule 0400-12-01-.03(4)(e)2.(ii).

### **XXXII.**

The Respondent failed to close containers of hazardous waste as required by Rule 0400-12-01-.03(4)(e)2.(i)(I), which incorporates Rule 0400-12-01-.05(9)(d)1.

Rule 0400-12-01-.03(4)(e)2.(ii) states:

(4) Pre-transport Requirements

(e) Accumulation Time

2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:
  - (i) The waste is placed:
    - (I) In containers and the generator complies with the applicable requirements of Rules 0400-12-01-.05(9), (27), (28), and (29), and/or

Rule 0400-12-01-.05(9)(d)1 states:

(9) Use and Management of Containers

(d) Management of Containers

1. A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

By failing to close containers of hazardous waste, the Respondent violated Rule 0400-12-01-.03(4)(e)2.(i)(I), which incorporates Rule 0400-12-01-.05(9)(d)1.

### XXXIII.

The Respondent failed to submit Hazardous Waste Annual Reports for calendar years 2015, 2016 and 2017 as required by Rule 0400-12-01-.03(5)(b)1.

Rule 0400-12-01-.03(5)(b)1. states:

(5) Recordkeeping and Reporting

(b) Annual Reporting

1. A generator must submit an Annual Report to the Department by March 1 for the preceding calendar year. Such report must be submitted on forms provided by the Department, and the form must be completed according to the instructions accompanying it. The report must include, but shall not necessarily be limited to, the following information:
  - (i) The year covered by the report.
  - (ii) The name, address, telephone number, and Department-assigned installation identification number of the generator.

- (iii) For each hazardous waste stream (i.e., each separate waste but not necessarily each batch or shipment of such waste) generated by the generator during the reporting year, except for those wastes identified in part 4 of this subparagraph, the following information:
  - (I) A descriptive name of the waste and the appropriate waste code(s) from Rule 0400-12-01-.02;
  - (II) The methods by which the waste was managed on-site by the generator during the reporting year and the total quantities managed by each method; and
  - (III) For those wastes managed off-site during the reporting year:
    - I. The Installation Identification Number of each treatment, storage, or disposal facility, or the name and address of other places, to which the waste was sent;
    - II. The total quantity of the waste sent to each place and the method(s) by which it was to be managed; and
    - III. The Installation Identification Number(s) of those transporters whose services were used during the reporting year.
- (iv) A summary of the efforts undertaken during the year to reduce volume and toxicity as required on the Tennessee annual report forms.
- (v) A summary of the changes in volume and toxicity of waste actually achieved during the year as required on the Tennessee annual report forms.
- (vi) The certification signed by the generator or authorized representative.

By failing to submit Hazardous Waste Annual Reports for calendar years 2015, 2016 and 2017, the Respondent violated Rule 0400-12-01-.03(5)(b)1.

#### XXXIV.

The Respondent failed to submit Hazardous Waste Annual Fees for calendar years 2015, 2016 and 2017 as required by Rule 0400-12-01-.08(5)(a)2.

Rule 0400-12-01-.08(5)(a)2. states:

(5) Generator Fees

(a) Annual Generator Fees

2. Except as provided in subparagraph (b) of this paragraph, the Annual Generator Fee for Large Quantity Generators shall consist of a base amount of 2,000 dollars plus an off-site shipping fee determined in accordance with subparagraphs (c) and (d) of this paragraph.

(i) For the purpose of this subparagraph Large Quantity Generator shall mean:

(I) Any generator who generates 1000 kilograms or more of hazardous waste in any calendar month of the previous calendar year; or

(II) Any generator who generates over 1 kilogram of acute hazardous waste, or over 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of an acute hazardous waste, in any calendar month of the previous calendar year;

By failing to submit Hazardous Waste Annual Fees for calendar years 2015, 2016 and 2017, the Respondent violated Rule 0400-12-01-.08(5)(a)2.

#### XXXV.

The Respondent failed to notify the Division of the generation of hazardous waste streams as required by Rule 0400-12-01-.03(2)(c).

Rule 0400-12-01-.03(2)(c) states:

(2) Notification

(c) New Generators

Except as subparagraphs (a) and (e) of this paragraph provide otherwise, a person who becomes a generator of a waste after the effective date of regulations established under Rule 0400-12-01-.02 which identify that waste as a hazardous waste subject to the requirements of this paragraph, must notify the Department within 90 days after the date of initial generation. Such notification must be submitted on generator notification forms provided by the Department. The form must be completed according to the instructions accompanying it.

By failing to notify the Division of the generation of hazardous waste streams, the Respondent violated Rule 0400-12-01-.03(2)(c).

#### XXXVI.

The Respondent failed to properly utilize a hazardous waste manifest as required by Rule 0400-12-01-.03(3)(a)1.(i), which incorporates Rule 0400-12-01-.03(13)(a)I.Item1

Rule 0400-12-01-.03(3)(a)1.(i) states:

(3) The Manifest

(a) General Requirements

1. (i) A generator who transports, or offers for transport, a hazardous waste for offsite treatment, storage or disposal or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control Number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in Appendix I in subparagraph (13)(a) of this rule.

Rule 0400-12-01-.03(13)(a)I, Item 1 states:

(13) Appendix

- (a) Appendix I [Appendix to 40 CFR 262] -- Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)

#### I. Instructions for Generators

##### Item 1. Generator's U.S. EPA Identification Number

Enter the generator's U.S. EPA twelve digit identification number, or the State generator identification number if the generator site does not have an EPA identification number.

By failing to properly utilize a hazardous waste manifest, the Respondent violated Rule 0400-12-01-.03(3)(a)1.(i), which incorporates Rule 0400-12-01-.03(13)(a)I.Item 1.

**XXXVII.**

The Respondent failed to conduct weekly inspections of the less-than-90-day hazardous waste storage areas as required by Rule 0400-12-01-.03(4)(c)2.(i)(I), which incorporates Rule 0400-12-01-.05(9)(e)

Rule 0400-12-01-.03(4)(c)2.(i)(I) states:

(4) Pre-transport Requirements

(e) Accumulation Time

2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

(i) The waste is placed:

(I) In containers and the generator complies with the applicable requirements of Rules 0400-12-01-.05(9), (27), (28), and (29)

Rule 0400-12-01-.05(9)(e) states:

(9) Use and Management of Containers

(e) Inspections

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

(Comment: See subparagraph (b) of this paragraph for remedial action required if deterioration or leaks are detected.)

By failing to conduct weekly inspections of the less-than-90-day hazardous waste storage areas, the Respondent violated Rule 0400-12-01-.03(4)(e)2.(i)(I), which incorporates Rule 0400-12-01-.05(9)(e).

### XXXVIII.

The Respondent failed to provide training for personnel who handle hazardous waste as required by Rule 0400-12-01-.03(4)(e)2.(iv), which incorporates Rule 0400-12-01-.05(2)(g)1.(i)

Rule 0400-12-01-.03(4)(e)2.(iv) states:

(4) Pre-transport Requirements

(e) Accumulation Time

2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

(iv) The generator complies with the requirements for owners or operators in parts (2)(f)1, 3, and 4, subparagraph (2)(g) and paragraphs (3) and (4) of Rule 0400-12-01-.05 and with all applicable requirements under Rule 0400-12-01-.10;

Rule 0400-12-01-.05(2)(g)1.(i) states:

(2) General Facility Standards

(g) Personnel Training

1. (i) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this rule. The owner or operator must ensure that this program includes all the elements described in the document required under subpart 4(iii) of this subparagraph.

By failing to conduct training for the employees who handle hazardous waste, the Respondent violated Rule 0400-12-01-.03(4)(e)2.(iv), which incorporates Rule 0400-12-01-.05(2)(g)1.(i)



**XXXIX.**

The Respondent failed to provide proper job titles and job descriptions for those employees who handle hazardous waste as required by Rule 0400-12-01-.03(4)(e)2.(iv), which incorporates Rule 0400-12-01-.05(2)(g)4.

Rule 0400-12-01-.03(4)(e)2.(iv) states:

(4) Pre-transport Requirements

(e) Accumulation Time

2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

(iv) The generator complies with the requirements for owners or operators in parts (2)(f)1, 3, and 4, subparagraph (2)(g) and paragraphs (3) and (4) of Rule 0400-12-01-.05 and with all applicable requirements under Rule 0400-12-01-.10;

Rule 0400-12-01-.05(2)(g)4. states:

(2) General Facility Standards

(g) Personnel Training

4. The owner or operator must maintain the following documents and records at the facility:

(i) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(ii) A written job description for each position listed under subpart (i) of this part. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

(iii) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under subpart (i) of this part;

- (iv) Records that document that the training or job experience required under parts 1, 2, and 3 of this subparagraph has been given to, and completed by, facility personnel.

By failing to provide proper job titles and job descriptions for those employees who handle hazardous waste, the Respondent violated Rule 0400-12-01-.03(4)(e)2.(iv), which incorporates Rule 0400-12-01-.05(2)(g)4.

#### **XL.**

The Respondent failed to properly containerize universal waste lamps as required by Rule 0400-12-01-.12(2)(d)4.(i)(I).

Rule 0400-12-01-.12(2)(d)4.(i)(I) states:

(2) Standards for Small Quantity Handlers of Universal Waste

(d) Waste Management

2. Universal Waste Lamps

- (i) A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment as follows:

- (I) A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

By failing to properly containerize universal waste lamps, the Respondent violated Rule 0400-12-01-.12(2)(d)4.(i)(I).

#### **XLI.**

The Respondent failed to properly label containers of universal waste lamps as required by Rule 0400-12-01-.12(2)(e)5.

Rule 0400-12-01-.12(2)(e)5. states:

(2) Standards for Small Quantity Handlers of Universal Waste

(e) Labeling/Marking

5. Universal waste lamps (i.e., each lamp), or a container or package in which such lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)" or "Universal Waste - Bulbs(s)" or "Waste Bulb(s)" or "Used Bulb(s)". Containers or packages destined for out-of-state shipment shall use the term "Lamps" in lieu of "Bulbs".

By failing to properly label containers of universal waste lamps, the Respondent violated Rule 0400-12-01-.12(2)(e)5.

**XLII.**

The Respondent failed to provide adequate aisle space in the central accumulation area as required by Rule 0400-12-01-.03(4)(e)2.(iv), which incorporates Rule 0400-12-01-.05(3)(f).

Rule 0400-12-01-.03(4)(e)2.(iv) states:

(4) Pre-transport Requirements

(e) Accumulation Time

2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:
  - (iv) The generator complies with the requirements for owners or operators in parts (2)(f)1, 3, and 4, subparagraph (2)(g) and paragraphs (3) and (4) of Rule 0400-12-01-.05 and with all applicable requirements under Rule 0400-12-01-.10;

Rule 0400-12-01-.05(3)(f) states:

(3) Preparedness and Prevention

(f) Required Aisle Space

The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and

decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

By failing to provide adequate aisle space in the central accumulation area, the Respondent violated Rule 0400-12-01-.03(4)(e)2.(iv), which incorporates Rule 0400-12-01-.05(3)(f).

### **XLIII.**

The Respondent failed to properly label containers of universal waste batteries as required by Rule 0400-12-01-.12(2)(e)1.

Rule 0400-12-01-.12(2)(e)1. states:

(2) Standards for Small Quantity Handlers of Universal Waste

(e) Labeling/Marking

1. 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)."

By failing to properly label containers of universal waste batteries, the Respondent violated Rule 0400-12-01-.12(2)(e)1.

### **XLIV.**

The Respondent failed to provide a consolidated Contingency Plan as required by Rule 0400-12-01-.03(4)(e)2.(iv), which incorporates Rule 0400-12-01-.05(4)(c)

Rule 0400-12-01-.03(4)(e)2.(iv) states:

(4) Pre-transport Requirements

(e) Accumulation Time

2. Except as provided in parts 6, 7 and 8 of this subparagraph, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

- (iv) The generator complies with the requirements for owners or operators in parts (2)(f)1, 3, and 4, subparagraph (2)(g) and paragraphs (3) and (4) of Rule 0400-12-01-.05 and with all applicable requirements under Rule 0400-12-01-.10;

Rule 0400-12-01-.05(4)(c) states:

(4) Contingency Plan and Emergency Procedures

(c) Content of Contingency Plan [40 CFR 265.52]

1. The contingency plan must describe the actions facility personnel must take to comply with subparagraphs (b) and (g) of this paragraph in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.
2. If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR 112, or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this paragraph. The owner or operator may develop one contingency plan which meets all regulatory requirements. The Department recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.
3. The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subparagraph (3)(h) of this rule.
4. The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subparagraph (f) of this paragraph), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.
5. The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and

- a physical description of each item on the list, and a brief outline of its capabilities.
6. The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

By failing to provide a consolidated Contingency Plan, the Respondent violated Rule 0400-12-01-.03(4)(e)2.(iv), which incorporates Rule 0400-12-01-.05(4)(c).

#### XLV.

The Respondent failed to have a facility Hazardous Waste Reduction Plan as required by Rule 0400-12-01-.03(6)(a)1.

Rule 0400-12-01-.03(6)(a)1. states:

(6) Hazardous Waste Reduction Plan

(a) Applicability

1. Except for generators who are conditionally exempt small quantity generators, as determined by subparagraph (1)(e) of Rule 0400-12-01-.02, and who maintain the exemption for all twelve months of the calendar year, all generators shall complete a hazardous waste reduction plan in accordance with the requirements of subparagraph (b) of this paragraph. After completion of a plan, the generator shall maintain a current copy of the plan at the generating facility. The plan and the annual progress reports under subparagraph (c) of this paragraph shall be made available, upon request, to a representative of the department at any reasonable time. The department may make use of the information as it deems necessary to carry out its duties under this rule of the information as it deems necessary to carry out its duties under this rule.

By failing to have a facility Hazardous Waste Reduction Plan, the Respondent violated Rule 0400-12-01-.03(6)(a)1.

## ORDER AND ASSESSMENT

### XLVI.

WHEREFORE, PREMISES CONSIDERED, pursuant to the authority vested by Tenn. Code. Ann. §§ 68-212-111 and 68-212-114, I, Patrick J. Flood, after proper consideration of the harm done to the public health or the environment, the economic benefit gained by the Respondent, the amount of effort put forth by the Respondent to attain compliance, and any unusual or extraordinary costs incurred by the Commissioner, hereby issue the following DIRECTORS CONSENT ORDER AND ASSESSMENT:

1. The Respondent is hereby assessed DAMAGES in the amount of FOUR THOUSAND ONE HUNDRED SIXTY TWO DOLLARS AND FIFTY CENTS (\$4,162.50) to be paid to the State on or before the 31<sup>st</sup> day after receipt of this ORDER.
2. The Respondent is hereby assessed a CIVIL PENALTY in the amount of THIRTY FIVE THOUSAND DOLLARS (\$35,000.00) to be paid to the State on or before the 31<sup>st</sup> day after receipt of this ORDER.
3. Payment of the DAMAGES AND CIVIL PENALTY should reference Case No. **HWM 18-0046**, be made payable to “Treasurer, State of Tennessee” and sent to the Division of Fiscal Services – Consolidated Fee Section, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10<sup>th</sup> Floor, Nashville, Tennessee 37243.

### RESERVATION OF RIGHTS

In agreeing to the foregoing CONSENT ORDER, the Director does not implicitly or expressly waive any provisions of the Act or regulations promulgated thereunder. Compliance

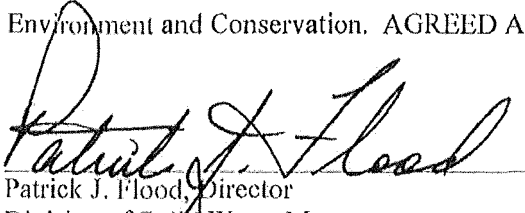
with the provisions of this CONSENT ORDER will be considered a mitigating factor in determining the need for future enforcement action(s).

The Respondent agrees to comply with this CONSENT ORDER to avoid cost of protracted litigation.

**WAIVER OF RIGHT TO APPEAL**

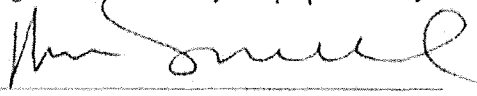
The Respondent understands that it has the right to appeal this CONSENT ORDER pursuant to Tennessee Code §§ 68-212-113 and 68-212-114. The Respondent knowingly and voluntarily waives all of these appeal rights.

**ORDERED** by the Director of the Division of Solid Waste Management, Department of Environment and Conservation. AGREED AND CONSENTED to by the Respondent.

  
Patrick J. Flood, Director  
Division of Solid Waste Management  
TN Department of Environment and Conservation

6/5/2019  
Date

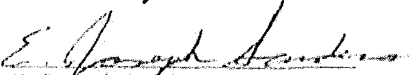
Chattanooga-Hamilton County Hospital Authority



6/5/19  
Date

By:

Reviewed by:

  
E. Joseph Sanders  
Senior Legal Advisor  
Department of Environment & Conservation  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243  
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