COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE
4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801
(540) 574-7800 Fax (540) 574-7878
www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

EXECUTIVE COMPLIANCE AGREEMENT

JAMES MADISON UNIVERSITY
FOR
Hazardous Waste Generating Facilities
EPA Identification Nos.: VAD077929198, VAD982677262

This is an Executive Compliance Agreement ("Agreement") between James Madison University ("JMU") and the Virginia Department of Environmental Quality ("DEQ") pursuant to the Director's authority, as set forth in Sections 10.1-1185 10.1-1455 of the Code of Virginia, to administer and enforce the Virginia Waste Management Act and Hazardous Waste Management Regulations.

JMU, a public educational institution located in Harrisonburg, Virginia operates two Hazardous Waste Generator sites. EPA Hazardous Waste Generator identification number VAD077929198 is assigned to the site located at South Main Street and services the main campus. EPA Hazardous Waste Generator identification number VAD982677262 is assigned to a second site located on Grace Street, which services the maintenance facility. JMU operates these sites as a small quantity generator and they are subject to VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS (VHWMR) at 9 VAC 20-60-10 *et seq*. Pursuant to Title 23, Chapter 12.1 of the Code of Virginia, "The Visitors of James Madison University" are vested with the authority and responsibility to govern JMU, the control over the expenditure of funds and the power to appoint the president, who shall function as JMU's chief executive officer. Nothing in this Agreement shall operate to limit such authority of the Visitors or otherwise violate the laws of the Commonwealth.

On April 13 and 14, 2009, DEQ Valley Regional Office staff conducted compliance evaluation inspections of JMU's hazardous waste generator sites noted above. On June 11, 2009, DEQ issued a Notice of Violation ("NOV") to JMU containing the following applicable violations of the Waste Management Laws and Regulations discovered during the inspections:

1. JMU generates hazardous waste in Memorial Hall and in the Art Studio buildings, neither of

which are located on property that is contiguous to the physical address of the two registered EPA ID numbers. JMU has transported waste to, and operates a hazardous waste accumulation area at another unregistered site located at the JMU Recycling Facility which is also property not contiguous to the physical address of the two registered EPA ID numbers. This is a violation of 40 CFR 262.12(a) as referenced in 9 VAC 20-60-262 of the VHWMR which requires that a generator must not treat, store, dispose of, or transport or offer for transportation hazardous waste without an EPA ID number.

2. JMU was storing hazardous waste, identified as a 2.5 gallon container of Copper magnesium, a 1 liter bottle of Nickel, and 14 gallons of KMDL, for 195 days or more. This is a violation of 40 CFR 262.34(d) as referenced in 9 VAC 20-60-262 of the VHWMR which states that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less.

3. JMU did not receive back from the hazardous waste disposal facility three manifests within 60 days of the original shipments of hazardous waste, and has not submitted a legible copy of the same to its EPA Regional Administration. 40 CFR 262.42(b) as referenced in 9 VAC 20-60-262 of the VHWMR requires that a generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received conformation of delivery, to the EPA Regional Administration for the Region in which the generator is located.

4. JMU, as a small quantity generator, has no written training procedures or records confirming that it has trained its employees on proper hazardous waste handling and emergency procedures. This is a violation of 40 CFR 262.34(d)(5)(iii) as referenced in 9 VAC 20-60-262 of the VHWMR which requires that a generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

5. Hazardous waste containers in the hazardous waste accumulation areas of the ISAT building, CSAT building, and hazardous waste accumulation building at the JMU Recycling Facility were not clearly marked with the words "Hazardous Waste" and did not have the accumulation start date clearly marked and visible for inspection on each container. This is in violation of 40 CFR 262.34(d)(4) as referenced in 9 VAC 20-60-262 which requires compliance with 40 CFR 262.34(a)(2)-(3). 40 CFR 262.34(a)(2) as referenced in 9 VAC 20-60-262 of the VHWMR requires that generators date each container with the date when accumulation begins, and that the date is clearly marked and visible for inspection. 40 CFR 262.34(a)(3) as referenced in 9 VAC 20-60-262 of the VHWMR also requires that generators label each container with the words "Hazardous Waste" while being accumulated on-site.

6. JMU does not produce weekly inspection reports for hazardous waste containers in the accumulation areas on its property. 40 CFR 262.34(d)(2) as referenced in 9 VAC 20-60-262.62

of the VHWMR which requires compliance with 40 CFR § 265.174 requires that, at least weekly, the owner or operator conduct and document inspections of the areas where containers are stored.

7. through 13. JMU, as a small quantity handler, handles fluorescent bulbs which are consider to be a universal waste. At the maintenance facility located in and around the universal waste lamp crusher, DEQ staff noted broken fluorescent bulbs laying on the ground and an open metal trash can half full of broken fluorescent bulbs. Additionally, JMU did not have a written procedure for operating the bulb crusher, did not document maintenance of the unit, and did not conduct and document operator training. Also, there were two unlabeled drums full of crushed fluorescent bulbs that were not dated with their accumulation start date. These observations are violations of the VHWMR at the following citations:

- 40 CFR 273.13(d) as referenced in 9 VAC 20-60-273 requires that 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.
- 40 CFR 273.13(d)(1) as referenced in 9 VAC 20-60-273 requires that 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 reasonable foreseeable conditions.
- 40 CFR 273.13(d)(2) as referenced in 9 VAC 20-60-273 requires that a small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment.
- 9 VAC 20-60-273(B)(3)(c)(2) requires that a small quantity handler of universal waste must develop and implement a written procedure specifying how to safely crush universal waste lamps. This procedure must include: type of equipment to be used to crush the lamps safely, operation and maintenance of the unit in accordance with written procedures developed by the manufacturer of the equipment, and proper waste management practices. The unit operator must document maintenance activities and keep records of maintenance. In addition, the unit operator must receive training in crushing procedures, waste handling and emergency procedures.
- 9 VAC 20-60-273(B)(3) (c)(5) requires that a small quantity handler of universal waste must store the crushed lamps in closed, nonleaking drums or containers that are in good condition. Transfer of the crushed lamps to the other drums or containers is not permitted.
- 40 CFR 273.14(e) and 273.15(c) as referenced in 9 VAC 20-60-273 requires that the containers be labeled with the words "Universal Waste Lamps" or "Waste Lamps" and dated to demonstrate the length of storage.
- 40 CFR 273.15(c) as referenced in 9 VAC 20-60-273 requires that a small quantity handler of 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.

14. The JMU Recycling Facility accumulation area contained universal waste lamp containers that were transported from the bulb crushing unit located in the maintenance facility on Grace Street. 40 CFR 273.18(a) as referenced in 9 VAC 20-60-273 of the VHWMR mandates that a small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination. 40 CFR 273.18(b) as referenced in 9 VAC 20-60-273 of the VHWMR states that if a small quantity handler of universal waste self transports universal waste off-site, the handler becomes a universal transporter for those self-transportation activities and must comply with the transportation requirements of Subpart D of this part while transporting the universal waste.

On July 23, 2009, JMU submitted documentation confirming that it has developed and implemented procedures to prevent future non-compliance of the items noted above. In addition, it submitted documentation confirming that item number 14 had been resolved.

Accordingly, JMU and the DEQ have agreed upon a schedule for corrective actions which is included in this Agreement as Appendix A.

This Agreement shall become effective upon the date of its execution by the Director of the Department of Environmental Quality or his designee.

Linwood H. R

Dr. Linwood H. Rose,
President and Chief Executive Officer
James Madison University

12-11-09
Date

YVETTE KNUPP
Notary Public
Commonwealth of Virginia
318142
My Commission Expires Sep 30, 2010

The foregoing instrument was acknowledged before me this 11th day of December 2009 by Linwood H. Rose in the City of Harrisonburg, VA. Yvette Knupp

David K. Paylor, Director
Va. Department of Environmental Quality

Date

APPENDIX A

JMU agrees to the following corrective actions to address certain violations specified in the NOV issued on June 11, 2009. By March 1, 2010, JMU shall:

1. Submit confirmation of the changes made to EPA identification number VAD077929198 (based on its submittal of a Form 8700-12) to include the new physical address of 1595 South Main St., Harrisonburg, VA 22807.

2. Submit a copy of the shipping manifest from a licensed hazardous waste transporter for removal of the hazardous wastes from the hazardous waste accumulation areas at the end of the fall semester.

3. Submit documentation, including but not limited to shipping manifests, confirming that it has maintained small quantity generator status since July 23, 2009.

4. Submit documentation confirming that signed copy of all manifests are received within 60 days of initial transport to the disposal facility or that a legible copy of the manifest, with some indication that JMU has not received conformation of delivery, has been submitted to the EPA.

5. Submit copies of the weekly inspection reports for containers located in the hazardous waste accumulation areas on its properties in accordance with the requirements of 40 CFR § 265.174 from November 2009 through February 2010.

6. Submit a copy of the bulb crusher maintenance and operation log covering from August through December 2009.