



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
VIRGINIA HOSPITAL CENTER ARLINGTON HEALTH SYSTEM
FOR
VIRGINIA HOSPITAL CENTER
EPA ID No. VAD988175733**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Virginia Hospital Center Arlington Health System, regarding Virginia Hospital Center, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" or "Site" means Virginia Hospital Center located at 1701 N. George Mason Drive in Arlington, Virginia.
6. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
7. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
8. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
10. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
12. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
13. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
14. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
15. "Va. Code" means the Code of Virginia (1950), as amended.

16. "VAC" means the Virginia Administrative Code.
17. "VHC" means Virginia Hospital Center Arlington Health System, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. VHC is a "person" within the meaning of Va. Code § 10.1-1400.
18. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. VHC operates an independent not-for-profit hospital located in Arlington, Virginia that provides over \$40 million dollars in charity care to those in need on an annual basis.
2. On February 8, 2018, DEQ staff conducted a hazardous waste compliance evaluation inspection (CEI) at the Facility. The CEI was conducted to evaluate Facility compliance with the applicable Virginia Hazardous Waste Management Regulations.
3. During the February 8, 2018 CEI, DEQ staff observed that unused medication, vials, and receptacles containing pharmaceutical residuals, unused chemotherapy medication, chemotherapy waste, and other potentially hazardous waste streams are being commingled with regulated medical waste (RMW) throughout the hospital. The materials are being placed in red RMW receptacles and yellow chemotherapy waste receptacles in patient rooms, the infusion center storage closet, the pharmacy, the chemotherapy mixing room inside the pharmacy, the Emergency Room, the Main Pathology Lab, and the Histology 2 Lab. These potential hazardous wastes are then subsequently managed as RMW and non-hazardous waste. Many unused medications that are potentially P and U listed hazardous waste are also placed in red sharps containers and managed as RMW. A hazardous waste determination has not been made by VHC on the potential hazardous wastes being managed in this manner.
4. 40 CFR 262.11 as incorporated by reference into 9 VAC 20-60-262, Hazardous Waste Determination states that a person who generates a solid waste, as defined in 40 CFR 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 CFR 261.4. (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 CFR part 261. (c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either: (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used. (d) If the waste is determined to be hazardous, the generator must refer

to parts 261, 264, 265, 266, 267, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste.

5. During the February 8, 2018 CEI, DEQ staff observed that VHC has not made hazardous waste determinations on all waste streams and has potentially commingled listed and characteristic hazardous waste with regulated medical waste and non-hazardous waste. As a result, VHC has not demonstrated that it is accurately counting its hazardous waste in order to properly determine its generator status.
6. 40 CFR 261.5 as referenced by 9 VAC 20-60-261 states (c) When making the quantity determinations of this part and 40 CFR Part 262, the generator must include all hazardous waste that it generates, except hazardous waste that: (1) Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8; or (2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10; or (3) is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2); or (4) Is used oil managed under the requirements of 40 CFR 261.6(a)(4) and 40 CFR part 279; or (5) Is spent lead-acid batteries managed under the requirements of 40 CFR part 266, subpart G; or (6) Is universal waste managed under 40 CFR 261.9 and 40 CFR part 273; (7) Is a hazardous waste that is an unused commercial chemical product (listed in 40 CFR part 261, subpart D or exhibiting one or more characteristics in 40 CFR part 261, subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to §262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in §262.200 of Part 262. (d) In determining the quantity of hazardous waste generated, a generator need not include: (1) Hazardous waste when it is removed from on-site storage; or (2) Hazardous waste produced by on-site treatment (including reclamation) of his hazardous waste, so long as the hazardous waste that is treated was counted once; or (3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
7. During the February 8, 2018 CEI, DEQ staff observed possible P and U listed and or characteristic hazardous wastes being commingled with RMW and managed as RMW and as non-hazardous waste. VHC staff informed DEQ that some of these wastes are sent off-site through Stericycle for management as RMW in Baltimore, MD. VHC staff indicated that some of these wastes are being steam-treated on site by VHC in the on site Chemclav unit prior to being sent to King George Landfill in King George, Virginia. The Chemclav unit is not designed for thermal treatment of pharmaceutical hazardous waste. VHC staff could not demonstrate that it has a permit or interim status to treat the hazardous waste.
8. 40 CFR 270.1(c) as referenced by 9 VAC 20-60-270 states in relevant part that (c) Scope of the RCRA permit requirement. RCRA requires a permit for the "treatment," "storage," and "disposal" of any "hazardous waste" as identified or listed in 40 CFR part 261. The terms "treatment," "storage," "disposal," and "hazardous waste" are defined in

- §270.2. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit.
9. During the February 8, 2018 CEI, DEQ staff was informed by VHC staff that VHC is treating possible P and U listed and or characteristic hazardous waste on site and was unable to provide documentation to DEQ that it has a written waste analysis plan.
 10. 40 CFR 268.7(a)(5) as referenced by 9 VAC 20-60-268 states: If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 40 CFR 262.34 to meet applicable LDR treatment standards found at §268.40, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 1, §268.45, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met: (i) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated, and contain all information necessary to treat the waste(s) in accordance with the requirements of this part, including the selected testing frequency. (ii) Such plan must be kept in the facility's on-site files and made available to inspectors.
 11. During the February 8, 2018 CEI, DEQ staff observed that possible P and U listed and/or characteristic hazardous wastes are being commingled with RMW and managed as RMW and as non-hazardous wastes. According to VHC staff this waste is being steam sterilized at VHC and subsequently sent to a solid waste landfill. VHC is sending hazardous waste to a facility that is not a permitted or interim status RCRA TSD or recycling facility.
 12. 40 CFR 262.12 as referenced by 9 VAC 20-60-262(c) states that a generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.
 13. 40 CFR 262.20(b) states that a generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.
 14. 40 CFR 260.10 as referenced by 9 VAC 20-60-260 states: Definitions. Designated facility means: (1) A hazardous waste treatment, storage, or disposal facility which: (i) Has received a permit (or interim status) in accordance with the requirements of parts 270 and 124 of this chapter; (ii) Has received a permit (or interim status) from a State authorized in accordance with part 271 of this chapter; or (iii) Is regulated under §261.6(c)(2) or subpart F of part 266 of this chapter; and (iv) That has been designated on the manifest by the generator pursuant to §262.20. (2) Designated facility also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with §264.72(f) or §265.72(f) of this chapter. (3) If a waste is destined to a facility in an authorized State which has not yet

obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.

15. During the February 8, 2018 CEI, DEQ staff reviewed Facility manifest documentation and noted that during multiple months in 2016, 2017, and 2018, greater than 2,200 pounds of hazardous waste or more than 2.2 pounds of acute hazardous waste was shipped off-site in a calendar month. Based on inspection findings, VHC operated as a large quantity generator during the following months: April 2016, June 2016, July 2016, January 2017, June 2017, August 2017, October 2017, November 2017, and January 2018. Based on a review of DEQ records, no notification of change in generator status was provided to DEQ.
16. 9 VAC 20-60-315(D), Notification, states: Anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.
17. VHC did not pay a large quantity generator annual fee for 2016.
18. 9 VAC 20-60-1284(A), Payment of Annual Fees, states: Due date. The operator of the treatment, storage, or disposal facility and each large quantity generator shall pay the correct fees to the Department of Environmental Quality. The department may bill the facility or generator for amounts due or becoming due in the immediate future. All payments are due and shall be received by the department no later than the first day of October 2004 (for the 2003 annual year), and no later than the first day of October of each succeeding year thereafter (for the preceding annual year) unless a later payment date is specified by the department in writing.
19. During the February 8, 2018, CEI, DEQ staff did not observe documentation that VHC had submitted a Biennial Report by March 1, 2018, for LQG hazardous waste generation or storage that occurred in 2017.
20. 40 CFR 262.41 as referenced by 9 VAC 20-60-262, Biennial Report, states: (a) A generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the Regional Administrator by March 1 of each even numbered year. The Biennial Report must be submitted on EPA Form 8700-13A, must cover generator activities during the previous year, and must include the following information: (1) The EPA identification number, name, and address of the generator; (2) The calendar year covered by the report; (3) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year; (4) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage or disposal facility within the United States; (5) A description, EPA hazardous waste number (from 40 CFR part 261, subpart C or D), DOT hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage or disposal facility within the United States. This information must be listed by EPA identification number of each

such off-site facility to which waste was shipped. (6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated. (7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984. (8) The certification signed by the generator or authorized representative. (b) Any generator who treats, stores, or disposes of hazardous waste on-site must submit a biennial report covering those wastes in accordance with the provisions of 40 CFR parts 270, 264, 265, 266, and 267. Reporting for exports of hazardous waste is not required on the Biennial Report form. A separate annual report requirement is set forth at 40 CFR 262.56.

21. Based upon the records reviewed by DEQ staff during the February 8, 2018 CEI, VHC became a large quantity generator in 2016. There is no record on file with DEQ that VHC provided notification of the exact location of all hazardous waste accumulation areas at the Facility.
22. 9 VAC 20-60-262(B)(4) states: For accumulation areas established after March 1, 1988, he shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34 prior to or immediately upon the establishment of each accumulation area. In the case of a new generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34. This notification shall specify the exact location of the accumulation area at the site.
23. During the February 8, 2018 CEI, DEQ staff observed that red RMW containers in the outpatient infusion center closet and the inpatient pharmacy containing potentially listed hazardous waste were open. DEQ staff also observed a labeled 55-gallon mixed solvent drum in the Histology 2 Lab that was open (no cap).
24. 40 CFR 265.173(a) as referenced by 9 VAC 20-60-265 states, Management of Containers. A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
25. During the February 8, 2018 CEI, VHC staff stated that weekly inspections of the hazardous waste accumulation areas were not being conducted. No documentation of any weekly inspections was available for review.
26. 40 CFR 265.174 as referenced by 9 VAC 20-60-265, Use and Management of Containers, Inspections, states: 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.
27. In satellite accumulation areas (SAAs) identified in observation 1 and within the Surgical Pathology Lab, DEQ staff did not observe hazardous waste labels on containers of hazardous waste and commingled hazardous waste and regulated medical waste. These

containers were not labeled with the words "Hazardous Waste" or other words to describe the contents of the containers.

28. 40 CFR 262.34 (c)(1) as referenced by 9 VAC 20-60-265 states: A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) 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 and without complying with paragraph (a) or (d) of this section provided he: (i) Complies with §§265.171, 265.172, and 265.173(a) of this chapter; and (ii) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
29. During the February 8, 2018 CEI, in SAAs throughout the hospital, DEQ staff observed possible P- and U-listed hazardous wastes and potentially characteristic hazardous wastes being commingled within the red RMW and yellow chemotherapy waste containers rendering the contents of the entire container P- and U-listed hazardous waste. Based upon the capacities of the containers and the mixing of listed wastes with RMW, any SAAs are not being properly managed as SAAs since VHC has exceeded the maximum capacity for acute hazardous waste in a satellite accumulation area, and has not dated the excess with the date that the maximum capacity was exceeded.
30. 40 CFR 262.34 as referenced by 9 VAC 20-60-262 states: (c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) 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 and without complying with paragraph (a) or (d) of this section provided he: (i) Complies with §§265.171, 265.172, and 265.173(a) of this chapter; and (ii) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers. (2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in §261.31 or §261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions of this chapter. During the three day period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.
31. During the February 8, 2018 CEI, VHC staff could not provide copies of hazardous waste manifests for the commingled hazardous and non-hazardous waste collected in the commingled stream red RQM containers and yellow chemotherapy containers. This includes failure to provide the appropriate Generator's Waste Minimization Certification Statement.
32. 40 CFR 262.20 as referenced by 9 VAC 20-60-262, General requirements, states: (a)(1) 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 the appendix to this part.

33. 40 CFR 262.23 as referenced by 9 VAC 20-60-262, Use of the manifest, states: (a) The generator must: (1) Sign the manifest certification by hand; and (2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and (3) Retain one copy, in accordance with §262.40(a). (b) The generator must give the transporter the remaining copies of the manifest.
34. 40 CFR 262.27 as referenced by 9 VAC 20-60-262, Waste minimization certification, states: A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest: (a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;"
35. During the February 8, 2018 CEI, DEQ staff observed that VHC did not properly label the commingled hazardous and non-hazardous waste collected in the commingled stream red RMW containers and tallow chemotherapy containers prior to transport.
36. 40 CFR 262.31 as referenced by 9 VAC 20-60-262, Labeling, states: Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172.
37. During the February 8, 2018, CEI, VHC staff could not provide documentation that the containers of commingled hazardous and non-hazardous waste collected in the commingled red RMW containers and yellow chemotherapy containers are marked in accordance with the applicable Department of Transportation regulations on hazardous materials prior to transport.
38. 40 CFR 262.32 as referenced by 9 VAC 20-60-262, Marking, states: (a) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172; (b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304:
HAZARDOUS WASTE – Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address _____
Generator's EPA Identification Number _____
Manifest Tracking Number _____.

39. During the February 8, 2018 CEI, VHC staff could not provide proper hazard placarding for the commingled hazardous and non-hazardous waste collected in the commingled stream red RMW containers and yellow chemotherapy containers prior to shipment off site.
40. 40 CFR 262.33 as referenced by 9 VAC 20-60-262, Placarding, states: Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation.
41. During the February 8, 2018 CEI, DEQ staff observed that possible P listed and U listed and/or characteristic hazardous wastes are being commingled with RMW and managed as regulated medical waste and as non-hazardous wastes. Mixing hazardous waste with non-hazardous waste is a form of hazardous waste treatment, and dilution of the hazardous waste as a substitute for proper treatment is prohibited.
42. 40 CFR 268.3 as referenced by 9 VAC 20-60-268, Dilution prohibited as a substitute for treatment, states: (a) Except as provided in paragraph (b) of this section, no generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with subpart D of this part, to circumvent the effective date of a prohibition in subpart C of this part, to otherwise avoid a prohibition in subpart C of this part, or to circumvent a land disposal prohibition imposed by RCRA section 3004.
43. During the inspection, DEQ staff observed that VHC is commingling possible P and U listed hazardous waste and/or characteristic hazardous waste with regulated medical waste and non-hazardous waste. This waste is being steam sterilized on-site, and then sent to the King George landfill for disposal. VHC sent land-disposal restricted wastes for land disposal without meeting the required treatment standards and without making the appropriate notifications to the facility. VHC has not applied for an exemption for a case-by-case extension to the effective date of any applicable land-disposal restriction for the commingled hazardous and non-hazardous waste collected in the commingled stream red RMW containers and yellow chemotherapy containers.
44. 40 CFR 268.1 as referenced by 9 VAC 20-60-268.1, Purpose, scope, and applicability, states: (a) This part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.(b) Except as specifically provided otherwise in this part or part 261 of this chapter, the requirements of this part apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste

treatment, storage, and disposal facilities.(c) Restricted wastes may continue to be land disposed as follows:(1) Where persons have been granted an extension to the effective date of a prohibition under subpart C of this part or pursuant to §268.5, with respect to those wastes covered by the extension; (2) Where persons have been granted an exemption from a prohibition pursuant to a petition under §268.6, with respect to those wastes and units covered by the petition; (3) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, or part 148 of this chapter, are not prohibited if the wastes: (i) Are disposed into a nonhazardous or hazardous injection well as defined under 40 CFR 146.6(a); and (ii) Do not exhibit any prohibited characteristic of hazardous waste identified in 40 CFR part 261, subpart C at the point of injection.(4) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, are not prohibited if the wastes meet any of the following criteria, unless the wastes are subject to a specified method of treatment other than DEACT in §268.40, or are D003 reactive cyanide: (i) The wastes are managed in a treatment system which subsequently discharges to waters of the U.S. pursuant to a permit issued under section 402 of the Clean Water Act; or (ii) The wastes are treated for purposes of the pretreatment requirements of section 307 of the Clean Water Act; or (iii) The wastes are managed in a zero discharge system engaged in Clean Water Act-equivalent treatment as defined in §268.37(a); and (iv) The wastes no longer exhibit a prohibited characteristic at the point of land disposal (i.e., placement in a surface impoundment).

45. 40 CFR 268.40 as referenced by 9 VAC 20-60-268, Applicability of treatment standards, states:(a) A prohibited waste identified in the table "Treatment Standards for Hazardous Wastes" may be land disposed only if it meets the requirements found in the table. For each waste, the table identifies one of three types of treatment standard requirements: (1) All hazardous constituents in the waste or in the treatment residue must be at or below the values found in the table for that waste ("total waste standards"); or (2) The hazardous constituents in the extract of the waste or in the extract of the treatment residue must be at or below the values found in the table ("waste extract standards"); or (3) The waste must be treated using the technology specified in the table ("technology standard"), which are described in detail in §268.42, Table 1—Technology Codes and Description of Technology-Based Standards. (b) For wastewaters, compliance with concentration level standards is based on maximums for any one day, except for D004 through D011 wastes for which the previously promulgated treatment standards based on grab samples remain in effect. For all non-wastewaters, compliance with concentration level standards is based on grab sampling. For wastes covered by the waste extract standards, the test Method 1311, the Toxicity Characteristic Leaching Procedure found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in §260.11, must be used to measure compliance. An exception is made for D004 and D008, for which either of two test methods may be used: Method 1311, or Method 1310B, the Extraction Procedure Toxicity Test. For wastes covered by a technology standard, the wastes may be land disposed after being treated using that specified technology or an equivalent treatment technology approved by the Administrator under the procedures set forth in

§268.42(b). (c) When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern. (d) Notwithstanding the prohibitions specified in paragraph (a) of this section, treatment and disposal facilities may demonstrate (and certify pursuant to 40 CFR 268.7(b)(5)) compliance with the treatment standards for organic constituents specified by a footnote in the table "Treatment Standards for Hazardous Wastes" in this section, provided the following conditions are satisfied:

(1) The treatment standards for the organic constituents were established based on incineration in units operated in accordance with the technical requirements of 40 CFR part 264, subpart O, or based on combustion in fuel substitution units operating in accordance with applicable technical requirements; (2) The treatment or disposal facility has used the methods referenced in paragraph (d)(1) of this section to treat the organic constituents; and (3) The treatment or disposal facility may demonstrate compliance with organic constituents if good-faith analytical efforts achieve detection limits for the regulated organic constituents that do not exceed the treatment standards specified in this section by an order of magnitude. (e) For characteristic wastes (D001-D043) that are subject to treatment standards in the following table "Treatment Standards for Hazardous Wastes," and are not managed in a wastewater treatment system that is regulated under the Clean Water Act (CWA), that is CWA-equivalent, or that is injected into a Class I nonhazardous deep injection well, all underlying hazardous constituents (as defined in §268.2(i)) must meet Universal Treatment Standards, found in §268.48, Table Universal Treatment Standards, prior to land disposal as defined in §268.2(c) of this part. (f) The treatment standards for F001-F005 non-wastewater constituents carbon disulfide, cyclohexanone, and/or methanol apply to wastes which contain only one, two, or three of these constituents. Compliance is measured for these constituents in the waste extract from test Method 1311, the Toxicity Characteristic Leaching Procedure found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in §260.11. If the waste contains any of these three constituents along with any of the other 25 constituents found in F001-F005, then compliance with treatment standards for carbon disulfide, cyclohexanone, and/or methanol are not required. (g) Between August 26, 1996 and March 4, 1999 the treatment standards for the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K156-K161; and in 40 CFR 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U277-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U400-U404, U407, and U409-U411; and soil contaminated with these wastes; may be satisfied by either meeting the constituent concentrations presented in the table "Treatment Standards for Hazardous Wastes" in this section, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST at §268.42 Table 1, for non-wastewaters; and, biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at §268.42 Table 1, for wastewaters.

46. During the February 8, 2018 CEI, VHC staff could not provide documentation that it determined whether the commingled hazardous and non-hazardous waste collected in the commingled stream red RMW containers and yellow chemotherapy containers had to be treated before it could be land disposed.
47. 40 CFR 268.7 as referenced by 9 VAC 20-60-268, Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities states: (a) Requirements for generators: (1) A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in §268.40, 268.45, or §268.49. This determination can be made concurrently with the hazardous waste determination required in §262.11 of this chapter, in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using test method 1311 in "Test Methods of Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, (incorporated by reference, see §260.11 of this chapter), depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. (Alternatively, the generator must send the waste to a RCRA-permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of §264.13 of this chapter and paragraph (b) of this section.) In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in §268.40, and are described in detail in §268.42, Table 1. These wastes, and soils contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of §268.9 of this part in addition to any applicable requirements in this section.
48. During the inspection, VHC staff could not provide documentation that it accompanied the initial shipment of the commingled hazardous and non-hazardous waste collected in the commingled stream red RMW containers and yellow chemotherapy containers with a notification to the treatment facility that includes the EPA hazardous waste number, manifest number, or LDR treatment standards determination.
49. 40 CFR 268.7(a)(2) as referenced by 9 VAC 20-60-268, Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities, states: If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice must include the information in column "268.7(a)(2)"

of the Generator Paperwork Requirements Table in paragraph (a)(4) of this section. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator's file.

50. DEQ staff reviewed copies of hazardous waste manifests for various waste streams that were maintained by environmental services staff. Land Disposal Restriction Notification Forms were not included with the hazardous waste shipments manifest number 00833717FLE dated July 11, 2016, manifest number 010495606FLE dated January 26, 2017, manifest numbers 007739764FLE and 007739765FLE dated June 1, 2017, and manifest number 010536461FLE dated October 5, 2017.
51. 40 CFR 262.40, as referenced by 9 VAC 20-60-262.40, Recordkeeping, states: (c)A generator must keep records of any test results, waste analyses, or other determinations made in accordance with §262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.
52. At the time of the February 8, 2018 CEI, DEQ staff was informed that there was no hazardous waste training plan or hazardous waste training program in place at the VHC. Facility staff stated that no VHC staff members had received any hazardous waste training. DEQ staff was informed that facility personnel do not receive annual refresher training. DEQ staff was also informed that the VHC emergency coordinator in charge of the management of hazardous waste has not received hazardous materials and/or hazardous waste training.
53. 40 CFR 265.16 as referenced by 9 VAC 20-60-265, Personnel Training, states: (a)(1) 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 part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section. (2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. (b) Facility personnel must successfully complete the program required in paragraph (a) of this section within six months after the effective date of these regulations or six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of paragraph (a) of this section. (c) Facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section. (3)

At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:(i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;(ii) Key parameters for automatic waste feed cut-off systems;(iii) Communications or alarm systems;(iv) Response to fires or explosions;(v) Response to ground-water contamination incidents; and(vi) Shutdown of operations.

54. During the February 8, 2018 CEI, VHC staff could not provide records for the testing and maintenance of equipment that would be needed in an emergency.
55. 40 CFR 265.33 as referenced by 9 VAC 20-60-265, Personnel Training, states: All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.
56. During the February 8, 2018 CEI, VHC staff could not provide documentation to demonstrate that a contingency plan or other alternative plan that documents the facility's emergency response procedures has been developed for VHC.
57. 40 CFR 265.51(a) as referenced by 9 VAC 20-60-265 states: Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.
58. During the February 8, 2018 CEI, VHC staff could not provide any documentation describing arrangements agreed to by local emergency authorities. VHC representatives informed DEQ staff that they were unaware whether these arrangements existed.
59. 40 CFR 265.37 as referenced by 9 VAC 20-60-265 states: The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations: (1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes; (2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority; (3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and (4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility. Where State or local

authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

60. During the February 8, 2018 CEI, DEQ staff observed several loose and cellophane-wrapped used fluorescent lamps within the facility maintenance corridor. The lamps were stored along the edge of the facilities hallway or were propped up against the wall in the hallway wrapped together with cellophane. VHC staff indicated that used lamps were transferred to and stored in this hallway until they were collected and moved to the central lamp storage area in the mechanical room in the garage. Additionally, within the central lamp storage area in the mechanical room in the garage (G-1 level of the Zone C portion of the hospital), hundreds of partially boxed (no lids and lamps were sticking out) used fluorescent lamps were observed. All of boxes of used lamps were open.
61. 40 CFR 273.13 (d)(1) as referenced by 9 VAC 20-60-273 states: 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.
62. During the February 8, 2018 CEI, DEQ staff observed that none of the used lamp boxes were labeled with the words "Universal Waste – Lamps" or other appropriate labeling within the central lamp storage area in the mechanical room in the garage.
63. 40 CFR 273.14 as referenced by 9 VAC 20-60-273 states: A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below: (e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".
64. During the February 8, 2018 CEI, VHC staff provided a Clean Venture, Inc. bill of lading for the removal of three drums of crushed lamps, one drum of ballasts, and one pallet of lead acid batteries for recycling dated October 6, 2015. After the inspection, VHC staff provided a copy of a manifest dated June 22, 2017, where eight drums of crushed bulbs were removed. Based on this information, VHC accumulated Universal Waste onsite for greater than one year.
65. 40 CFR 273.15(a) as referenced by 9 VAC 20-60-273 states: (a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met.
66. During the February 8, 2018 CEI, within the central lamp storage area in the mechanical room in the garage, DEQ staff observed universal waste lamps and universal waste containers with no discernible labels indicating the accumulation date. VHC staff could not provide any other method or procedure to demonstrate the length of time the universal waste had been accumulated.

67. 40 CFR 273.15(b) as referenced by 9 VAC 20-60-273 states: A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. (c) 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. The handler may make this demonstration by: (1) 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; (2) Marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received; (3) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received; (4) 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; (5) 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 (6) 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.
68. During the February 8, 2018 CEI, VHC staff indicated that no training on the handling of universal waste was provided to VHC staff.
69. 40 CFR 273.16 as referenced by 9 VAC 20-60-273 states: A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.
70. During the February 8, 2018 CEI, DEQ staff observed broken lamps within the open boxes of used lamps observed in the maintenance area in the G-1 level of the zone C portion of the hospital.
71. 40 CFR 273.17(a) as referenced by 9 VAC 20-60-273 states: A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes. (b) A small quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with 40 CFR part 262.
72. During the February 8, 2018 CEI, DEQ staff observed that one of the crushed lamp

- drums was open (loose bung ring that was not secured).
73. 9 VAC 20-60-1505(B)(7)(f) Additional Universal Wastes, states: Crushed mercury-containing lamps shall be stored in closed and hermetically sealed, nonleaking drums or containers that are in good condition (e.g., no severe rusting, no apparent structural defects, and no leaking).
74. During the February 8, 2018 CEI, DEQ staff observed five drums containing crushed lamps in the room and none of the drums were labeled or dated.
75. 9 VAC 20-60-1505(B)(7)(g) Additional Universal Wastes, states:
Drums or containers used for storage of crushed mercury-containing lamps shall be properly sealed and labeled. The label shall bear the words "universal waste-lamps," "waste lamps," or "used lamps."
76. During the February 8, 2018 CEI, DEQ staff observed a Bulb Eater Fluorescent Lamp Crushing System fitted atop a 55-gallon drum in the maintenance area in the G-1 level of the zone C portion of the hospital. Based on information provided during the inspection, VHC did not notify DEQ that it was crushing UW lamps on site.
77. 9 VAC 20-60-1505(B)(7)(h) Additional Universal Wastes, states: The generator or facility under the control of the generator shall make written notification to the department of the physical location of the crushing operation no later than January 31, 2017, for all existing operations or 30 calendar days prior to beginning operation of a new crushing operation. The notification shall include the name of the individual or company that owns the operation; the EPA ID number if one has been issued for the facility; the location of the crushing operation; and the names, addresses, and telephone numbers of the operator and principal contact person or persons. A written notice of changes in the notification data shall be sent to the department within 15 calendar days of the change. The notification shall include the certification required under subdivision 4 (b) of this subsection if applicable.
78. During the February 8, 2018 CEI, VHC staff could not provide DEQ staff with a documented operation procedure for operation of the bulb crusher.
79. 9 VAC 20-60-1505(B)(7)(i) Additional Universal Wastes, states: A written procedure specifying how to safely crush, handle, and store mercury-containing lamps and how to minimize the release of mercury, including during drum changes and malfunctions, shall be developed, implemented, and documented. This procedure shall include (i) the type of equipment to be used to crush mercury-containing lamps safely, (ii) instructions for proper equipment operation and a schedule for maintenance of the unit in accordance with written procedures developed by the manufacturer of the equipment, (iii) proper waste management practices, and (iv) the use of personal protective equipment to include at a minimum safety glasses or full face shield and cut-proof gloves. The maintenance schedule shall identify all maintenance operations and the frequency with which they

- must be performed, including replacement of particle filters and the activated carbon media as recommended by the manufacturer of the crushing unit.
80. During the February 8, 2018 CEI, VHC staff could not provide DEQ staff with a maintenance log for the bulb crusher.
 81. 9 VAC 20-60-1505(B)(7)(j) Additional Universal Wastes, states: Maintenance activities shall be documented and records of maintenance shall be maintained and available for inspection per subdivision 8 of this subsection.
 82. During the February 8, 2018 CEI, VHC staff could not provide documentation to DEQ staff to determine if training procedures for the bulb crusher were completed.
 83. 9 VAC 20-60-1505(B)(6) Additional Universal Wastes, states: Safety hazards to operating personnel shall be controlled through an active safety program consistent with the requirements of 29 CFR Part 1910.
 84. 9 VAC 20-60-1505(B)(7)(k) Additional Universal Wastes, states: Each unit operator shall receive initial and annual training in crushing procedures, waste handling, safety, use of personal protective equipment, and emergency procedures, including proper procedures for cleaning up broken mercury-containing lamps. All training shall be documented and records of training shall be maintained and available for inspection per subdivision 8 of this subsection.
 85. During the February 8, 2018 CEI, VHC maintenance personnel indicated that the crusher's filter had been changed in 2017 and that they put the used filter into a drum with the crushed lamps. This drum was sent off site as crushed bulbs and not as hazardous waste. VHC staff could not provide documentation showing when the hazardous waste drum was removed from the facility, if it was properly labeled as hazardous waste and dated, and whether it was shipped offsite within 90 days.
 86. 9 VAC 20-60-1505(B)(7)(l) Additional Universal Wastes, states: Residues, filter media, used equipment, other mercury-containing equipment, and other solid waste shall not be placed in the container with the crushed mercury-containing lamps. Any waste materials generated as part of the crushing operation that are determined to be hazardous waste shall be managed under this chapter, as hazardous waste or if not hazardous waste, as a solid waste under the Solid Waste Management Regulations, 9 VAC 20-81-10 et. al.
 87. During the February 8, 2018 CEI, VHC staff could not provide DEQ staff with any records of training, maintenance, bulb crushing hours, or closure activities.
 88. 9 VAC 20-60-1505(8) Additional Universal Wastes, states: A copy of all records, notifications, certifications, and reports required by this section shall be kept on site and be available for examination by the department for a period of at least three years.

89. On June 18, 2018, based on the inspection and DEQ document review, the DEQ issued a Notice of Violation to VHC for the violations described in paragraphs C(3) through C(88) above.
90. Based on the results of the February 8, 2018 CEI, and associated document review, VHC has violated 40 CFR 262.11, 40 CFR 261.5, 40 CFR 270.1(c), 40 CFR 268.7(a)(5), 40 CFR 262.12, 40 CFR 262.20(b), 40 CFR 260.10, 40 CFR 262.41, 40 CFR 265.173(a), 40 CFR 265.174, 40 CFR 262.34(c)(1), 40 CFR 262.34, 40 CFR 262.20, 40 CFR 262.23, 40 CFR 262.27, 40 CFR 262.31, 40 CFR 262.32, 40 CFR 262.33, 40 CFR 268.3, 40 CFR 268.1, 40 CFR 268.40, 40 CFR 268.7, 40 CFR 268.7(a)(2), 40 CFR 262.40, 40 CFR 265.16, 40 CFR 265.33, 40 CFR 265.51(a), 40 CFR 265.37, 40 CFR 273.13(d)(1), 40 CFR 273.14, 40 CFR 273.15(a), 40 CFR 273.15(b), 40 CFR 273.16, 40 CFR 273.17(a), 9 VAC 20-60-315(D), 9 VAC 20-60-1284(A), 9 VAC 20-60-262(B)(4), 9 VAC 20-60-1505(B)(7)(f), 9 VAC 20-60-1505(B)(7)(g), 9 VAC 20-60-1505(B)(7)(h), 9 VAC 20-60-1505(B)(7)(i), 9 VAC 20-60-1505(B)(7)(j), 9 VAC 20-60-1505(B)(6), 9 VAC 20-60-1505(B)(7)(k), 9 VAC 20-60-1505(B)(7)(l), and 9 VAC 20-60-1505(8) as described in paragraphs C(4) through C(88), above.
91. At the time of the inspection on February 8, 2018, VHC operated a permitted Chemclav unit which was used to treat regulated medical waste. VHC informed DEQ in a response to the proposed Consent Order dated December 7, 2018, that the unit had been removed from the facility. DEQ has received the request to terminate Permit by Rule (PBR) 566, dated September 20, 2019; however, VHC did not follow the regulatory requirements for closure.
92. Since the time of the February 2018 inspection, VHC engaged Stericycle to provide comprehensive waste management services. Documentation of the changes that were made by Stericycle have been submitted to DEQ.
93. Representatives from VHC and DEQ met on August 30, 2018 to discuss the Notice of Violation and the enforcement process. During this meeting VHC provided DEQ with a written response to the NOV.
94. For purposes to resolve this enforcement action, DEQ will consider violations resulting from the March 3, 2019 inspection and cited in the April 10, 2019, NOV to be included in this order. It should be noted, that due to regulatory changes, the code citations in this NOV are different than those cited in the order. VHC will need to meet compliance with the citations in this NOV.
95. In order for VHC to return to compliance, DEQ staff and representatives of VHC have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Virginia Hospital Center Arlington Health System and Virginia Hospital Center Arlington Health System agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$265,175.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Virginia Hospital Center Arlington Health System shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Virginia Hospital Center Arlington Health System shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Virginia Hospital Center Arlington Health System for good cause shown by Virginia Hospital Center Arlington Health System, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, VHC admits to the jurisdictional allegations, and agrees not to contest, but does not admit to the findings of fact and conclusions of law in this Order.

4. Virginia Hospital Center Arlington Health System consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Virginia Hospital Center Arlington Health System declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Virginia Hospital Center Arlington Health System to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Virginia Hospital Center Arlington Health System shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Virginia Hospital Center Arlington Health System shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Virginia Hospital Center Arlington Health System shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will

result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

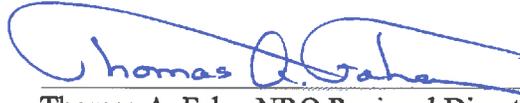
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Virginia Hospital Center Arlington Health System. Nevertheless, Virginia Hospital Center Arlington Health System agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Virginia Hospital Center Arlington Health System has completed all of the requirements of the Order;
 - b. Virginia Hospital Center Arlington Health System petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Virginia Hospital Center Arlington Health System.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Virginia Hospital Center Arlington Health System from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Virginia Hospital Center Arlington Health System and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Virginia Hospital Center Arlington Health System certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Virginia Hospital Center Arlington Health System to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Virginia Hospital Center Arlington Health System.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Virginia Hospital Center Arlington Health System voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24th day of January, ~~2018~~, 2020.


Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Virginia Hospital Center Arlington Health System voluntarily agrees to the issuance of this Order.

Date: 12/17/19 By: Fletcher (Person), Vice President Support Services (Title)
[Virginia Hospital Center Arlington Health System]

Commonwealth of Virginia
City/County of Arlington

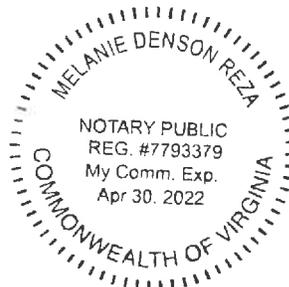
The foregoing document was signed and acknowledged before me this 17th day of December, 2019, by Charles Fletcher who is VP Support Services of Virginia Hospital Center Arlington Health System, on behalf of the corporation.


Notary Public

7793379
Registration No.

My commission expires: 4/30/2022

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Virginia Hospital Center Arlington Health System shall:

1. Submit documentation to DEQ by February 1, 2020, that VHC has a hazardous waste program in place and is properly characterizing, handling, managing and disposing the hazardous and universal waste generated at the Facility. Said documentation shall include but not be limited to:
 - a. Documentation and written certification that all waste streams are being properly characterized and volumes properly counted pursuant to the applicable regulations;
 - b. Documentation that VHC is managing and disposing of all hazardous waste and universal waste generated onsite properly and in accordance with the regulations;
 - c. Documentation that VHC is complying with all applicable regulatory requirements for the category of generator under which they are operating, including all requirements for the applicable category;
 - d. Documentation that all hazardous waste generated at the Facility is being properly managed, including but not limited to, documentation that containers holding hazardous waste are closed during storage and that containers are properly dated and labeled, documentation that hazardous waste accumulation areas are being inspected weekly; and
 - e. Documentation that all staff that are involved with the generation and management of hazardous waste at VHC have received hazardous waste training and that all staff that are involved with the generation and management of universal waste at VHC have received universal waste training.
2. DEQ has received a request to terminate Permit by Rule 566 for Regulated Medical Waste Treatment, which includes the operation of the Chemclav unit at the Facility. However, DEQ has not received documentation that the unit was thoroughly cleaned and disinfected before proper disposal as per 9 VAC20-120-290, Closure Requirements. DEQ requests VHC provide documentation that all requirements of the facility permit have been met by February 1, 2020.
3. Contact Information

Unless otherwise specified in this Order, VHC shall submit all requirements of Appendix A of this Order to:

Attention: Enforcement
VA DEQ –NRO Regional Office
13901 Crown Court
Woodbridge, VA 22193