

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

FILED

Sep 12, 2024

5:01 pm

U.S. EPA REGION 4  
HEARING CLERK

In the Matter of:

North Carolina State University  
2620 Wolf Village Way  
Raleigh, North Carolina 27695  
EPA ID No.: NCD000830737

Respondent.

Docket No. RCRA-04-2024-4005(b)

Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

**CONSENT AGREEMENT**

**I. NATURE OF ACTION**

1. This is a civil administrative action for penalties and injunctive relief brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules)*, as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

**II. PARTIES**

4. Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA) Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 3008(a) of the Act.

5. The Respondent is North Carolina State University, a subdivision of the State of North Carolina (State). This proceeding pertains to the Respondent's facility located at 2620 Wolf Village Way, Raleigh, North Carolina 27695 (Facility).

### III. GOVERNING LAW

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of North Carolina has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found generally in the North Carolina General Statutes (N.C.G.S.), Chapter 130A, Article 9, N.C.G.S. §§ 130A-290 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the North Carolina Hazardous Waste Management Rules (NCHWMR), 15A N.C.A.C. 13A .0101 to .0119 [40 C.F.R. Parts 260 through 270, 273, and 279].
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.
11. N.C.G.S. § 130A-294(c) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at 15A N.C.A.C. 13A .0107 [40 C.F.R. Part 262].
12. N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 15A N.C.A.C. 13A .0109 (permitted) and 15A N.C.A.C. 13A .0110 (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. On January 6, 2015, the North Carolina Department of Environmental Quality (NCDEQ) issued the Respondent a hazardous waste management permit for the storage of hazardous waste, Permit # NCD000830737-R2 (RCRA Permit or Permit).

14. Pursuant to 15A N.C.A.C. 13A .0106(a) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
15. Pursuant to 15A N.C.A.C. 13A .0106(a) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in 15A N.C.A.C. 13A .0106(a) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 15A N.C.A.C. 13A .0106(a) [40 C.F.R. § 261.4(b)].
16. Pursuant to 15A N.C.A.C. 13A .0106(a) and (c) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 15A N.C.A.C. 13A .0106(c) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
17. Pursuant to 15A N.C.A.C. 13A .0106(c) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous.
18. Pursuant to 15A N.C.A.C. 13A .0106(c) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chloroform is identified with the EPA Hazardous Waste Number D022.
19. Pursuant to 15A N.C.A.C. 13A .0106(c) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is identified with the EPA Hazardous Waste Number D008.
20. Pursuant to 15A N.C.A.C. 13A .0102(b) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 15A N.C.A.C. 13A .0106 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
21. Pursuant to 15A N.C.A.C. 13A .0102(b) [40 C.F.R. § 260.10], a “large quantity generator” (LQG) is a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute hazardous waste in a calendar month.
22. Pursuant to 15A N.C.A.C. 13A .0102(b) [40 C.F.R. § 260.10], a “facility” includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.
23. Pursuant to 15A N.C.A.C. 13A .0102(b) [40 C.F.R. § 260.10], a “person” means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.
24. Pursuant to 15A N.C.A.C. 13A .0102(b) [40 C.F.R. § 260.10], an “owner” is the person who owns a facility or part of a facility and an “operator” is the person responsible for the overall operation of a facility.

25. Pursuant to 15A N.C.A.C. 13A .0102(b) [40 C.F.R. § 260.10], “storage” means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.
26. Pursuant to 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.200], a “laboratory” means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.
27. Pursuant to 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.200], “eligible academic entity” means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.
28. Pursuant to 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.203], an eligible academic entity may elect to be subject to the requirements of 15A N.C.A.C. 13A .0107(g) [40 C.F.R. Part 262, Subpart K] for all of the laboratories owned by the eligible academic entity and must notify the Secretary of the NCDEQ in writing of its election to be covered by Subpart K.
29. On March 1, 2018, the Respondent notified the NCDEQ pursuant to 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.203], that it was electing to be subject to the requirements of Subpart K for hazardous wastes generated within laboratories at the Facility.
30. Pursuant to 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.200], “unwanted material” means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may be eventually determined not to be solid waste pursuant to 15A N.C.A.C. 13A .0106(a) [40 C.F.R. § 261.2], or a hazardous waste pursuant to 15A N.C.A.C. 13A .0106(a) [40 C.F.R. § 261.3]. If an eligible academic entity elects to use another equally effective term in lieu of “unwanted material,” as allowed by 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.206(a)(1)(i)], the equally effective term has the same meaning and is subject to the same requirements as “unwanted material” under 15A N.C.A.C. 13A .0107(g) [40 C.F.R. 262, Subpart K].
31. Pursuant to 15A N.C.A.C. 13A .0118(a) [40 C.F.R. § 279.1], “used oil” means any oil which has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss or original properties, but which may be suitable for further use and is economically recyclable.
32. Pursuant to 15A N.C.A.C. 13A .0107(a) [40 C.F.R. § 262.17], a LQG may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required

by N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in 15A N.C.A.C. 13A .0107(a) [40 C.F.R. § 262.17] (hereinafter referred to as the “LQG Permit Exemption”).

33. Pursuant to 15A N.C.A.C. 13A .0107(a) [40 C.F.R. § 262.17(a)(5)(i)], which is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the following: the words “Hazardous Waste”; an indication of the hazards of the contents; and the date upon which each period of accumulation begins clearly visible for inspection on each container.
34. Pursuant to 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.205], an eligible academic entity may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the eligible academic entity complies with the conditions listed in 15A N.C.A.C. 13A .0107(g) [40 C.F.R. Part 262, Subpart K] (hereinafter referred to as the “Eligible Academic Entity Permit Exemption”).
35. Pursuant to 15 N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.214], which is a condition of the Eligible Academic Entity Permit Exemption, an eligible academic entity must develop and retain a written Laboratory Management Plan, or revise an existing written plan.
36. Pursuant to 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.206(a)(1)(i)], which is a condition of the Eligible Academic Entity Permit Exemption, an eligible academic entity must label containers of unwanted material with the words “unwanted material” or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in the Laboratory Management Plan.
37. Pursuant to 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.206(a)(2)], which is a condition of the Eligible Academic Entity Permit Exemption, an eligible academic entity must affix or attach to containers of unwanted material: (i) the date that the unwanted material first began accumulating in the container, and (ii) information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to 15A N.C.A.C. 13A .0107(a) [40 C.F.R. § 262.11]. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to: (A) the name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction; (B) whether the unwanted material has been used or is unused; and (C) a description of the manner in which the chemical was produced or processed, if applicable.
38. Pursuant to Part III - Storage in Containers of the Permit, the Permittee may store waste in the following rooms of the Waste Management Facility (WMF): Room 206, Room 209, Room 214, Room 215, and the Auxiliary Room. In Room 209, the following waste is permitted to be stored: waste that requires refrigeration, waste that is dangerous when wet, and waste that is recyclable mercury and batteries. Of that waste, the containers of waste that require refrigeration are required to be stored in the explosion-proof refrigerator; the containers of waste that are dangerous when wet are required to be stored in the flammable material

cabinet; and the containers of waste that are recyclable mercury and batteries are required to be stored on shelves.

39. Pursuant to 15A N.C.A.C. 13A .0118(c) [40 C.F.R. § 279.22(d)], upon detection of a release of used oil to the environment, the facility must clean up and manage properly the released used oil and other materials.

#### **IV. FINDINGS OF FACTS**

40. The Respondent is a university, and therefore an eligible academic entity.
41. The Respondent is a permitted hazardous waste storage facility for hazardous waste generated at the Facility.
42. The Respondent's RCRA Permit for the Facility became effective on January 6, 2015.
43. The Respondent's Facility is located at 2620 Wolf Village Way, Raleigh, North Carolina 27695.
44. On February 28, 2020, the Respondent notified the NCDEQ of its status as a generator of 1,000 kilograms or more of hazardous wastes in a calendar month and is therefore classified as a Large Quantity Generator (LQG) of hazardous waste.
45. On July 11 - 12, 2023, the EPA and the NCDEQ conducted a RCRA compliance evaluation inspection (CEI) at the Respondent's Facility. The EPA's findings from the CEI were documented in a report transmitted to the Respondent via email on September 28, 2023.
46. At the time of the CEI, the EPA inspector observed one 2.5-foot by 2-foot container of lead (EPA Hazardous Waste Number D008) and chloroform (EPA Hazardous Waste Number D022) in the WMF, Cell 214-O, that was not marked with an indication of hazards of the contents.
47. At the time of the CEI, the EPA inspector observed one 4-liter container of unwanted material in Dabney Hall, Room 734 that was not marked with the words "unwanted material."
48. At the time of the CEI, the EPA inspector observed that the following containers of unwanted material were not affixed with an accumulation start date, did not contain sufficient information to allow a trained professional to properly identify that the unwanted material containers were a solid and hazardous waste, and were not marked with proper hazardous waste codes: four 5-gallon containers of unknown unwanted material and one 1-liter container of "Swern Ox Unwanted Material" in Dabney Hall, Room 830; two 1-liter containers of "Diethyl Ether" in Dabney Hall, Room 722; two 2.5-liter containers, one 4-liter container, one container with barium sulfate, one container with solid unwanted material, and one container with unknown contents in Dabney Hall, Room 708; and a bin of containers for inventory check in Dabney Hall, Room 842.
49. At the time of the CEI, the EPA inspector observed eleven 5-gallon containers of hazardous waste, and five 1-foot square boxes of hazardous waste stored on the floor along the wall of

Room 209 in the WMF. The floor of Room 209 in the WMF is not designated as a container storage area in the RCRA Permit.

50. At the time of the CEI, the EPA inspector observed used oil spilled within a secondary containment bin in Room 820 of Dabney Hall.

## **V. ALLEGED VIOLATIONS**

51. The Respondent is a “person” as defined in 15A N.C.A.C. 13A .0102(b) [40 C.F.R. § 260.10].
52. The Respondent is the “owner” and “operator” of a “facility” located at 2620 Wolf Village Way in Raleigh, North Carolina, as those terms are defined in 15A N.C.A.C. 13A .0102(b) [40 C.F.R. § 260.10].
53. The Respondent generates “solid waste” and “hazardous waste” as those terms are defined in 15A N.C.A.C. 13A .0106(a) [40 C.F.R. § 261.2 and § 261.3].
54. The Respondent is an “eligible academic entity” as defined in 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.200].
55. The Respondent generates “unwanted material” as that term is defined in 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.200].
56. The Respondent failed to mark one 2.5-foot by 2-foot hazardous waste container of lead (EPA Hazardous Waste Number D008) and chloroform (EPA Hazardous Waste Number D022) in the WMF, Cell 214-O with an indication of hazards of the contents. The EPA therefore alleges that the Respondent violated N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to comply with the marking and labeling requirements in 15A N.C.A.C. 13A .0107(a) [40 C.F.R. § 262.17(a)(5)(i)], which is a condition of the LQG Permit Exemption.
57. The Respondent failed to label one 4-liter container in Dabney Hall, Room 734 of unwanted material with the words “unwanted material.” The EPA therefore alleges that the Respondent violated N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because the Respondent failed to label a container of unwanted material with the words “unwanted material” or another equally effective term identified in Part I of the Laboratory Management Plan, , which is a condition of the Eligible Academic Entity Permit Exemption given in 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.206(a)(1)(i)] .
58. The Respondent failed to label six containers and one bin of containers of unwanted material in Rooms 830, 722, 708, and 842 of Dabney Hall with an affixed or attached marking indicating the date that the unwanted material first began accumulating in the container, and sufficient information to allow a trained professional to properly identify whether the unwanted material is a solid and hazardous waste, and failed to assign the proper hazardous waste code(s) pursuant to 15A N.C.A.C. 13A .0107(a) [40 C.F.R. § 262.11]. The EPA therefore alleges that the Respondent violated N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925] by

storing hazardous waste without a permit or interim status, because the Respondent failed to label containers of unwanted material with the date that the unwanted material first began accumulating in the containers, failed to label containers of unwanted material with sufficient information to allow a trained professional to properly identify whether the unwanted material is a solid and hazardous waste, and failed to assign the proper hazardous waste code(s) pursuant to 15A N.C.A.C. 13A .0107(a) [40 C.F.R. § 262.11], all of which are requirements of the Eligible Academic Entity Permit Exemption given in 15A N.C.A.C. 13A .0107(g) [40 C.F.R. § 262.206(a)(2)].

59. The Respondent failed to follow the designated area requirements for storage in Room 209 of the WMF by storing eleven 5-gallon containers of hazardous waste, and five 1-foot square boxes of hazardous waste on the floor. The EPA therefore alleges that the Respondent violated Part III – Storage in Containers of the Permit, which requires that the Respondent store hazardous waste in designated areas in Room 209 of the WMF. The floor of Room 209 of the WMF is not designated as a container storage area in the RCRA Permit.
60. The Respondent failed to clean up and properly manage the used oil that had been released within a secondary containment bin in Room 820 of Dabney Hall. The EPA therefore alleges that the Respondent violated 15A N.C.A.C. 13A .0118(c) [40 C.F.R. § 279.22(d)], by failing to clean up and properly manage used oil releases upon detection.

## **VI. STIPULATIONS**

61. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
62. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), the Respondent:
  - a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
  - b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
  - c. consents to the assessment of a civil penalty as stated below;
  - d. consents to the issuance of this compliance order;
  - e. consents to the conditions specified in this CAFO;
  - f. consents to the stated Permit action;
  - g. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
  - h. waives its rights to appeal the Final Order accompanying this CAFO.



63. For the purpose of this proceeding, the Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against the Respondent;
  - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering the Respondent's compliance history in any subsequent enforcement actions;
  - c. waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that the Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;
  - d. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
  - e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO;
  - f. agrees to comply with the terms of this CAFO.
64. By executing this CAFO, the Respondent certifies to the best of its knowledge that the Respondent is currently in compliance with all relevant requirements of the authorized State program found in N.C.G.S. §§ 130A-290 *et seq.*, and the NCHWMR, and the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
65. In accordance with 40 C.F.R. § 22.5, the individuals named in the Certificate of Service are authorized to receive service related to this proceeding and the Parties agree to receive service by electronic means.

## VII. TERMS OF PAYMENT

66. The Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **TWENTY-FOUR THOUSAND TWO HUNDRED DOLLARS (\$24,200.00)**, which is to be paid within 30 days of the Effective Date of this CAFO.
67. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check.

- a. If the Respondent sends payment by standard U.S. Postal Service delivery, the payment shall be addressed to:

U.S. Environmental Protection Agency  
P.O. Box 979078  
St. Louis, Missouri 63197-9000

- b. If the Respondent sends payment by non-standard mail delivery (e.g., FedEx, DHL, UPS, USPS certified, registered, etc.), the payment shall be sent to:

U.S. Environmental Protection Agency  
Government Lockbox 979078  
3180 Rider Trail S.  
Earth City, Missouri 63045

- c. If paying by EFT, the Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Beneficiary: Environmental Protection Agency

- d. If paying by ACH, the Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Remittance Express (REX): 1-866-234-5681

68. The Respondent shall send proof of payment via email, within 24 hours of payment of the civil penalty, to:

Regional Hearing Clerk  
R4\_Regional\_Hearing\_Clerk@epa.gov

and

Brooke York  
Chemical Safety and Land Enforcement Branch  
Enforcement and Compliance Assurance Division  
york.brooke@epa.gov

69. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name (North Carolina State University) and Docket No. **RCRA-04-2024-4005(b)**.
70. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if the Respondent fails to remit the civil penalty as agreed to herein, the EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, the EPA may require the Respondent to pay the following amounts on any amount overdue:
- (a) Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days of the Effective Date of this CAFO, interest is waived. However, if the civil penalty is not paid in full within 30 days, interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued interest are paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b)(2), and 40 C.F.R. § 13.11(a).
  - b. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than 90 days past due, the Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).
  - c. Monthly Handling Charge. The Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(b)-(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.
71. In addition to what is stated in the prior Paragraph, if the Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:
- a. refer the debt to a credit reporting agency or a collection agency (see 40 C.F.R. §§ 13.13 and 13.14);
  - b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds (see 40 C.F.R. Part 13, Subparts C and H);

- c. suspend or revoke the Respondent's licenses or other privileges, or suspend or disqualify the Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds (*see* 40 C.F.R. § 13.17); and/or
- d. refer the debt to the Department of Justice as provided in 40 C.F.R. § 13.33. In any such judicial action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

72. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

#### **VIII. WORK TO BE PERFORMED**

73. Within 30 days of the Effective Date of this CAFO, the Respondent shall update its Permit Application to include the following details, and request a modification of Part III – Storage in Containers of the Permit based on this information:

- (a) Size and types of containers that may be stored in each permitted container storage area;
- (b) Specific volume or weight limits to be stored in each permitted container storage area;
- (c) Detailed locations for the storage of containers in each permitted container storage area;
- (d) Standard procedures for the management of containers in each permitted container storage area, as appropriate; and
- (e) A list of potential recyclable items, water-reactive wastes, highly reactive materials, and materials requiring refrigeration to be stored in each permitted container storage area.

#### **IX. EFFECT OF CAFO**

74. In accordance with 40 C.F.R. § 22.18(c), the Respondent's full compliance with this CAFO shall only resolve the Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
75. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
76. Any violation of this CAFO may result in a civil penalty for each day of continued noncompliance with the CAFO and/or the suspension or revocation of any federal or state permit issued to the violator, as provided in Section 3008(c) of the Act, 42 U.S.C § 6928(c).
77. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be

construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

78. Nothing herein shall be construed to limit the power of the EPA to undertake any action against the Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
79. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
80. The provisions of this CAFO shall apply to and be binding upon the Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns.
81. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter the Respondent's obligations and responsibilities under this CAFO.
82. By signing this Consent Agreement, the Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
83. By signing this Consent Agreement, the Complainant and the undersigned representative of the Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
84. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
85. By signing this Consent Agreement, the Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. The Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
86. The EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by the Respondent was materially false or inaccurate at the time such information was provided to the EPA. If such false or inaccurate material was provided, the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give the Respondent notice of its intent to revoke, which shall not be effective until received by the Respondent in writing.
87. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

88. It is the intent of the Parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

**X. EFFECTIVE DATE**

89. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

**[Remainder of Page Intentionally Left Blank**

**Complainant and Respondent will Each Sign on Separate Pages.]**

The foregoing Consent Agreement In the Matter of North Carolina State University , Docket No. RCRA-04-2024-4005(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR THE RESPONDENT:

  
Signature

  
Date

Printed Name: Charles A. Maimone

Title: Executive Vice Chancellor for Finance and Administration

Address: 20 Watauga Club Drive, Raleigh NC 27695

The foregoing Consent Agreement In the Matter of North Carolina State University, Docket No. **RCRA-04-2024-4005(b)** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

---

for Keriema S. Newman  
Director  
Enforcement & Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

North Carolina State University  
2620 Wolf Village Way  
Raleigh, North Carolina 27695  
EPA ID No.: NCD000830737

Respondent.

Docket No. RCRA-04-2024-4005(b)

Proceeding Under Section 3008(a) of the  
Resource Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified, and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED.**

---

Regional Judicial Officer

## CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, In the Matter of North Carolina State University, Docket No. RCRA-04-2024-4005(b), were filed and copies of the same were emailed to the Parties as indicated below.

**Via email to all Parties at the following email addresses:**

To Respondent:        Shawn C. Troxler  
                                Deputy General Counsel  
                                North Carolina State University  
                                sctroxle@ncsu.edu  
                                (919) 515-1527

                                Karen Trimberger  
                                Environmental Affairs Manager  
                                North Carolina State University  
                                katrimbe@ncsu.edu  
                                (919) 515-6859

To EPA:                    Brooke York, Environmental Engineer  
                                york.brooke@epa.gov  
                                (404) 562-8025

                                Ximena Vasquez, Associate Regional Counsel  
                                vasquez.maria-ximena@epa.gov  
                                (404) 562-9548

---

Shannon L. Richardson, Regional Hearing Clerk  
R4\_Regional\_Hearing\_Clerk@epa.gov