



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

CERTIFIED MAIL RETURN RECEIPT

MAR 29 2018

Mr. Robert J. King, III Esq.
Brooks Pierce
2000 Renaissance Plaza
230 North Elm Street
Greensboro, North Carolina 27401

Re: ECOFLO, Inc., EPA ID NCD980842132
Consent Agreement and Final Order, Docket No. RCRA-04-2018-4003(b)

Dear Mr. King,

Enclosed, please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk. The timing of all other obligations required by the CA/FO also begin on the effective date of the CA/FO.

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at 404-562-8590, or by email at lamberth.larry@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
RCR Division

Enclosure

Cc: Julie Woosley, NCDEQ
Brent Burch, NCDEQ

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4003(b)
)	
ECOFLO Incorporated)	
2750 Patterson Street)	Proceeding Under Section 3008(a) of the
Greensboro, North Carolina 27407)	Resource Conservation and Recovery Act,
EPA ID No.: EPA ID # NCD 980 842 132)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL
2018 MAR 29 PM 4:4
HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the North Carolina Solid Waste Management Law (NCSWML), N.C.G.S. §§ 130A-17 to -28 and 130A-290 to -310.22 [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at North Carolina Hazardous Waste Management Rules (NCHWMR), 15A NCAC 13A .0101 to .0119 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270]. This action seeks injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], and 15A NCAC 13A .0101 to .0119 [40 C.F.R. Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.



II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is ECOFLO Incorporated, a corporation organized under the laws of Maryland. Respondent is the owner and operator of a comprehensive waste management and industrial services company located at 2750 Patterson Street in Greensboro, North Carolina (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of North Carolina (State) 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 at Section 130A of the NCSWML, N.C.G.S. § 130A [Section 3005 of RCRA, 42 U.S.C. § 6925], and 15A NCAC 13A .0101 to .0119 [40 C.F.R. §§ 260 through 270].
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. North Carolina 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 CA/FO.
11. Section 130A-294(c) of the NCSWML, 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 NCAC 13A .0107 [40 C.F.R. Part 262].
12. Sections 130A-294(c) and (g) of the NCSWML, N.C.G.S. § 130A-294(c) and (g) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets 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 NCAC 13A .0109 (permitted) and 15A NCAC 13A .0110 (interim status)] [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. On August 27, 2014, Respondent was issued a Hazardous Waste Permit by the State of North Carolina, Permit Number NCD980842132-R3 (the "HW Permit"), for the treatment and storage of hazardous waste. The HW Permit became effective on August 27, 2014, and remains in effect until August 27, 2019 unless revoked and reissued, terminated or continued.
14. Pursuant to 15A NCAC 13A .0106 [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 NCAC 13A .0106 [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in 15A NCAC 13A .0106 [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 15A NCAC 13A .0106 [40 C.F.R. § 261.4(b)].
16. Pursuant to 15A NCAC 13A .0106 [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in 15A NCAC 13A .0106 [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.

Pursuant to 15A NCAC 13A .0106 [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.

Pursuant to 15A NCAC 13A .0106 [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.

Pursuant to 15A NCAC 13A .0106 [40 C.F.R. §§ 261.20 and 261.23], a solid waste that exhibits the characteristic of reactivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D003.

Pursuant to 15A NCAC 13A .0106 [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 Numbers D004-D043, which correspond to the toxic contaminant causing it to be hazardous.

17. Pursuant to 15A NCAC 13A .0106 [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed "hazardous waste" if it is listed 15A NCAC 13A .0106 [40 C.F.R. Part 261, Subpart D].

Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in 15A NCAC 13A .0106 [40 C.F.R. § 261.31].

Listed hazardous wastes include the K-Listed wastes from specific sources identified in 15A NCAC 13A .0106 [40 C.F.R. § 261.32].

Listed hazardous wastes include the P- and U-Listed wastes identified in 15A NCAC 13A .0106 [40 C.F.R. § 261.33].



18. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], “ancillary equipment” is defined as devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that are used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal offsite.
19. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], a “component” is defined as either the tank or ancillary equipment of a tank system.
20. Pursuant to 15A NCAC 13A .0102 [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.”
21. Pursuant to 15A NCAC 13A .0102 [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 NCAC 13A .0102 [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
22. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], a “hazardous waste management unit” means a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.
23. Pursuant to 15A NCAC 13A .0102 [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.”
24. Pursuant to N.C.G.S. 130A-290 [*see also* 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.
25. Pursuant to N.C.G.S. 130A-290 [*see also* 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 NCAC 13A .0102 [40 C.F.R. § 260.10], a “tank” is defined as a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials which provide structural support.
27. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], a “tank system” is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
28. Pursuant to N.C.G.S. 130A-290 [*see also* 40 C.F.R. § 260.10], “treatment” means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so

as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

29. Pursuant to the HW Permit, Part III ("*Storage in Containers*"), Condition E ("*Aisle Space*"), the Permittee must, at a minimum, maintain aisle space as required by 15A NCAC 13A .0109 [40 C.F.R. § 264.35]. A minimum aisle space of two feet (24 inches) to be maintained at all times except as described in Sections D-1(a)(4) and F-3(b) of the Part B Application.
30. Pursuant to the HW Permit, Part III ("*Storage in Containers*"), Condition C ("*Management of Containers*"), the Permittee shall manage containers in accordance with 15A NCAC 13A .0109 and as described in Section D-1 of the Facility's HW Permit, Part B Application. Specifically, Section D-1(h) of the Part B Application (Removal Methods and Management of Accumulated Liquids) states that spills of small quantities of liquids in the Toxic Materials Storage Area are solidified with sorbent and placed in containers specified for the original waste. Any remaining stain is then removed with an appropriate solvent, which is then also solidified and placed in the same container.
31. Pursuant to 15A NCAC 13A. 0113 [40 C.F.R. § 270.1(c)] and Sections 130A-294(c) of the NCSWML, N.C.G.S. § 130A-294(c) [Section 3005 of RCRA, 42 U.S.C. § 6925], owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit.
32. Pursuant to the HW Permit, Part I ("*Standard Conditions*"), Condition D.10 ("*Reporting Planned Changes*"), the Permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility, including alterations or additions which may impact any Hazardous Waste Management Units (HWMUs), Solid Waste Management Units (SWMUs), Areas of Concern (AOCs), or the areas contaminated by them, including voluntary corrective measures to the SWMUs or AOCs listed in Appendix A at the permitted facility.
33. Pursuant to the HW Permit, Part II ("*General Facility Conditions*"), Condition O.1 ("*Performance Standard*"), the Permittee shall close the facility in accordance with the closure plan as described in Section I of the Attachment and as required by 15A NCAC 13A .0109 [40 C.F.R. § 264.111].
34. Pursuant to Section I ("*Closure Plans, Postclosure Plans and Financial Requirements*") of the HW Permit application, Condition I-1(b) ("*Partial Closure and Final Closure Activities*"), any modification to the active portion of the Facility, procedures, or instrumentation will result in revising this plan and submittal to the appropriate agencies.
35. Pursuant to Section I ("*Closure Plans, Postclosure Plans and Financial Requirements*") of the HW Permit application, Condition I-1(e)(4) ("*Closure of Tanks*"), the corrosive liquid tank will be pumped into a tanker and transported to an appropriate treatment, storage, or disposal facility. The corrosive liquid tank will be pumped into a tanker and transported to an appropriate treatment, storage or disposal facility. Upon completion of the waste inventory removal, the tanks will be entered by trained personnel wearing appropriate PPE. Decontamination of the interior walls, floors, and ceiling of the tank will be accomplished using a steam generator or

high pressure washer. Wash waters will be removed and collected in drums and placed into temporary storage for disposal after they have been labeled, numbered, and categorized. All piping, valves, pumps, and meters will be disconnected from the tanks and will then be steam cleaned. Appropriate tests of the interior of the tank will be performed to ensure the efficiency of contaminant removal.

36. Pursuant to the HW Permit, Part II (“*General Facility Conditions*”), Condition O.2 (“*Amendment to Closure Plan*”), the Permittee shall amend the closure plan in accordance with 15A NCAC 13A .0109 [40 C.F.R. 264.112(c)] whenever necessary.
37. Pursuant to 15A NCAC 13A. 0109 [40 C.F.R. § 264.112(c)(2) and (3)], the owner or operator must submit a written notification of or request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed changes in facility design or operation that affect the closure plan.
38. Pursuant to the HW Permit, Part II (“*General Facility Conditions*”), Condition O.3 (“*Notification of Closure*”), the Permittee shall notify the Department in writing at least forty-five (45) days prior to the date expecting to begin closure.
39. Pursuant to the HW Permit, Part VIII (“*Organic Air Emissions Requirements for Process Vents and Equipment Leaks*”), Condition B (“*Organic Air Emission Standards*”), the Permittee shall comply with the Organic Air Emission Requirements of 15A NCAC 13A .0109 [40 C.F.R. Part 264, Subpart AA (for process vents), and Subpart BB (for equipment leaks)] and 15A NCAC 13A .0113 [40 C.F.R. § 270.24 and 270.25] as applicable and as described in Section P of the Part B Permit Application.
40. Pursuant to Section P (“*Subpart BB RCRA Air Emission Standards for Equipment Leaks*”) of the HW Permit application, Condition P-4 (“*Testing*”), the portable organic vapor analyzer is calibrated before use each day of LDAR monitoring using zero gas and a calibration gas of approximately but less than 10,000 PPM n-hexane. EPA Method 21 organic vapor monitoring is conducted by traversing the sample inlet probe around and as close as possible to potential leak interfaces. Background concentrations for designation of equipment as NDE is determined randomly upwind and downwind, 1-2 meters from the monitored equipment. The arithmetic difference between the maximum concentration indicated by the instrument when monitoring the equipment and the associated background level is compared with the 500 PPM value for designation as NDE.
41. Pursuant to the HW Permit, Part I (“*Standard Conditions*”), Condition D.9.c. (“*Monitoring and Records*”), the records of monitoring information shall include: (i) the date, exact place, and time of sampling or measurements; (ii) the individual(s) who performed the sampling or measurements; (iii) the date(s) analyses were performed; (iv) the individual(s) who performed the analyses; (v) the analytical techniques or methods used; and (vi) the results of such analyses.

IV. EPA ALLEGATIONS AND DETERMINATIONS

42. Respondent is a “person” as defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10].

43. Respondent is the “owner/operator” of a “facility” located at 2750 Patterson Street in Greensboro, North Carolina, as those terms are defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10].
44. Respondent is a “generator” of “hazardous waste” as those terms are defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10] and 15A NCAC 13A .0106 [40 C.F.R. § 261.3].
45. Respondent operates a comprehensive waste management and industrial services company, which provides hazardous waste RCRA classification, packaging, segregation, manifesting, transportation and disposal services.
46. Respondent is a large quantity generator of hazardous waste with EPA ID # NCD 980 842 132, and the owner and operator of a permitted hazardous waste treatment, storage and disposal facility with the HW Permit Number NCD980842132.
47. On April 20, 2017, the EPA and the North Carolina Department of Environmental Quality (DEQ) conducted a compliance evaluation inspection (CEI) at Respondent’s facility. The EPA’s findings of the CEI were documented in a Report mailed to Respondent, dated August 14, 2017.
48. During the CEI, the EPA and DEQ Inspectors (Inspectors) observed that one 5-gallon bucket was located in the aisle spacing between two rows of hazardous waste in the Toxics Storage Vault.
49. The EPA therefore alleges Respondent violated the HW Permit, Part III (“*Storage in Containers*”), Condition E (“*Aisle Space*”), by failing to maintain aisle space as required by 15A NCAC 13A .0109 [40 C.F.R. § 264.35]. Respondent failed to maintain a minimum aisle space of two feet (24 inches) at all times, except as described in Sections D-1(a)(4) and F-3(b) of the Part B Application.
50. During the CEI, the Inspectors observed that liquid waste pooled on the top of a hazardous waste tote in the permitted Toxic Materials Container Storage Area.
51. The EPA therefore alleges Respondent violated the HW Permit, Part III (“*Storage in Containers*”), Condition C (“*Management of Containers*”), by failing to respond to a small spill of liquids in the Toxic Materials Storage Area.
52. During the CEI, the Inspectors observed that Respondent was conducting waste management activities that were not described in the permit. Specifically, Respondent was segregating materials from the incoming lab-pack containers, and consolidating like materials for further management and ultimate treatment and/or disposal.
53. The EPA therefore alleges Respondent violated 15A NCAC 13A. 0113 [40 C.F.R. § 270.1(c)] and Sections 130A-294(c) of the NCSWML, N.C.G.S. § 130A-294(c) [Section 3005 of RCRA, 42 U.S.C. § 6925], by failing to have a permit during the active life (including the closure period) of a hazardous waste management unit.
54. During the CEI, the Inspectors observed that the neutralization tank described in the permit had been replaced by a neutralization process using two intermediate bulk container totes. The former permitted neutralization process was no longer present at the facility. The Respondent

had not notified DEQ before removing the unit from service and replacing it with a new neutralization process; and had not performed RCRA closure on the unit.

55. The EPA therefore alleges Respondent violated the HW Permit, Part I (“*Standard Conditions*”), Condition D.10 (“*Reporting Planned Changes*”), by failing to give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility.
56. The EPA therefore alleges Respondent violated the HW Permit, Part II (“*General Facility Conditions*”), Condition O.1 (“*Performance Standard*”), by failing to conduct closure of the neutralization tank according to the Closure Plan.
57. The EPA therefore alleges Respondent violated the HW Permit, Part II (“*General Facility Conditions*”), Condition O.3 (“*Notification of Closure*”), by failing to notify the DEQ in writing at least forty-five (45) days prior to beginning closure of the permitted neutralization tank.
58. During the CEI, the Inspectors observed that records of quarterly air monitoring events are marked with the last date of the monitoring event; they do not include required calibration activities; and they do not include the time of each reading.
59. The EPA therefore alleges Respondent violated the HW Permit, Part VIII (“*Organic Air Emissions Requirements for Process Vents and Equipment Leaks*”), Condition B (“*Organic Air Emission Standards*”), by failing to calibrate the portable organic vapor analyzer before use each day of LDAR monitoring.
60. The EPA therefore alleges Respondent violated the HW Permit, Part I (“*Standard Conditions*”), Condition D.9.c. (“*Monitoring and Records*”), by failing to include: (i) the date, exact place, and time of sampling or measurements; (ii) the individual(s) who performed the sampling or measurements; (iii) the date(s) analyses were performed; (iv) the individual(s) who performed the analyses; (v) the analytical techniques or methods used; and (vi) the results of such analyses in the records of monitoring information.

V. TERMS OF AGREEMENT

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

61. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
62. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
63. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
64. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*

65. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
66. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
67. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
68. Respondent, by signing and complying with this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
69. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
70. Each party will pay its own costs and attorneys' fees.

VI. WORK TO BE PERFORMED

71. Respondent shall cease all storage and treatment activities of regulated hazardous waste within the lab-pack consolidation area at the Facility unless or until such time these activities are temporarily authorized, in writing, by DEQ or the HW Permit is modified to include these activities.
72. When submitting a Part B RCRA Hazardous Waste Permit Application to renew the current HW Permit, which remains in effect until August 27, 2019, Respondent shall include all existing hazardous waste management units and up-to-date treatment and storage operations, including the lab-pack consolidation activities and the neutralization activities, as appropriate. Respondent shall also include up-to-date BB Equipment Program and CC Tanks Program documents, as described in Paragraphs 73 and 74 below.
73. Within 30 days of the effective date of the CA/FO, Respondent shall submit to EPA and DEQ a document ("BB Equipment Program") that includes or describes: (i) all valves, pumps, compressors, sampling connection system, open-ended valve or lines, or flanges or other connectors, and any control devices or systems that are regulated under Subpart BB as of the Effective Date of this CA/FO; (ii) leak definitions for Subpart BB units; (iii) monitoring frequencies of all regulated Subpart BB units; (iv) a method for tracking repairs from discovery through completion to follow-up inspection; (v) record-keeping procedures to comply with Subpart BB; (vi) a tracking program or system that ensures that new pieces of equipment added to the facility are integrated into the BB Equipment Program and that pieces of equipment that are taken out of service are removed from the BB Equipment Program; (vii) the roles and responsibilities of all employee and contractor personnel assigned to monitoring Subpart BB functions at the Facility; (viii) how the facility plans to implement the BB Equipment Program; and (ix) a statement that the Respondent shall review the BB Equipment Program document annually and update it as needed by no later than January 31 of each calendar year.

74. Within 30 days of the effective date of the CA/FO, Respondent shall submit to EPA and DEQ a document ("CC Tanks Program") that includes or describes: (i) the facility's CC Tanks Program which must include the following information: (a) applicability of RCRA subpart CC regulations to specific tanks at the Facility, (b) each type of Air Emission Control(s) associated with each Covered Tank, including whether controls are Tank Level 1 Controls or Tank Level 2 Controls, (c) if Tank Level 1 Controls are associated with a Covered Tank, provide the determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of [40 C.F.R. 264.1084(c)(1) or 264.1085(c)(1)], (d) if applicable, for each tank not using Air Emission Controls specified in 40 C.F.R. 264.1084 or 265.1085 in accordance with the provisions of [40 C.F.R. 264.1080(b)(7) or 265.1080(b)(7)] provide the information required pursuant to [40 C.F.R. 264.1089(j) or 265.1080(j)]; (ii) the Facility's written inspection and monitoring plan pursuant to [40 C.F.R. 264.1088 or 265.1089]; (iii) a tracking program (e.g., Management of Change that ensures that new tanks added to the Facility for any reason are integrated into the CC Tanks Program and that tanks that are taken out of service are removed from the CC Tanks Program; (iv) the roles and responsibilities of all employee and contractor personnel assigned to RCRA subpart CC functions at the Facility; (v) how the number of personnel dedicated to RCRA subpart CC functions is sufficient to satisfy the requirements of the CC Tanks Program; and (vi) how the Facility plans to implement this CC Tanks Program. Once developed, Respondent shall review the facility-wide CC Tanks Program document described herein annually and update it as needed by no later than January 31 of each calendar year.
75. Within 30 days of the effective date of this CA/FO, Respondent shall submit a Certification of Closure Completeness for the former neutralization tank. The Certification of Closure shall be signed by the Respondent, and it shall attest that the unit has been closed to meet the closure performance standard described in the approved closure plan.

VII. PAYMENT OF CIVIL PENALTY

76. Respondent consents to the payment of a civil penalty in the amount of twenty-five thousand and two hundred dollars (\$25,200.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
77. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

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

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

78. Respondent shall submit a copy of the payment to the following individuals:

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

And to:

Laurie Benton DiGaetano
Senior Enforcement and Compliance Specialist
Hazardous Waste Section
Enforcement and Compliance Branch
RCR Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

79. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required 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. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
 - c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
80. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VIII. STIPULATED PENALTIES

81. If Respondent fails to comply with the provisions of this CA/FO, Respondent shall pay Stipulated Penalties as indicated below for each violation for each calendar day during which the violation occurs:

<u>Penalty Per Calendar Day Per Violation</u>	<u>Period of Noncompliance</u>
\$250	1st through 6th day
\$500	7th through 30th day
\$750	31st through 60th day
\$1,000	61st day and beyond

82. Subject to the other Paragraphs in this Section, all Stipulated Penalties begin to accrue on the day that complete performance is due, or a violation occurs, and continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate Stipulated Penalties for separate violations of this CA/FO which derive from Respondent's independent and distinguishable acts and/or omissions. Issuance and receipt of a notice of noncompliance is not a condition precedent to the accrual of Stipulated Penalties.

83. Accrued Stipulated Penalties shall become due and payable thirty (30) calendar days after demand by the EPA for their payment, and shall be payable in the manner discussed in Section VII (Payment of the Civil Penalty). The EPA in its discretion may waive or reduce any Stipulated Penalties assessed.
84. The payment of penalties shall not alter in any way Respondent's obligation to comply with the terms and conditions of this CA/FO.
85. The Stipulated Penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to the EPA by reason of Respondent's failure to comply with any of the terms and conditions of this CA/FO. However, all Stipulated Penalties which are paid by Respondent shall be off-set against any and all penalties for the same violation which the EPA may be entitled to collect as a result of other enforcement actions.
86. No payments under this Section shall be tax deductible for federal tax purposes.

IX. PARTIES BOUND

87. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
88. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
89. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

X. RESERVATION OF RIGHTS

90. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
91. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
92. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

93. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

XI. OTHER APPLICABLE LAWS

94. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

XII. SERVICE OF DOCUMENTS

95. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in this proceeding:

Stephen P. Smith
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9554

96. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Paul McAllister
ECOFLO Incorporated
2750 Patterson Street
Greensboro, North Carolina 27407

Robert J. King III
Brooks, Pierce, McLendon, Humphrey & Leonard LLP
2000 Renaissance Plaza
230 North Elm Street
Greensboro, North Carolina 27401

XIII. SEVERABILITY

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


XIV. EFFECTIVE DATE

98. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Ecoflo, Inc., Docket No. RCRA-04-2018-4003(b):

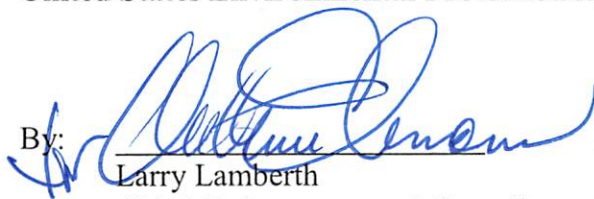
AGREED AND CONSENTED TO:

ECOFLO, Incorporated

By: 
Paul A. McAllister
President

Dated: MARCH 28, 2018

United States Environmental Protection Agency

By: 
Larry Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Dated: 3/29/2018

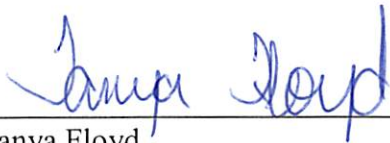
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4003(b)
)	
ECOFLO Incorporated)	
2750 Patterson Street)	Proceeding Under Section 3008(a) of the
Greensboro, North Carolina 27407)	Resource Conservation and Recovery Act,
EPA ID No.: EPA ID # NCD 980 842 132)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 29th day of March, 2018.

BY: 
Tanya Floyd
Regional Judicial Officer
EPA Region 4



CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of ECOFLO Incorporated, Docket Number: RCRA-04-2018-4003(b), and have served the parties listed below in the manner indicated:

Stephen P. Smith
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Quantindra Smith
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

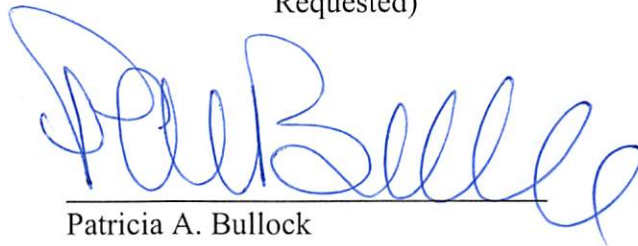
(Via EPA's electronic mail)

Paul A. McAllister
President,
ECOFLO, Inc.
2750 Patterson Street
Greensboro, NC 27407

(Via Certified Mail - Return Receipt
Requested)

Date: _____

3-29-18



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511