



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

DEC 27 2019

CERTIFIED MAIL RETURN RECEIPT

Max E. Justice, Attorney  
Parker Poe Adams & Bernstein LLP  
401 S. Tryon St., Suite 3000  
Charlotte, NC 28202

Re: DNP Imagingcomm America Corporation  
Consent Agreement and Final Order, Docket No. RCRA-04-2019-4008(b)

Dear Mr. Justice:

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

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

Sincerely,

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

Larry L. Lamberth  
Chief  
Chemical Safety and Land Enforcement Branch  
Enforcement and Compliance Assurance Division

Enclosure

In the Matter of:

DNP Imagingcomm America Corporation  
4524 Enterprise Drive, NW  
Concord, North Carolina 28027  
EPA ID No.: NCR000001537

Respondent.

Docket No. RCRA-04-2019-4008(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 an administrative penalty assessment proceeding brought under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a) (RCRA or the Act) 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 Chief of the Chemical Safety and Land Enforcement Branch, 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. Respondent is DNP Imagingcomm America Corporation, a corporation doing business in the State of North Carolina. This proceeding pertains to Respondent's facility located at 4524 and 4541 Enterprise Drive, Concord, North Carolina (Facility).

### III. GOVERNING LAW

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 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 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, 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. 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 15 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. 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.
14. 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)].

15. 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.
16. 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.
17. 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 Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 15A NCAC 13A .0106 [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for methyl ethyl ketone is identified with the EPA Hazardous Waste Number D035.
18. 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 in 15A NCAC 13A .0106 [40 C.F.R. Part 261, Subpart D].
19. Listed hazardous wastes include the F-Listed wastes from nonspecific sources identified in 15A NCAC 13A .0106 [40 C.F.R. § 261.31].
20. Pursuant to 15A NCAC 13A .0106 [40 C.F.R. § 261.31(a)], the following spent non-halogenated solvents: toluene and methyl ethyl ketone; spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents; and still bottoms from the recovery of these spent solvents and spent solvent mixtures are listed hazardous wastes identified with the EPA Hazardous Waste Number F005.
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 .0106 [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 "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 NCAC 13A .0102 [40 C.F.R. § 260.10], a "person" includes a corporation.
24. 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."
25. Pursuant to 15A NCAC 13A .0102 [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 system" is defined as a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

27. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], a “new tank system” is defined as a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986.
28. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], “ancillary equipment” is defined as any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is 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 off-site.
29. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a) (2016)]<sup>1</sup>, a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by 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], provided that the generator complies with the conditions listed in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)-(4) (2016)], hereinafter referred to as the “LQG Permit Exemption”).
30. Pursuant to 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(i) (2016)], which incorporates 15A NCAC 13A.0110 [40 C.F.R. § 265.174], and is a condition of the LQG Permit Exemption, a generator is required to inspect areas where containers are stored at least weekly to look for leaking containers and for deterioration of containers caused by corrosion or other factors.
31. Pursuant to 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A.0110 [40 C.F.R. § 265.195(b)], and is a condition of the LQG Permit Exemption, a generator is required to inspect at least once each operating day: overfill/spill control equipment to ensure that it is in good working order; above ground portions of the tank system to detect corrosion or releases of waste; and the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including secondary containment system to detect erosion or signs of releases of hazardous waste.
32. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.193(e)(1)(iii)] and is a condition of the LQG Permit Exemption, a generator who uses tank systems for storing or treating hazardous waste must provide secondary containment that is free of cracks or gaps.
33. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.192(a)], and is a condition of the LQG Permit Exemption, the owner or operator of new tank systems or components must ensure that the foundation, structural support, seams, connections, and pressure controls are adequately

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<sup>1</sup> North Carolina’s newly adopted Generator Improvement Rule (GIR) regulations were effective in North Carolina as of March 1, 2019 but were not federally enforceable at the time of the EPA and State inspections at DNP Imagingcomm America Corporation. As such, and for ease of reference and consistency with the State’s Inspection Report, this CAFO will cite to the North Carolina hazardous waste regulations that were federally enforceable at the time of the State inspection, and the corresponding federal regulations, prior to the amendments by the GIR. The requirements prior to the GIR are noted with their most recent effective date.

designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by a qualified Professional Engineer in accordance with 15A NCAC 13A.0113 [40 C.F.R. § 270.11(d)] of this chapter attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.

34. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.192(d)], and is a condition of the LQG Permit Exemption, all new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed or placed in use.
35. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.192(g)], and is a condition of the LQG Permit Exemption, the owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of paragraphs (b) through (f) of this section to attest that the tank system was properly designed and installed, and that repairs pursuant to 15A NCAC 13A .0110 [40 C.F.R. § 265.192 (b) and (d)] were performed. These written statements must also include the certification statement required in 15A NCAC 13A.0113 [40 C.F.R. § 270.11(d)].
36. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.1052(a)(1) and (2)], and is a condition of the LQG Permit Exemption, each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in 15A NCAC 13A .0110 [40 C.F.R. § 265.1063(b)] and shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.
37. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.1057(a)], and is a condition of the LQG Permit Exemption, each valve in gas/vapor or light liquid service shall be monitored monthly to detect leaks by the methods specified in 15A NCAC 13A .0110 [40 C.F.R. § 265.1063(b)].
38. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.1064(b)(1)], and is a condition of the LQG Permit Exemption, for each piece of equipment to which subpart BB of 15A NCAC 13A.0110 [40 C.F.R. Part 265] applies, owners and operators must record, in the facility operating record, the equipment identification number and hazardous waste management unit identification; the approximate locations within the facility; the type of equipment; the percent-by weight total organics in the hazardous waste stream at the equipment; the hazardous waste state at the equipment; and the method of compliance with the standard.
39. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.1064(g)(1)-(4)], and is a condition of the LQG Permit Exemption, the following information pertaining to all equipment subject to the requirements in 15A NCAC 13A .0110 [40 C.F.R. 265.1052 through 265.1060] shall be recorded in a log that is kept in the facility operating record: a list of identification numbers for equipment

subject to the requirements of this part: a list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions; a list of equipment identification numbers for pressure relief devices required to comply with 15A NCAC 13A .0110 [40 C.F.R. 265.1054(a)]; and the date, the background level measured, and the maximum instrument reading measured at the equipment for each compliance test required in 15A NCAC 13A .0110 [40 C.F.R. 265.1052(e), 265.1054, and 265.1057(f)].

40. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.1085(c)(4)(i)-(iv)], and is a condition of the LQG Permit Exemption, the fixed roof and its closure devices shall be visually inspected by owners or operators using Tank Level 1 control requirements to check for defects that could result in air pollutant emissions at least once every year. The owner or operator shall maintain a record of the inspection in accordance with the requirements specified in 15A NCAC 13A .0110 [40 C.F.R. § 265.1090(b)].
41. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.16(d)], and is a condition of the LQG Permit Exemption, a generator is required to maintain the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; a written job description for each position at the facility related to hazardous waste management; a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and records that document that the required training or job experience has been given to, and completed by, facility personnel.
42. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.52(c)-(e)], and is a condition of the LQG Permit Exemption, a generator is required to have a contingency plan which must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; must keep an up-to-date list of the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator; and must include a list of all emergency equipment at the facility, including the location and a physical description of each item on the list and a brief outline of its capabilities.
43. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(a)(4) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.53(a) and (b)], and is a condition of the LQG Permit Exemption, a generator is required to maintain a copy of the contingency plan and all revisions to the plan at the facility, and submit a copy of the contingency plan and all revisions to the plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
44. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the 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 without having interim status, as required by Sections 130A-294(c) and (g) 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], provided that the generator complies with

the satellite accumulation area conditions listed in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(c)(1)(i)-(ii) (2016)], (hereinafter referred to as the "SAA Permit Exemption").

45. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(c)(1)(i) (2016)], which incorporates 15A NCAC 13A .0110 [40 C.F.R. § 265.173(a)] and is a condition of the SAA Permit Exemption, a generator must keep containers of hazardous waste closed when waste is not being added or removed.
46. Pursuant to 15A NCAC 13A .0107 (2016) [40 C.F.R. § 262.34(c)(1)(ii) (2016)], which is a condition of the SAA Permit Exemption, a generator is required to mark containers of hazardous waste with the words "Hazardous Waste" or with other words that identify the contents of the containers.
47. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10] and to 15A NCAC 13A .0119 [40 C.F.R. §§ 273.9], a "lamp", also referred to as "universal waste lamp", is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium and metal halide lamps.
48. Pursuant to 15A NCAC 13A .0119 [40 C.F.R. § 273.9], a "Small Quantity Handler of Universal Waste" (SQHUW) is a Universal Waste handler who does not accumulate 5,000 kilograms or more of Universal Waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
49. Pursuant to 15A NCAC 13A .0119 [40 C.F.R. § 273.13(d)(1)], a SQHUW 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.
50. Pursuant to 15A NCAC 13A .0119 [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps."

#### IV. FINDINGS OF FACTS

51. Respondent manufactures dye-sublimation printers at the subject facility. The facility includes a 110,000 square foot building that is located at 4524 Enterprise Drive (Building 1), and a 140,000 square foot building that is located in the same business park at 4541 Enterprise Drive (Building 2). The buildings are located on contiguous property which is divided by a public road, and NCDEQ approved the company's request to use a single EPA ID number for operations on both sections of the property.
52. Respondent generates spent solvents, which are managed as D001 / D035 / F005 hazardous waste flammable liquid (MEK, toluene), D001 / D035 / F005 hazardous waste flammable liquid (MEK, isopropanol, toluene), or D001 hazardous waste alcohols (ethanol, methanol); and used



bags and filters contaminated with spent solvents, which are managed as D035 / F005 hazardous waste flammable solids (isopropanol, ethanol rags and filters).

53. Respondent generates 1,000 kilograms or more of hazardous waste in a calendar month and therefore is an LQG of HW.
54. Respondent accumulates less than 5,000 kilograms of Universal Waste and therefore is an SQHUW.
55. On March 22, 2018, the EPA and NCDEQ conducted a compliance evaluation inspection (CEI) at Respondent's facility. EPA's findings of the CEI were documented in a report mailed to Respondent, dated June 28, 2018.
56. During the March 22, 2018, RCRA CEI, EPA observed that the Respondent did not have records of weekly inspections of the hazardous waste central accumulation area in Building 1 for a total of seventy-six weeks during the time period between March 3, 2015 and March 22, 2018; and that Respondent did not have records of weekly inspections of the hazardous waste central accumulation area in Building 2 for a total of three weeks during the time period between August 29, 2017 and March 22, 2018.
57. During the March 22, 2018, RCRA CEI, EPA observed that the Respondent did not have records of daily inspections of the hazardous waste tanks for a total of ninety-one days during the time period between December 31, 2015 and March 1, 2018.
58. During the March 22, 2018, RCRA CEI, EPA observed cracks in the concrete and areas where the liner coating was peeling away in the secondary containment area of the hazardous waste storage tanks.
59. During the March 22, 2018, RCRA CEI, EPA reviewed the Respondent's report for the structural support frame evaluation of three 1,000-gallon hazardous waste storage tanks. The evaluation report did not include a written assessment of the hazardous waste storage tanks showing that they were reviewed and certified by a qualified Professional Engineer attesting that the tank system has sufficient structural integrity. In addition, the Respondent did not show that the tank system was installed in accordance with the requirements of 265.192 (b) through (f) and that the tank system is acceptable for the storing and treating of hazardous waste.
60. The Respondent also did not have records to show that the tanks' ancillary equipment was tested for tightness prior to being placed in use.
61. During the March 22, 2018, RCRA CEI, EPA reviewed the Respondent's available air monitoring records, and observed that Respondent conducted only one air monitoring event for the on-site hazardous waste storage tanks and ancillary equipment. The records indicated that the air monitoring event was conducted on May 18<sup>th</sup> of an unidentified calendar year. The Respondent also failed to provide records of any additional air monitoring activities or records of weekly visual inspections of the pumps associated with the hazardous waste storage tanks.
62. During the March 22, 2018, RCRA CEI, Respondent's records of the May 18<sup>th</sup> air monitoring event did not include the date, the background level measured, and the maximum instrument reading measured for each piece of equipment: they did not include any records of or data for

equipment calibration; and they did not include documentation of readings for every identified monitoring point.

63. During the March 22, 2018, RCRA CEI, EPA observed two open ended lines that Respondent did not identify as subject to air monitoring under Subpart BB. The Respondent's records did not include the percent by weight total organics in the waste at each piece of equipment, the hazardous waste state at each piece of equipment, or the method of compliance with the standard for each piece of equipment.
64. During the March 22, 2018, RCRA CEI, Respondent did not provide records of annual visual inspections of the fixed roofs and closure devices on three hazardous waste storage tanks or records of the determination for the maximum organic vapor pressure of the hazardous waste inside the tanks.
65. During the March 22, 2018, RCRA CEI, Respondent's hazardous waste training records included one list of job titles related to hazardous waste management and a separate list of job descriptions related to hazardous waste management. Four job titles did not correspond to the list of job descriptions.
66. During the March 22, 2018, RCRA CEI, Respondent provided the most recent available contingency plan, dated April 2017. Following the inspection, NCDEQ located a newer version of the plan, dated October 2017, on the E-Plan website. Respondent's contingency plan dated April 2017 did not describe the specific location for the emergency response equipment, did not include a description of the capabilities of each piece of emergency response equipment, included an out-of-date list of emergency coordinators, and did not describe emergency response arrangements. Respondent did not provide records to show that the emergency response entities were provided with the most recent version of the contingency plan.
67. During the March 22, 2018, RCRA CEI, EPA observed one 55-gallon satellite accumulation area (SAA) drum of hazardous waste alcohol with an unlatched funnel lid, three 55-gallon SAA drums of solvent contaminated rags with unsecured rings, and one 5-gallon SAA pail of solvent contaminated rags with an open lid.
68. During the March 22, 2018, RCRA CEI, EPA observed sixteen 5-gallon SAA pails of solvent contaminated rags with no label or labeled improperly.
69. During the March 22, 2018, RCRA CEI, EPA observed one open box of 8-foot used fluorescent lamps, two open boxes of 4-foot used fluorescent lamps, and one open box of U-shaped used fluorescent lamps. The boxes were not labeled with the words "Universal Waste - Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."

## V. ALLEGED VIOLATIONS

70. Respondent is a "person" as defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10].
71. Respondent is the "owner/operator" of a "facility" located at 4524 and 4541 Enterprise Drive, Concord, North Carolina, as those terms are defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10].

72. 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].
73. Respondent did not conduct weekly inspections of the hazardous waste central accumulation areas. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(i) (2016)]. by not inspecting areas where containers of hazardous waste are stored at least weekly to look for leaking and deterioration of containers caused by corrosion or other factors as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.174].
74. Respondent did not conduct daily inspections of hazardous waste tanks. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)]. by not inspecting, at least once each operating day, overfill/spill control equipment to ensure that it is in good working order; above ground portions of the tank system to detect corrosion or releases of waste; and the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including secondary containment system to detect erosion or signs of releases of hazardous waste as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.195(b)].
75. Respondent's secondary containment area for hazardous waste storage tanks had cracks in the concrete and areas where the liner coating was peeling away. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to provide secondary containment that is free of cracks or gaps as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.193(e)(1)(iii)].
76. Respondent did not have a written assessment of the hazardous waste tanks that was reviewed and certified by a qualified Professional Engineer attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)]. by failing to obtain a written assessment reviewed and certified by a qualified Professional Engineer in accordance with 270.11(d) of this chapter attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.192(a)].
77. Respondent did not have records to show that the tanks' ancillary equipment was tested for tightness prior to being placed in use. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to test new tanks and ancillary equipment for tightness prior to being placed in use as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.192(d)].

78. Respondent did not have a written assessment of the hazardous waste tanks that was reviewed and certified by a qualified Professional Engineer attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to obtain and keep on file written statements by those persons required to certify the design of the tank systems and supervise the installation of the tank systems in accordance with the requirements of paragraphs (b) through (f) of this section to attest that the tank systems were properly designed and installed and that repairs, pursuant to paragraphs (b) and (d) of this section were performed as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.192(g)]. These written statements must also include the certification statement required in 270.11(d) of this chapter.
79. Respondent conducted only one air monitoring event for the on-site hazardous waste storage tanks and ancillary equipment, on May 18<sup>th</sup> of an unidentified calendar year, and Respondent failed to provide records of any additional air monitoring activities or records of weekly visual inspections of the pumps associated with the storage tanks. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to monitor each pump in light liquid service monthly to detect leaks by the methods specified in 15A NCAC 13A .0110 [40 C.F.R. § 265.1063(b)] and by visual inspection each calendar week for indications of liquids dripping from the pump seal, as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.1052(a)(1) and (2)].
80. Respondent conducted only one air monitoring event for the on-site hazardous waste storage tanks and ancillary equipment, on May 18<sup>th</sup> of an unidentified calendar year, and Respondent failed to provide records of any additional air monitoring activities of the valves associated with the storage tanks and ancillary equipment. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to monitor each valve in gas/vapor or light liquid service monthly to detect leaks by the methods specified in 15A NCAC 13A .0110 [40 C.F.R. § 265.1063(b)] as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.1057(a)].
81. Respondent did not identify two open ended lines as subject to air monitoring under Subpart BB; and Respondent's records did not include the percent by weight total organics in the waste at

each piece of equipment, the hazardous waste state at each piece of equipment, or the method of compliance with the standard for each piece of equipment. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to record, in the facility operating record, the equipment identification number and hazardous waste management unit identification; the approximate locations within the facility; the type of equipment, the percent-by weight total organics in the hazardous waste stream at the equipment; the hazardous waste state at the equipment; and the method of compliance with the standard for each piece of equipment to which subpart BB of part 265 applies, as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.1064(b)(1)].

82. Respondent's records of the May 18<sup>th</sup> air monitoring event did not include the date, the background level measured, and the maximum instrument reading measured for each piece of equipment; they did not include any records of or data for equipment calibration; and they did not include documentation of readings for every identified monitoring point. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to record the following information pertaining to all equipment subject to the requirements in 15A NCAC 13A .0110 [40 C.F.R. § 265.1052 through 265.1060] in a log that is kept in the facility operating record: a list of identification numbers for equipment subject to the requirements of this part; a list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions; a list of equipment identification numbers for pressure relief devices required to comply with 15A NCAC 13A .0110 [40 C.F.R. § 265.1054(a)]; and the date, the background level measured, and the maximum instrument reading measured at the equipment for each compliance test required in 15A NCAC 13A .0110 [40 C.F.R. § 265.1052(e), 265.1054, and 265.1057(f)] as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.1064(g)(1)-(4)].
83. Respondent did not provide records of annual visual inspections of the fixed roofs and closure devices on the hazardous waste tanks or records of the determination for the maximum organic vapor pressure of the hazardous waste inside the tanks. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by failing to visually inspect the fixed roof and its closure devices using Tank Level 1 control requirements to check for defects that could result in air pollutant emissions at least once every year; and by failing to maintain a record of the inspection in accordance with the requirements specified in 15A NCAC 13A .0110 [40 C.F.R. § 265.1090(b)] as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.1085(c)(4)(i)-(iv)].
84. Respondent's hazardous waste training records included one list of job titles related to hazardous waste management and a separate list of job descriptions related to hazardous waste management. Four job titles did not correspond to the list of job descriptions. The EPA therefore

alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(4) (2016)], because Respondent failed to maintain the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; a written job description for each position at the facility related to hazardous waste management; a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and records that document that the required training or job experience has been given to, and completed by, facility personnel as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.16(d)].

85. Respondent's contingency plan did not describe the specific location for the emergency response equipment, did not include a description of the capabilities of each piece of emergency response equipment, included an out-of-date list of emergency coordinators, and did not describe emergency response arrangements. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(4) (2016)]. because Respondent failed to have a contingency plan which describes arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; includes an up-to-date list of the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator; and includes a list of all emergency equipment at the facility, including the location and a physical description of each item on the list and a brief outline of its capabilities as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.52(c)-(e)].
86. Respondent did not provide records to show that the response entities had been provided with the most recent version of the contingency plan. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(a)(4) (2016)]. because Respondent failed to maintain a copy of the contingency plan and all revisions to the plan at the facility, and submit a copy of the contingency plan and all revisions to the plan to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.53(a) and (b)].
87. The Respondent had open SAA containers. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(c)(1)(i) (2016)]. because Respondent failed to keep containers of hazardous waste closed when waste is not being added or removed as required by 15A NCAC 13A.0110 [40 C.F.R. § 265.173(a)].

88. The Respondent had SAA containers which either had no label or were labeled improperly. The EPA therefore alleges Respondent violated 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] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in 15A NCAC 13A.0107 (2016) [40 C.F.R. § 262.34(c)(1)(ii) (2016)]. because Respondent failed to mark containers of hazardous waste with the words "Hazardous Waste" or with other words that identify the contents of the containers.
89. Respondent had open boxes of universal waste lamps. The EPA therefore alleges Respondent violated 15A NCAC 13A .0119 [40 C.F.R. § 273.13(d)(1)], because Respondent failed to contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps; and that remain closed.
90. Respondent had boxes of universal waste lamps that were not labeled with the words "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)." The EPA therefore alleges Respondent violated 15A NCAC 13A .0119 [40 C.F.R. § 273.14(e)]. because Respondent failed to label or mark each lamp or container of lamps clearly with one of the following phrases: "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."

## VI. STIPULATIONS

91. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
92. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2). Respondent:
- a. admits that 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 conditions specified in this CAFO;
  - e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
  - f. waives its rights to appeal the Final Order accompanying this CAFO.
93. For the purpose of this proceeding, Respondent:
- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
  - b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering 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 Respondent may have with respect to 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 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 noncompliance with the CAFO, 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; and
  - f. agrees to comply with the terms of this CAFO.
94. By executing this CAFO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of the Act and its implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected.
95. 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.

## VII. TERMS OF PAYMENT

96. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00), which is to be paid within thirty (30) calendar days of the effective date of this CAFO.
97. 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 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
  - b. 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. Environmental Protection Agency Fines & Penalties  
1005 Convention Plaza  
Mail Station: SL-MO-C2-GL  
St. Louis, Missouri 63101  
Contact Number: (314) 425-1819

c. 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"

d. 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: Craig Steffen. (513) 487-2091  
REX (Remittance Express): 1-866-234-5681

98. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

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

and

Laurie Benton DiGaetano  
Chemical Safety and Land Enforcement Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
benton-digaetano.laurie@epa.gov

99. "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 and "Docket No. RCRA-04-2019-4008(b)."

100. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, 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, 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 more than ninety (90) calendar days past due, 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.** 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.

101. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

- a. refer the debt to a credit reporting agency or a collection agency. 40 C.F.R. §§ 13.13, 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. 40 C.F.R. Part 13, Subparts C and H;

- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 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.

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

### VIII. EFFECT OF CAFO

103. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
104. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of 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).
105. 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).
106. Nothing in this CAFO shall relieve 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 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.
107. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
108. 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.
109. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
110. 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 Respondent's obligations and responsibilities under this CAFO.
111. By signing this Consent Agreement, 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.

112. By signing this Consent Agreement, the Complainant and the undersigned representative of 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.
113. 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.
114. By signing this Consent Agreement, 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. 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.
115. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
116. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
117. This CAFO shall not be construed to create rights in, or grant any cause of action to, any third party not party to this CAFO.
118. 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.

#### **IX. EFFECTIVE DATE**

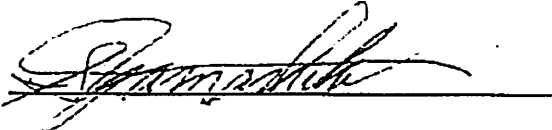
119. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

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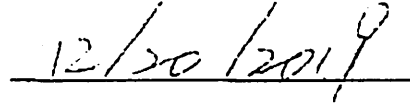
**Complainant and Respondent will Each Sign on Separate Pages.]**

The foregoing Consent Agreement In the Matter of **DNP Imagingcomm America Corporation**,  
Docket No. **RCRA-04-2019-4008(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:



Signature



Date

Shinichi Yamashita, President  
DNP Imagingcomm America Corporation  
4524 Enterprise Drive, NW  
Concord, NC 28027

The foregoing Consent Agreement In the Matter of **DNP Imagingcomm America Corporation**,  
**Docket No. RCRA-04-2019-4008(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

12-27-2019

DATE

A handwritten signature in black ink, appearing to read "Larry L. Lamberth", is written over a horizontal line.

Larry L. Lamberth, Chief  
Chemical Safety and Land Enforcement Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

DNP Imagingcomm America Corporation  
4524 Enterprise Drive, NW  
Concord, North Carolina 28027  
EPA ID No.: NCR000001537

Respondent.

Docket No. RCRA-04-2019-4008(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 this 27<sup>th</sup> day of December 2019.



Tanya Floyd  
Regional Judicial Officer

## CERTIFICATE OF SERVICE

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of **DNP Imagingcomm America Corporation, Docket No. RCRA-04-2019-4008(b)**, were filed and copies of the same were mailed to the parties as indicated below.

Via Certified Mail. Return Receipt Requested:

Respondent:  
Garrett Lyons, Vice President of Operations  
DNP Imagingcomm America Corporation  
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Concord, NC 28027  
email: [g.lyons@dnpiimgcomm.com](mailto:g.lyons@dnpiimgcomm.com)

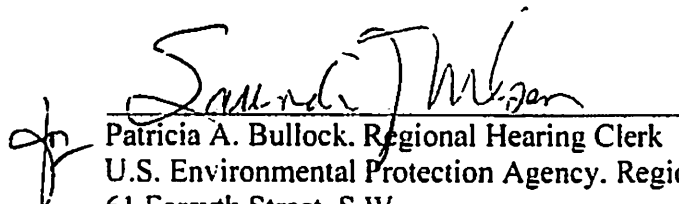
Respondent's Counsel:  
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Via EPA's internal email:

Laurie Benton DiGaetano  
Chemical Safety and Land Enforcement Branch  
Enforcement and Compliance Assurance Division  
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12-27-19  
DATE

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