UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: North Carolina State University 2620 Wolf Village Way Raleigh, North Carolina 27606 EPA ID No.: NCD000830737 Respondent.	Docket No. RCRA-04-2021-2107(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 North Carolina State University , a constituent institution of the multi-campus University of North Carolina System, which is a component unit of the State of North Carolina. Respondent is organized pursuant to Article 9, Section 8 of the North Carolina State Constitution, and Chapter 116 of the General Statutes of North Carolina (N.C.G.S.). This

proceeding pertains to Respondent's facility located at 2620 Wolf Village Way, Raleigh, 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 [40 C.F.R. Parts 260 through 270, 273 and 279].

7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. The State has received final authorization for certain portions of HSWA, including those recited herein.

8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.

9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.

10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CAFO.

11. 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], set forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 15A 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. §§ 261.3(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].

17. 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.

18. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], a "large quantity generator" (LQG) is a generator who generates greater than or equal to 1,000 kilograms of non-acute hazardous waste in a calendar month.

19. 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."

20. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], which references N.C.G.S. § 130A-290, a "person" means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.

21. 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."

22. Pursuant to 15A NCAC 13A .0102 [40 C.F.R. § 260.10], which references N.C.G.S. § 130A-290, "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.

23. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.200] "unwanted material" means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to 15A NCAC 13A .0106 [40 C.F.R. § 261.2], or a hazardous waste pursuant to 15A NCAC 13A .0106 [40 C.F.R. § 261.3]. If an eligible academic entity elects to use another equally effective term in lieu of "unwanted material," as allowed by 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(1)(i)], the equally effective term has the same meaning and is subject to the same requirements as "unwanted material" under 40 C.F.R. Subpart K (40 C.F.R. §§ 262.200 through 262.216).

24. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.200] "eligible academic entity" means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

25. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.203], an eligible academic entity may elect to be subject to the requirements of 15A NCAC 13A .0107 (g) [40 C.F.R. Part 262 Subpart K] for all of the laboratories owned by the eligible academic entity and must notify the appropriate EPA Regional Administrator in writing.

26. On March 1, 2018, the Respondent notified the North Carolina Department of Environmental Quality (NCDEQ) pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.203], that it was electing for its laboratories, including the Facility, to be subject to the requirements of Subpart K for hazardous wastes generated within laboratories on its campus.

27. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(1)(i)], an eligible academic entity must label containers of unwanted materials with the words "unwanted material" or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan.

28. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(1)(ii)], an eligible academic entity must label containers of unwanted materials with affixed or attached information sufficient to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to: (A) the name of the chemical(s); (B) the type or class of chemical, such as organic solvents or halogenated organic solvents.

29. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(2)(i)], an eligible academic entity must label containers of unwanted materials with an affixed or attached label indicating the date that the unwanted material first began accumulating in the container.

30. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(2)(ii)], an eligible academic entity must label containers of unwanted materials with affixed or attached information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to 40 C.F.R.§ 262.11. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to: (A) the name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction; (B) whether the unwanted material has been used or is unused; and (C) a description of the manner in which the chemical was produced or processed, if applicable.

31. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R.§ 262.208(a)], an eligible academic entity must either: (1) remove all containers of unwanted material from each laboratory on a regular interval, not to exceed 12 months; or (2) remove containers of unwanted material from each laboratory within 12 months of each container's accumulation start date.

32. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(b) and (b)(1)], an eligible academic entity must properly manage containers of unwanted material in the laboratory to ensure safe

storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following: (1) containers must be maintained and kept in good condition and damaged containers must be replaced, overpacked, or repaired.

33. Pursuant to 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(b) and (b) (3)], an eligible academic entity must properly manage containers of unwanted material in the laboratory to ensure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health and the environment. Proper container management includes keeping containers closed at all times, except: (i) when adding, removing or bulking unwanted material; (ii) a working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the container must either be closed or the contents emptied into a separate container that is then closed; and (iii) when venting of a container is necessary.

34. On January 6, 2015, the NCDEQ issued Respondent a permit for the storage of hazardous waste (Permit # NCD000830737-R2 (RCRA Permit or Permit)).

35. Pursuant to Part II of the Permit (General Facility Conditions), Condition II.F provides that the Permittee shall follow the inspection schedule described in Part F of the Permit Application and shall comply with 40 C.F.R. Section 264.15 (c) and (d) as adopted in 15A NCAC 13A .0109, which include requirements for recording the time of the inspection, as well as the name and signature of the inspector.

36. 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.

37. Pursuant 15A NCAC 13A .0119(b) [40 C.F.R. § 273.13(d)], a SQHUW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. 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.

38. Pursuant to 15A NCAC 13A .0119(b) [40 C.F.R. § 273.14(e)], a SQHUW must label or mark each universal waste lamp or container or package of lamps clearly with one of the following phrases: "Universal Waste-Lamp(s),"or "Waste Lamp(s)," or "Used Lamp(s)."

39. Pursuant to 15A NCAC 13A .0119(b) [40 C.F.R. § 273.15(a) and (c)], a SQHUW may accumulate universal waste no longer than one year from the date the universal waste is generated or received from another handler and must be able to demonstrate the length of time that the universal waste has accumulated from the date that it became a waste or was received.

40. Pursuant to 15A NCAC 13A .0118. [40 C.F.R. § 279], which references N.C.G.S. § 130A-290(b), "used oil" means "any oil which has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose due to the

presence of impurities or loss or original properties, but which may be suitable for further use and is economically recyclable."

41. Pursuant to 15A NCAC 13A .0118(c) [40 C.F.R. § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

IV. FINDINGS OF FACTS

42. Respondent's Facility is located at 2620 Wolf Village Way, Raleigh, North Carolina.

43. Respondent is a university and a constituent institution of the multi-campus University of North Carolina System, which is a component unit of the State of North Carolina. Respondent is the primary technological institute in the University of North Carolina System. Teaching and research facilities are part of Respondent's operations.

44. Respondent notified the State as a generator of 1,000 kilograms or more of hazardous wastes in a calendar month on February 28, 2020 and is therefore classified as a Large Quantity Generator (LQG) of hazardous waste. At all times relevant to this CAFO, Respondent was a LQG of hazardous waste.

45. On February 2, 2021, the EPA and the NCDEQ conducted a compliance evaluation inspection (CEI) at Respondent's Facility. The EPA's findings from the CEI were documented in a report emailed to the Respondent on April 14, 2021.

46. At the time of the CEI, the EPA inspector observed containers which were not labeled with the words "unwanted material" or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Managment Plan in Rooms 1512, 1543 and 1603 of the Varsity Research Building, Rooms 110, 137, 145, 228, 302, 310 and 312 of the Polk Building, Rooms 1103, 1106, 2115, 3101, 3103, 3107 and 3121 of the Robertson Wing in the Biltmore Building and Rooms 2226, 3218B, 3221 and 3228 of the Biltmore Building.

47. At the time of the CEI, the EPA inspector observed containers which were not labeled with sufficient information to alert emergency responders to the contents of the containers in Rooms 1512 and 1603 of the Varsity Research Building, Rooms 110, 137, 145 and 312 of the Polk Building, Rooms 1103, 1106, 2115, 3101, 3103, 3107 and 3121 of the Robertson Wing in the Biltmore Building and Rooms 3218B and 3228 of the Biltmore Building.

48. At the time of the CEI, the EPA inspector observed containers which did not have the date that the unwanted material first began accumulating associated with the containers in Rooms 1512 and 1603 of the Varsity Research Building, Rooms 110, 137, 145, 302, 310, 312 and 329 of the Polk Building, Rooms 1103, 1106, 2115, 3101, 3103, 3107 and 3121 of the Robertson Wing in the Biltmore Building and Rooms 3218B, 3221 and 3228 of the Biltmore Building.

49. At the time of the CEI, the EPA inspector observed containers which did not have sufficient information attached or affixed to it to allow a trained professional to properly identify whether the waste was solid and hazardous waste in Rooms 1512 and 1603 of the Varsity Research Building, Rooms 110, 137, 145 and 312 of the Polk Building, Rooms 1103, 1106, 2115, 3101,

3103, 3107 and 3121 of the Robertson Wing in the Biltmore Building and Rooms 3218B and 3228 of the Biltmore Building.

50. At the time of the CEI, the EPA inspector observed containers which had been stored over 12 months in Rooms 1543 of the Varsity Research Building, Rooms 228 and 312 of the Polk Building, Rooms 2115 and 3107 in the Robertson Wing of the Biltmore Building and Rooms 2226 and 3218B of the Biltmore Building.

51. At the time of the CEI, the EPA inspector observed a damaged container of unwanted material in Room 329 of the Polk Building which was not replaced, overpacked, or repaired.

52. At the time of the CEI, the EPA inspector observed open containers in Room 3101 in the Robertson Wing of the Biltmore Building and Room 3218B of the Biltmore Building.

53. At the time of the CEI, the EPA inspector observed universal waste lamps which were not managed in a way that prevents releases of universal waste or components of a universal waste in Room 312 of the Polk Building. Specifically, the lamps were not found in a closed container adequate to prevent breakage and compatible with the contents of the lamps.

54. At the time of the CEI, the EPA inspector observed universal waste lamps which were not labeled or marked with one of the following phrases: "Universal Waste-Lamp(s),"or "Waste Lamp(s)," or "Used Lamps" in Room 312 of the Polk Building

55. At the time of the CEI, the EPA inspector observed universal waste lamps which the Respondent could not demonstrate had been accumulating for less than one year in Room 312 of the Polk Building.

56. At the time of the CEI, the EPA inspector observed containers of used oil that were not labeled or marked clearly with the words "Used Oil" in Room 312 of the Polk Building and Rooms 1218 and 3233 of the Biltmore Building.

57. At the time of the CEI, the EPA inspector observed the inspection records for the Waste Management Facility did not include the time of each inspection, the inspector name or the signature of the employee conducting the inspection.

V. ALLEGED VIOLATIONS

58. Respondent is a "person" as defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10], which references N.C.G.S. Section 130A-290.

59. Respondent is the "owner" and "operator" of a "facility" located at 2620 Wolf Village Way in Raleigh, North Carolina, as those terms are defined in 15A NCAC 13A .0102 [40 C.F.R. § 260.10].

60. Respondent generates "solid waste" and "hazardous waste" as those terms are defined in 15A NCAC 13A .0106 [40 C.F.R. § 261.2 and § 261.3].

61. Respondent is a "small quantity handler of universal waste" (SQHUW) as defined in 15A NCAC 13A .0119 [40 C.F.R. § 273.9].

62. Respondent is an "eligible academic entity" as defined in 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.200].

63. Respondent generates "unwanted materials" as that term is defined in 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.200].

64. Respondent failed to label all of its containers of unwanted material with the words "unwanted material" (See paragraph 46). The EPA therefore alleges Respondent violated 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(1)(i)], because an eligible academic entity must label containers of unwanted materials with the words "unwanted material" or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan.

65. Respondent failed to label containers of unwanted materials with sufficient information to alert emergency responders to the contents of the containers (See paragraph 47). The EPA therefore alleges Respondent violated 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(1)(ii)], because an eligible academic entity must label containers of unwanted materials with sufficient information to alert emergency responders to the contents of the containers.

66. Respondent failed to label its containers of unwanted materials with an affixed or attached marking indicating the date that the unwanted material first began accumulating in the container (See paragraph 48). The EPA therefore alleges Respondent violated 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(2)(i)] by failing as an eligible academic entity to label containers of unwanted materials with the date that the unwanted material first began accumulating in the containers.

67. Respondent failed to label containers of unwanted materials with affixed or attached information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to 15A NCAC 13A .0107 [40 C.F.R. § 262.11] (See paragraph 49). The EPA therefore alleges Respondent violated 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(a)(2)(ii)], by failing to label containers of unwanted materials with affixed or attached information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to 15A NCAC 13A .0107 [40 C.F.R.§ 262.11].

68. Respondent failed to (1) remove all containers of unwanted material from each laboratory on a regular interval, not to exceed 12 months; or (2) remove containers of unwanted material from each laboratory within 12 months of each container's accumulation start date (See paragraph 50). The EPA therefore alleges Respondent violated 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.208(a)] by (1) failing as an eligible academic entity to remove all containers of unwanted material from each laboratory on a regular interval, not to exceed 12 months; or (2) failing to remove containers of unwanted material from each laboratory within 12 months of each container's accumulation start date.

69. Respondent failed to properly manage a damaged container of unwanted material in the laboratory to ensure safe storage of the unwanted material (See paragraph 51). The EPA therefore alleges Respondent violated 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(b) and (b)(1)] by failing to properly manage a container of unwanted material in the laboratory to ensure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Containers must be maintained and kept in good condition and damaged containers must be replaced, overpacked, or repaired.

70. Respondent failed to properly manage containers of unwanted material in the laboratory by not keeping the unwanted material in closed containers (See paragraph 52). The EPA therefore alleges Respondent violated 15A NCAC 13A .0107 (g) [40 C.F.R. § 262.206(b) and (b)(3)] by failing to properly manage containers of unwanted material in the laboratory to ensure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Containers of unwanted materials must remain closed except when adding, removing or bulking unwanted material; when utilizing a working container until the end of the procedure or work shift, or until it is full (whichever comes first); or when venting a container, as necessary.

71. Respondent failed to manage its universal waste lamps in a way that prevents releases of universal waste or components of a universal waste (See paragraph 53). The EPA therefore alleges that Respondent violated 15A NCAC 13A .0119(b) [40 C.F.R § 273.13(d)], by failing to manage spent universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment because they were not found in a closed container adequate to prevent breakage and compatible with the contents of the lamps.

72. Respondent failed to label or mark its universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamps" (See paragraph 54). The EPA therefore alleges that Respondent violated 15A NCAC 13A .0119(b) [40 C.F.R. § 273.14(e)], by failing to 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."

73. Respondent failed to demonstrate that its universal waste lamps had been accumulated for less than one year (See paragraph 55). The EPA therefore alleges that Respondent violated 15A NCAC 13A .0119(b) [40 C.F.R. § 273.15(a) and (c)], by failing to demonstrate the length of time that the Facility's universal waste had been accumulated from the date that the universal waste became a waste or was received.

74. Respondent failed to label containers of used oil with the words "Used Oil" (See paragraph 56). The EPA therefore alleges that Respondent violated 15A NCAC 13A .0118(c) [40 C.F.R. § 279.22(c)(1)], by storing used oil in containers that were not labeled or marked clearly with the words "Used Oil."

75. Respondent failed to include the time of each inspection, the inspector's name, or the signature of the employee conducting inspection of its Waste Management Facility (See paragraph 57). The EPA therefore alleges that Respondent violated Part II of the Respondent's Permit (General Facility Conditions), as Condition II.F. (General Inspection Requirements) requires the

Respondent to follow the inspection schedule described in Part F of the Permit Application and to comply with 40 C.F.R. Section 264.15(c) and (d) as adopted in 15A NCAC 13A .0109.

VI. STIPULATIONS

76. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

77. 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.

78. 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 any issue of fact or law set forth in this CAFO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706;

    d. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;

    e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and

    f. agrees to comply with the terms of this CAFO.

79. Within thirty (30) calendar days of receipt of the executed copy of this CAFO, Respondent shall submit to EPA a certification signed by a duly authorized representative stating that the Facility is in compliance with the Act and its implementing regulations and that all the violations alleged in this CAFO have been corrected. This certification shall be as follows:

> "I certify under penalty of law, to the best of my knowledge and belief, that all violations alleged in this CAFO have been corrected. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

80. The certification required to be submitted under this CAFO shall be mailed to:

> Alan Newman
> Environmental Engineer
> Chemical Safety and Land Enforcement Branch
> US EPA Region 4
> 61 Forsyth Street, S.W.
> Atlanta, Georgia 30303-8909
> newman.alan@epa.gov

81. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding and the parties agree to receive service by electronic means.

VII. TERMS OF PAYMENT

82. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **THIRTY THOUSAND DOLLARS** (**$30,000.00)**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

83. 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. EPA 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

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

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Alan Newman
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
newman.alan@epa.gov

85. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name (North Carolina State University) and Docket No. **RCRA-04-2021-2107(b)**.

86. 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 or a stipulated 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.

87. 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 and 13.14;

    b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 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.

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

VIII. EFFECT OF CAFO

89. 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.

90. 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).

91. 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).

92. 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.

93. 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.

94. 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.

95. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns.

96. 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.

97. 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.

98. 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.

99. 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.

100. 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.

101. 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.

102. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

103. 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**

104. 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.

[Remainder of Page Intentionally Left Blank

Complainant and Respondent will Each Sign on Separate Pages.]

The foregoing Consent Agreement In the Matter of North Carolina State University , Docket No. **RCRA-04-2021-2107(b)** , is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Charles Maimone
Signature

9/23/21
Date

Printed Name: Charles A. Maimone

Title: Vice Chancellor, Finance &Administration

Address: 20 Watauga Club Drive, Raleigh, NC 27695

The foregoing Consent Agreement In the Matter of North Carolina State University, Docket No. **RCRA-04-2021-2107(b)** is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

KIMBERLY BINGHAM

Digitally signed by KIMBERLY BINGHAM
Date: 2021.09.27 16:20:04 -04'00'

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of: North Carolina State University 2620 Wolf Village Way Raleigh, North Carolina 27606 EPA ID No.: NCD000830737 Respondent.	Docket No. RCRA-04-2021-2107(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.

TANYA FLOYD

Digitally signed by TANYA FLOYD
Date: 2021.09.27 18:38:10 -04'00'

_____

Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order, In the Matter of North Carolina State University, Docket No. RCRA-04-2021-2107(b) , were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent:

Charles A Maimone
Vice Chancellor for Finance & Administration
North Carolina State University
camaimon@ncsu.edu

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

To EPA:

Alan Newman, Environmental Engineer
newman.alan@epa.gov
(404) 562-8589

F. Marshall Binford, Associate Regional Counsel
binford.marshall@epa.gov
(404) 562-9543

Quantindra Smith, Environmental Protection Specialist
Smith.Quantindra@epa.gov
(404) 562-8564

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

SHANNON RICHARDSON
Digitally signed by SHANNON RICHARDSON
Date: 2021.09.28 06:02:45 -04'00'

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