



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

AUG 03 2010

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Chancellor Harold L. Martin, Sr.  
North Carolina Agricultural  
and Technical State University  
1601 East Market Street  
Greensboro, North Carolina 27411

Re: Consent Agreement and Final Order  
North Carolina Agricultural  
and Technical State University  
Docket No. RCRA-04-2010-4009(b)

Dear Chancellor Martin:

Enclosed, is a copy of the ratified Consent Agreement and Final Order (CA/FO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rule of Practice, 40 C.F.R. § 22.6. Please make note of the provisions in Section VI of the CA/FO, with respect to payment of the assessed penalty, which is due within 30 days from the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

Should you have any questions, please do not hesitate to call me at 404-562-9607.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenda Luciano".

Brenda Luciano  
Assistant Regional Counsel  
Office of Environmental Accountability

Enclosure

Internet Address (URL) • <http://www.epa.gov>

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	Docket Number: RCRA-04-2010-4009(b)
	)	
North Carolina Agricultural	)	
and Technical State University	)	Proceeding under Section 3008(a)
1601 East Market Street	)	of the Resource Conservation and
Greensboro, North Carolina 27411	)	Recovery Act, 42 U.S.C. § 6928(a)
	)	
EPA ID No.: NCD 981 020 662	)	
	)	
Respondent	)	
_____	)	

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**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6921, et seq., and Chapter 130A, Article 9, of North Carolina's General Statutes (N.C.G.S). This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of RCRA and regulations promulgated pursuant thereto and set forth at Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 268, 270 and 279; and the North Carolina regulations promulgated pursuant to N.C.G.S. Chapter 130A Article 9 and set forth in Title 15A, Chapter 13, Subchapter A of the North Carolina Administrative Code (15A N.C.A.C. 13A).

2. 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, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the

issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

## **II. THE PARTIES**

4. Complainant is the Chief of the RCRA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA). Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.

5. Respondent is the North Carolina Agricultural and Technical State University (NC A&T), a government entity under the control of the State of North Carolina. NC A&T is located at 1601 East Market Street, Greensboro, North Carolina, 27411.

## **III. PRELIMINARY STATEMENTS**

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on December 31, 1984, the State of North Carolina (the State) was authorized to carry out a hazardous waste program in lieu of the federal program. The State received authorization for its corrective action program on January 9, 1995. The requirements of the authorized state program are found in Chapter 130A, Article 9, of N.C.G.S. and 15A N.C.A.C. 13A.

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 upon their federal effective date regardless of the State's authorization status and are implemented by EPA until the State is granted final authorization with respect to those requirements.

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

9. The North Carolina Department of Environment and Natural Resources (NCDENR) is charged with the statutory duty of enforcing the laws of the State relating to hazardous waste management. Chapter 130A, Article 9, of N.C.G.S. provides rulemaking authority for the management of hazardous waste.

10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to the State of North Carolina before the issuance of this CA/FO.

11. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), and N.C.G.S. § 130A-294 require promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found in 40 C.F.R. Part 262 and 15A N.C.A.C. 13A.0107.

12. Section 3004 of RCRA, 42 U.S.C. § 6924, and N.C.G.S. § 130A-294 set forth standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these requirements are found at 40 C.F.R. Part 264 and 15A N.C.A.C. 13A.0109.

13. Section 3005 of RCRA, 42 U.S.C. § 6925, and N.C.G.S. § 130A-294 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 40 C.F.R. Parts 264 (permitted facilities), 265 (interim status facilities), and 270 and 15A N.C.A.C. 13A.0113.

14. Section 3014 of RCRA, 42 U.S.C. § 6935 and N.C.G.S. § 130A-309.18 set forth requirements regarding the generation and transportation of used oil which is recycled. The implementing regulations for these requirements are found at 40 C.F.R. Part 279 and 15A N.C.A.C. 13A.0118.

15. Pursuant to 40 C.F.R. § 261.2 and 15A N.C.A.C. 13A.0106, a “solid waste” is any discarded material that is not otherwise excluded by regulation.

16. Pursuant to 40 C.F.R. § 261.3 and 15A N.C.A.C. 13A.0106, a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and 15A N.C.A.C. 13A.0106, and it meets any of the criteria set out in this section.

17. Pursuant to 40 C.F.R. § 260.10 and 15A N.C.A.C. 13A.0102, a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. § 261.3 and 15A N.C.A.C. 13A.0106.

18. Pursuant to 40 C.F.R. § 260.10 and 15A N.C.A.C. 13A.0102, a “small quantity generator” is defined as “a generator who generates less than 1000 kg of hazardous waste in a calendar month.”

19. Pursuant to 40 C.F.R. § 273.9 and 15A N.C.A.C. 13A.0119, “universal waste means any of the following hazardous wastes that are subject to the universal waste requirements of this part 273:

- (1) Batteries as described in § 273.2;
- (2) Pesticides as described in § 273.3;
- (3) Mercury-containing equipment as described in § 273.4; and
- (4) Lamps as described in § 273.5.”

20. Pursuant to 40 C.F.R. § 273.9 and 15A N.C.A.C. 13A.0119, “universal waste handler (a) means: (1) a generator (as defined in this section) of universal waste; or (2) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.”

21. Pursuant to 40 C.F.R. § 273.9 and 15A N.C.A.C. 13A.0119, a “small quantity handler of universal waste” is defined as “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.”

22. Pursuant to 40 C.F.R. § 262.11 and 15A N.C.A.C. 13A.0107, a person who generates a solid waste, as defined in 40 C.F.R. § 261.2 and 15A N.C.A.C. 13A.0106, must determine if that waste is a hazardous waste.

23. Pursuant to 40 C.F.R. § 261.24 and 15A N.C.A.C. 13A.0106, a solid waste exhibits the toxicity characteristic for lead, and is a D008 hazardous waste, if it contains lead at the concentration equal to or greater than 5 mg/l.

24. Pursuant to 40 C.F.R. § 262.34(d) and 15A N.C.A.C. 13A.0107, a small quantity generator may accumulate hazardous waste on site for 180 days or less without a permit or without having interim status provided that generator complies with the management requirements listed in § 262.34. Pursuant to 40 C.F.R. § 262.34(a)(2) and 15A N.C.A.C. 13A.0107, a generator may accumulate hazardous waste on site for 180 days or less without a permit or without having interim status provided that generator clearly marks the date accumulation begins on the container.

25. Pursuant to 40 C.F.R. § 262.34(a)(3) and 15A N.C.A.C. 13A.0107, a small quantity generator may accumulate hazardous waste on site for 180 days or less without a permit or without having interim status provided that the generator marks each container with the words “Hazardous Waste” while the waste is being accumulated onsite.

26. Pursuant to 40 C.F.R. § 262.34(f) and 15A N.C.A.C. 13A.0107(c), a small quantity generator who stores hazardous waste for more than 180 days must obtain a permit for the treatment, storage, and disposal of hazardous waste in accordance with the requirements of 40 C.F.R. Part 270 and 15A N.C.A.C. 13A .0113.

27. Pursuant to 40 C.F.R. § 279.22(c)(1) and 15A N.C.A.C. 13A.0118, used oil generators must label or mark clearly containers or above ground tanks used to store used oil with the words “Used Oil.”

28. Pursuant to 40 C.F.R. § 273.14(b)(2) and 15A N.C.A.C. 13A.0119(b), a small quantity handler of universal waste pesticides must label or mark the universal waste using the words: “Universal Waste-Pesticide(s)” or “Waste-Pesticide(s).”

29. Pursuant to 40 C.F.R. § 273.14(d)(1) and 15A N.C.A.C. 13A.0119(b), a small quantity handler of universal waste mercury-containing equipment must label or mark the

universal waste using the words: "Universal Waste Mercury-Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

30. Pursuant to 40 C.F.R. § 273.15(c) and 15A N.C.A.C. 13A.0119(b), a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

31. Pursuant to 40 C.F.R. § 265.174 and 15A N.C.A.C. 13A.0110(i), a facility is required to inspect containers of accumulated hazardous waste for leaks and deterioration on a weekly basis.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

32. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and N.C.G.S. § 130A-294 and 40 C.F.R. § 260.10 and 15A N.C.A.C. 13A.0102.

33. Respondent is the "owner" and "operator" of a "facility," as those terms are defined in 40 C.F.R. § 260.10 and 15A N.C.A.C. 13A.0102.

34. The Respondent has been a generator of hazardous waste since February 1991, and was assigned the site specific EPA ID number: NCD 981 020 662 by NCDENR.

35. On May 19, 2009, EPA and NCDENR conducted a RCRA Compliance Evaluation Inspection (CEI) of Respondent's facility.

36. Respondent generates hazardous waste as a result of research and educational activities conducted in various laboratories in the following buildings: the Paint Shop, the New Science Building, and the Environmental and Health Science Building. Respondent also generates hazardous waste in the Facilities Maintenance and Garage as a result of facility and automotive maintenance.



37. Respondent has a less than 180-day hazardous waste storage area in the Environmental and Health Science Building (EHS), which is located in a centralized location on campus.

38. At the time of the CEI, Respondent was storing a container of hazardous waste in the EHS Building for longer than 180 days. A 40 gallon white plastic drum containing lead (14.8 mg/l), D008 hazardous waste, had been stored on site since April 24, 2008, and 210 days beyond the 180 day period. Respondent does not have interim status or a permit for storage beyond the 180 day limit.

39. Respondent has failed to meet the requirements in Section 3005 of RCRA, 40 C.F.R. § 262.34(f), and 15A N.C.A.C. 13A.0107(c). These regulations require a small quantity generator who stores hazardous waste for more than 180 days to obtain a permit for the treatment, storage, and disposal of hazardous waste in accordance with the requirements of 40 C.F.R. Part 270.

40. EPA therefore alleges that Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and N.C.G.S. § 130A-294 and the implementing regulations under 40 C.F.R. Part 270 and 15A N.C.A.C. 13A.0113 by operating a storage facility without interim status or a permit.

41. At the time of the CEI, Respondent had not labeled twenty-two containers of hazardous waste stored in the New Science Building and EHS Building with the words "Hazardous Waste."

42. Respondent failed to adhere to a condition for exemption from RCRA § 3005 found at 40 C.F.R. § 262.34(a)(3) and 15A N.C.A.C. 13A.0107. These regulations require that containers of hazardous waste that are accumulated on-site must be labeled with the words "Hazardous Waste." EPA therefore alleges that Respondent has violated RCRA § 3005,

42 U.S.C. § 6925, and N.C.G.S. § 130A-294 by not meeting the conditions for exemption, and storing hazardous wastes without a permit or interim status.

43. At the time of the CEI, Respondent had not conducted a hazardous waste determination on two drums containing unknown materials or substances and one trash can full of an unknown oily water substance outside the Facilities Maintenance and Garage.

44. EPA therefore alleges that Respondent violated 40 C.F.R. § 262.11 and 15A N.C.A.C. 13A.0106 by failing to conduct a hazardous waste determination on solid wastes that were later determined to be hazardous wastes.

45. At the time of the CEI, Respondent had not marked twenty-two containers of hazardous waste, stored in the New Science Building and EHS Building with accumulation start dates.

46. Respondent failed to adhere to a condition for permit exemption found at 40 C.F.R. § 262.34(a)(2) and 15A N.C.A.C. 13A.0107 by storing containers of hazardous waste without marking the date of accumulation on each container. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and N.C.G.S. § 130A-294 by operating a storage facility without a permit or interim status.

47. At the time of the CEI, Respondent had not conducted weekly inspections for containers located in the hazardous waste storage areas.

48. Respondent failed to adhere to a condition for exemption from RCRA § 3005 found at 40 C.F.R. § 265.174 and 15A N.C.A.C. 13A.0110(i), and as incorporated in 40 C.F.R. § 262.34(a)(1)(i), and adopted by reference at 15A N.C.A.C. 13A.0107(d) by not performing weekly inspections. EPA therefore alleges that Respondent has violated Section 3005 of RCRA,

42 U.S.C. § 6925, and N.C.G.S. § 130A-294 by operating a storage facility without a permit or interim status.

49. At the time of the CEI, Respondent was storing approximately five, 8 liter containers of universal waste pesticides in the EHS building. These containers were not dated or labeled or marked clearly with the words: "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

50. Respondent was therefore in violation of 40 C.F.R. § 273.14(b)(2) and 15A N.C.A.C. 13A.0119(b). This regulation requires a small quantity handler of universal waste pesticides to label or mark the universal waste identifying the type of universal waste it contains using the words: "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

51. At the time of the CEI, Respondent was storing a container of mercury in the EHS Building. This container was not labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

52. Respondent was in violation of 40 C.F.R. § 273.14(d)(1) and 15A N.C.A.C. 13A.0119(b). This regulation requires a small quantity handler of universal waste (mercury) to clearly label or mark the universal waste using any of the following phrases: "Universal Waste-Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

53. At the time of the CEI, Respondent was not able to demonstrate the length of time that approximately five, 8 liter containers of pesticides and one container of mercury in the EHS building had been accumulated.

54. Respondent is in violation of 40 C.F.R. § 273.15(c) and 15A N.C.A.C. 13A.0119(b). This regulation requires that a small quantity handler of universal waste must be able to

demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

55. At the time of the CEI, Respondent had not labeled three, 5 gallon containers of cutting oil and twenty-two, 5 gallon used oil containers located in the EHS Building with the words "Used Oil."

56. Respondent is in violation of 40 C.F.R. § 279.22(c)(1) and 15A N.C.A.C. 13A.0118. This regulation requires that containers and above ground tanks used to store oil and fill pipes used to transfer used oil at generator facilities must be labeled or clearly marked with the words "Used Oil."

#### **V. TERMS OF AGREEMENT**

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

57. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

58. The Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.

59. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

60. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.

61. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or

communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.

62. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.

63. The parties agree that compliance with the terms of this CA/FO shall resolve the violations of RCRA alleged in this CA/FO.

64. Within thirty (30) calendar days of the effective date of this CA/FO, Respondent agrees to certify in writing that it has corrected all the violations alleged in this CA/FO. Certification shall be submitted to the Acting Chief of North Section, RCRA Enforcement and Compliance Branch at the address listed in paragraph 69 of this Order. This certification shall be as follows:

“I certify under penalty of law that, to the best of my knowledge and belief, North Carolina Agricultural and Technical State University, located at 1601 East Market Street, Greensboro, North Carolina, which was the subject of the Consent Decree and Final Order, Docket No. RCRA-04-2010-4009(b), has corrected all the violations alleged in this CA/FO. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

65. Each party will pay its own costs and attorney’s fees.

66. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

#### **VI. PAYMENT OF CIVIL PENALTY**

67. Respondent consents to the payment of a civil penalty in the amount of THIRTY NINE THOUSAND, SIX HUNDRED AND EIGHTEEN DOLLARS (\$39,618).

68. Payment shall be made by cashier’s check, certified check, by electronic funds transfer (EFT), or by Automated Clearinghouse (ACH) (also known as REX or remittance

express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the facility name and docket number for this matter shall be referenced on the face of the check. If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

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

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

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 418-1028

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

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

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

PNC Bank  
ABA: 051036706  
Account Number: 310006  
CTX Format Transaction Code 22 – checking  
Environmental Protection Agency  
808 17<sup>th</sup> Street N.W.  
Washington, District of Columbia 20074

Contact: Jesse White, (301) 887-6548

69. Payment shall be made by cashier's check, certified check, or other payment acceptable to EPA, payable to: Treasurer, United States of America. The facility name and the docket number for this matter shall be referenced on the face of the check and in a cover letter transmitting the check. Payment shall be tendered to:

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

Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

and to:

Nancy McKee, Acting Chief  
North Section, RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

70. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C.

§ 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate.

b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.

c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

71. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

## **VII. RESERVATION OF RIGHTS**

72. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.



...any form of criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

75. This CA/FO may be amended or modified only by written agreement executed by both the EPA and Respondent.

#### **VIII. OTHER APPLICABLE LAWS**

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

#### **IX. PARTIES BOUND**

77. This CA/FO shall be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons including independent contractors and contractors and consultants acting under or for the Respondent to comply with the provisions hereof in connection with any activity subject to this CA/FO.

78. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

#### **X. SERVICE OF DOCUMENTS**

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

Brenda Luciano  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909  
(404) 562-9607

#### **XI. SEVERABILITY**

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

**North Carolina Agricultural and Technical State University**

By: Harold L. Martin, Sr. Dated: 7/13/10  
Chancellor Harold L. Martin, Sr.

**U.S. Environmental Protection Agency**

By: Caroline Y. F. Robinson Dated: 7/19/2010  
Caroline Y. F. Robinson, Chief  
RCRA and OPA Enforcement  
and Compliance Branch  
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

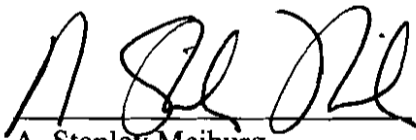
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**FINAL ORDER**

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

BEING AGREED, IT IS SO ORDERED this 26<sup>th</sup> day of July, 2010.

BY:   
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4

In the Matter of North Carolina Agricultural and Technical State University  
Docket Number: RCRA-04-2010-4009(b)

**CERTIFICATE OF SERVICE**


I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of North Carolina Agricultural and Technical State University, Docket Number: RCRA-04-2010-4009(b), on August 3, 2010, and on August 3, 2010, served the parties listed below in the manner indicated:

Brenda Luciano (Via EPA's internal mail)  
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Chancellor Harold L. Martin, Sr. (Via Certified Mail - Return Receipt Requested)  
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Date: August 3, 2010

  
for Patricia A. Bullock  
Regional Hearing Clerk  
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