

**HAZARDOUS WASTE SECTION - COMPLIANCE BRANCH
FILE TRANSMITTAL & DATA ENTRY FORM**

Your Name: Heather Goldman

Facility ID Number: NCR000004168

Facility Name: Johnson C Smith University

Document Group: Enforcement (E)

Document Type: E- Ticket Notice of Violation (TNOV)

File Description/Comments: TNOV Docket #2016-020.

Date of Document: 2/22/2016

Author(s) of Document: Heather Goldman

Inspector ID #: NC111

Suborganization: Western Region

County (if not on report): Mecklenburg

For Violations:

Enforcement Date: 2/22/2016

Docket Number: 2016-020

Enforcement Type: TNOV

How many violations were there? 5

For IANOV or CO: The facility is

Outcome Measures for CSE for IANOV or CO:

Waste Involved	Volume	Exposure Media (a, gw, sw, s)	Distance to Residences	Number of People involved	Distance to On-site wells	Distance to Off-site wells

Violation #1:

Date Determined: 2/9/2016

Scheduled Return to Compliance: 3/23/2016

Actual Return to Compliance: [Click here to enter a date.](#)

Regulation Description: 40 CFR 262.11

Comment: Failure to conduct a waste determination.

For CSE, Corrections to Violations were:

Violation #2:

Date Determined: 2/9/2016

Scheduled Return to Compliance: 3/23/2016

Actual Return to Compliance: [Click here to enter a date.](#)

Regulation Description: 40 CFR 273.13(d)

Comment: The facility failed to properly containerize universal waste lamps in a closed container to prevent breakage.

For CSE, Corrections to Violations were:

Violation #3:

Date Determined: 2/9/2016

Scheduled Return to Compliance: 3/23/2016 **Actual Return to Compliance:** [Click here to enter a date.](#)

Regulation Description: 40 CFR 273.14(e)

Comment: The facility failed to label each universal waste lamp container with the words "Universal Waste Lamps", "Used Lamps", or "Waste Lamps".

For CSE, Corrections to Violations were:

Violation #4:

Date Determined: 2/9/2016

Scheduled Return to Compliance: 3/23/2016 **Actual Return to Compliance:** [Click here to enter a date.](#)

Regulation Description: 40 CFR 273.16

Comment: The facility failed to provide information that describes proper handling and emergency procedures to all employees that handle or have responsibilities for managing universal waste.

For CSE, Corrections to Violations were:

Violation #5:

Date Determined: 2/9/2016

Scheduled Return to Compliance: 3/23/2016 **Actual Return to Compliance:** [Click here to enter a date.](#)

Regulation Description: NC G.S. 130A-294.1(e)

Comment: The facility failed to pay required LQG fees for the State fiscal year July 1, 2013 through June 30, 2014.

For CSE, Corrections to Violations were:



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

LINDA CULPEPPER
Director

NOTICE OF VIOLATION

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

To: Attn: Michael Chenoweth
Johnson C. Smith University
100 Beatties Ford Road
Charlotte, NC 28216

Docket #: 2016-020
Date of Inspection: February 9, 2016
Facility Type: SQG
EPA ID#: NCR000004168

On December 18, 1980, the State of North Carolina, Hazardous Waste Section (State) was authorized to operate the State RCRA hazardous waste program under the Solid Waste Management Act (ACT), N.C.G.S. 130A, Article 9 and rules promulgated thereto at 15A NCAC 13A (Rules) in lieu of the federal RCRA program. Johnson C. Smith University is located in Charlotte, North Carolina, is operating as a Conditionally Exempt Small Quantity Generator (CESQG), and is subject to the requirements of 40 CFR 261 adopted by reference at 15A NCAC 13A .0106, 40 CFR 262 adopted by reference at 15A NCAC 13A .0107, 40 CFR 273 adopted at 15A NCAC 13A .0119, 40 CFR 279 adopted by reference at 15A NCAC 13A .0118.

On February 9, 2016, Heather Goldman, Environmental Senior Specialist, inspected your facility for compliance with North Carolina Hazardous Waste Management Rules. During that investigation, the following violations were noted:

- A. 40 CFR 262.11 adopted by reference at 15A NCAC 13A .0107, states that a person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:
- (a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4.
 - (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 CFR part 261.
- NOTE: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.
- (c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either:
 - (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or
 - (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.



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(d) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 267, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste.

Johnson C. Smith University is in violation in that during the inspection, various chemical waste containers, including paint and cleaners, were observed stored in the basement of the James H. & Jane M. Berry Hall. The containers were identified as waste, but it was not known if the material was hazardous. The same containers were observed stored in the area during the 11/19/2015 site visit. This deficiency was cited in the 12/2/2015 CAV report.

B. 40 CFR 273.13(d) adopted by reference at 15A NCAC 13A .0119, states that a small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste 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.

(2) A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

Johnson C. Smith University is in violation in that it during the inspection several open used lamps boxes and unboxed used lamps were observed accumulated in the basement of the James H. & Jane M. Berry Hall. This deficiency was cited in the 12/2/2015 CAV report.

C. 40 CFR 273.14(e) adopted by reference at 15A NCAC 13A .0119, states that a small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below: each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".

Johnson C. Smith University is in violation in that during the inspection, several boxes of used lamps and unboxed used lamps were observed accumulated in the basement of the James H. & Jane M. Berry Hall that were not properly labeled. This deficiency was cited in the 12/2/2015 CAV report.

D. 40 CFR 273.16 adopted by reference at 15A NCAC 13A .0119, states that a small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.



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Johnson C. Smith University is in violation in that it during the inspection, accumulated universal waste lamps were improperly managed. Mr. Moad confirmed that they have not provided universal waste training to employees. This deficiency was cited in the 12/2/2015 CAV report.

- E. NC G.S. 130A-294.1(e), states that a person who generates either one kilogram or more of any acute hazardous waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised 1 July 1987, or 1000 kilograms or more of hazardous waste, in any calendar month during the year beginning 1 July and ending 30 June shall pay an annual fee of one thousand four hundred dollars (\$1,400).

Johnson C. Smith University is in violation in that during the November 19, 2015 inspection, the facility's hazardous waste manifest, 000581243WAS, dated 3/14/2014, documented that the facility generated and shipped for disposal more than 2.2-pounds of P-Listed hazardous waste in a calendar month and operated as a LQG during that time. The facility was invoiced for the LQG fee on December 31, 2015 with a payment due on January 30, 2016. This deficiency was cited in the 12/2/2015 CAV report. This fee had not been paid.

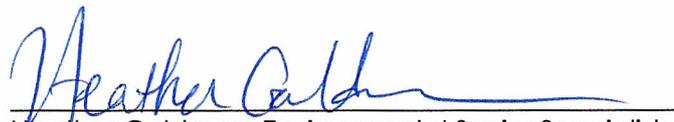
Based upon the foregoing, Johnson C. Smith University shall come into compliance with all applicable requirements of 40 CFR Parts 262, 265, 268, 273, and 279 by March 23, 2016 **(30 days from signing)**.

Respondent shall provide a written certification with supporting documentation on company letterhead confirming the noted compliance schedule has been completed. Mail or email this certification to Ms. Heather Goldman, Environmental Senior Specialist at P.O. Box 241001, Charlotte, NC 28224-1001 by the noted compliance date.

Compliance with this NOV will not divest the Section of its authority to issue an administrative penalty for the violations cited herein. Pursuant to N.C. General Statutes 130A-22(a) and 15A NCAC 13A .0701-.0707, an administrative penalty of up to \$32,500.00 per day may be assessed for violation of the hazardous waste law or regulations.

If you have any questions concerning this matter, you may contact Ms. Heather Goldman at 980-224-9858.

2/22/2016
(Date)


Heather Goldman, Environmental Senior Specialist
Division of Waste Management, NCDEQ

I, Heather Goldman, hereby certify that I have personally served a copy of this Notice to Mr. Michael Chenoweth, Johnson C. Smith University, by certified mail.

SENT CERTIFIED MAIL
(Recipient Signature Required)

ec: Mr. Brent Burch, NC Hazardous Waste Section
Central Office Files