



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

November 21, 2014

CERTIFIED MAIL

Return Receipt Requested:

7014 0510 0000 4466 1384

Andrew Huske
290 Cashdon Drive
Mills River, NC 28759

Subject: **Notice of Continuing Violation and New Violation(s) Letter**
Waste Stream Innovations
Henderson County, North Carolina
SWCD-4501
Compost Demonstration Facility

Dear Mr. Huske:

On May 22, 2013, the Solid Waste Section (Section) issued a Notice of Violation letter to Waste Stream Innovations/Andrew Huske regarding the compost demonstration facility violations. The specific violation(s) listed were 15A NCAC 13B .0201(c) and 15A NCAC 13B .1408 (a)(1).

The Solid Waste Section conducted a conference call with the facility on March 20, 2014 which outlined steps required to resolve the Notice of Violation(s). A follow-up inspection of the site was conducted on September 11, 2014 which resolved the 15A NCAC 13B .1408 (a)(1) violation. Due to the fact that the violation for 15A NCAC 13B .0201(c) cited in the Notice of Violation has not been corrected at this time, and that additional violations (outlined below) were noted during the inspection, you are hereby notified that the Section intends to move forward in the enforcement process.

In order to potentially abate any further action forthcoming, it is recommended that the following actions be taken **within the next 30 days** of receipt of this notice:

Ongoing Violation: 15A NCAC 13B .0201 Permit Required (c): As of April 23, 2012 the facility has been operating with an expired Demonstration permit. The July 12, 2012 Inspection Report noted an Observed Violation (15A NCAC 13B .0201) and the facility was required to submit a formal plan for closure. The required plan was received on July 21, 2012 and closure activities were scheduled for completion within six months of this date. During the May 6, 2013 site inspection the planned closure activities were not completed and no further plan for closure had been submitted by the facility per the request of the Section in the November 15, 2012 Inspection Report. A Notice of Violation was issued on May 22, 2013 to address the failure to submit a

closure plan. The conference call on March 20, 2014 again outlined the requirements for closure. No submittals were received with respect to facility clean-up or closure. Closure requirements were discussed during September 11, 2014 site inspection.

New Violation: 15A NCAC 13B .1401(a) All persons whose purpose is or includes the production of compost from solid waste or solid waste co-composted with other wastes shall not construct, operate, expand or modify a facility until a currently valid permit for a solid waste compost facility is issued by the Division.

On September 11, 2014, the owner of the facility stated that an additional, unapproved, 1000 cy of animal waste was accepted on site with the intention to compost and distribute. In addition, the facility was never approved for the composting of 100% animal waste. The facility does not have a current permit to operate and was under an ongoing notice of violation for failure to meet closure requirements. The facility is **in violation of 15A NCAC 13B .1401(a)** for continuing to accept waste, operate, and modify the process without a currently valid permit from the Division.

New Violation: 15A NCAC 13B .1407 Classification/Distribution of Solid Waste Compost Products (d)(2) Grade B compost shall be restricted to distribution for land and mine reclamation, silviculture, and agriculture (on non-food chain crops) projects.

On September 11, 2014, the owner of the facility stated that material which failed Class A test standards was sold as Class B product to a landscaper for use on a new construction site in Asheville, NC. The facility is **in violation of 15A NCAC 13B .1407(d)(2)** in that it sold material with restricted use for applications other than allowed by Rule.

New Violations: 15A NCAC 13B .1407 Classification/Distribution of Solid Waste Compost Products (g) If the owner intends to distribute the product, the owner shall provide instructions to the user on any restrictions on use and recommended safe uses and application rates. The following information shall be provided on a label or an information sheet and a copy of the label or information sheet shall be submitted to the Solid Waste Section:

- (1) **Classification grade as outlined in Paragraph (d) of this Rule;**
- (2) **Recommended uses;**
- (3) **Application rates;**
- (4) **Restrictions on usage;**

The owner of the facility The facility is **in violation of 15A NCAC 13B .1407(g)(1), 15A NCAC 13B .1407(g)(2), 15A NCAC 13B .1407(g)(3), 15A NCAC 13B .1407(g)(4)**, in that sold Class B product to landscapers, for use on a new construction site, without providing information on the product classification, recommended uses, application rates, or usage restrictions.

Corrective Action(s)

- Submit the results of the Foreign Matter Test conducted in conjunction with your July 2014, analytical sampling event to Andrea Keller (andrea.keller@ncdenr.gov) at the Asheville Regional Office.

- Submit the Closure Plan for the facility, as outlined in the comment section below, to Tony Gallagher (tony.gallagher@ncdenr.gov).
- Contact, in writing, all recipients of the failed Class A compost batch(s) with information on classification and including usage restrictions. In addition, copies of all letters and information provided to buyers [as required by 15A NCAC 13B .1407 (g)] must be sent to the Section (Andrea Keller).
- Determine appropriate option(s) for the acceptance/removal of the manure-based feed stocks, as outlined in the comment section below, and submit plans for the removal of this material to the Section for approval (Tony Gallagher).

Be advised that material abandoned on site and/or material land applied without meeting recommended uses, application rates, or usage restrictions, is prohibited and could constitute additional violations of North Carolina Administrative Code 13B.

The item(s) listed above were observed by Section staff and require action on behalf of the facility and/or all responsible parties in order to come into or maintain compliance with the Statutes, Rules, and/or other regulatory requirements applicable to this facility. Be advised that pursuant to N.C.G.S. 130A-22, an administrative penalty of up to \$15,000 per day may be assessed for each violation of the Solid Waste Laws, Regulations, Conditions of a Permit, or Order under Article 9 of Chapter 130A of the N.C. General Statutes. Further, the facility and/or all responsible parties may also be subject to enforcement actions including penalties, injunction from operation of a solid waste management facility or a solid waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules.

We solicit your cooperation and would like to avoid taking further enforcement actions. At the same time, it is your responsibility to comply with the requirements of the General Statutes and/or the North Carolina Administrative Code. If you have any questions regarding this matter, please feel free to contact me at (828) 296-4700.

Sincerely,

Andrea Keller
Environmental Senior Specialist
Division of Waste Management – Solid Waste Section

Copies to: Jason Watkins, Solid Waste Section Field Operations Branch Head
Teresa Townsend, Attorney General's Office
Deb Aja, Solid Waste Section Western District Supervisor
Sarah Rice, Solid Waste Section Compliance Officer
Ed Williams, NCDENR Water Resources Asheville Regional Office
Steve Wyatt, County Manager - Henderson County