

N.C. DEPARTMENT OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES  
DIVISION OF SOLID WASTE  
HAZARDOUS WASTE SECTION

Circle one:  
G, **I**, P, GW, C, E

FILE DOCKET

DATE

ITEM

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4-12-95

Notice of Violation

State of North Carolina  
Department of Environment,  
Health and Natural Resources  
Division of Solid Waste Management



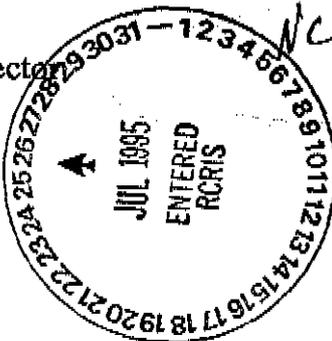
James B. Hunt, Jr., Governor  
Jonathan B. Howes, Secretary  
William L. Meyer, Director

April 12, 1995

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**NOTICE OF VIOLATION**  
**Docket #95-489**

Mr. James Coffey  
Facilities Maintenance & Safety Director  
North Carolina School for the Deaf  
Department of Human Resources  
517 West Flemming Drive  
Morganton, North Carolina 28655



Dear Mr. Coffey:

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.

On April 29, 1994 and March 17, 1995 Ms. Spring Allen, Waste Management Specialist with this office, investigated illegal disposal of containers at the old land fill area at the School for the Deaf, Morganton, North Carolina. Ms. Allen observed several drums in poor condition and partially buried in the area, one drum was actively releasing its contents and is presumed to be used oil. Through interviews with Mr. James Coffey, Mr. Doug Jones, and Mr. Dan Carson. It was discovered that approximately 50-75 five-gallon containers of furniture finishing materials including waste were buried at the site. An unknown number of one gallon and five gallon containers of paint related wastes were buried in another area of the site.

It was also discovered that at various times throughout the life of the facility, which began operation in 1891, the School for the Deaf historically disposed of various wastes in the same areas including filling in an area now being used as a recreational field.

A. 40 CFR 261.1(a), codified at 15A NCAC 13A .0006, states that this part identifies those solid wastes which are subject to regulation as hazardous wastes under Parts 262 through 265 and Parts 270, 271, and 124 of this Chapter and which are subject to the notification requirements of Section 3010 of RCRA.

- B. 40 CFR 261.2(b), codified at 15A NCAC 13A .0006, states that materials are solid waste if they are abandoned by being [1] disposed of; or [2] burned or incinerated; or [3] accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.
- C. 40 CFR 261.3(a), codified at 15A NCAC 13A .0006, states that a solid waste, as defined in Section 261.2 is a hazardous waste if:
1. It is not excluded from regulation as a hazardous waste under Section 261.4(b); and
  2. It meets any of the following criteria:
    - i. It exhibits the characteristics of hazardous waste identified in Subpart C.
    - ii. It is listed in Subpart D and has not been excluded from the lists in Subpart D under Sections 260.20, and 260.22 of this chapter.
    - iii. It is a mixture of solid waste and hazardous waste that is listed in Subpart D solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in Subpart C.
    - iv. It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D and has not been excluded from this paragraph under Sections 260.20 and 260.22 of this chapter.
- D. GS 130A-290(6), defines "Disposal" as the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.
- E. GS 130A-290(41), defines "Storage" as the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.
- F. It is the determination of the Section that the disposal of miscellaneous containers holding waste solvents and used oils at the North Carolina School for the Deaf in Morganton, North Carolina constitutes storage and disposal of solid waste subject to all applicable requirements of 40 CFR 262 through 265 and 270. Specifically:
1. 40 CFR 262.11, codified at 15A NCAC 13A .0007, 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 and 261.5.
- b. He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.
- c. If the waste is not listed as a hazardous waste in Subpart D of 40 CFR Part 261, he must determine whether the waste is identified in Subpart C of 40 CFR Part 261 by either:
  - i. 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
  - ii. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

The North Carolina School for the Deaf is in violation of 40 CFR 262.11, codified at 15A NCAC 13A .0007, in that it generated a solid waste, as defined in 40 CFR 261.2, and did not determine if that waste is a hazardous waste.

2. 40 CFR 262.12, codified at 15A NCAC 13A .0007, states that:

- a. a generator must not treat, store, dispose of , transport, or offer for transportation, hazardous waste without having received an EPA identification number from the State.
- b. a generator must not offer his hazardous waste to transporters or to treatment , storage, or disposal facilities that have not received and EPA identification number.

The North Carolina School for the Deaf is in violation of 40 CFR 262.12, codified at 15A NCAC 13A .0007, in that hazardous waste was stored and/or disposed at a site that has not received an EPA identification number from the State.

3. 15A NCAC 13A .0009(a), states that any person who treats, stores, or disposes of hazardous waste shall comply with the requirements set forth in this section. The treatment, storage or disposal of hazardous waste is prohibited except as provided in this section.

The North Carolina School for the Deaf is in violation of 15A NCAC 13A .0009(a), in that hazardous waste has been stored and/or disposed without complying with the requirements set forth in this section.

## COMPLIANCE SCHEDULE

By the dates specified below, The North Carolina School for the Deaf, Morganton, North Carolina shall comply with the following requirements:

1. Comply with 40 CFR 262.11, codified at 15A NCAC 13A .0007. An immediate determination and/or analysis of all unknown waste in containers must be completed, specifically determine the contents of containers being stored at the facility. Two of these containers are 55 gallon containers and 14 are 85 gallon containers (over packs of leaking containers). Additionally, an immediate determination and/or analysis of leachate going toward Hunting Creek must be completed, in addition to the areas where containers were found leaking contents to the soil. These determinations must be made in order to ensure proper characterization and disposition.

By June 7, 1995, develop and submit to this office an interim comprehensive sampling and analysis report which will characterize soil contamination (inorganic and organic) in the areas at your site, specifically in areas of visible leachate and areas noted where containers were previously stored. This report must specify constituents analyzed, sampling procedures, sampling locations, and depths that will assess the horizontal and vertical extent of contamination.

Upon verification of contamination, The North Carolina School for the Deaf must immediately provide for the remediation of the site including soil removal, storage and transportation to an off-site disposal facility and sampling to evaluate the adequacy of the cleanup. The North Carolina School for the Deaf must complete the initial soil removal with post excavation sampling results by July 7, 1995.

2. Comply with 40 CFR 262.12, codified at 15A NCAC 13A .0007. Prior to shipment of any hazardous waste, an EPA identification Number must be obtained for this site. You may contact Mr. Jim Edwards with this office at 919/733-2178 to make provisions for obtaining the I.D. number.
3. Comply with 15A NCAC 13A .0009(a). By August 7, 1995, The North Carolina School for the Deaf shall no longer store or dispose of hazardous waste, and all hazardous waste previously on site shall be shipped to a permitted hazardous waste treatment, storage or disposal facility.

During the interim, pending shipment of the waste, 40 CFR 262.34(a), codified at 15A NCAC 13A .0007 states that:

- a. If the waste is placed in containers the generator must comply with Subpart I of 40 CFR Part 265 or if the waste is placed in tanks, the generator must comply with Subpart J of 40 CFR Part 265 except 265.193.

- b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
  - c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and
  - d. The generator complies with the requirements for owners or operators in Section 265.16.
4. Additionally, The North Carolina School for the Deaf must notify Ms. Charlotte Jesneck with the Inactive Sites Program, Superfund Section, Division of Solid Waste Management of areas where disposal has taken place prior to 1980.

If the requirements above are not met, pursuant to N.C.G.S. 130A-22(a) and 15A NCAC 13B .0701-.0707, an administrative penalty of up to \$25,000.00 per day may be assessed for violation of the hazardous waste law or regulations.

If you should have questions concerning this matter, you may contact Spring Allen at (704) 251-6208.

Sincerely,



Dan Bius, Acting Chief  
Hazardous Waste Section

DB/jsp/deafsch

cc: Keith Masters  
Spring Allen  
Nann Guthrie  
Doug Holyfield  
Bill Meyer  
Central Files