



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



May 12, 1995

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION  
Docket #95-514

Mr. Donald Freeman  
Total Office Services  
3711 Tarheel Drive  
Raleigh, NC 27609

RE: Storage and Disposal of Solid Waste

Dear Mr. Freeman:

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 May 1, 1995, Mr. Michael Williford, Waste Management Specialist with this Section, investigated a complaint involving the storage and disposal of paint related waste at Total Office Services, in Raleigh, North Carolina. Mr Williford observed seven 55-gallon drums and three open 5-gallon containers of what appeared to be paint related waste stored behind the facility.

- 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 storage and disposal of paint related waste at Total Office Services, Raleigh, North Carolina, constitute storage and disposal of a 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.

Total Office Services 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 an EPA identification number.

Total Office Services is in violation of 40 CFR 262.12, codified at 15A NCAC 13A .0007, in that it stored and disposed of hazardous waste without having 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.

Total Office Services is in violation of 15A NCAC 13A .0009(a), in that it has stored and disposed of hazardous waste without having received a permit from the Department.

COMPLIANCE SCHEDULE

By the dates specified below, Total Office Services 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, and that being discharged must be completed to ensure proper characterization and disposition.

By June 30, 1995, develop and submit to this office a comprehensive sampling and analysis report which will characterize the contaminated waste (inorganic and organic) at your site. This report must specify constituents analyzed, and sampling procedures.

Upon verification of container contents, Total Office Services must immediately provide for the remediation of the site including waste removal, storage and transportation to an off-site disposal facility. Failure to initiate an effective site remediation by these dates may subject the site to additional requirements including closure plans, and financial assurance for closure.

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 15, 1995, your site shall no longer store 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.

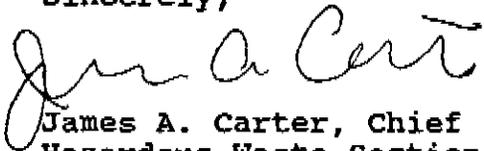
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- c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and
- d. The generator complies with the requirements for owners or operators in Section 265.16.

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 Larry Perry at (919) 733-2178.

Sincerely,



James A. Carter, Chief  
Hazardous Waste Section

DB/jsp/tos

cc: Larry Perry  
Michael Williford  
Boyce Hudson  
Central Files

EPA ID: WCR000001065

DATA ENTRY PERSONNEL

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_

Entered by: \_\_\_\_\_ Date: \_\_\_\_\_

Facility Name: Total Office Services

City: Kalamazoo

EVALUATION DATA: New: \_\_\_\_\_ Change: \_\_\_\_\_ Delete: \_\_\_\_\_ ( \_\_\_\_\_ Required)

Agency: S Date: 05/01/95 Type: 97A

Control Number	
Data Entry Personnel	

Person: 024 BRANCH 07 REASON 04

Coverage Areas: (E: Evaluated NE: Not Evaluated NA: Not Applicable D: Did Not)

Generators

GBF	
GER	
GGR	
GLB	
GMR	
GOR	
GPT	
GRR	
GSC	
GSO	

Transporters

TGR	
TMR	
TOR	
TTR	
TWD	

USED OIL

TUO	
TFO	
BUO	
MUO	
FUO	
RUO	

DBF

DCH	
DCL	
DCP	
DFR	
DGS	
DGH	
DIN	

DLB

DLF	
DLT	
DHC	
DMR	
DOR	
DOT	

MAY 1995

DEB	
DEE	
DEG	
DTR	
DTT	
DNF	

COMPLIANCE SCHEDULE (TSD, GEN, TRANS.)

FEA  CAS

Evaluation Comments: (72) 1:

2: Mismanagement of paint related waste

VIOLATION DATA: New: \_\_\_\_\_ Change: \_\_\_\_\_ Delete: \_\_\_\_\_

1 Agency: S Type: 6PT Date (ndy): 05/01/95 Class:  

Priority:  Branch: 07 Person: 022 Seq. Number (Date Entry)

Return to Compliance:  Scheduled  Actual

Reg. Type: SR Reg. Description (30): 262.11

Comment (72): Failure to conduct a waste determination

2 Agency: S Type: 6PT Date (ndy): 05/01/95 Class:  

Priority:  Branch: 07 Person:  Seq. Number (Date Entry)

Return to Compliance:  Scheduled  Actual

Reg. Type: SR Reg. Description (30): 262.12

Comment (72): string + disposing of hazardous waste without an ID No.

3 Agency: S Type: 6PT Date (ndy): 05/01/95 Class:  

Priority:  Branch: 07 Person: 022 Seq. Number (Date Entry)

Return to Compliance:  Scheduled  Actual

Reg. Type: SR Reg. Description (30): 15 ANCAE13A .0007(a)

Comment (72): string + disposing of hazardous waste without a permit

Continue violation data if necessary -

