

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



July 22, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION
Docket #96-198

Mr. Tom Novinc
D.A. Moore Corporation
P.O. Box 1150
Concord, N.C. 28026-1150

NC 5000000073
NC R 000 00 1206

Dear Mr. Novinc:

On December 18, 1980, the State of North Carolina, Hazardous Waste Section (Section) was authorized to operate the State Resource Conservation Recovery Act (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 July 2, 1996, Jesse W. Wells, Waste Management Specialist with this Office, investigated the suspected improper disposal of hazardous waste at D.A. Moore Corporation 36 Oak Street Concord, North Carolina as a result of a referral from the Department's Division of Air Quality. Mr. Wells observed an area of paint overspray on the ground surface outside the manufacturing plant. It was reported that fabricated parts are painted in the area. The facility contact reported that over the years waste thinner used in cleaning the paint equipment had been disposed in the area. A review of the products reported to clean the paint equipment revealed that the products contain xylene, toluene, methanol, acetone and naphtha. The discharge of this material onto the ground surface would constitute the improper disposal of a F003/F005 hazardous waste.

- A. 40 CFR 261.1(a), codified at 15A NCAC 13A .0006, states that this part identifies those solid waste which are subject to regulation as hazardous wastes under Parts 262 through 276 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 15 A 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.

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- 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 characteristics of hazardous waste identified in Subpart C.
 - iv. It is a mixture of solid waste and one or more hazardous waste listed in Subpart D and has not been excluded from this paragraph under Sections 260.20 and 260.22 of this chapter.
- D. NCGS 130A-290(6), defines "Disposal" as the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land, 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. It is the determination of the Section that the disposal of waste paint thinner onto the land surface at D.A. Moore Corporation in Concord, North Carolina constitutes disposal of hazardous 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 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 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.

D.A. Moore Corporation 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 the treatment, storage, or disposal facilities that have not received an EPA identification number.

D.A. Moore Corporation is in violation of 40 CFR 262.12, codified at 15A NCAC 13A .0007, in that hazardous waste was disposed of 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.

D.A. Moore Corporation is in violation of 15A NCAC 13A .0009(a), in that hazardous waste has been disposed of without complying with the requirements set forth in this section.

COMPLIANCE SCHEDULE

By the dates specified below, D.A. Moore Corporation, Concord, 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, and that being discharged must be completed to ensure proper characterization and disposition.

By August 22, 1996, develop and submit to this office a comprehensive sampling and analysis report which will characterize soil contamination (inorganic and organic) at your site, specific to the area of disposal. This report must specify constituents analyzed, sampling procedures, sampling locations, and depths that will assess the horizontal and vertical extent of contamination. Soil samples must be analyzed for total organics using EPA Methods 8240 and 8270 and the eight RCRA metals using the appropriate analytical methods. In addition, the report must include an inventory of all water supply wells within 1000 feet of the suspected disposal area. The inventory must include a table listing well owner and pertinent construction details of the wells. A map must be included with the report showing the location of the wells in reference to the suspected disposal area and to the table. The map scale should be 1 inch = 400 feet.

Upon verification of contamination, D.A. Moore Corporation 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. D.A. Moore Corporation must complete the initial soil removal with post-excavation sampling results by September 22, 1996. Failure by D.A. Moore Corporation to initiate an effective site remediation by these dates may subject the site to additional requirements including closure plans, financial assurance for closure and groundwater monitoring.

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 September 22, 1996, D.A. Moore Corporation shall no longer store or dispose 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:

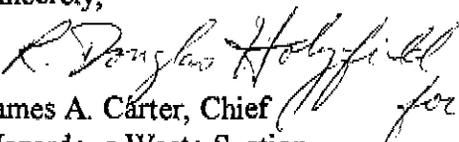
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- a. If the waste is placed in containers, the generator must comply with Subpart I of 40 CFR Part 265 or if the waste is placed in tanks, the generator must comply with Subpart J of 40 CFR Part 265 except 265.193;
- b. The date upon which each period 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.

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 any questions concerning this matter, you may contact Jesse W. Wells at (704) 663-1699 ext 287.

Sincerely,


James A. Carter, Chief *for*
Hazardous Waste Section

cc: Keith Masters
Jesse Wells
Central Files