



North Carolina Department of Environment and Natural Resources

Dexter R. Matthews, Director

Division of Waste Management

Michael F. Easley, Governor
William G. Ross Jr., Secretary

August 11, 2006

NC S 000000443

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

IMMEDIATE ACTION
NOTICE OF VIOLATION
Docket #2006-20
ENTERED
0807 7 1 100

CCC/Tobacco Rd, LLC
Mrs. Anne Sharpe, Registered Agent
1000 Woodland Drive
Wilson, NC 27894

Dear Mrs. Sharpe:

On December 18, 1980, the State of North Carolina, Hazardous Waste Section (Section) was authorized to operate the State Resource Conservation and 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 25, 2006, Mr. Dick Denton, Waste Management Specialist, with this office, and J. Derrick Bell, Ken Crabtree, John B. Dalley, and Royce W. Batts, of the North Carolina Department of Agriculture and Consumer Services, performed an inspection of the former Carolina Chemical Corporation buildings and grounds. Mr. Robert Sharpe (Mr. Robert F, and Anne Sharpe's son) was present and assisted with the inspection.

Carolina Chemical Corporation was engaged in the business of wholesale agriculture supplies, which included the storage for sale of agriculture-use chemicals, specifically pesticides and plant foods. Historically the company was also a formulator of pesticides including chlordane, DDT, and reformulated parathion. The property is located at 6608 Ward Boulevard which is adjacent to Highway Business 301. The July 25, 2006 inspection was conducted in response to a complaint alleging the improper storage and disposal of pesticides at the property.

Statement of Facts Related to Respondent's Management of Hazardous Waste

The July 25, 2006 inspection revealed that the site has been abandoned. The roof on the former pesticide formulating building has rotted and caved in exposing abandoned materials and their containers to the elements. Many of the containers were in poor structural condition and were leaking their contents onto the floor and were exposed to the rain and elements. Other items were observed to be totally exposed to the elements, their packaging had totally deteriorated. A 55 gallon container in poor structural condition was labeled "lindane", and another 55 gallon container was labeled with the words "chlordane". Many other items, too numerous to count were also exposed to the elements void of packaging, or were stored in containers of very poor structural integrity. The contents of these items had leaked onto the floor of the building which is exposed to the rain and elements.

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Statutory and Regulatory Background

- A. 40 CFR 260.10, adopted by reference at 15A NCAC 13A .0102, defines "Owner" as the person who owns a facility or part of a facility.
- B. 40 CFR 260.10, adopted by reference at 15A NCAC 13A .0102, defines "Operator" as the person responsible for the overall operation of a facility.
- C. 40 CFR 261.1(a), adopted by reference at 15A NCAC 13A .0106, 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.
- D. 40 CFR 261.2(b), adopted by reference at 15A NCAC 13A .0106, 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.
- E. 40 CFR 261.3(a), adopted by reference at 15A NCAC 13A .0106, 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.
- F. 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.

Violations Requiring Immediate Action

- G. It is the determination of the Section that the containers and releases, located on property owned by CCC/Tobacco Rd, LLC , in Wilson, North Carolina, constitute storage, abandonment and disposal of solid/hazardous waste subject to all applicable requirements of 40 CFR 261 through 265 and 270. Specifically:
1. 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107, requires 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.
 - 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.

CCC/Tobacco Rd, LLC, is in violation of 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107, in that CCC/Tobacco Rd, LLC, is the owner of the property in which solid waste has been abandoned as defined in 40 CFR 261.2, and has not determine if that waste was a hazardous waste.

2. 15A NCAC 13A .0109(a), requires 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.

CCC/Tobacco Rd, LLC is in violation of 15A NCAC 13A .0109(a), in that solid/hazardous waste has been stored and disposed without complying with the requirements set forth in this section.

COMPLIANCE SCHEDULE

By the dates specified below, CCC/Tobacco Rd, LLC shall comply with the following requirements:

1. Comply with 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107. An immediate determination and/or analysis of the contents of the containers and all impacted soil must be completed to ensure proper characterization and disposition. Due to a suspected or known release

of hazardous waste, a comprehensive site characterization is required.

Within 30 days of the effective date of this Notice, develop and submit to the Branch Chemist, two (2) copies of an Initial Site Sampling Plan that characterizes the wastes and release(s) in question. This characterization must comply with the requirements set forth in the Hazardous Waste Section Generator Closure guidance document. (Summary attached). It must include identifying the sources of contamination, the nature and extent of contamination, determining site hydrogeologic conditions, evaluation of fate/transport of the contaminants, pathways for migration, and identifying potential human and environmental receptors.

The Initial Site Sampling Plan will be reviewed by the Branch Chemist to determine its completeness. If it is determined to be complete, the Chemist will determine whether the project will be managed as a generator closure under the guidance of the Section's Compliance Branch or be referred to the Programs Branch. If the remediation of the site remains with the Compliance Branch, two (2) copies of an Assessment and Clean-up Plan must be developed and submitted to this office within 30 days of the Chemist's approval of the Initial Site Sampling Plan. Elements required in the development of an Assessment and Clean-up Plan are outlined in the attached summary of the Generator Closure Guidelines. The Assessment and Clean-up Plan must fully describe all facets of the remediation, a schedule of activities, sampling and analysis methods, and proposed cleanup standards. Failure by CCC/Tobacco Rd, LLC to complete an effective site remediation may subject the site to additional requirements including closure plans, financial assurance for closure/post-closure and groundwater monitoring.

Upon verification that hazardous waste has been disposed, CCC/Tobacco Rd, LLC must immediately cease the discharge/disposal of hazardous waste to the environment and all hazardous wastes discharged shall be removed and manifested to a permitted hazardous waste treatment, storage or disposal facility. The removal must be completed and two (2) copies of a Closure Report submitted to the Branch Chemist within the time frame set forth in the approved schedule submitted in the Assessment and Clean-up Plan and no later than 180 days from the date of the approval of the Assessment and Clean-up Plan.

2. Comply with 40 CFR 262.12, adopted by reference at 15A NCAC 13A .0107. 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) 508-8539 to make provisions for obtaining the I.D. number.
3. Comply with 15A NCAC 13A .0109(a). CCC/Tobacco Rd, LLC shall no longer store or dispose of hazardous waste without full compliance with this section. During the interim, pending shipment of hazardous waste, CCC/Tobacco Rd, LLC, must comply with 40 CFR 262.34(a), adopted by reference at 15A NCAC 13A .0107 which 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 265.197(c) and 265.200. No waste piles are allowed.
 - b. The date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container.
 - c. While being accumulated on-site, each container and tank must be labeled or marked

clearly with the words, "Hazardous Waste"; and

- d. The generator must comply with the requirements for owners or operators in Subparts C & D in 40 CFR part 265, Section 265.16 and 268.7(a)(4).

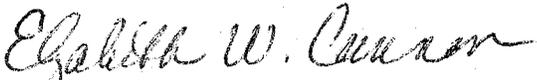
Potential Consequences of Failure to Comply

Due to the conditions observed which resulted in the issuance of this Notice of Violation, the response to the conditions outlined in this Notice does not relieve you of a potential Compliance Order with Administrative Penalty being assessed 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. In addition, failure to comply with this Notice may also subject you to these and additional violations in a subsequent Compliance Order with Administrative Penalty.

All reports should be sent to: Roberta Proctor, Environmental Chemist, P.O. Box 384, Lake Lure, NC 28746.

If you should have questions concerning this Notice, you may contact Mr. Dick Denton at (252) 946-5011. Questions concerning the site characterization and remediation should be addressed to Ms. Roberta Proctor, Compliance Branch Chemist at 828-625-0171.

Sincerely,



Elizabeth Cannon, Chief
Hazardous Waste Section

Attachment: Summary - Generator Closure Guidance

cc: Central Files
Doug Holyfield, Compliance Branch Supervisor
Mike Williford, Eastern Area Supervisor
Roberta Proctor, Chemist
Dick Denton, Waste Management Specialist