

2 Type: _____ Date Determined 10/19/2006 Class:: _____

Priority: _____ Branch: _____ Person:: _____

Return to Compliance: **12/6/2006**
Scheduled *Actual*

Reg.Type SR Reg.Description 40 CFR 262.11

Comments: No waste determination

Re-inspection:

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF WASTE MANAGEMENT

HAZARDOUS WASTE SECTION

ACTIVITY REPORT

Monday, October 23, 2006

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SUBJECT: Elite Marble

REASON FOR VISIT: Complaint Investigation

ADDRESS: 2362 Motsinger Road

CITY, STATE, ZIP: Winston-Salem, NC 27107

BY WHOM: Ernest Lawrence - Waste Management Specialist

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DATE INVESTIGATION OPENED 10/19/2006

TIME SPENT

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PERSON CONTACTED Mark Tolton

EPA ID NUMBER No EPA ID Number

REPORT:

The Forsyth County Health Department forwarded an anonymous complaint to the Water Quality Section regarding waste management at Elite Marble at 2362 Motsinger Road in Winston-Salem. The complaint was referred to the Hazardous Waste Section. The complaint alleged that the facility uses lacquers and may be dumping chemicals.

I visited the facility on October 19 and met with Mark Tolton. Mr. Tolton stated that lacquers are not used, but that the facility does generate waste acetone, which is shipped as hazardous waste. Acetone is used to wash tools.

Other chemical products used at the facility were gelcoat and resin. Mr. Tolton said that no waste is generated from these products, and the empty containers are picked up by the suppliers – Mahogany, HK, and Mauser-NJ.

There was one closed 55-gallon container that was half-filled with a liquid waste on the loading dock. Mr. Tolton said he was not sure what the waste was. An employee told Mr. Tolton that it had previously been open and had collected some rainwater. Mr. Tolton said he believed it contained rainwater with some residue of resin. I told him that the liquid would have to be properly characterized before disposal. The dumpster was filled with only general solid waste.

I viewed the property outside the building and did not see any evidence of dumping. The facility had one container of waste acetone at the time of inspection. It was about half-filled, and Mr. Tolton said it had taken about 4 or 5 months to accumulate this amount. Mr. Tolton said their hazardous waste is picked up by a disposal company, but he did not remember the name of the company. I told him I would need to view some recent manifests but he was unable to find any. I told him it would be necessary to forward them to me to document proper disposal of their waste and he said he would fax them.

Mr. Tolton said waste acetone was their only hazardous waste I explained to Mr. Tolton that if conditions change and the facility generates more than 220 pounds of hazardous waste in a month it will be necessary to be classified as a small quantity generator.

Update November 1, 2006

Documentation of proper disposal of hazardous waste at Elite Marble has not been forwarded to the Hazardous Waste Section. Two follow-up phone calls were made to request the manifests.

CONCLUSIONS:

Elite Marble must provide documentation of proper disposal of its hazardous waste. The unknown waste on the loading dock must be characterized and disposed in accordance with applicable local, state, and federal regulations.

A NOV (Docket Number 2007-010) will be issued for two violations:

- 40 CFR 261.5 – Generators of hazardous waste must dispose their waste at an approved facility. Elite Marble has not demonstrated that it is in compliance with this requirement.
- 40 CFR 262.11 – A waste determination was not made for one 55-gallon container of a liquid waste on the loading dock.



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

William G. Ross, Jr.

**WASTE MANAGEMENT DIVISION
HAZARDOUS WASTE SECTION
NOTICE OF VIOLATION**

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION
DOCKET # 2007-010

Wednesday, November 01, 2006

Steve Myrick
Elite Marble
2362 Motsinger Road
Winston-Salem, NC 27107

No EPA ID Number

Dear Mr. Myrick:

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.

Mr. Ernest Lawrence representing the NC Hazardous Waste Section inspected your facility for compliance with NC Hazardous Waste Management Rules on Thursday, October 19, 2006.

During that investigation, the following violation(s) were noted:

Citation

Specifics

- 1 40 CFR 261.5, adopted at reference at 15A NCAC 13A.0106, states that facilities must dispose hazardous waste in an approved facility.

Elite Marble is in violation of 40 CFR 261.5 adopted by reference at 15A NCAC 13A .0106 in that the facility has not demonstrated that it is disposing hazardous waste at an approved facility.

2 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107 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.

(b) He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.

[Note: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste].

(c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either:

(1) 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

(2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(d) If the waste is determined to be hazardous, the generator must refer to Parts 261, 262, 264, 265, 266, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste.

Elite Marble is in violation of 40 CFR 262.11 adopted by reference at 15A NCAC 13A .0107 in that a waste determination was not made for one 55-gallon container of a liquid waste on the loading dock.

You are hereby required to comply with the noted violation(s) by Wednesday, December 06, 2006 on or after which time a follow up visit will be performed. If compliance with the violation(s) noted above are not met, pursuant to N.C.G.S. 130A-22 (a) and 15A NCAC 13A .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 further satisfaction of Docket Number 2007-010 Elite Marble shall provide a written certification with supporting documentation on company letterhead confirming the noted compliance schedule has been completed. Mail this certification to Mr. Ernest Lawrence - Waste Management Specialist at Winston Salem Regional Office, 585 Waughtown Street, Winston Salem, NC 27107-2241.

11-2-06

(Date)

Ernest Lawrence

NC Hazardous Waste Section

I, Ernest Lawrence, hereby certify that I have personally served a copy of this Notice by certified mail on Mr. Myrick.

Cc: Mr. Jesse Wells, NC Hazardous Waste Section
Central Files
WSRO Files