

North Carolina
Department of Environment and Natural Resources

Division of Waste Management

Michael F. Easley, Governor
William G. Ross Jr., Secretary
Dexter R. Matthews, Director

CF



September 9, 2003

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

**NOTICE OF VIOLATION
DOCKET # 2003-235**

Mr. Travis Mayes
Dai Nippon IMS (America) Corp.
4524 Enterprise Drive N.W.
Concord, NC 28027

NCR000 001 537



Dear Mr. Mayes:

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), North Carolina General Statute 130A, Article 9 and rules promulgated thereto at 15A NCAC 13A (Rules) in lieu of the federal RCRA program. Dai Nippon IMS (America) Corporation in Concord, North Carolina, is classified as a small quantity generator of hazardous waste and is subject to the requirements of 40 CFR 262 adopted by reference at 15A NCAC 13A .0107, 40 CFR 265 adopted by reference at 15A NCAC 13A .0110, 40 CFR 268 adopted by reference at 15A NCAC 13A .0112 and 40 CFR 273 adopted by reference at 15A NCAC 13A .0119.

On August 28, 2003, Mr. Sean Morris, Waste Management Specialist with this Office, inspected your facility for compliance with North Carolina Hazardous Waste Management Rules. During that inspection, the following violations were noted:

- A. 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:
- He should first determine if the waste is excluded from regulation under 40 CFR 261.4.
 - 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].

- 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

1646 Mail Service Center, Raleigh, North Carolina 27699-1646
Phone: 919-733-4996 \ FAX: 919-715-3605 \ Internet: www.enr.state.nc.us

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, 264, 265, 266, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107, in that during the inspection empty plastic bags were observed being mixed into the accumulation containers holding used hazardous waste rags at the Fax Slitting Area. A hazardous waste determination had not been made on the plastic bags.

- B. 40 CFR 262.20 (a), adopted by reference at 15A NCAC 13A .0107, states that a generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest OMB control number 2050-0039 on EPA form 8700-22, and, if necessary, EPA form 8700-22A, according to the instructions included in the appendix to part 262.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.20 (a), adopted by reference at 15A NCAC 13A .0107, in that the facility failed to include their 12 digit EPA identification number on their hazardous waste manifests.

- C. 40 CFR 262.34 (c) (1) (ii), adopted by reference at 15A NCAC 13A .0107, states that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) of this section provided he marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.34 (c) (1) (ii), adopted by reference at 15A NCAC 13A .0107, in that hazardous waste satellite accumulation containers located in the Fax Slitting Area and in Package Area #1 were not labeled with the words "hazardous waste" or with other words that identify the contents of the containers.

- D. 40 CFR 262.34 (d) (2), adopted by reference at 15A NCAC 13A .0107, states that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, provided that the generator complies with the requirements of Subpart I of part 265 of this chapter, except for 265.176 and 265.178.

1. 40 CFR 265.173(a) adopted by reference at 15A NCAC 13A .0110, states that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.34(d)(2), adopted by reference at 15A NCAC 13A .0107 and referenced at 40 CFR 265.173(a), adopted by reference at 15A NCAC 13A .0110, in that a 10-gallon container accumulating hazardous waste located in the Fax Slitting Area was open at the time of the inspection.

2. 40 CFR 265.174, adopted by reference at 15A NCAC 13A .0110, states that the owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.34 (d) (2), adopted by reference at 15A NCAC 13A .0107, referenced at 40 CFR 265.174, adopted by reference at 15A NCAC 13A .0110, in that inspection records showed that weekly inspections were missed on several occasions in 2001 and 2002.

- E. 40 CFR 262.34 (d) (4), adopted by reference at 15A NCAC 13A .0107, states that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, provided that the generator complies with the requirements of (a) (2) and (a) (3) of this section, the requirements of Subpart C of part 265, and the requirements of 40 CFR 268.7 (a) (5).

1. 40 CFR 262.34 (a) (3), adopted by reference at 15A NCAC 13A .0107, states that while being accumulated on-site, each container and tank must be labeled or marked clearly with the words, "Hazardous Waste".

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.34(d)(4), adopted by reference at 15A NCAC 13A .0107, and referenced at 40 CFR 262.34 (a) (3), adopted by reference at 15A NCAC 13A .0107, in that one 55-gallon container of hazardous waste in the facility's hazardous waste storage area was not labeled with the words, "Hazardous Waste."

2. 40 CFR 265.37 (a), adopted by reference at 15A NCAC 13A .0110, states that the owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:
 1. Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
 2. Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

3. Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
4. Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.34 (d) (4), adopted by reference at 15A NCAC 13A .0107, and referenced at 40 CFR 265.37 (a), adopted by reference at 15A NCAC 13A .0110, in that arrangements with local authorities has not been made.

- F. 40 CFR 262.34 (d) (5) (ii), adopted by reference at 15A NCAC 13A .0107, states that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, provided that the generator post the following information next to the telephone:

- A. The names and telephone number of the emergency coordinator.
- B. Location of fire extinguishers and spill control material and, if present, fire alarms.
- C. The telephone of the fire department unless the facility has a direct alarm.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.34 (d) (5) (ii), adopted by reference at 15A NCAC 13A .0107, in that the required information was not posted next to telephones at the facility.

- G. 40 CFR 262.34 (d) (5) (iv) (B), adopted by reference at 15A NCAC 13A .0107, states that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, provided that the emergency coordinator or his designee respond to any emergencies that arise. The applicable response in the event of a spill is to contain the flow of hazardous waste to the extent possible and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.34 (d) (5) (iv) (B), adopted by reference at 15A NCAC 13A .0107, in that spills were observed on the outside of all three hazardous waste accumulation containers at the Fax Slitting Area. Spills were observed on the outside of both 55-gallon hazardous waste accumulation containers and on cardboard behind the containers located in the facility's hazardous waste storage area. Spills were also observed on a funnel used to pour hazardous waste into the accumulation containers. No attempt had been made by the facility to clean up the observed spills.

- H. 40 CFR 262.34 (f), adopted by reference at 15A NCAC 13A .0107, states that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days (or for more

than 270 days if he must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270 unless he has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 180 days (or 270 days as applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

Dai Nippon IMS (America) Corporation is in violation of 40 CFR 262.34 (f), adopted by reference at 15A NCAC 13A .0107, in that one 55-gallon container of hazardous waste was dated for more than 180 days and the facility has not complied with the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270 and has not been granted an extension.

COMPLIANCE SCHEDULE

By October 14, 2003, Dai Nippon IMS (America) Corporation, located at 4524 Enterprise Drive NW, Concord, NC 28027, shall comply with the following requirements:

- A. Comply with 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107. Dai Nippon IMS (America) Corporation shall conduct a hazardous waste determination on the waste plastic bags that are being mixed with used rags at the Fax Slitting Area.
- B. Comply with 40 CFR 262.20 (a), adopted by reference at 15A NCAC 13A .0107. Dai Nippon IMS (America) Corporation shall enter the facility's 12 digit EPA identification number on every hazardous waste manifest.
- C. Comply with 40 CFR 262.34 (c) (1) (ii), adopted by reference at 15A NCAC 13A .0107. Dai Nippon IMS (America) Corporation shall label all hazardous waste satellite accumulation containers with the words "Hazardous Waste" or any other words that identify the contents of the containers.
- D. Comply with 40 CFR 262.34 (d) (2), adopted by reference at 15A NCAC 13A .0107. Specifically, Dai Nippon IMS (America) Corporation shall:
 1. Ensure that containers of hazardous waste are closed at all times, except to add or remove waste as required by 40 CFR 265.173(a), adopted by reference at 15A NCAC 13A .0110.
 2. Ensure that containers of hazardous waste in storage are inspected, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors, as required by 40 CFR 265.174, adopted by reference at 15A NCAC 13A .0110.
- E. Comply with 40 CFR 262.34(d)(4), adopted by reference at 15A NCAC 13A .0107. Specifically, Dai Nippon IMS (America) Corporation shall:

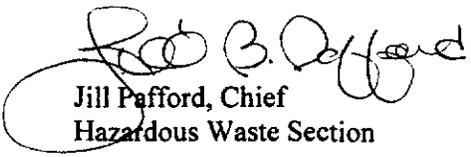
1. Ensure that all containers being accumulated on-site are labeled or clearly marked with the words "Hazardous Waste" as required by 40 CFR 262.34 (a) (3) adopted by reference at 15A NCAC 13A .0107.
 2. Ensure that all necessary arrangements with local authorities are made as required by 40 CFR 265.37 (a), adopted by 15A NCAC 13A .0110.
- F. Comply with 40 CFR 262.34 (d) (5) (ii), adopted by reference at 15A NCAC 13A .0107. Dai Nippon IMS (America) Corporation shall post the name and telephone number of the emergency coordinator next to phones at the facility. The locations of all fire extinguishers, spill control material, and fire alarms, must also be posted next to phones at the facility.
- G. Comply with 40 CFR 262.34 (d) (5) (iv) (B), adopted by reference at 15A NCAC 13A .0107. Dai Nippon IMS (America) Corporation shall clean up all hazardous waste spills located on the outside of accumulation containers. Spills must also be cleaned from the funnel and cardboard used in the facility's hazardous waste storage area. In the future all spills of hazardous waste must be addressed as soon as practicable.
- H. Comply with 40 CFR 262.34 (f), adopted by reference at 15A NCAC 13A .0107. Dai Nippon IMS (America) Corporation shall make arrangements for immediate proper disposal of the 55-gallon container of hazardous waste that is dated over 180 days.

In further satisfaction of Docket # 2003-235, Dai Nippon IMS (America) Corporation shall provide a written certification with supporting documentation on company letterhead confirming the noted compliance schedule has been completed. Mail this certification to Mr. Sean Morris, Waste Management Specialist at Mooresville Regional Office, 919 North Main Street, Mooresville, NC 28115 by the noted compliance date.

If the requirements above are not met, pursuant to N.C. General Statutes 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.

If you have any questions concerning this matter, you may contact Mr. Sean Morris at 704-663-1699 at extension 293.

Sincerely,


Jill Pafford, Chief
Hazardous Waste Section

cc: Doug Holyfield
Jesse Wells
Sean Morris
Central Files