



# 2 Type: \_\_\_\_\_

Date Determined: 05/22/08

Class: \_\_\_\_\_

Priority: \_\_\_\_\_ Branch: 01 Person: 044

Return to Compliance: 07/07/08 1 1  
Scheduled Actual

Reg. Type: SR Reg. Description: ISA NCAC 13A .0109(a)

Comment: disposal w/o a permit

# \_\_\_\_\_ Type: \_\_\_\_\_ Date Determined: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Class: \_\_\_\_\_

Priority: \_\_\_\_\_ Branch: \_\_\_\_\_ Person: \_\_\_\_\_

Return to Compliance: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Scheduled Actual

Reg. Type: \_\_\_\_\_ Reg. Description: \_\_\_\_\_

Comment: \_\_\_\_\_

# \_\_\_\_\_ Type: \_\_\_\_\_ Date Determined: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Class: \_\_\_\_\_

Priority: \_\_\_\_\_ Branch: \_\_\_\_\_ Person: \_\_\_\_\_

Return to Compliance: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Scheduled Actual

Reg. Type: \_\_\_\_\_ Reg. Description: \_\_\_\_\_

Comment: \_\_\_\_\_

# \_\_\_\_\_ Type: \_\_\_\_\_ Date Determined: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Class: \_\_\_\_\_

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Return to Compliance: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Scheduled Actual

Reg. Type: \_\_\_\_\_ Reg. Description: \_\_\_\_\_

Comment: \_\_\_\_\_

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Class: \_\_\_\_\_

Priority: \_\_\_\_\_ Branch: \_\_\_\_\_ Person: \_\_\_\_\_

Return to Compliance: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Scheduled Actual

Reg. Type: \_\_\_\_\_ Reg. Description: \_\_\_\_\_

Comment: \_\_\_\_\_



mark

## 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

June 2, 2008

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**IMMEDIATE ACTION**  
**NOTICE OF VIOLATION**

**Docket # 2008-087**

Mr. Gary Northrup- Site Manager  
Mr. Mike DePalma- Environmental Engineer  
Piedmont Natural Gas Company  
PO Box 33068  
Charlotte, NC 28233

REP: 11001 McCoy Road site

Dear Mr. Northrup & DePalma :

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 May 22, 2008, Mr. Mark Burnette and Mr. Sean Morris, Environmental Senior Specialists with this office, visited the Piedmont Natural Gas site located at 11001 McCoy Road, Huntersville, North Carolina, in response to a complaint received by the Hazardous Waste Section-Compliance Branch on May 19, 2008. The information provided stated that waste filter material (ceramic beads) had been buried on-site approximately five years ago.

### **Findings Related to the Violations**

During the site visit, there was an area observed in the woods on the facility's property where material had been buried. The area was approximately 20 feet by 20 feet. The area was located off of a right of way in a heavily wooded parcel. There was a small trail/dirt road accessing the burial, and this area was the only place in the woods without vegetation. There was also evidence of the small ceramic pellet filter material on the ground surface in this area. Pictures were taken to document the findings.

### **Statutory and Regulatory Background**

- A. 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, 279, and 124 of this Chapter and which are subject to the notification requirements of Section 3010 of RCRA.

- B. 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.
- C. 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.
- 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 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. 40 CFR 124.2, defines "Owner" or "Operator" as owner or operator of any "facility or activity" subject to regulation under the RCRA program.
- F. NCGS 130A-290(22), defines "Person" as an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.
- G. NCGS 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.
- H. 40 CFR 260.10, adopted by reference in 15A NCAC .0102(b), defines a "generator" as "any person, by site, whose act or process produces hazardous waste identified or listed in part 261 or whose act first causes a hazardous waste to become subject to regulation." The EPA has long recognized that, in the event of a violation of RCRA and the hazardous waste rules, "co-generators" of hazardous waste can be jointly and severally liable for improper management of hazardous waste. 45 FR 72024, 72026 (October 30, 1980).

#### **Violations Requiring Immediate Action**

- I. It is the determination of the Section that the waste filter material buried at Piedmont Natural Gas located at 11001 McCoy Road, Huntersville, NC constitutes disposal of solid/hazardous waste

subject to all applicable requirements of 40 CFR 261 through 265 and 270 and 279. 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.

Piedmont Natural Gas is in violation of 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107, in that a solid waste was generated, stored, and buried on the property as defined in 40 CFR 261.2 and a determination was not made 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 40 CFR Parts 264 and 265, adopted by reference in 15A NCAC 13A .0109 and .0110.

Piedmont Natural Gas is in violation of 15A NCAC 13A .0109(a), in that hazardous waste has been disposed without complying with the requirements set forth in this section.

### COMPLIANCE SCHEDULE

By the dates specified below, Piedmont Natural Gas 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 waste 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. The characterization must include the area adjacent and directly beneath the burial site of the filter material.

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 Piedmont Natural Gas 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, Piedmont Natural Gas must immediately cease the discharge/disposal of hazardous waste to the environment and all hazardous wastes 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). Piedmont Natural Gas shall no longer store or dispose of hazardous waste without full compliance with this section. During the interim, pending shipment of hazardous waste, Piedmont Natural Gas 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**

You must comply with each requirement of this Immediate Action Notice of Violation (IANOV); however, compliance will not divest the Section of its authority to issue an administrative penalty for the violations cited in this IANOV and additional violations cited in a subsequent Compliance Order with

Administrative Penalty. In accordance with NCGS 130A-22(a), the penalty shall not exceed thirty two thousand five hundred dollars (\$32,500.00) per day in the case of a first violation. Each day of a continuing violation shall constitute a separate violation.

Pursuant to NCGS 130A-18, a violation of any provision of the Act or the Rules may also result in the Section initiating an action for injunctive relief. If an injunction is obtained, you will be subject to both the civil and criminal contempt powers of the North Carolina General Courts of Justice.

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

If you should have questions concerning the issuance of this IANOV, you may contact Mr. Mark Burnette at 704-776-4780; however, any questions concerning the site characterization and remediation should be addressed directly to Ms. Roberta Proctor, Compliance Branch Chemist at 828-625-0171.

Sincerely,



Elizabeth W. Cannon, Chief  
Hazardous Waste Section

Attachment: Summary - Generator Closure Guidance

cc: Central Files  
Mike Williford  
Brent Burch  
Roberta Proctor, Chemist  
Mark Burnette, Environmental Senior Specialist



NC DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
DIVISION OF WASTE MANAGEMENT  
HAZARDOUS WASTE SECTION  
**ACTIVITY REPORT**

Date: June 2, 2008

Reported by: Mark Burnette, Senior Environmental Specialist

Subject: Piedmont Natural Gas

Name of Company or person in violation

Location: 11001 McCoy Road

Site address

Mailing Address: PO Box 33068, Charlotte, NC 28233

If Different than location

City: Huntersville

County: Mecklenburg

Zip Code:

Contact Person: Mike DePalma/Environmental Engineer

(Owner, Operator, Manager, other)

Owner Address: \_\_\_\_\_

Cannot be same as Location

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Reason for Visit: Complaint investigation

**Report:** On May 19, 2008, an e-mail was received from Brent Burch, Western Compliance Supervisor with this Section, concerning a complaint he received about improper waste management at Piedmont Natural Gas (PNG) in Mecklenburg County. The complaint included, among other things, improper disposal of potentially hazardous filter waste.

Upon arrival to the site on May 22, 2008, a meeting was conducted with the Corporate Environmental contact, Mr. Matt Kanes. After describing the nature of our visit, it was discovered that the facility was aware of the disposal of the filter media. Mr. Kanes described the process and waste involved. The waste described in the complaint was a filter material used by PNG to remove CO<sub>2</sub> from line gas received by PNG. This removal keeps the material in their gas lines from freezing. The filter material is stored in a large vertical tank where it can be used for up to 8-10 years before becoming spent. The facility typically orders between 100-150 fifty-five gallon containers when this filter material is due for a change. Mr. Kanes also said that the material had been tested previously, and had passed TCLP. Mr. Kanes also informed the Section that they had a scheduled sampling event for the following Tuesday (5/27/08) with Mactech Environmental to conduct some preliminary soil samples to see if there was contamination present in the soil where the burial occurred. After the discussion, a site inspection was conducted.

The burial site was where the complainant had alleged. It is located inside the facility off of a gas line right-of-way approximately 20-30 yards in the woods off of a small dirt road/path. The area where the burial occurred was evident due to the absence of vegetation in the area at the end of the path. The area was approximately 20' X 20', and the small ceramic pellets were visible on the surface of the soil. There did not appear to be any distressed vegetation adjacent to the burial, only the absence of vegetation on the burial site itself. The picture below was taken as you approach the burial from the path.



The facility was issued an Immediate Action NOV to assess the site for potential contamination due to the burial. In addition to this area, there is another former drum storage area that is to be assessed as well. This area is located in close proximity to the burial at the edge of the woods and gas line right-of way. Mr. Kaner stated that the facility was planning on getting Mactech to conduct preliminary soil samples in the former drum storage area.

**Recommendations:**

See IANOV

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Activity type:  
(Circle One)

**Complaint (04)**

Technical Assistance (CAV)  
Comprehensive evaluation (CEI)  
Case development (CDI)

Used oil (UOI)  
Sampling (SPL)  
Compliance schedule (CSE)

Division of Waste Management  
Hazardous Waste Section  
Complaint Information

Complainant:

Disposal of filter media - ceramic pellets -  
for 5+ yrs. Material buried on-site off  
of a dirt road.

Matt. Kanes@predmont ng. com 704-731-4672

PO Box 330  
Chapel Hill  
28232  
PHN  
Debra

Location:

11001 McCoy Rd Piedmont Nat'l Gas Co.  
Huntersville

Matt Kane  
Corporate  
Envir.

disposal - left on dirt road after entry & go  
straight towards tree line until you get to a RW  
go thru fence ~ 15-20 yds ahead.

Directions:

Referred  
by Mark  
Hoyt  
Sikes  
Branch

Caller Information

Name: \_\_\_\_\_  
Address \_\_\_\_\_  
Phone: (H) \_\_\_\_\_ (W) \_\_\_\_\_

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

Referred To: \_\_\_\_\_ Date: \_\_\_\_\_

cc: Brent Burch or  
Ted Cashion

RE: piedmont natural gas

From: Caldwell, Shawna W. [Shawna.Caldwell@mecklenburgcountync.gov]  
Date: May 28, 2008 6:23 PM  
To: <mark.burnette@ncmail.net>  
Cc: "Garrett, Kimberly" <Kimberly.Garrett@mecklenburgcountync.gov>  
Subject: RE: piedmont natural gas

Hey Mark,

Sorry its taken me so long to get back to you...I've been in and out of the office. Yes, one of our environmental speicalists, Kim Garrett, was doing an investigation in the area (I think its actually ongoing) and detected chlorinated solvents (I'll have to double check to be sure it was TCE, but I think it was) in a water sample from their inside tap. She resampled at the tap and at the well head, which is actually a pretty good distance from the inside tap and had detections in both of those samples as well. We do not know the source for the chlorinated solvents. She is currently completing an investigation for WSWs within 1,500' of the PNG facility. I'm just telling you what I remember off the top of my head...when I have a chance to talk to Kim tomorrow, I'll get more detailed info for you.

I know you might not be able to make it, but if you can, we'd love to see you at the MRO next Fri.! Been playing any golf? My teammates keep turning up pregnant! ;-) Have a great day.

Shawna W. Caldwell, P.G.  
Hydrogeologist  
Mecklenburg County Government  
Groundwater and Wastewater Services  
700 North Tryon Street  
Charlotte, NC 28202  
GWS Phone: 704.336.5103  
GWS Fax: 704.336.4391  
Direct Line: 704.432.4232  
Cell Phone: 704.622.5168  
shawna.caldwell@mecklenburgcountync.gov

-----Original Message-----

From: mark.burnette@ncmail.net [mailto:mark.burnette@ncmail.net]  
Sent: Friday, May 23, 2008 8:52 AM  
To: Caldwell, Shawna W.  
Subject: piedmont natural gas

Shawna,  
Hope all is well. I went to PNG yesterday at 11001 McCoy Rd, and they mentioned TCE in their GW. Does this site ring any bells w/ you or the City/County?  
Thanks,  
Mark

-----Original Message-----

From: Shawna.Caldwell@mecklenburgcountync.gov  
Date: May 22, 2008 5:29 PM  
To: <Gary.Beverly@ncmail.net>, <Patrick.Grogan@ncmail.net>, <Dan.Graham@ncmail.net>, <Edward.Leach@ncmail.net>, <Brett.Morris@ncmail.net>, "Brad Newton" <Brad.Newton@ncmail.net>, "A.Schiff" <Allen.Schiff@ncmail.net>, <Ron.Taraban@ncmail.net>, <Rob.Krebs@ncmail.net>, <Charles.Gerstel@ncmail.net>, <Sean.Morris@ncmail.net>, <Mark.Burnette@ncmail.net>, <John.Murry@ncmail.net>, <Samar.Bou-

From: Brent Burch [Brent.Burch@ncmail.net]  
Date: May 19, 2008 4:35 PM  
To: "Mark Burnette"<Mark.Burnette@ncmail.net>  
Cc:  
Subject: Piedmont Natural Gas Complaint.  
Attachments:  Brent.Burch.vcf (253 B)

Mark,

I just received a complaint from Donnie (704-281-4815) regarding operations at the Piedmont Natural Gas Company located at 11001 McCoy Road in Huntersville. According to Donnie, ceramic pellets that are used to filter out contaminants when the gas first arrives on-site has been disposed of on the property for at least the last five years. Donnie stated that you take a left on a dirt road as soon as you drive in and go straight (toward a tree line) on it until you get to a R/W. Go through the fence and about 15-20 yards in the woods is where the burial took place. He claimed the ceramic pellets were contaminated with trichloroethylene, which has contaminated the GW and caused the facility to connect to city water. Donnie stated the the contact was Mr. Gary Northrup (new manager). He also claimed that there may be recent activity in the area in an effort to clean up the site. He also claimed there was oil buried at the site, but wasn't sure where.

Try to look at this sometime when you get a chance.....Brent.