

Hazardous Waste Section  
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Your Name: Spring Allen (061)  
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Facility Name: North Star Logistics, Inc.  
Document Group: Enforcement (E)  
Document Type: Immediate Action Notice of Violation (IANOV)  
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Date of Doc: 1/30/2014  
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January 30, 2014

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IMMEDIATE ACTION  
NOTICE OF VIOLATION  
Docket # 2014-024

Mr. Phil Delp, President  
North Star Logistics, Inc.  
917 Beaverdam Road  
Canton, NC 28716

NC0 991 302 661

Dear Mr. Delp:

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 January 21, 2014 Ms. Spring Allen, Environmental Senior Specialist, Mr. Brent Burch, Western Area Compliance Supervisor with the Hazardous Waste Section, and Ms. Andrea Keller, Environmental Senior Specialist with the Solid Waste Section conducted a compliance inspection with focus on a citizen's complaint concerning long term storage of hazardous waste on-site and of leaking unknown material from an on-site trailer located at the North Star Logistics, Inc. facility at 917 Beaverdam Road, Canton, NC.

### **Statement of Facts Related to Investigation**

North Star Logistics, Inc. is a hazardous waste transporter and has operated at this site since 2001. The facility consists of a 2.77 acre tract with 13,000 square feet of processing and storage area. The facility operates one 8-12 hour shift and supports 5 employees. The facility is connected to Town of Canton water supply for domestic use and for process water. The surrounding mixed industrial and residential area is served by a mixture of city supplied water and on-site private wells. The inspectors arrived on-site at 9:00 A.M. and were brought into the building to wait for Phil Delp to arrive.

While on-site, inspectors observed two (2) 55-gallon containers near the east wall inside the facility that were not labeled. Mr. Delp stated that to his belief, they held detergents. Observation when the containers were opened indicated they contained lab packed chemicals. Mr. Delp stated that they had been on-site for several, possibly eight (8), years. Mr. Delp stated the containers were brought on-site from the clean out of a Freedom Textile Laboratory when Freedom Textiles closed down several of its Georgia and South Carolina laboratory facilities. Mr. Delp stated that he brought the chemicals on-site with plans to re-sell them. Mr. Delp stated

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the lab pack waste was non-hazardous. When asked about the basis for this statement, Mr. Delp (1) failed to provide an analytical waste profile, and (2) failed to articulate a claim of generator knowledge of the characteristics of the waste. Additionally, when asked, Mr. Delp stated that no Material Safety Data Sheets were available for the various lab chemicals (photo # 7 & 8)

Inspectors also observed a release from a tandem truck near the loading dock on the southwest corner of the building where an unknown black liquid had dripped onto the ground's surface from the rear of the truck. Mr. Delp stated that the truck was presumed empty. (photo # 5) Mr. Delp was not able to provide any information pertaining to the contents of truck or an explanation as to what was being released.

A second trailer located outside of the bay door on the northwest side of the building had an amber colored liquid dripping into an open container. Mr. Delp stated that the trailer was a full trailer from lacquer dust processing and that the drips are water draining out of the saturated dust. When asked about the basis for this statement, Mr. Delp (1) failed to provide an analytical waste profile, and (2) failed to articulate a claim of generator knowledge of the characteristics of the waste. (photo # 6)

A trailer located inside the rear facility gate on the north side of the fence was observed to have an unknown liquid leaking onto the ground under the trailer. The area discolored on the ground's surface was approximately 1' X 2' in size. (photo # 3 & 4) Facility personnel were unable to open the trailer to investigate the source of the spill.

On January 30, 2014 Ms. Spring Allen, and Mr. Johnny Glance, Haywood County Fire Marshal arrived on-site to investigate the contents of the trailer and source of the spill. Facility personnel had already opened the trailer's side door. The trailer was accessible only by ladder into this side door. The trailer contents included two pieces of equipment; a fork truck and a scissor truck as well as eight (8) 55-gallon containers. (photo # 1 & 2) Contents appeared to be releasing around the drum tops, and apparent slight corrosion on the closure rings. Mr. Delp stated that the containers held textile dyes and believed them to be non-hazardous. . When asked about the basis for this statement, Mr. Delp (1) failed to provide an analytical waste profile, and (2) failed to articulate a claim of generator knowledge of the characteristics of the waste.

### **Statutory and Regulatory Background**

- A. 40 CFR 261.1(a), adopted by reference at 15A NCAC 13A .0106(a), 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.
- B. 40 CFR 261.2(b), adopted by reference at 15A NCAC 13A .0106(a), 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(a), 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, adopted by reference at 15A NCAC 13A .0105(a) defines "Owner" or "Operator" as the 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. NCGS 130A-290(42), defines "Treatment" as any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

- I. 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.”

### **Violations Requiring Immediate Action**

It is the determination of the Section that the release of unknown material on the ground at North Star Logistics Inc., 917 Beaverdam Road, Canton, NC, constitutes disposal of solid/hazardous waste subject to all applicable requirements of 40 CFR Part 261 through Part 265 and Part 270, incorporated by reference in 15A NCAC 13A .0106 through .0110 and .0113.

1. 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107(a), requires that a person who generates a solid waste, as defined in 40 CFR 261.2, must determine if the 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 applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

North Star Logistics, Inc. is in violation of 40 CFR 262.11, adopted by reference at 15A NCAC 13A .0107(a), in that a solid waste was generated on the property as defined in 40 CFR 261.2 and a determination was not made by the generator whether that waste was a hazardous waste. Specifically, waste determinations had not been made on two containers storing lab pack waste near the east wall of the facility and eight containers of unknown contents stored in a trailer beside the rear gate of the property. Additionally, waste determinations had not been made for liquid releasing from a tandem truck near the loading dock on the south west side of the facility or from liquid releasing from a trailer holding processed lacquer dust.

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.

North Star Logistics, Inc. is in violation of 15A NCAC 13A .0109(a), in that hazardous waste has been stored and/or disposed without complying with the requirements set forth in 40 CFR Parts 264 and 265, adopted by reference in 15A NCAC 13A .0109 and .0110. North Star Logistics, Inc. placed materials in the land. Specifically, a trailer near the rear gate on the north side of the facility being used to store eight 55-gallon containers was observed with unknown liquid being released onto the ground's surface. Also, an uncontrolled release of an unknown liquid from a tandem truck located at the loading dock on the southwest side of the facility was allowed to drip onto the ground's surface. Additionally, two 55-gallon containers holding lab packed chemicals were stored inside the facility building.

### **COMPLIANCE SCHEDULE**

Within 30 days of receiving this Notice of Violation Mr. Phil Delp and North Star Logistics, Inc. shall comply with the following requirements:

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 eight 55-gallon containers and of the two 55-gallon lab packs 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 surrounding the storage trailer. This area is currently located on the northwest side of the facility inside the fence.

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 sampling plan must be mailed to Mrs. Roberta Proctor, Environmental Chemist, at PO Box 384, Lake Lure, NC 28746.

The Branch Chemist will review Initial Site Sampling Plan to determine its completeness. If it is determined to be complete, the Chemist will evaluate whether the project will be managed as a generator closure under the guidance of the Section's Compliance Branch or be referred to the Facility Management 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 Mr. Phil Delp and North Star Logistics, Inc. 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, Mr. Phil Delp and North Star Logistics, Inc. 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.

3. Comply with 15A NCAC 13A .0109(a). North Star Logistics, Inc. shall no longer store or dispose of hazardous waste without full compliance with this section. Pending shipment of hazardous waste for proper disposal, North Star Logistics Inc. must comply with 40 CFR 262.34(a), adopted by reference at 15A NCAC 13A .0107(c), 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

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

### **Potential Consequences of Failure to Comply**

Mr. Phil Delp and North Star Logistics, Inc. 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.

Questions regarding proper waste determination procedures should be directed to: Mrs. Roberta Proctor, Environmental Chemist at 828-625-0171.

If you should have questions concerning the issuance of this IANOV, you may contact Ms. Spring Allen at 828-456-6155.

Sincerely,

Julie Woosley, Chief

Hazardous Waste Section

cc: Central Files  
Michael Williford, Compliance Branch Head  
Brent Burch, Western Area Supervisor  
Spring Allen, Environmental Senior Specialist  
Robin Proctor, Environmental Chemist  
Carmine Rocco, Haywood County Health Director  
Greg Shuping, Haywood County Emergency Management Director

Addresses for the above are :

Haywood Co. Health Dept. 157 Paragon Parkway, Clyde, NC 28721

Emergency Management 215 North Main Street, Suite 101, Waynesville NC 28786



North Star Logistics – 12-30-2014 Drums inside trailer near back gate (photo #1)



North Star Logistics – 12-30-2014 drum tops – inside trailer near back gate (photo #2)



North Star Logistics – 12-21-2014 - release from trailer near back gate (photo #3)



North Star Logistics –12-21-2014 - under side of trailer near back gate (photo #4)



North Star Logistics - 12-21-2014 drips onto ground from tandem truck (photo #5)



North Star Logistics – 12-21-2014 water from wetted lacquer dust (photo #6)



North Star Logistics – 12-21-2014 Lab pack #1 contents (photo #7)



North Star Logistics – 12-21-2014 Lab pack #2 contents (photo #8)