

**State of North Carolina
Department of Environment
and Natural Resources**

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



THE DIVISION OF WASTE MANAGEMENT

June 22, 2007

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

C&D Landfill, Inc.
Danny A. Harrington, Registered Agent
211-b West 14th Street
Greenville, NC 27834

**Re: Compliance Order With Administrative Penalty
C&D Landfill, Inc. Construction and Demolition Landfill, Permit #74-07, Pitt
County**

Dear Mr. Whitehurst:

Enclosed is a Compliance Order issued to C&D Landfill, Inc. because of certain violations of the North Carolina Solid Waste Management Act (N.C. General Statute 130A, Article 9) and of the North Carolina Solid Waste Management Rules (15A N.C. Administrative Code 13B) which implements the Act. Along with the Compliance Order is an Administrative Penalty in the amount of \$14,375.00 that is imposed pursuant to N.C. General Statute 130A-22(a). This Compliance Order With Administrative Penalty describes the violations of concern and the actions required by you to come into compliance with both the General Statutes and the Administrative Code.

You may appeal this Compliance Order with Administrative Penalty by filing a written petition for an administrative hearing with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within thirty (30) days of the receipt of this Compliance Order. Your petition must be submitted in accordance with the provisions of N.C.

General Statutes 150B-23(a) and 130A - 22(e). A copy of your petition must also be served on Ms. Mary Penny Thompson, General Counsel, NC Department of Environment and Natural Resources, 1601 Mail Service Center, Raleigh, North Carolina 27699-1601.

If no administrative hearing is requested, the administrative penalty must be paid within sixty (60) days by certified check or money order, made payable to the Division of Waste Management. Payment should be mailed to the Solid Waste Section, Department of Environment and Natural Resources, Attn: Compliance Officer, 1646 Mail Service Center, Raleigh, NC 27699-1646. A fee of \$20.00 will be charged for all returned checks on which the payer bank has refused payment. I encourage you to schedule an informal conference at once with my staff to discuss this Compliance Order. Please contact Mr. Ben Barnes, Environmental Senior Specialist, Division of Waste Management, at the Raleigh Central Office at (919) 508-8519.

Sincerely,

A handwritten signature in black ink that reads "Paul S. Crissman". The signature is written in a cursive style with a horizontal line underneath the name.

Paul S. Crissman, Chief
Solid Waste Section
Division of Waste Management

Enclosure

cc: Nancy Scott, Assistant Attorney General
Mark Poindexter, Field Operations Branch
Ben Barnes, Environmental Senior Specialist
Dennis Shackelford, Eastern Area Supervisor
Central Files, Solid Waste

**NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT
SOLID WASTE SECTION**

Re: C&D Landfill, Inc.
Danny A. Harrington, Registered Agent
211-b West 14th Street
Greenville, NC 27834

**COMPLIANCE ORDER
WITH ADMINISTRATIVE
PENALTY**

PRELIMINARY STATEMENT

This Compliance Order With Administrative Penalty is issued under N.C. General Statutes 130A-22, the Solid Waste Management Act (N.C.G.S. 130A, Article 9), and the Solid Waste Management Rules (15A N.C. Admin. Code 13B). Title 15A of the N.C. Admin. Code, Chapter 13B contains standards and requirements applicable to the proper management of solid waste.

On March 1, 1971, the State of North Carolina, Department of Human Resources, Division of Health Services, Solid Waste Section, implemented a Solid Waste Management Program under the Solid Waste Management Act, N.C.G.S. 130A, Article 9 and Rules codified at 15A N.C. Admin. Code 13B. Solid Waste Management is now regulated under the Solid Waste Section of the Division of Waste Management of the Department of Environment and Natural Resources. Mr. Paul S. Crissman, Solid Waste Section Chief, Division of Waste Management, Department of Environment and Natural Resources, has been delegated the authority to implement both the Act and the Rules. Based upon information available, the Division has determined that C&D Landfill, Inc. is in violation of certain requirements of the Act and/or Rules, as set forth below.

STATEMENT OF FACTS

1. On May 29, 2001, the Division of Waste Management issued a Permit to Operate a Construction and Demolition Landfill, for Phase 1A- Cell 1 (Permit #74-07) to C&D Landfill, Incorporated. The facility is located on the south side of Highway 264 in Pactolus Township, Pitt County, North Carolina. C&D Landfill, Inc. is listed in the Pitt County Tax Office as the property owner of the 34.13 acre tract of land where the landfill is located. This construction and demolition (C&D) landfill was permitted to accept land clearing debris (defined in G.S. 130A-290), inert debris (brick, concrete, rock and clean soil), asphalt (in accordance with G.S. 130-294) and construction and demolition debris defined as solid waste generated solely from the construction, remodeling, repair, or demolition operations on pavement and buildings or structures.
2. The Division mandated a cleanup of an un-permitted Treatment and Processing facility called BME Recycling. This facility operated to grind creosote poles and pallets at a site in Edgecombe County. On October 11, 2005, soil samples from this site were analyzed by Environment 1 in Greenville, North Carolina, and were found to be contaminated with Benzo (a) anthracene, Benzo (a) pyrene, Benzo (b) fluoranthene, and Benzo (g,h,i) perylene, and Ideno (123-c d) pyrene. For these constituents, the soil samples were above the standards referenced in Inactive Hazardous Sites Branch Soil Remediation Goals Updated August 2006, adapted from EPA Region IX Preliminary Remediation Goals, October 2004. The Division determined that the contaminated soil be removed from the BME Recycling site and transported to a lined Municipal Solid Waste Landfill (MSWLF). On November 15, 2006, C&D Landfill, Inc. accepted 61.36 tons of soil generated from the BME Recycling site transported by Wishall Contracting.
3. On November 20, 2006, C&D Landfill, Inc. accepted an additional 55.22 tons of contaminated soil from the BME Recycling site.
4. On February 15, 2007, Mr. Ben Barnes, Senior Environmental Specialist with the Solid Waste Section, Division of Waste Management, met with Mr. Wayne Bell, Plant Manager of C&D Landfill Inc. Mr. Barnes discussed with Mr. Bell that the soil from BME Recycling was found to be contaminated with creosote. Mr. Bell stated that he was told by Mr. L.M. Barber, the owner of BME Recycling, that this soil was taken from an area on the grinding site where no grinding of creosote had occurred and therefore was not contaminated. Mr. Barber was not charged a tipping fee for the soil. Mr. Bell later telephoned Mr. Barnes to tell him that the site operator knew where on the site the soil had been used for cover and could remove it if necessary. Mr. Barnes informed Mr. Bell that he would visit the facility on February 19, 2007, to conduct a follow-up audit and would check the area of potentially contaminated soil.
5. On February 19, 2007, Mr. Barnes returned to C&D Landfill, Inc. to conduct a follow-up inspection with Mr. Bell present. During this audit, Mr. Bell showed Mr. Barnes the area where the soil from the BME Recycling clean-up had been used as cover. Mr. Barnes

saw a considerable quantity of wood chips mixed in with the soil. He picked up a piece of wood and smelled a strong creosote odor. Mr. Bell agreed with Mr. Barnes to remove all of the contaminated cover soil and wood chips and to transport it to a lined MSWLF for disposal by February 28, 2007. Mr. Bell also agreed to provide the receipts from the landfill to which he delivered the waste for disposal.

6. During the audit, Mr. Barnes also observed an area of uncovered waste that exceeded one-half acre in size, which was in violation of 15A NCAC 13B .0542(f). Mr. Barnes informed Mr. Bell that he would revisit C&D Landfill, Inc. to conduct another follow-up audit.
7. On February 28, 2007, Mr. Barnes received a message from Mr. Bell that the contaminated soil and wood chips had been removed from C&D Recycling, Inc. and that he had obtained receipts from the landfill.
8. On March 5, 2007, Mr. Barnes returned to C&D Landfill, Inc. and conducted an inspection with Mr. Bell present. Mr. Barnes inspected the area where Mr. Bell indicated that the contaminated soil and wood chips had been removed. Mr. Barnes observed that the contaminated soil appeared to have been removed.
9. During the March 5, 2007, inspection, Mr. Barnes also observed several other areas on the landfill where waste was not covered with the required six inches of intermediate cover. This uncovered waste had a combined area measuring over one acre.
10. On April 3, 2007, Mr. Barnes contacted Mr. Bell by telephone to request the receipts from the landfill that C&D Landfill, Inc. transported the contaminated soil. Mr. Barnes was told by Mr. Bell that the soil was dumped on the tipping floor of the EJE Recycling Transfer Station and mixed with other waste to be transported. C&D Landfill, Inc. did not keep records of the exact loads that contained the soil.
11. On April 4, 2007, Mr. Barnes sent C&D Landfill, Inc. a Notice of Violation with the Facility Compliance Audit Report from his inspections on February 19, 2007 and March 5, 2007. The Notice was issued pursuant to 15A NCAC 13B .0542(c)(1) for accepting waste that the facility is not permitted to receive, Section .0544(e) for not screening the contaminated waste, and Section .0542(f) for having uncovered waste that exceeded one half and acre in size at the facility.

STATEMENT OF VIOLATIONS

The above facts constitute a violation of the following sections of Title 15A N.C. Admin. Code Subchapter 13B:

1. Section .0542(c)(1) states that:

COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY

Page 4

A C&DLF must accept only those solid wastes it is permitted to receive. The landfill owner or operator must notify the Division within 24 hours of attempted disposal of any waste the C&DLF is not permitted to receive, including waste from outside the area the landfill is permitted to serve.

C&D Landfill, Inc. has violated this rule in that on November 15, 2006 and November 20, 2006, the facility accepted soil mixed with wood chips from the BME Recycling clean-up project, which was supposed to be disposed of at a lined Municipal Solid Waste Landfill due to creosote contamination. C&D Landfill, Inc. is not permitted to receive waste of this type.

2. Section .0542(f)(1) states that:

Except as provided in Subparagraph (3) of this Paragraph, the owners and operators of all C&DLF units must cover the solid waste with six inches of earthen material when the waste disposal area exceeds one-half acre and at least once weekly. Cover must be placed at more frequent intervals if necessary to control disease vectors, fires, odors, blowing litter, and scavenging. A notation of the date and time of the cover placement must be recorded in the operating record as specified in Paragraph (n) of this Rule.

C&D Landfill, Inc. has violated this rule in that on February 19, 2007 and March 5, 2007 there was uncovered waste on the working face of the landfill that exceeded one-half acre in size.

3. Section .0544(e) states in part that:

A waste acceptability program. Owners and operators of all C&DLF units must implement a program at the facility for detecting and preventing the disposal of industrial, hazardous, liquid, municipal solid waste and excluded wastes in accordance with the Operating Plan or the effective permit.

C&D Landfill, Inc. has violated this rule in that the facility did not follow the waste screening plan set forth in the operation plan, approved by the Division on May 25, 2001, when it accepted contaminated soil and wood chips from BME on November 15 and 20, 2006.

CONDITIONS FOR COMPLIANCE

Based on the foregoing, you are hereby ordered to comply with 15A NCAC 13B by taking the following actions:

1. C&D Landfill, Inc. shall implement improvements to the existing waste screening program. The improvements shall include measures that will prevent the acceptance of contaminated soils and other waste that C&D Landfill, Inc. is not permitted to receive. Please submit a copy of the improvements to:

COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY

Page 5

Ben Barnes
Senior Environmental Specialist
NC DENR – Division of Waste Management
Solid Waste Section
401 Oberlin Road, Suite 150
1646 Mail Service Center
Raleigh, NC 27699

2. C&D Landfill Inc. must properly cover the construction and demolition waste with a minimum of 6 inches of soil. The exposed area is to remain less than ½ acre at all times.

PENALTY IMPOSED

In addition to taking the actions specified above, C&D Landfill, Inc. is hereby ordered to pay in accordance with N.C. General Statute 130A-22(a), a total administrative penalty of \$14,375.00 for violations of 15A NCAC 13B Sections .0542(c)(1) and .0544(e) (\$9,500.00), and .0542(f)(1) (\$4,875.00).

The North Carolina Solid Waste Management Penalty Computation Procedure, dated April 10, 1997, was used to determine the amount of the administrative penalty imposed with this order. The factors considered in determining the administrative penalty are found in 15A N.C.A.C. 13 B .0700 et seq. and include the following: the nature of the violations, the potential effect on the public health and environment, the degree and extent of harm caused by the violations, the costs of rectifying any damage, the types and amounts of wastes, the ease and costs of compliance, and any history of non-compliance.

The amount of this penalty shall be paid within sixty (60) days of receipt of this order by certified check or money order made payable to the Division of Waste Management. Payment should be mailed to:

Compliance Officer
Solid Waste Section
Division of Waste Management
1646 Mail Service Center
Raleigh, NC 27699-1646

POTENTIAL CONSEQUENCES OF FAILURE TO COMPLY

You are hereby advised that, pursuant to N.C.G.S. 130A-22, each day of continued violation of any requirement of the act, the rules, or any order issued under the act or rules constitutes a separate violation for which a penalty of up to \$5,000.00 per day may be imposed. If the violation(s) continue, you may also be subject to further enforcement actions including injunction from operation of a solid waste management facility or a solid

waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules.

OPPORTUNITY TO REQUEST A HEARING

C&D Landfill, Inc. has the right to request an administrative hearing to contest any matter of law, material fact, requirement, or penalty set forth herein. To exercise this right, you must file a written petition in accordance with N.C.G.S. 150B-23(a) and N.C.G.S. 130A - 22(e) within thirty (30) days of receipt of this Compliance Order With Administrative Penalty.

The petition must be signed by your attorney. It must state facts tending to establish that the agency has deprived you of property, has ordered you to pay a fine or civil penalty, or has otherwise substantially prejudiced your rights, and that the agency has:

1. exceeded its authority or jurisdiction;
2. acted erroneously;
3. failed to use proper procedure;
4. acted arbitrarily or capriciously; or
5. failed to act as required by law or rule.

Your petition must be filed within thirty (30) days with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, in accordance with N.C.G.S. 150B-23(a). A copy of your petition must also be served on Ms. Mary Penny Thompson, General Counsel, NC Department of Environment and Natural Resources, 1601 Mail Service Center, Raleigh, NC 27699-1601. Failure to complete either of these acts within the thirty-(30) day period may result in denial of any administrative hearing.

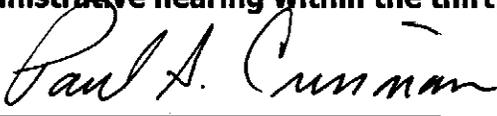
Any administrative hearing will be conducted in accordance with applicable rules contained in Title 26 of the North Carolina Administrative Code. If you file a petition for an administrative hearing within thirty (30) days in accordance with the applicable statutes and rules, payment of the penalty is due within sixty (60) days after service of a copy of any final decision affirming the penalty. You may request a copy of the rules by calling the Office of Administrative Hearings at (919) 733-2698.

INFORMAL CONFERENCE

Whether or not you request an administrative hearing, the Division encourages you to schedule an informal conference to discuss this matter and to give you an opportunity to provide additional information, including any actions you have taken to correct the violation(s). If you desire an informal conference, please contact:

Ben Barnes
Senior Environmental Specialist
NC DENR – Division of Waste Management
Solid Waste Section
401 Oberlin Road, Suite 150
1646 Mail Service Center
Raleigh, NC 27699
(919) 508-8519

Note: The scheduling of an informal conference does not relieve you of the need to file your petition for an administrative hearing within the thirty-(30) day period.

By: 

Paul S. Crissman
Chief, Solid Waste Section
Division of Waste Management
Department of Environment and Natural Resources

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Compliance Order with Administrative Penalty to be served upon the person designated below, at the last known address, causing said copy to be deposited in the U.S. Mail, First Class (certified mail postage prepaid, and return receipt requested) in an envelope addressed to:

C&D Landfill, Inc.
Danny A. Harrington, Registered Agent
211-b West 14th Street
Greenville, NC 27834

Dated this 22 day of June, 2007

Amy E. Kadrie

Compliance Officer
Division of Waste Management
Department of Environment and Natural Resources

DIVISION OF WASTE MANAGEMENT - SOLID WASTE SECTION
PENALTY COMPUTATION WORKSHEET

NAME OF VIOLATOR: C&D Landfill, Inc.

REGULATION VIOLATED: 15A NCAC 13B .0542 (f) (1), "Except as provided in Subparagraph (3) of this Paragraph, the owners and operators of all C&DLF units must cover the solid waste with six inches of earthen material when the waste disposal area exceeds one-half acre and at least once weekly. Cover must be placed at more frequent intervals if necessary to control disease vectors, fires, odors, blowing litter, and scavenging. A notation of the date and time of the cover placement must be recorded in the operating record as specified in Paragraph (n) of this Rule."

PART ONE: POTENTIAL FOR HARM TO THE ENVIRONMENT AND/OR PUBLIC HEALTH POINTS

1) Type of Waste Involved - less hazardous 0 1 2 3 more hazardous → 2

Remarks: The waste was construction and demolition waste, which has the potential to harbor vectors, create a fire hazard, and increase leachate flow.

2) Site Variables/Increased Potential for Harm - less PFH 0 1 2 3 more PFH → 3

Remarks: This is an unlined unit which poses greater potential for harm because the likelihood of leachate generation, groundwater contamination and fires resulting from the waste being uncovered.

3) Responsive Measures Taken by Violator - some response 0 1 2 3 no response → 2

Remarks: Although the violator has responded to this violation, the fact that C&D Landfill, Inc. has been issued three NOV's for improper cover of waste and has been issued verbal and written warnings to cover the waste since December 01, 2001, shows that the facility has failed to prevent future occurrences.

TOTAL POINTS 8

See appropriate cell in matrix

PART TWO: NATURE OF PAST AND CURRENT VIOLATION(S)

1) Type of Violation/Deviation from Rules - less severe 1 2 3 more severe → 3

Remarks: This violation was directly related to waste mismanagement that facility operators are trained to be knowledgeable of.

2) Cause/Degree of control over violation - lower 0 1 2 3 higher → 3

Remarks: This violation was in complete control of the facility operators and displayed improper management of solid waste and the facility.

3) History of Non-Compliance - less history 0 1 2 3 considerable history → 3

Remarks: C&D Landfill Inc. was issued several previous NOV's: November 29, 2001 and January 17, 2002 for violation of Permit Condition 10(d) for not covering waste weekly as required; October 30, 2002 for violation of 15A NCAC 13B .0201 (a) for placing waste on an area that was not permitted; October 12, 2004 for violation of G.S. 130A-309.25 for not having a certified operator on site at all times; January 25, 2007 for violation of 15 A NCAC 13B .1105 PERMIT REQUIRED (a) storing scrap tires without a permit and NCGS130A-309.59. (a) Registration of tire haulers hauling scrap tires without a permit.

See appropriate cell in matrix

NATURE OF VIOLATION	POTENTIAL FOR HARM TO THE ENVIRONMENT AND/OR PUBLIC HEALTH											
	TOTAL POINTS			MAJOR 7 8 9			MODERATE 4 5 6			MINOR 0 1 2 3		
MAJOR	7	8	<u>9</u>	\$4,500. . . . \$5,000			\$3,000. . . . \$4,000			\$2,000. . . . \$3,000		
MODERATE	4	5	6	\$4,000. . . . \$4,500			\$2,000. . . . \$3,000			\$1,000. . . . \$2,000		
MINOR	1	2	3	\$3,500. . . . \$4,000			\$1,000. . . . \$2,000			\$500. . . . \$1,000		

BASE PENALTY CHOSEN \$ 4,875.00

PART THREE: DURATION OF VIOLATION

Duration of Violation: N/A

ADJUSTED PENALTY (Multiply Base Penalty by Duration of Violation) = \$ _____

COST OF RECTIFYING DAMAGE (only if State funds were expended towards clean-up costs) = \$ _____

TOTAL PENALTY AMOUNT (Add Adjusted Penalty to Cost of Rectifying Damage) = \$ 4,875.00

SIGNATURE OF REQUESTING REPRESENTATIVE PC DATE: 6-22-7

DIVISION OF WASTE MANAGEMENT - SOLID WASTE SECTION
PENALTY COMPUTATION WORKSHEET

NAME OF VIOLATOR: C&D Landfill, Inc.

REGULATION VIOLATED: 15 A NCAC 13B .0542 (c)(1), "A C&DLF must accept only those solid wastes it is permitted to receive."

PART ONE: POTENTIAL FOR HARM TO THE ENVIRONMENT AND/OR PUBLIC HEALTH POINTS

1) Type of Waste Involved - less hazardous 0 1 2 3 more hazardous → 3

Remarks: C&D Landfill, Inc. accepted contaminated soil and creosote-treated wood chips generated from the Division-mandated cleanup of a non-permitted Treatment and Processing facility. It accepted 61.36 tons on November 15, 2006, and 55.22 tons on November 20, 2006. Soils on this site were found to be contaminated with Benzo (a) anthracene, Benzo (a) pyrene, Benzo (b) fluoranthene, and Benzo (g,h,i) perylene, and Ideno (123-c d) pyrene which are above standards referenced in Inactive Hazardous Sites Branch Soil Remediation Goals Updated August 2006 adapted from EPA Region IX Preliminary Remediation Goals, October 2004.

2) Site Variables/Increased Potential for Harm - less PFH 0 1 2 3 more PFH → 3

Remarks: This is an unlined unit which poses greater potential for harm because there is a greater likelihood for the groundwater to become contaminated with above standard levels of the volatile organic compounds found in creosote.

3) Responsive Measures Taken by Violator - some response 0 1 2 3 no response → 1

Remarks: C&D Landfill Inc. offered to remove the soil when informed that this soil was contaminated. This soil was removed and transported to the EJE Recycling Transfer Station.

TOTAL POINTS 7

See appropriate cell in matrix

PART TWO: NATURE OF PAST AND CURRENT VIOLATION(S)

1) Type of Violation/Deviation from Rules - less severe 1 2 3 more severe → 3

Remarks: C&D Landfill, Inc. has directly violated this rule in that this facility accepted soils contaminated that it is not permitted to dispose of or to use for waste cover.

2) Cause/Degree of control over violation - lower 0 1 2 3 higher → 3

Remarks: C&D Landfill, Inc. was in complete control of accepting this waste into the facility.

3) History of Non-Compliance - less history 0 1 2 3 considerable history → 3

Remarks: C&D Landfill Inc. was issued several previous NOV's: November 29, 2001 and January 17, 2002 for violation of Permit Condition 10(d) for not covering waste weekly as required; October 30, 2002 for violation of 15A NCAC 13B .0201 (a) for placing waste on an area that was not permitted; October 12, 2004 for violation of G.S. 130A-309.25 for not having a certified operator on site at all times; January 25, 2007 for violation of 15 A NCAC 13B .1105 PERMIT REQUIRED (a) storing scrap tires without a permit and NCGS130A-309.59. (a) Registration of tire haulers hauling scrap tires without a permit.

TOTAL POINTS 9

NATURE OF VIOLATION	POTENTIAL FOR HARM TO THE ENVIRONMENT AND/OR PUBLIC HEALTH											
	TOTAL POINTS			MAJOR 7 8 9			MODERATE 4 5 6			MINOR 0 1 2 3		
MAJOR	7	8	9	\$4,500. . . . \$5,000			\$3,000. . . . \$4,000			\$2,000. . . . \$3,000		
MODERATE	4	5	6	\$4,000. . . . \$4,500			\$2,000. . . . \$3,000			\$1,000. . . . \$2,000		
MINOR	1	2	3	\$3,500. . . . \$4,000			\$1,000. . . . \$2,000			\$500. . . . \$1,000		

BASE PENALTY CHOSEN \$ 4,750.00

PART THREE: DURATION OF VIOLATION

Duration of Violation: N/A

ADJUSTED PENALTY (Multiply Base Penalty by Duration of Violation) This penalty is being multiplied by two for the two separate dates that C&D Landfill Inc. accepted contaminated soil and wood chips (November 15, 2006 and November 20, 2006). X 2 = \$9,500.00

COST OF RECTIFYING DAMAGE (only if State funds were expended towards clean-up costs) = \$ _____

TOTAL PENALTY AMOUNT (Add Adjusted Penalty to Cost of Rectifying Damage) = \$ 9,500.00

SIGNATURE OF REQUESTING REPRESENTATIVE PC DATE: 6-22-7

DIVISION OF WASTE MANAGEMENT - SOLID WASTE SECTION
PENALTY COMPUTATION WORKSHEET

NAME OF VIOLATOR: C&D Landfill, Inc.

REGULATION VIOLATED: 15 A NCAC 13B .0544(e), "A waste acceptability program. Owners and operators of all C&DLF units must implement a program at the facility for detecting and preventing the disposal of industrial, hazardous, liquid, municipal solid waste and excluded wastes in accordance with the Operating Plan or the effective permit."

PART ONE: POTENTIAL FOR HARM TO THE ENVIRONMENT AND/OR PUBLIC HEALTH POINTS

1) Type of Waste Involved - less hazardous 0 1 2 3 more hazardous → 3

Remarks: C&D Landfill, Inc. accepted contaminated soil and creosote-treated wood chips generated from the Division-mandated cleanup of a non-permitted Treatment and Processing facility. It accepted 61.36 tons on November 15, 2006, and 55.22 tons on November 20, 2006. Soils on this site were found to be contaminated with Benzo (a) anthracene, Benzo (a) pyrene, Benzo (b) fluoranthene, and Benzo (g,h,i) perylene, and Ideno (123-c d) pyrene which are above standards referenced in Inactive Hazardous Sites Branch Soil Remediation Goals Updated August 2006 adapted from EPA Region IX Preliminary Remediation Goals, October 2004.

2) Site Variables/Increased Potential for Harm - less PFH 0 1 2 3 more PFH → 3

Remarks: This is an unlined unit which poses greater potential for harm because there is a greater likelihood for the groundwater to become contaminated with above standard levels of the volatile organic compounds found in creosote.

3) Responsive Measures Taken by Violator - some response 0 1 2 3 no response → 1

Remarks: After not screening the soil, C&D Landfill Inc. offered to remove the soil when informed that this soil was contaminated. This soil was removed and transported to the EJE Recycling Transfer Station.

TOTAL POINTS 7

See appropriate cell in matrix

PART TWO: NATURE OF PAST AND CURRENT VIOLATION(S)

1) Type of Violation/Deviation from Rules - less severe 1 2 3 more severe → 3

Remarks: C&D Landfill, Inc. has directly violated this rule in that this facility did not screen the soil as required by rule and specified in the approved operations plan.

2) Cause/Degree of control over violation - lower 0 1 2 3 higher → 3

Remarks: It is the responsibility of C&D Landfill, Inc. to utilize the approved waste screening plan to prevent the acceptance of hazardous material.

3) History of Non-Compliance - less history 0 1 2 3 considerable history → 3

Remarks: C&D Landfill Inc. was issued several previous NOV's: November 29, 2001 and January 17, 2002 for violation of Permit Condition 10(d) for not covering waste weekly as required; October 30, 2002 for violation of 15A NCAC 13B .0201 (a) for placing waste on an area that was not permitted; October 12, 2004 for violation of G.S. 130A-309.25 for not having a certified operator on site at all times; January 25, 2007 for violation of 15 A

See appropriate cell in matrix

NATURE OF VIOLATION	POTENTIAL FOR HARM TO THE ENVIRONMENT AND/OR PUBLIC HEALTH											
	TOTAL POINTS			MAJOR <u>7</u> 8 9			MODERATE 4 5 6			MINOR 0 1 2 3		
MAJOR	7	8	<u>9</u>	\$4,500. . . .	\$5,000	\$3,000. . . .	\$4,000	\$2,000. . . .	\$3,000			
MODERATE	4	5	6	\$4,000. . . .	\$4,500	\$2,000. . . .	\$3,000	\$1,000. . . .	\$2,000			
MINOR	1	2	3	\$3,500. . . .	\$4,000	\$1,000. . . .	\$2,000	\$500.	\$1,000			

BASE PENALTY CHOSEN \$ 4,750.00

PART THREE: DURATION OF VIOLATION

Duration of Violation: N/A

Additional Comments: The penalty amount for this violation is subsumed within the penalty amount for violation of rule

ADJUSTED PENALTY (Multiply Base Penalty by Duration of Violation) This penalty is being multiplied by two for the two separate dates that C&D Landfill, Inc. accepted contaminated soil and wood chips (November 15, 2006 and November 20, 2006). X 2 = \$9,500.00

COST OF RECTIFYING DAMAGE (only if State funds were expended towards clean-up costs) = \$ _____

TOTAL PENALTY AMOUNT (Add Adjusted Penalty to Cost of Rectifying Damage) = \$ 9,500.00

SIGNATURE OF REQUESTING REPRESENTATIVE PC DATE: 6-22-7