

**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 12, 2008

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

PCM Construction Service, North Raleigh C&D Facility  
c/o Ms. Dawwna Hogan-Guerra  
Registered Agent  
1400 Crescent Green Drive  
Cary, NC 27518

**Re: Compliance Order With Administrative Penalty  
PCM North Raleigh C&D Permit # 92-27, Wake County**

Dear Ms. Hogan-Guerra:

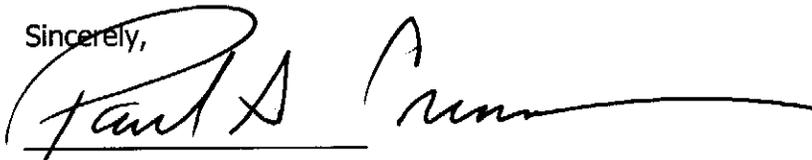
Enclosed is a Compliance Order With Administrative Penalty issued to you because of certain violations of the North Carolina Solid Waste Management Act (N.C. General Statute 130A, Article 9) and of the North Carolina Solid Waste Management Rules (15A N.C. Administrative Code 13B) which implements the Act. Along with the Compliance Order is an Administrative Penalty in the amount of \$6,000.00 pursuant to N.C. General Statute 130A-22(a) plus Investigative Costs in the amount of \$262.36 pursuant to N.C. General Statute 130A-22(j) for a total amount of \$6,262.36. 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 Brad Bailey at the Raleigh Central Office at (919) 508-8565.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul S. Crissman", written over a horizontal line.

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

Enclosure

cc: Terry Townsend, Assistant Attorney General  
Mark Poindexter, Field Operations Branch Head  
Jason Watkins, Central District Supervisor  
Brad Bailey, Environmental Senior Specialist  
Central Files, Solid Waste

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

**In Re:** PCM Construction Service, North  
Raleigh C&D Facility  
c/o Ms. Dawna Hogan-Guerra  
Registered Agent  
1400 Crescent Green Drive  
Cary, NC 27518

**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, Chief of the Solid Waste Section, 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 PCM Construction Service, North Raleigh C&D Facility is in violation of certain requirements of the Act and/or Rules, as set forth below.

**STATEMENT OF FACTS**

1. The PCM Construction Service, North Raleigh C&D (Construction and Demolition) Transfer Facility (Permit 92-27), located at 5509 Thornton Road, Raleigh, North Carolina is permitted to receive residential construction debris from new home construction.
2. On November 28, 2007, Mr. Bradley Bailey, Mr. Dennis Shackelford, and Ms. Donna Wilson, of the Solid Waste Section conducted a Comprehensive-Audit at the facility.

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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There were bags of household Municipal Solid Waste intermingled with numerous microlam (LVL) beam scrap pieces were observed. In addition, various barrels and drums were found on the site. The barrels and drums were empty (one labeled "liquid smoke"). However, Mr. Bailey found that the barrels and drums were not perforated sufficiently to ensure that no hazardous or liquid waste was ever contained therein as required by the permit.

3. As a result of the violation observed on November 28, 2007, a Notice of Violation was issued December 6, 2007 to PCM Construction Service, North Raleigh C&D Facility and received December 7, 2008.
4. On December 4, 2007, Mr. Bailey conducted an Open-Audit at the facility. Mr. Bailey found the tipping floor to be cleaned and free of any unpermitted waste.

**STATEMENT OF VIOLATION**

The above facts constitute violations of the following Sections of Title 15A N.C. Admin. Code Subchapter 13B:

1. Section .0402(2) states that:

"A facility shall only accept those wastes which it is permitted to receive;"

PCM Construction Service, North Raleigh C&D Facility received waste not permitted to receive.

**CONDITIONS FOR COMPLIANCE**

Based on the foregoing, you are hereby ordered to take the following actions:

1. Take immediate action to meet the requirements set forth in 15A NCAC 13B .0402(2) to ensure that your facilities do not receive waste that are not permitted to receive.

**PENALTY IMPOSED**

In addition to taking the actions specified above, PCM Construction Service, North Raleigh C&D Facility is hereby ordered to pay in accordance with N.C. General Statute 130A-22(a), an administrative penalty of \$6,000 for violation of 15A N.C. Admin. Code 13B .0402(2), plus investigative costs pursuant to N.C.G.S. 130A-22(j) in the amount of \$262.36, for a total amount of \$6,262.36.

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The factors considered in determining the administrative penalty are found in 15A N.C.A.C. 13B .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. Additionally under N.C.G.S. 130A-22(j), a portion of the penalty was assessed based on the investigative costs to the Solid Waste Section.

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 \$15,000.00 per day may be imposed. If the violation continues, 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**

You, PCM Construction Service, North Raleigh C&D Facility, have 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 you or 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;

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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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:

Mr. Brad Bailey  
Environmental Senior Specialist  
NC DENR  
Raleigh Regional Office  
1646 Mail Service Center  
Raleigh, NC 27699-1646  
(919) 508-8565

**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.**

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By: 

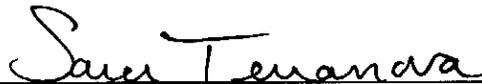
Paul S. Crissman  
Chief, Solid Waste Section  
Division of Waste Management  
Department of Environment and Natural Resources

**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:

PCM Construction Service, North Raleigh C&D  
Facility  
c/o Ms. Dawwna Hogan-Guerra  
Registered Agent  
1400 Crescent Green Drive  
Cary, NC 27518

Dated this 12<sup>th</sup> day of June, 2008



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