

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**

January 23, 2007

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED TO THE FOLLOWING:**

wdp2, L.L.C.  
c/o Mr. Doyle Payne  
301 East St. David's Road  
Creswell, NC 27928

wdp2, L.L.C  
1359 Albemarle Beach Road  
Roper, NC 27970

Mr. Norman Shearin, Jr.  
Registered Agent of wdp2, L.L.C  
6 Juniper Trail  
Kitty Hawk, NC 27949

Re: **Compliance Order With Administrative Penalty**  
**Wdp2 Medical Waste Treatment Facility, Permit Number 94-05-TP, Washington**  
**County**

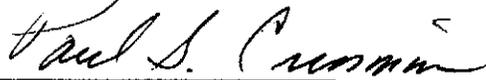
Dear Mr. Payne:

Enclosed is a Compliance Order issued to wdp2, L.L.C, 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 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. Dennis Shackelford, Waste Management Specialist, Division of Waste Management, at the Fayetteville Regional Office at (910) 433-3349.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul S. Crissman".

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

Enclosure

cc: Lauren Clemmons, Assistant Attorney General  
Paul Crissman, Chief, Solid Waste Section  
Mark Poindexter, Field Operations Branch  
Chuck Boyette, Waste Management Specialist  
John Crowder, Eastern Area Supervisor  
Central Files, Solid Waste

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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

Re: wdp2, L.L.C. c/o Mr. Doyle Payne 301 East St. David's Road Creswell, NC 27928	wdp2, L.L.C 1359 Albemarle Beach Road Roper, NC 27970	Mr. Norman Shearin, Jr. Registered Agent of wdp2, L.L.C 6 Juniper Trail Kitty Hawk, NC 27949
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**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 wdp2, L.L.C is in violation of certain requirements of the Act and/or Rules, as set forth below.

**STATEMENT OF FACTS**

1. On May 2, 2005, a permit to operate a medical waste treatment facility (Permit #94-05-TP) was issued to wdp2, L.L.C., property owner of 301 East St. David's Road in Creswell, North Carolina, Washington County. The permit was issued in accordance with all applicable solid waste rules and regulations and the general conditions of the permit specify that the handling, storing, treatment, processing, and transportation of medical waste is subject to the requirements of 15A NCAC 13B Section .1200.
2. On or about October 2, 2006, the Solid Waste Section received information that wdp2, LLC, had recently suspended operations and had left untreated medical waste inside the facility.

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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3. On October 6, 2006, Mr. Charles Boyette, Waste Management Specialist with the Division of Waste Management, Solid Waste Section, visited the wdp2, L.L.C Medical Waste Treatment Facility. Mr. Boyette discovered that the facility office and plant were locked and did not appear to be operating. Mr. Boyette telephoned Mr. John Chapman, the Operations Manager for the facility. Mr. Chapman stated that the facility had closed and there was untreated regulated medical waste left inside the facility. Mr. Boyette contacted Mr. Doyle Payne, operator of the wdp2, L.L.C Medical Waste Treatment Facility, to discuss the issue of medical waste being left inside the facility unattended. Based on his discussion with Mr. Chapman and by Mr. Payne's own admission, untreated medical waste had been at facility for more than seven days. Mr. Boyette reminded Mr. Payne that the rules prohibit regulated untreated medical waste from being stored for more than seven days at a medical waste treatment facility.
4. On October 9, 2006, Mr. Boyette sent to wdp2, L.L.C., a Facility Compliance Audit Report by certified mail and included a Notice of Violation pursuant to Section .1207(7)(b) for storing untreated medical waste at the facility for more than seven days. It was received by wdp2, L.L.C. on October 23, 2006.
5. On Tuesday, November 14, 2006, Mr. John Crowder, Eastern Area Supervisor with the Division of Waste Management, Solid Waste Section, contacted Mr. Payne and asked if he had removed all the medical waste from inside the facility. Mr. Payne told Mr. Crowder that they had at least two more tractor truck-loads of waste material to be removed and that this waste would be removed no later than "next Thursday". Mr. Payne faxed copies of manifest receipts which showed at least 5 separate loads that had been delivered to another medical waste treatment facility. Mr. Crowder explained to and reminded Mr. Payne that the medical waste should have been removed within seven days after the receipt in accordance with the rules.
6. On November 29, 2006, Mr. Crowder and Mr. Boyette visited the facility and took pictures. The gate was open, but no one was present at the facility. Three compaction container units containing treated medical waste and belonging to Waste Industries were located outside on site. Mr. Boyette previously had seen these units, identified as box #'s 115194, 154582 and 183882 on October 6, 2006 and November 21, 2006.
7. Mr. Boyette called Mr. Ronnie Elliot, Regional Branch Manager of Waste Industries, L.L.C., on November 30, 2006, and suggested that he remove Waste Industries three units containing treated medical waste from the wdp2 facility and transport the units to the East Carolina landfill for disposal. Although wdp2 usually paid the landfill disposal fee, it was understood that Waste Industries might have to pay the disposal fee.
8. On Dec 14, 2006, Mr. Boyette visited the wdp2 site and found that the three Waste Industry container units had been removed.

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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9. On December 15, 2006 Mr. Boyette received a faxed copy of landfill receipts from Mr. Elliot of Waste Industries showing that Waste Industries had disposed of the contents of the three containers, box #s115194, 154582 and 183882, at the landfill. The waste in the three containers weighed a total of 34.02 tons. Waste Industries paid the disposal tipping fee in the total amount of \$1,077.07.

**STATEMENT OF VIOLATIONS**

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

1. Section .1207(1)(b) states:

Regulated medical waste shall be stored prior to treatment for no more than seven calendar days after receipt.

wdp2, L.L.C is in violation of 15A NCAC 13B Section .1207(1)(b) in that medical waste was stored prior to being treated for more than seven days in the facility located at 301 East St. David's Road in Creswell, North Carolina,.

2. Section .1207(1)(c) states:

Regulated medical waste shall be stored no longer than seven calendar days after treatment.

wdp2, L.L.C is in violation of 15A NCAC 13B Section .1207(1)(c) in that it kept three compaction containers of treated medical waste outside of the building for an excess of seven days.

**CONDITIONS FOR COMPLIANCE**

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

1. Immediately secure the gate at the facility and cease accepting any new waste, until wwdp2, L.L.C. is in full compliance with Permit #94-05-TP and all applicable solid waste management rules.
2. Immediately remove all regulated treated and untreated medical waste stored at the facility to an approved medical waste treatment facility, no later than seven days after receipt of this order. Copies of all receipts and manifests that show proper disposal of all material shall be submitted to:

**COMPLIANCE ORDER WITH ADMINISTRATIVE PENALTY**

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Chuck Boyette  
Waste Management Specialist  
NC DENR – Division of Waste Management  
Solid Waste Section  
943 Washington Square Mall  
Washington, NC 27889

**PENALTY IMPOSED**

In addition to taking the actions specified above, wdp2, L.L.C is hereby ordered to pay in accordance with N.C. General Statute 130A-22(a), a total administrative penalty of \$6,000.00, for violations of 15A NCAC 13B .1207(1)(b) (3,000.00) and .1207(1)(c) (3,000.00).

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. 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.

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**

wdp2, L.L.C. 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.

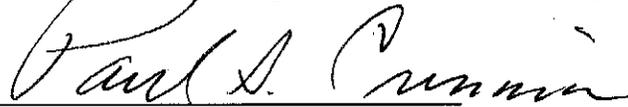
**INFORMAL CONFERENCE**

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:

Chuck Boyette  
Waste Management Specialist  
NC DENR – Division of Waste Management  
Solid Waste Section  
943 Washington Square Mall  
Washington, NC 27889  
(252) 948-3913

**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**

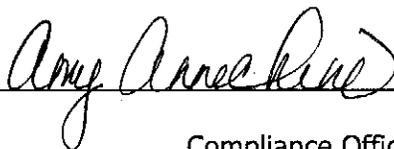
I hereby certify that I have caused a copy of the foregoing Compliance Order with Administrative Penalty to be served upon the person designated below, at the last known address, causing said copy to be deposited in the U.S. Mail, First Class (certified mail postage prepaid, and return receipt requested)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

wdp2, L.L.C.  
c/o Mr. Doyle Payne  
301 East St. David's Road  
Creswell, NC 27928

wdp2, L.L.C  
1359 Albemarle Beach Rd  
Roper, NC 27970

Mr. Norman Shearin, Jr.  
Registered Agent of wdp2, L.L.C  
6 Juniper Trail  
Kitty Hawk, NC 27949

Dated this 23 day of January, 2007



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