



North Carolina Department of Environment and Natural Resources  
Division of Waste Management

Pat McCrory  
Governor

Dexter R. Matthews  
Director

John E. Skvarla, III  
Secretary

March 12, 2014

**CERTIFIED MAIL 7012 1010 0002 1967 9927**  
**RETURN RECEIPT REQUESTED**

Charles Abernathy  
McDowell County Manager  
60 East Court St.  
Marion, NC 28752

**SUBJECT: Notice of Violation**  
Compliance Inspection Report  
McDowell County Closed MSW Landfill 56-01  
2849 NC Hwy 226 South  
Marion, McDowell County

Dear Mr. Abernathy,

On March 5, 2014, I, Bill Wagner, representing the State of North Carolina, Division of Waste Management Solid Waste Section ("Section"), inspected the above referenced facility for compliance with North Carolina Solid Waste Statutes and Rules. During this inspection, the following items were noted and/or observed:

**1. 15A NCAC .0503(2)(a) states:**

"The concentration of explosive gases generated by the site shall not exceed:

- (i) twenty-five percent of the limit for the gases in site structures (excluding gas control or recovery system components); and
- (ii) the lower explosive limit for the gases at the property boundary."

**McDowell County has failed to show that the closed municipal solid waste (MSW) landfill, Permit #56-01 meets the requirement for landfill gas as required by 15A NCAC .0503(2)(a).**

**2. 15A NCAC 13B .0505(1)(b) states, in part:**

"Specified monitoring and reporting requirements shall be met." (The December 13, 1995 letter, titled "Closure of the McDowell County Landfill, Permit #56-01" states that "the permittee shall maintain a record of all monitoring events and analytical data. Reports of the sampling events and analytical data shall be submitted to the Section in a timely manner.")

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<http://portal.ncdenr.org/web/wm/sw>

One  
North Carolina  
*Naturally*

**By failing cover the submit records of monitoring events and analytical data to the Solid Waste as required, McDowell County has violated 15A NCAC 13B .0505(1)(b).**

The above deficiencies may have or can compromise the facility's ability to ensure protection of the public health and the environment and thus require remedial action on behalf of the facility in order to achieve compliance with 15A NCAC .0503(2)(a) and 15A NCAC 13B .0505(1)(b).

**COMPLIANCE SCHEDULE**

**Based upon the foregoing, McDowell County shall come into compliance with 15A NCAC .0503(2)(a) and 15A NCAC 13B .0505(1)(b), by completing the following:**

- 1. Within thirty (30) days from receipt of this Notice, McDowell County must monitor all landfill structures and the property boundary of the closed Municipal Solid Waste Landfill (Permit # 56-01) for the presence of landfill gas in accordance with the requirements in 15A NCAC .0503(2)(a).**
- 2. Within fourteen (30) days from receipt of this Notice, McDowell County must submit to the Solid Waste Section records of water quality monitoring events and analytical data in accordance with the requirements in NCAC 13B .0505(1)(b).**

Failure to comply with this schedule may subject the facility and/or all responsible parties to enforcement actions including a notice of violation, civil penalty, 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. Pursuant to N.C.G.S. 130A-22(a) and 15A NCAC 13B .0701-.0707, an administrative penalty of up to \$15,000.00 per day may be assessed for each violation of the Solid Waste Laws, Regulations, Conditions of a Permit, or an Order issued under Article 9 of Chapter 130A of the N.C. General Statutes.

If you have any questions, please contact me at (828) 296-4705 or by e-mail at [Bill.Wagner@ncdenr.gov](mailto:Bill.Wagner@ncdenr.gov).

Sincerely,



Bill Wagner  
Environmental Senior Specialist  
Solid Waste Section

- ec: Jason Watkins, District Supervisor – Solid Waste Section  
Sarah Rice, Compliance Officer – Solid Waste Section  
Jaclynne Drummond, Compliance Hydrogeologist – Solid Waste Section  
Mike Gladden, Public Works Director – McDowell County ([mike.gladden@mcdowellgov.com](mailto:mike.gladden@mcdowellgov.com))