



01.02-02/14/89-00219

UNITED STATES MARINE CORPS
MARINE CORPS BASE
CAMP LEJEUNE, NORTH CAROLINA 28543 5084

IN REPLY REFER TO:
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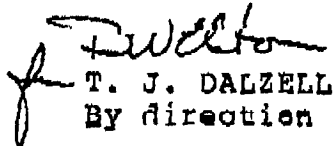
TELEFAX MEMORANDUM

From: Commanding General, Marine Corps Base, Camp Lejeune
To: Commandant of the Marine Corps, Headquarters, U. S.
Marine Corps (Code LFL), Washington, D.C. 20380-0001

Subj: RCRA COMPLIANCE; STATE OF NORTH CAROLINA COMPLIANCE CORPS
DATED 6 FEBRUARY 1989

Encl: (1) N.C. Division of Health Services ltr of 6 Feb 89

1. Forwarded to advise of notice of violation. Base legal and environmental staff will meet on 15 February 1989 to prepare initial response to state.
2. We plan to request an informal conference with state in early March. In the interim, the option to request an administrative hearing will be studied by base staff.
3. Additional details will follow by 23 February 1989 on the status of corrective actions taken to date and planned.


T. J. DALZELL
By direction

Copy to:
LANTNAVFACENGCOM (Code 115)

PAGE 1 OF 15 PAGES



North Carolina Department of Human Resources
Division of Health Services
P.O. Box 2091 • Raleigh, North Carolina 27602-2091

James G. Martin, Governor
David T. Flaherty, Secretary

February 6, 1989

Ronald H. Levine, M.D., M.P.H.
State Health Director

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Colonel T.J. Dalzell
Assistant Chief of Staff, Facilities
U.S. Marine Corps
Marine Corps Base
Camp Lejeune, North Carolina 28542-5001

Re: Compliance Order, U.S. Marine Corps Base,
NC6170022580

Dear Colonel Dalzell:

Enclosed is a Compliance Order issued to U.S. Marine Corps Base, for certain violations of the North Carolina Solid Waste Management Act, N.C.G.S. 130A, Article 9 (Act), and the North Carolina Hazardous Waste Management Rules, 10 NCAC 10F (Rules). The Compliance Order describes both the violations and the actions required for compliance, at your facility, with the Act and Rules.

The N.C. Solid Waste Management Penalty Computation Procedure (March 19, 1985) was used to calculate a penalty appropriate for the violations cited in the order in the amount of \$19,500.00. However, based on Meyer v. U.S. Coast Guard, No. 80-02-DIV-2, the penalty is moot.

You may appeal this Compliance Order by filing a written petition for an administrative hearing to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, North Carolina 27604, and by serving a copy of the petition to Karen Rottman, Process Agent, Department of Human Resources, 325 N. Salisbury Street, Raleigh, North Carolina 27611. The petition must be in accordance with N.C.G.S. Chapter 150B-23(a) and 10 NCAC 10G .0704.

- If you desire to schedule an informal conference to discuss the Compliance Order, please contact Gary D. Babb, Supervisor, Waste Management Unit at (919) 733-2178.

Respectfully,



Jerome H. Rhodos, Branch Head
Hazardous Waste Branch
Solid Waste Management Section

JHB/AD/MSM/CT 1

Enclosures: Compliance Order

cc: Central File
John Lank, EPA Region IV
Gary Babb
Jerry Parks
Doug Holyfield
Steve Reid
Onslow County Health Director

North Carolina Department of Human Resources
Division of Health Services
Hazardous Waste Branch

In Re: U.S. Marine Corps Base)
NC6170022580)

COMPLIANCE ORDER
Docket # 89-029

PRELIMINARY STATEMENT

This Compliance Order is issued under the North Carolina Solid Waste Management Act, N.C.G.S. 130A, Article 9 (Act), and the North Carolina Hazardous Waste Management Rules, 10 NCAC 10F (Rules). Jerome H. Rhodes, Branch Head, Hazardous Waste Branch, Department of Human Resources, has been delegated the authority to implement the Act and Rules. U.S. Marine Corps Base, Camp Lejeune (hereinafter Camp Lejeune) is a United States Military installation which generates, treats, stores, and/or disposes of hazardous waste in Onslow County, North Carolina. Based upon an inspection performed at Camp Lejeune, the North Carolina Hazardous Waste Branch has determined that Camp Lejeune is in violation of certain requirements of the Act and Rules as set forth in this Compliance Order.

STATEMENTS OF FACT AND LAW

1. On December 18, 1980, the State of North Carolina, Hazardous Waste Branch (Branch), was authorized to operate the State RCRA hazardous waste program under the North Carolina Solid Waste Management Act, N.C.G.S. 130A, Article 9, and rules codified at 10 NCAC 10F. Jerome H. Rhodes, Head of the Branch, has been delegated those responsibilities.
2. Camp Lejeune is a United States Military installation which owns and/or operates an existing hazardous waste treatment, storage and/or disposal facility, as defined in N.C.G.S. 130A-290(5) and 10 NCAC 10F .0002, in Onslow County, North Carolina. Camp Lejeune generates hazardous waste, as defined in N.C.G.S. 130A-290-(4) and 10 NCAC 10F .0002, at its site. Camp Lejeune is a person as defined in N.C.G.S. 130A-290(12) and 10 NCAC 10F .0002.
3. On September 7, 1984, Camp Lejeune was issued a permit for its two storage areas, buildings TP-451 and TP-463, by the North Carolina Department of Human Resources to manage hazardous waste at its Onslow County, North Carolina facility.
4. 40 CFR Part 262, codified at 10 NCAC 10F .0030, contains standards and requirements applicable to generators of hazardous waste. 40 CFR Part 264, codified at 10 NCAC 10F .0032, contains

standards and requirements applicable to owners and operators of permitted hazardous waste management facilities. 40 CFR Part 268, codified at 10 NCAC 10F-.0042, contains restrictions for land disposals.

5. On September 28 and 29, 1988, Glenn May, Environmental Engineer, Shannon Maher, Environmental Scientist, both with the United States Environmental Protection Agency, and Jerry Parks, Waste Management Specialist, with the Branch, inspected Camp Lejeune for compliance with North Carolina Hazardous Waste Management rules. During that inspection Camp Lejeune was found to be in violation of certain requirements for generators of hazardous waste contained in 40 CFR 262, codified at 10 NCAC 10F .0030, and 40 CFR 268, codified at 10 NCAC 10F .0042. Specifically:

A. 40 CFR 262.34(a), codified at 10 NCAC 10F .0030, states that, except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status.

Camp Lejeune is in violation of 40 CFR 262.34(a), codified at 10 NCAC 10F .0030, in that it accumulated hazardous waste on-site more than 90 days, in building EC-251, which does not have a permit or interim status.

B. 40 CFR 262.34(a)(1), codified at 10 NCAC 10F .0030, states that except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the waste is placed in containers and the generator complies with Subpart I of 40 CFR Part 265, or the waste is placed in tanks and the generator complies with Subpart J of 40 CFR Part 265, except 265.197(c), and 265.200.

40 CFR 265.174 (Subpart I), codified at 10 NCAC 10F .0033, states that the owner or operator must inspect areas where containers are stored at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. A log of inspections must be kept for at least three years from the date of the inspection.

40 CFR 265.176, (Subpart I) codified at 10 NCAC 10F .0033, references 40 CFR 265.17(a), codified at 10 NCAC 10F .0033, which states that the owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be generated including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition

(e.g., from heat producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

Camp Lejeune is in violation of 40 CFR 262.34(a)(1), codified at 10 NCAC 10F .0079, in that it accumulated interim status, and it did not:

- i. inspect accumulation building 307 weekly, looking for leaks and for deterioration caused by corrosion or other factors as required by 40 CFR 265.174 (Subpart I), and
- ii. take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, in that ignitable or reactive waste was handled in the hazardous waste corral near B1880 and Camp Lejeune did not confine operations, and no "No Smoking" signs were not conspicuously placed by 40 CFR 265.176 (Subpart I).

- C. 40 CFR 262.34(a)(3), codified at 10 NCAC 10F .0030, states that except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste."

Camp Lejeune is in violation of 40 CFR 262.34(a)(3), codified at 10 NCAC 10F .0030, in that it accumulated hazardous waste on-site without a permit or without having interim status, and it did not mark each container on site with the words "Hazardous Waste". (five boxes of lithium batteries at B307).

- D. 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030, states that except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with the requirements for owners or operators in Subparts C and D in 40 CFR Parts 265 and with Section 265.16.

40 CFR 265.16(d), codified at 10 NCAC 10F .0033, states that the owner or operator must maintain the following documents and records at the facility:

- (3) a written description of the type and amount of both given to each person filling a position listed under paragraph (d)(1) of this section.
- (4) records that document that the training or job experience required under paragraphs (a), (b), and (c) of this section has been given to, and completed by, facility personnel.

Camp Lejeune is in violation of 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030, in that it accumulated hazardous waste on site without a permit or without having interim status, and it did not comply with requirements for owners and operators in Section 265.16 in that it did not maintain the following documents and records at the facility:

- (3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of 265.16, as required by 40 CFR 265.16(d)(3);
- (4) records that document that the training or job experience required under paragraphs (a), (b), and (c) of 265.16 has been given to, and completed by, facility personnel, as required by 40 CFR 265.16(d)(4).

E. 40 CFR 265.191(a), codified at 10 NCAC 10F .0033, states that for each existing tank system that does not have secondary containment meeting the requirements of 265.193, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in paragraph (c) of this section, the owner or operator must obtain and keep on file at the facility a written management assessment and certified by an independent, qualified, registered professional engineer in accordance with 270.11(d) that attests to the tank system's integrity

Camp Lejeune is in violation of 40 CFR 265.191(a), codified at 10 NCAC 10F .0033, in that it did not for each existing tank system (hazardous waste storage tanks S781, STT61, STT62, STT63, STT64, STT65, S889, S891, AS-419, AS-420 and AS-421) obtain and keep on file at the facility a written assessment reviewed and certified by an independent,

qualified, registered professional engineer in accordance with 270.11(d) that attests to the tank system's integrity by January 12, 1988.

- F. 40 CFR 268.7(a)(1), codified at 10 NCAC 10F .0042, states that except as specified in Section 268.32 of this part, the generator must test his waste or an extract developed using the test method described in Appendix I of this part, or use knowledge of the waste, to determine if the waste is restricted from land disposal under this part. If a generator determines that he is managing a restricted waste under this part and the waste does not meet the applicable treatment standards, or where the waste does not comply with the applicable prohibitions set forth in Section 268.32 of this part or RCRA Section 3004(d), with each shipment of waste the generator must notify the treatment facility in writing of the appropriate treatment standards set forth in Subpart D of this part and any applicable prohibitions set forth in Section 268.32 of this part or RCRA Section 3004(d).

Camp Lejeune is in violation of 40 CFR 268.7(a)(1), codified at 10 NCAC 10F .0042, in that it is managing a restricted waste under this part and the waste does not meet the applicable treatment standards, and it did not with each shipment of waste notify the treatment facility in writing of the appropriate treatment standards set forth in Subpart D of this part and any applicable prohibitions set forth in Section 268.32 of this part or RCRA Section 3004(d).

- 6 During the inspection conducted on September 20, and 29, 1988, Camp Lejeune was also found to be in violation of certain conditions contained in its operating permit. Specifically:

40 CFR 270.32(b)(1), codified at 10 NCAC 10F .0034, states that each RCRA permit shall include permit conditions necessary to achieve compliance with the Act and regulations, including each of the applicable requirements specified in Parts 264 and 266 and through 268 of this chapter.

- A.. Permit Condition - Part II.F., states that the permittee shall follow the inspection schedule as described on pages 29-31, part F of the attachment and shall comply with 40 CFR 264.15 (c) and (d) as adopted in 10 NCAC 10F .0032.

Camp Lejeune is in violation of Permit Condition - Part II.F., in that it did not follow the inspection schedule as described on pages 29-31 part F of the attachment and it did not comply with 40 CFR 264.15 (d) as adopted in 10 NCAC 10F .0032, in that inspection logs did not indicate the

date of remedial actions or nature of repairs for observations made during inspections.

- B. Permit Condition - II.G., states that the permittee shall conduct personnel training in accordance with 40 CFR 264.10 as adopted in 10 NCAC 10F .0032 and as described on pages 36-39, part H of the attachment. Part H of the attachment requires that a written job description for each position at the Hazardous Materials/Waste Management Storage Facility must be maintained at the facility.

Camp Lejeune is in violation of Permit Condition - Part II.G., in that it did not conduct personnel training in accordance with 40 CFR 264.10 as adopted in 10 NCAC 10F .0032 and as described on pages 36-39, part H of the attachment, in that a written job description for each position was not maintained at the facility.

- C. Permit Condition - Part II.J., states that the permittee shall test and maintain the equipment specified in Permit Condition - Part II.I. and as identified on page 30, part F of the attachment, as necessary to ensure its proper operation in time of emergency.

Camp Lejeune is in violation of Permit Condition - Part II.J., in that it did not test and maintain the equipment specified in Permit Condition - Part II.I and as identified on page 30, part F of the attachment, as necessary to ensure its proper operation in time of emergency, in that the fire extinguisher located directly outside of TP-463 was not in operable condition, and testing had not been routinely performed.

- D. Permit Condition - Part III.A., states that if a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the permittee shall transfer the hazardous waste from such container to a container that is in good condition or manage the waste in some other way that complies with the requirements of the conditions of this permit.

Camp Lejeune is violation of Permit Condition - Part III.A., in that a container within TP-463 holding hazardous waste was not in good condition and it had begun to leak, and Camp Lejeune did not transfer the hazardous waste from that container to a container that was in good condition or manage the waste in some other way that complied with the requirements of the conditions of this permit.

CIVIL PENALTY

The N.C. Solid Waste Management Penalty Computation Procedure (March 19 1985) was used to calculate the penalty. The factors considered in calculating the administrative penalty include, but are not limited to: 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 amount of wastes, the ease and costs of compliance and the history of noncompliance. For each violation specified above, the following penalties were calculated: 5A. and 5B. combined, \$5,000.00; 5C. and 5D. combined, \$5,000.00; 5E. \$2,500.00; 5F. \$2,000.00; 6A.-6D. combined, \$5,000.00. Accordingly, a total penalty of \$19,500.00 was calculated.

CONDITIONS FOR CONTINUED OPERATION

Based upon the foregoing, Camp Lejeune is hereby ordered to take the following actions by March 20, 1989, to correct all violations as stated in this Compliance Order and otherwise be in compliance with the requirements of 40 CFR 262, 264, and 268 codified at 10 NCAC 10F .0030, .0032, and .0043 respectively; and all conditions and requirements in its hazardous waste management permit.

1. Comply with 40 CFR 262.34(a), codified at 10 NCAC 10F .0030. Camp Lejeune, shall not accumulate hazardous waste on-site for status: 90 days without a permit or without having interim
2. Comply with 40 CFR 262.34(a)(1), codified at 10 NCAC 10F .0030. Camp Lejeune, shall for hazardous waste placed in containers, comply with Subpart I of 40 CFR Part 265. Specifically:

Camp Lejeune shall inspect areas where containers are stored at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. A log of inspections shall be kept for at least three years from the date of the inspection, as required by 40 CFR 265.174 (Subpart I), codified at 10-NCAC 10F .0033, and

Camp Lejeune shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, in that its waste shall be separated and protected from sources of ignition or reaction including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (o.g., from heat producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, it shall confine smoking and open flame to specially designated locations. "No Smoking" signs shall be conspicuously

placed wherever there is a hazard from ignitable or reactive waste, as required by 40 CFR 265.17(a), codified at 10 NCAC 10F .0033, referenced by 40-CFR 265.176, (Subpart I) codified at 10 NCAC 10F .0033.

3. Comply with 40 CFR 262.34(a)(3), codified at 10 NCAC 10F .0030. For its ~~hazardous waste accumulated on-site~~ in containers or tanks without a permit or without having interim status, Camp Lejeune shall ~~label or mark~~ clearly those containers or tanks with the words, "Hazardous Waste."
4. Comply with 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030. Camp Lejeune, shall for hazardous waste accumulated on-site without a permit or without having interim status, comply with the requirements for owners or operators in Section 265.16., in that it shall maintain the following documents and records at the facility:
 - (3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of Section 265.16, as required by 40 CFR 265.16(d)(3), codified at 10 NCAC 10F .0033; and
 - (4) records that document that the training or job experience required under paragraphs (a), (b), and (c) of Section 265.16 has been given to, and completed by, facility personnel as required by 40 CFR 265.16(d)(4), codified at 10 NCAC 10F .0033.
5. Comply with 40 CFR 265.191(a), codified at 10 NCAC 10F .0033. Camp Lejeune, shall for each existing tank system that does not have secondary containment meeting the requirements of 265.193, determine that the tank system is not leaking or is unfit for use. Camp Lejeune shall obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with 270.11(d) that attests to the tank system's integrity.
6. Comply with 40 CFR 268.7(a)(1), codified at 10 NCAC 10F .0042. Camp Lejeune, shall test its waste or an extract developed using the test method described in Appendix 1 of this part, or use knowledge of the waste, to determine if the waste is suitable for land disposal under this part. If it determines that it is ~~not suitable for land disposal under this part~~ and the waste does not meet the applicable treatment standards, or where the waste does not comply with the applicable prohibitions set forth in Section 268.32 of this part or RCRA Section 3004(d), with each ~~shipment of waste~~ it must notify the treatment facility in ~~writing of the appropriate treatment standards set forth in Subpart D of this part and any applicable prohibitions set forth~~

in Section 268.32 of this part or RCRA Section 3004(d). The notice shall include the following information:

- (i) EPA Hazardous Waste Number;
- (ii) The corresponding treatment standards and all applicable prohibitions set forth in Section 268.32 or RCRA Section 3004(d);
- (iii) The Manifest number associated with the shipment of waste; and
- (iv) Waste analysis data, where available.

7. Comply with Permit Condition - Part II.F. Camp Lejeune, shall follow the inspection schedule as described on pages 29-31, part F of the attachment and shall comply with 40 CFR 264.15 (a) and
8. Comply with Permit Condition - Part II.G. Camp Lejeune, shall conduct personnel training in accordance with 40 CFR 264.16 as adopted in 10 NCAC 10F .0032 and as described on pages 36-39, part H of the attachment.
9. Comply with Permit Condition - Part II.J. Camp Lejeune, shall test and maintain the equipment specified Permit Condition Part II.I, and as identified on page 30, part F of the attachment, as necessary to ensure its proper operation in time of emergency.
10. Comply with Permit Condition - Part III.A. Camp Lejeune shall, for containers holding hazardous waste that are not in good condition (e.g., severe rusting, apparent structural defects) or leaking, transfer the hazardous waste from such containers to some other way that complies with the requirements of the conditions of this permit.

POTENTIAL CONSEQUENCES OF FAILURE TO COMPLY

Camp Lejeune is hereby advised that if the violation(s) continues, Camp Lejeune may also be subject to further enforcement including injunction from any further generation of hazardous waste and such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules. As provided in 40 CFR 270, codified at 10 NCAC 10F .0034, any noncompliance constitutes a violation of N.C. Hazardous Waste Management Rules and is grounds for enforcement action, permit denial, and termination of interim status.

OPPORTUNITY TO REQUEST A HEARING

Camp Lejeune has the right to contest any matter of law, material fact, or requirement set forth in this Compliance Order. To avoid being in default a written petition must be submitted within 30 days of receipt of this Compliance Order in accordance with 10 NCAC 10G .0704.

The petition shall be verified or supported by affidavit and shall state facts tending to establish that the agency has deprived Camp Lejeune of property, has ordered Camp Lejeune to pay a fine or civil penalty, or has otherwise substantially prejudiced Camp Lejeune's rights and that the Branch:

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.

The petition must be submitted to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, North Carolina 27604, in accordance with N.C.G.S. 150B-23(a). A copy of the petition must be submitted to Karen Rotterman, Process Agent, Department of Human Resources, 325 N. Salisbury Street, Raleigh, North Carolina 27601. Requested administrative hearings will be conducted in accordance with applicable rules contained in the North Carolina Administrative Code, a copy of which will be furnished to you upon request.

INFORMAL CONFERENCE

Whether or not Camp Lejeune requests an administrative hearing, the Do give Camp Lejeune an opportunity to provide additional information, including any actions it has taken to correct the violation(s). If an informal conference is desired, please contact:

Cary D. Babb, Supervisor, Waste Management Unit
- Hazardous Waste Branch
P.O. Box 2091, 401 Oberlin Road
Raleigh, N.C. 27605-2091
(919) 733-2178

THE SCHEDULING OF AN INFORMAL CONFERENCE WILL NOT RELIEVE CAMP
LEJEUNE OF THE NEED TO FILE A WRITTEN PETITION FOR AN ADMINISTRATIVE
HEARING WITHIN 30 DAYS OF RECEIPT OF THIS COMPLIANCE ORDER WITH
ADMINISTRATIVE PENALTY IF A HEARING IS DESIRED.

By:

Jerome H. Rhodes
Jerome H. Rhodes, Branch Head
Hazardous Waste Branch
Solid Waste Management Section
Division of Health Services

Date:

2.14.89

CERTIFICATE OF SERVICE

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

Colonel T. J. Dalzell
Assistant Chief of Staff, Facilities
U.S. Marine Corps
Marine Corps Base
Camp Lejeune, North Carolina 28542-5001

Dated this

6

day of

February

, 1989.

Jerome H. Rhodes
Jerome H. Rhodes, Head
Hazardous Waste Branch
Solid Waste Management Section
Division of Health Services

USMCCL1