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Par 11010(1)(b)
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DDS

State of North Carolina
Department of Natural Resources and Community Development
Division of Environmental Management
512 North Salisbury Street • Raleigh, North Carolina 27611

James G. Martin, Governor
S. Thomas Rhodes, Secretary

R. Paul Wilms
Director

December 9, 1986

Mr. Julian I. Wooten
Director, Natural Resources Div
Environmental Chemistry &
Microbiology Laboratory
Camp Lejeune, NC 28542

Dear Mr. Wooten:

Re: North Carolina Wastewater Laboratory Certification

We have received and reviewed your December 4, 1986, letter concerning laboratory certification. We have amended our files to reflect your current laboratory name and staff listing supplied with your letter. Attached is a report for the evaluation sample analysis performed by your laboratory. As shown on the report, we have enclosed Grease & Oil and total suspended residue rerun samples for your analysis. Also enclosed are initial evaluation samples for total phosphorus and ammonia nitrogen analysis. Acceptable results are required on all parameters prior to certification.

Thank you for the information supplied. Contact us at 919-733-3908 if you have questions.

Sincerely,

W. B. Edwards

W. B. Edwards
Laboratory Section

Enclosures

cc: Wilmington Regional Supervisor
Billy Byrd

State of North Carolina
Department of Natural Resources and Community Development
Division of Environmental Management
512 North Salisbury Street • Raleigh, North Carolina 27611

James G. Martin, Governor
S. Thomas Rhodes, Secretary

R. Paul Wilms
Director

December 9, 1986

Mr. Julian I. Wooten
Director, Natural Resources Div
Environmental Chemistry &
Microbiology Laboratory
Camp Lejeune, NC 28542

Dear Mr. Wooten:

We have evaluated your results from the performance samples for wastewater laboratory certification received on December 5, 1986. The information from this evaluation is summarized below:

Parameter	Value Reported	True Value	State Lab. Value	Acceptable Range	Performance
BOD mg/1	33	38.65		28 - 49	Acceptable
*Grease & Oil mg/1	4.0	26		19 - 33	Unacceptable
pH Units	4.02	4.01		3.71-4.31	Acceptable
*Suspended Residue	3 mg/1	30.5		22 - 39	Unacceptable

( ) Your laboratory will be recommended for (certification) (recertification).
( ) You will be contacted to establish a date for your on-site laboratory inspection.
(*) Another sample(s) has been included for your use as required.
( ) You will be provided another sample at a future date.

Contact us at 919-733-3908 if you have questions concerning this matter.

Sincerely,

W. B. Edwards, Jr.

Laboratory Section

cc: Wilmington Regional Supervisor
Billy Byrd
Ted Cashion

Instruction and Reporting Form for
Analysis of Total and Suspended Residue

Please verify that the ampul you received corresponds with the number listed below:

R

The contents of this ampul are to be used to prepare an analytical performance sample for total and suspended residue analysis.

When you are ready to perform the analysis, remove the rubber seal from the vial containing the solids, being careful not to lose particles clinging to the rubber seal.

Pour the contents of the vial through a glass funnel into the 1000 ml volumetric flask. Use deionized water to quantitatively rinse the solids from the vial and rubber seal into the volumetric flask. Rinse the glass funnel by adding deionized water to make the sample up to the 1000 ml mark.

Mix well and analyze by standard procedures.

NOTE: Some labs have found it necessary to correct for their distilled water residue content when analyzing this type of sample.

See the table below for information on the concentration range and pertinent reporting information. Please report your findings in the "Value Obtained" column in accordance with the directions provided in the "Report Results" column.

Perform analyses Marked (X)	Analysis	Concentration Range	Report Results	Value Obtained
	Total Residue	1-1000 mg/l	to 1.0 mg/l	
X	Suspended Residue	1-1000 mg/l	to 1.0 mg/l	

Return a signed copy of this completed form to:

Dept. of Natural Resources & Community Development
Laboratory Section
Division of Environmental Management
P. O. Box 27687
Raleigh, North Carolina 27611

within 30 days of receiving this sample. Retain one copy for your file.

Laboratory Code # _____ Certificate # _____

Laboratory reporting data _____

Signature of Laboratory Supervisor _____

Date Completed _____

(LC7-4/81)

Instruction and Reporting Form for
Analysis of Oil and Grease

Please verify that the number on the ampul you received corresponds with the number listed here: G.

The contents of this ampul are to be used to prepare a sample for the analytical performance test for oil and grease analysis. Add 500 ml of distilled or deionized water and 2.5 ml concentrated HCl to a separatory funnel. Transfer 10.0 ml of the ampul contents to the separatory funnel. Complete the analysis as detailed in the required procedure. Calculate the oil or grease concentration using the formula below:

$$\text{mg/l grease or oil} = \frac{(\text{mg oil or grease in sample} - \text{mg oil or grease in blank}) \times 1000}{500}$$

Please record your result in the "Value Obtained" column in accordance with the directions provided in the "Report Results" column.

Perform analyses Marked (X)	Analysis	Concentration R.	Report Results	Value Obtained
_____	Oil & Grease	1-1000 mg/l	to 1 mg/l	_____

Return the ampul mailing container and a signed copy of this completed form to:

Dept. of Natural Resources & Community Development
Division of Environmental Management
Laboratory Branch
P. O. Box 27687
Raleigh, North Carolina 27611

within 30 days of receiving this sample. Retain one copy for your file.

Laboratory Code # _____ Certificate # _____

Laboratory reporting data _____

Signature of laboratory supervisor _____

Date completed _____

(LC-33-82)

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

James G. Martin, Governor
Phillip J. Kirk, Jr., Secretary

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

October 10, 1986

Mr. Julian Wooten
NREAD, AC/S FAC
U.S. Marine Corps Base
Camp Lejeune, North Carolina 28542

Re: Administrative Order on Consent
Docket # 00256

Dear Mr. Wooten:

Please find enclosed two originals of an Administrative Order on Consent, Docket # 00256. This order addresses the violations observed on a hazardous waste compliance inspection conducted at USMCB, Camp Lejeune on June 26-27, 1986 by EPA and the State of North Carolina.

Both copies must be signed by Colonel Dalzell and returned to this Branch within fifteen (15) days of receipt by you. Mr. Meyer will then sign and date both and return one to Camp Lejeune.

If there are any questions, please call me at (919) 733-2178.

Sincerely,

Jerry Rhodes

Jerry Rhodes, Assistant Branch Head
Solid & Hazardous Waste Management Branch
Environmental Health Section

JR:pgb

Enclosure

5561A

STATE OF NORTH CAROLINA
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF HEALTH SERVICES
SOLID AND HAZARDOUS WASTE MANAGEMENT BRANCH

In re: United States Marine Corps Base)	Administrative Order on Consent
Camp Lejeune)	Docket # 00256
NC6170022580	

STATEMENT OF PURPOSE

Pursuant to the North Carolina Solid Waste Management Act and rules, N.C.G.S. 130A, Article 9, and 10 NCAC 10F, as amended ("Act" and "rules"). The Complainant is William L. Meyer, Head, Solid and Hazardous Waste Management Branch, Department of Human Resources (hereinafter Branch). Respondent is Camp Lejeune Marine Corps Base (hereinafter USMCB).

The purpose of this Consent Order is to address conditions in and around the USMCB's site at Onslow County, which will minimize the site's impact on the public health and environment in a manner which is consistent with the State and Federal hazardous waste laws and rules.

In order to protect the public health and environment, and to avoid costly protracted litigation, (USMCB) and the Branch by and through their authorized representatives, do enter into this following Consent Order and agree:

STIPULATIONS OF FACT AND LAW

1. To protect the public health and environment, the Solid and Hazardous Waste Management Branch, Environmental Health Section, Department of Human Resources of the State of North Carolina, is empowered to implement and seek compliance with the standards for generation, transportation, treatment, storage, and disposal of waste pursuant to the Solid Waste Management Act, N.C.G.S. Chapter 130-A(Act), and the rules promulgated there under at 40 CFR 260-271, codified at 10 NCAC 10F (rules). Mr. William L. Meyer, Head of the Branch, has been delegated those responsibilities.

2. USMCB is a United States Military installation which owns and/or operates an existing hazardous waste management facility (as defined in N.C.G.S. 130A-290(5) and 40 CFR 260.10, codified at 10 NCAC 10F .0002) at Onslow County. The USMCB treats, stores, or disposes of hazardous waste (as defined by N.C.G.S. 130A-290 and 40 CFR Part 261, codified at 10 NCAC 10F .0029).

3. The USMCB owns and/or operates a site generating hazardous waste as defined in N.C.G.S. 130A-290(6) and 10 NCAC 10F .0002, located at Camp Lejeune, North Carolina.

4. 40 CFR 262, codified at 10 NCAC 10F .0030, contains standards and requirements applicable to generators of hazardous waste.

5. On September 7, 1984, the USMCB was issued a permit by the Branch to store hazardous waste at the Camp Lejeune, North Carolina, facility.

6. 40 CFR 264, codified at 10 NCAC 10F .0032, contains standards and requirements applicable to owners and operators of hazardous waste management facilities which have achieved permitted status.

* 7. Based on a joint/inspection by Branch/EPA personnel on June 26-27, 1986, the inspection found that the USMCB facility failed to meet the following requirements:

a. 40 CFR 262.21(a)(2), codified at 10 NCAC 10F .0030, states that the manifest must contain all of the following information; the generators name, mailing address, telephone number, and EPA identification number. The USMCB failed to use a generator I.D. number on the February 28, 1986 manifest.

b. 40 CFR 262.34(a)(1), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status, provided that the waste is placed in containers and the generator complies with Subpart I of 40 CFR 265. 40 CFR 265.174, codified at 10 NCAC 10F .0033, states that the owner or operator must inspect areas where containers are stored, at least weekly. The USMCB failed to perform weekly inspections of hazardous waste storage areas in and around building 909.

c. 40 CFR 262.34(a)(2), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status, provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container. The USMCB failed to mark on each container of electrolyte solution, the date upon which each period of accumulation begins.

d. 40 CFR 262.34(a)(3), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status, provided that while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste". The USMCB failed to label containers of electrolyte solution with the words "Hazardous Waste".

e. 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status provided that: the generator complies with the requirements for owner or operators in Subparts C and D part 265 and with Section 265.16.

i. 40 CFR 265.31, codified at 10 NCAC 10F .0033, states that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents. The USMCB failed to minimize the possibility of a release by placing batteries upside down on pallets on the ground. Visual discoloration is noted around Building 909.

ii. 40 CFR 265, Subpart D (265.50-265.56), codified at 10 NCAC 10F .0033, states that each owner or operator (each generator site) must have a contingency plan designed to minimize the hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents. The USMCB failed to develop contingency plans for each generating site, including TMO, which signs as a generator, manifests to Safety-Kleen.

iii. 40 CFR 265.16, codified at 10 NCAC 10F .0033, states that facility personnel must successfully complete a program of classroom instruction or on-the-job training; facility personnel must take part in an annual review of the initial training; and must maintain documents and records describing job titles, job descriptions, written descriptions and amount of training, and documentation of completion. The USMCB has failed to implement and maintain personnel training plans at all generating sites. Numerous personnel were not trained at all generating sites including TMO which signs as a generator, manifests to Safety-Kleen.

f. 40 CFR 262.42(a), codified at 10 NCAC 10F .0030, states that a generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted, by the initial transporter, must contact the transporter and/or the owner or operator of the designated facility to determine the status of the waste. The USMCB has failed to receive a signed copy of manifested shipments to Safety-Kleen nor has any contact been made to determine the status of such shipments.

g. 40 CFR 262.42(b), codified at 10 NCAC 10F .0030, states that a generator must submit an Exception Report if he has not received a signed copy of the manifest from the owner or operator of the designated facility within 45 days of acceptance of that waste by the initial transporter. The USMCB has failed to submit Exception Reports for all shipments to Safety-Kleen where the USMCB has not received a signed copy from Safety-Kleen.

h. 40 CFR 264.16(d)(e), codified at 10 NCAC 10F .0032, states that job titles, job descriptions, written description of and amount of training, and documentation of a completion must be maintained. The USMCB has failed to revise the personnel training plan to document all individuals involved in the hazardous waste management program.

PERMIT MODIFICATIONS - CONDITIONS

i. 40 CFR 264.52(e), codified at 10 NCAC 10F .0032, states that the contingency plan must include a list of all emergency equipment at the facility. The list must be kept up-to-date. In addition, the plan must include the location and a physical description of each item, and a brief outline of its capabilities. The USMCB has failed to adequately list, and describe the emergency equipment. Revision's to the contingency plan is considered a modification of the existing permit.

j. 40 CFR 264.52(f), codified at 10 NCAC 10F .0032, states that the contingency plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. The USMCB has failed to include a detailed evacuation plan in the event of an emergency.

k. 40 CFR 264.56(d)(e)(h)(i)(j), codified at 10 NCAC 10F .0032, states that the contingency plan must outline procedures that the emergency coordinator is responsible for in reporting to the appropriate authorities, containment of hazardous waste incidents, adequacy of remedial activities, and incident documentation. The USMCB has failed to describe in detail, emergency procedures in the event of an emergency.

l. 40 CFR 264.173(b), codified at 10 NCAC 10F, states that containers holding hazardous waste must not be handled or stored in a manner which may rupture the container. Part III of the permit addresses storage in containers, and requires that containers cannot be stacked more than two high. The USMCB has failed to comply with the permit conditions by stacking crates higher than the two drum limit.

m. 40 CFR 270.42, codified at 10 NCAC 10F .0034, states that under certain conditions, the permit may be modified to make corrections or allowances for changes in the permitted activity. The USMCB has failed to notify the State that the operator of the facility has changed names from DPDO to DRMO. In addition, the USMCB is now utilizing an inspection form that has replaced the form noted in the permit. The USMCB has failed to change this form in the permit.

8. An informal meeting/prehearing conference was held on September 9, 1986, at which time the parties agreed in principle to the entering of this Consent Order.

* 9. This Consent Order is not intended and shall not be construed as an admission of fact or applicability of any law by the USMCB. The USMCB admits no liability regarding the allegations of noncompliance contained in the inspection and further, no finding is made as to the truth of said allegations.

* 10. Nothing in this Consent Order shall be construed as limiting the State of North Carolina from performing its duty to protect the public health and environment of the State as required by law.

11. This Consent Order shall be binding upon the officers, directors, agents, employees, contractors, successors and assigns of the USMCB facility. The USMCB shall provide a copy of this Consent Order to each contractor or other person performing any work under this Consent Order and shall condition each contract or agreement for such work upon these Consent Order terms.

* 12. Failure to meet the obilgations which this Consent Order imposes will expose the USMCB to any and all of the various enforcement sanctions available to the Branch under the Act and rules, including N.C.G.S. 130A-22. The Branch places the USMCB on notice of its intention to use one or more of those sanctions should the Company fail to comply with this Consent Order.

13. This Consent Order will be signed on behalf of the USMCB by Colonel T.J. Dalzell, Assistant Chief of Staff, United States Marine Corps Base, Camp Lejeune, North Carolina, who warrants that he has the authority to enter this Consent Order on behalf of the USMCB.

ORDER

William L. Meyer has determined that this Consent Order is in the furtherance of the public interest and will protect the public health and environment, and, with the consent and cooperation of the USMCB, hereby orders the following actions:

1. That within 30 days of the execution of this agreement, the USMCB shall provide for immediate compliance with Sections a,b,c,d,e(i),f,g,l, previously noted above within the Stipulations of Fact and Law, to efficiently maintain a hazardous waste management program.

2. That within 90 days of the execution of this agreement the USMCB shall comply with sections e(ii),e(iii),h,i,j, and k noted above within the Stipulations of Fact and Law, by establishing personnel training programs and contingency plans to satisfy the deficiencies cited. Draft revision as available should be submitted for review with the monthly status report.

3. That within 30 days of the execution of this agreement, the USMCB shall provide for the permit modifications noted in section (m) of the Stipulations of Fact and Law.

* 4. The USMCB shall maintain compliance with the Act and all other applicable rules while complying with this Consent Order.

5. At least monthly, the United State Marine Corps Base shall inform the Branch, in writing, of the progress made toward meeting the requirements set forth in this Consent Order. The reports shall be filed with the Branch on or before the 5th day of the month commencing November 5, 1986.

6. The Branch shall review all documents submitted and within 7 calendar days of receipt of such documents, the Branch shall notify the USMCB in writing of the Branch's approval or disapproval of these documents or any part thereof. In the event of any disapproval, the

Branch shall specify in writing both the deficiencies and the reasons for such disapproval, and a schedule for completion of modifications or additions which must be made.

7. The Branch designates Mr. Jerry Rhodes, Assistant Branch Head, as primary contact for technical matters regarding implementation and compliance with this Consent Order. Other Branch staff may be used for inspections and other oversight activities as needed.

8. The USMCB designates Mr. Julian Wooten, as primary contact responsible for overseeing implementation and compliance with this Consent Order.

9. To the maximum extent possible, communications between the USMCB and Branch and all documents, including reports, approvals, and correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order shall be directed through the Primary Contacts.

IN WITNESS WHEREOF, The parties have executed this Agreement, on this the _____ day of _____, 1986, by their duly authorized representatives.

Solid and Hazardous Waste Management Branch
Division of Health Services
Department of Human Resources of the State of N.C.

By: _____ _____
William L. Meyer, Head Date

By: _____ _____
Colonel T.J. Dalzell Date
Assistant Chief of Staff,
Facilities
United States Marine Corps
Base, Camp Lejeune, N.C.

5483A

1. Action required within 30 days:

a. 40 CFR 262.21(a)(2), codified at 10 NCAC 10F .0030, states that the manifest must contain all of the following information; the generators name, mailing address, telephone number, and EPA identification number. The USMCB failed to use a generator ID number on the February 28, 1986 manifest.

(1) Corrective action completed. Base Traffic Management Officer (TMO) and Defense Reutilization and Marketing Officer (DRMO) representatives have been advised of the discrepancies. TMO and DRMO have taken corrective action.

(2) Actions taken to prevent recurrence. Manifest records are being checked by Natural Resources and Environmental Affairs Division (NREAD) during monthly inspections of DRMO Long Term Hazardous Waste Storage Facility at TP-451. NREAD is working closely with TMO representatives relative to Safety Kleen transported wastes.

b. 40 CFR 262.34(a)(1), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status, provided that the waste is placed in containers and the generator complies with Subpart I of 40 CFR 265. 40 CFR 265.174, codified at 10 NCAC 10F .0033, states that the owner or operator must inspect areas where containers are stored, at least weekly. The USMCB failed to perform weekly inspections of hazardous waste storage areas in and around building 909.

(1) Corrective action completed. Cognizant 2dFSSG officials have been notified of the problem. OIC's for organizations assigned to Building 909 have been advised to begin required inspections. NREAD has provided both classroom training and on-site technical assistance relative to the deficiencies.

(2) Actions taken to prevent recurrence. Formal compliance inspections of the named facilities by NREAD are to begin the first week of November, 1986. Inspections will address both corrective action taken and internal controls which have been established within the cognizant organizations to prevent recurrence.

c. 40 CFR 262.34(a)(2), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status, provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container. The USMCB failed to mark on each container of electrolyte solution, the date upon which each period of accumulation begins.

(1) Corrective action completed. Cognizant officials at the named facilities have been notified of the problem. OIC's have been advised to begin labeling electrolyte containers properly. NREAD has provided both classroom training and on-site technical assistance relative to the deficiencies at the named facilities.

(2) Actions taken to prevent recurrence. Formal compliance inspections of the named facilities by NREAD are to begin the first week in November, 1986. Inspections will address both corrective action taken and internal controls which have been established within the cognizant organizations to prevent recurrence. A message is being published making cognizant officials throughout Camp Lejeune aware of the specific requirements applicable to used electrolyte/batteries management.

d. 40 CFR 262.34(a)(3), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status, provided that while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste". The USMCB failed to label containers of electrolyte solution with the words "Hazardous Waste".

(1) Corrective action taken. Same as 1c above

(2) Actions taken to prevent recurrence. Same as 1c above

e. 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status provided that: the generator complies with the requirements for owner or operators in Subparts C and D part 265 and with Section 265.16.

i. 40 CFR 265.31, codified at 10 NCAC 10F .0033, states that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents. The USMCB failed to minimize the possibility of a release by placing batteries upside down on pallets on the ground. Visual discoloration is noted around Building 909.

(1) Correction action completed. Same as 1c above. Additionally, soil samples have been taken to determine if contamination is present.

(2) Actions taken to prevent recurrence. Same as 1c above

f. 40 CFR 265, Subpart D (265.50-265.56), codified at 10 NCAC 10F .0033, states that each owner or operator (each generator site) must have a contingency plan designed to minimize the hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous

waste or hazardous waste constituents. The USMCB failed to develop contingency plans for each generating site, including TMO, which signs as a generator, manifests to Safety-Kleen.

(1) Corrective action completed. Corrective action not required. BO 11090.1B outlines an excellent contingency plan which was in effect at time of inspection.

(2) Actions taken to prevent recurrence. Compliance inspections of HW generation and storage facilities will continue to address personnel awareness and availability of BO 11090.1B. Revised BO 6240.5 will provide for improved written guidance for specific actions to be taken at the work site over and above the plan outlined in BO 11090.1B. HW training will address spill contingency plan implemenation.

g. 40 CFR 262.42(b), codified at 10 NCAC 10F .0030, states that a generator must submit an Exception Report if he has not received a signed copy of the manifest from the owner or operator of the designated facility within 45 days of acceptance of that waste by the initial transporter. The USMCB has failed to submit Exception Reports for all shipments to Safety-Kleen where the USMCB has not received a signed copy from Safety-Kleen.

(1) Corrective action completed. Records were checked and missing manifests were found. They had been sent to wrong local address.

(2) Actions taken to prevent recurrence. Safety Kleen has been informed of the correct mailing address to ensure delivery to cognizant, responsible official. Both TMO and DRMO have been advised of the requirement. Periodic NREAD inspections of DRMO and TMO records will be conducted to prevent recurrence.

1. 40 CFR 264.173(b), codified at 10 NCAC 10F, states that containers holding hazardous waste must not be handled or stored in a manner which may rupture the container. Part III of the permit addresses storage in containers, and requires that containers cannot be stacked more than two high. The USMCB has failed to comply with the permit conditions by stacking crates higher than the two drum limit.

(1) Corrective action completed. DRMO has been advised of the requirement. It should be noted that items observed during inspection were hazardous materials (HM) not HW. Also, in that the items were packages of small containers, not 55-gallon drum, whether or not the items were stacked over the equivalent of two 55-gallon drums high is a matter of interpretation. The permit addressess 55-gallon drums and was so worded to ensure adequacy of existing spill containment structures.

(2) Actions taken to prevent recurrence. NREAD is checking compliance during monthly inspections of DRMO facility.

m. 40 CFR 270.42, codified at 10 NCAC 10F .0034, states that under certain conditions, the permit may be modified to make corrections or allowances for changes in the permitted activity. The USMCB has failed to notify the State that the operator of the facility has changed names from DPDO to DRMO. In addition, the USMCB is now utilizing an inspection form that has replaced the form noted in the permit. The USMCB has failed to change this form in the permit.

(1) Corrective action completed. None. Notification will be processed by 31 October 1986.

(2) Actions taken to prevent recurrence. Cognizant officials have been advised of the requirement. NREAD will continue to monitor permit compliance.

2. Action required within 90 days:

e. 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status provided that: the generator complies with the requirements for owner or operators in Subparts C and D part 265 and with Section 265.16.

ii. 40 CFR 265, Subpart D (265.50-265.56), codified at 10 NCAC 10F .0033, states that each owner or operator (each generator site) must have a contingency plan designed to minimize the hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents. The USMCB failed to develop contingency plans for each generating site, including TMO, which signs as a generator, manifests to Safety-Kleen.

(a) Corrective action completed. No corrective action required. BO 11090.1B and the RCRA Part B Permit specifies action required and establishes an excellent spill contingency plan. The Contingency Plan in the RCRA Part B Permit was reviewed in depth during permitting process. While USMCB would acknowledge that personnel training in this area was deficient on date of inspection relative to personnel at the many HW generation sites, the ContingencyPlans are satisfactory.

(b) Actions taken to prevent recurrence. USMCB will continue to stress personnel awareness and proficiency at implementation of existing spill contingency plans as part of HW training.

iii. 40 CFR 265.16, codified at 10 NCAC 10F .0033, states that facility personnel must successfully complete a program of classroom instruction or on-the-job training; facility personnel must take part in an annual review of the initial training; and must maintain documents and records describing job titles, job descriptions, written descriptions and amount of training, and documentation of completion. The USMCB has failed to implement and maintain personnel training plans at all generating sites. Numerous personnel were not trained at all generating sites including TMO which signs as a generator, manifests to Safety-Kleen.

(1) Correction action completed. Cognizant officials have been made aware of problem. Revision to BO 6240.5 is anticipated within 30 days. Revised BO 6240.5 provides specific guidance in this area.

(2) Actions taken to prevent recurrence. A written HW Personnel Training Plan will be developed and implemented. Formal Compliance Inspections by NREAD will address plan implementation/updating.

h. 40 CFR 264.16(d)(e), codified at 10 NCAC 10F .0032, states that job titles, job descriptions, written description of and amount of training, and documentation of a completion must be maintained. The USMCB has failed to revise the personnel training plan to document all individuals involved in the hazardous waste management program.

(1) Correction action completed. Same as previous section.

(2) Actions taken to prevent recurrence. Same as previous section.

i. 40 CFR 264.52(e), codified at 10 NCAC 10F .0032, states that the contingency plan msut include a list of all emergency equipment at the facility. The list must be kept up-to-date. In addition, the plan must include the location and a physical description of each item, and a brief outline of its capabilities. The USMCB has failed to adequately list, and describe the emergency equipment. Revisions to the contingency plan is considered a modification of the existing permit.

(1) Corrective action completed. No action required. Spill Contingency Plan was approved by cognizant regulatory agency.

(2) Actions taken to prevent recurrence. USMCB will continue to upgrade and improve working instructions to spill response personnel and to stress spill prevention during HW training.

j. 40 CFR 264.52(f), codified at 10 NCAC 10F .0032, states that the contingency plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. The USMCB has failed to include a detailed evacuation plan in the event of an emergency.

(1) Corrective action completed. No action required. Spill Contingency Plan was approved by cognizant regulatory agency. Existing procedures are adequate. USMCB procedures existing at the time of permit issuance were reviewed by regulatory agency carefully and found to be adequate.

(2) Actions taken to prevent recurrence. Base emergency response managers will continue to seek and encourage improvements in this area.

k. 40 CFR 264.56(d)(e)(h)(i)(j), codified at 10 NCAC 10F .0032, states that the contingency plan must outline procedures that the emergency coordinator is responsible for reporting to the appropriate authorities, containment of hazardous waste incidents, adequacy of remedial activities, and incident

documentation. The USMCB has failed to describe in detail, emergency procedures in the event of an emergency.

(1) **Corrective action completed.** No action required. USMCB has an excellent plan. Responsibilities are clearly assigned. Existing plan and related procedures were carefully reviewed by the regulatory agency responsible for issuance of the RCRA Part B Permit.

(2) **Actions taken to prevent recurrence.** Base emergency response managers will continue to seek and encourage improvements in this area.

Please note & return.
LtCol Wellington
Furnished this
TO MCAS SJA
DDO

6240

16 Sep 86

Issue: Who responds to the State of North Carolina where that state inspects MCAS (NR) in its capacity as a generator of Hazardous Waste and thereby identifies discrepancies in the Station Hazardous Waste Management Program?

Ref (a) 40 CFR § 262.12 (85 ed)
(b) 40 CFR § 262.20 (85 ed)
(c) 40 CFR § 260.10 (85 ed)
(d) 42 USC § 6922
(e) 40 CFR § 262 (85 ed)
(f) CMC ltr LFF-2: BCH: yum dtd 9 Nov 80

1. Reference (a) requires that a generator who transports hazardous waste must have an EPA identification Number.

2. Reference (b) requires that a generator who transport hazardous waste "off-site" must prepare a manifest.

3. Reference (c) defines "on-site" means contiguous property. Contiguous property is property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person by connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

4. References (d) and (e) provide that each generator of hazardous waste has certain legal duties. State HW regs incorporate by reference parallel CFR provisions. See NC Admin Code, Title 10, Subchapter 10F.

5. Reference (f) provides "It must be emphasized that while the designated single point of responsibility for environmental matters (ie MCB Camp Lejeune) can provide technical and administrative assistance to non-contiguous facilities generating quantities of hazardous waste in excess of that specified in the regulations, RCRA

regulations require that the ultimate responsibility for proper management of hazardous wastes still rests with non-contiguous activity (ie MCAS (H) New River)."

6. MCAS (NR) has its own EPA generator identification number and a separate report is filed for its hazardous waste (biannual/annual generator report).

7. State of NC inspected NR and identified RCRA discrepancies in the summer of 1986.

8. By definition, MCAS(NR) is "non-contiguous" to MCB, CL, NC

9. The state of North Carolina anticipates a response from the "Marine Corps" by COB 16 Sep 86 with regard to who will assume responsibility for correcting the discrepancies noted in paragraph 7 above and for coordination with the state with regard to state enforcement activities pertaining thereto.

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

James G. Martin, Governor
Phillip J. Kirk, Jr., Secretary

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

October 21, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED:

NOTICE OF VIOLATION
Docket # - 00268

Commanding Officer
Marine Corps Air Station (H) New River
US Highway 17 South
Jacksonville, NC 28546
NC8170022570

Attention: Lt. Col. Robert S. Murray

Dear Sir:

On December 18, 1980 the State of North Carolina, Solid and Hazardous Waste Management Branch (State) was authorized to operate the State RCRA hazardous waste program under the Solid Waste Management Act, (ACT) N.C.G.S. 130-A, Article 9 and rules promulgated thereto at 10 NCAC 10F, (rules) in lieu of the federal RCRA program. Marine Corps Air Station (H) New River, EPA I.D.# NC8170022570 is classified as a generator of hazardous waste and is subject to the requirements of 40 CFR 262, codified at 10 NCAC 10F, .0030.

On June 27, 1986, Mr. Jerry Rhodes, Environmental Supervisor with this office, inspected your facility for compliance with North Carolina Hazardous Waste Management Rules. During that inspection the following violations were noted, However, due to the extensive involvement of Camp Lejeune with New River's hazardous waste management, this notice was delayed pending a consent order with Camp Lejeune.

A. 40 CFR 262.20(a), codified at 10 NCAC 10F .0030, states that according to the instructions in the appendix a unique 5 digit document number must be used on each manifest. New River failed to use a unique number system on their manifests.

B. 40 CFR 262.34(a)(1), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status, provided that the waste is placed in containers and the generator complies with Subpart I of 40 CFR 265. 40 CFR 265.174, codified at 10 NCAC 10F .0033, states that the owner or operator must inspect areas where containers are stored, at least weekly. New River, specifically HMW461 and HMS26, failed to perform weekly inspections at hazardous waste storage areas.

C. 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030, states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without interim status provided that: the generator complies with the requirements for owner or operators in Subparts C and D part 265 and with Section 265.16.

1. 40 CFR 265, Subpart D (265.50-265.56), codified at 10 NCAC 10F .0033, states that each owner or operator (each generator site) must have a contingency plan designed to minimize the hazard to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents. New River failed to develop contingency plans for each generating site, including HMM266.

2. 40 CFR 265.16, codified at 10 NCAC 10F .0033, states that facility personnel must successfully complete a program of classroom instruction or on-the-job training; facility personnel must take part in an annual review of the initial training; and must maintain documents and records describing job titles, job descriptions, written descriptions and amount of training, and documentation of completion. Several New River generators had no documentation of training, including HMS26.

D. 40 CFR 262.34(b), codified at 10 NCAC 10F .0030, states that a generator who accumulates hazardous waste for more than 90 days is subject to the requirements of 40 CFR Parts 264 and 265 and permit requirements of 40 CFR Part 270. New River does not have a permit or interim status and 2 drums were dated March 3 and 17, 1986 indicating accumulation more than 90 days.

COMPLIANCE SCHEDULE

1. Marine Corps Air Station, New River was instructed to correct items A,B, and D immediately following the inspection.

2. A personnel training course was being conducted at New River on the date of the inspection. Base contacts were instructed to complete and maintain documentation of personnel training.

3. Comply with 40 CFR 262.34(a)(4) by adopting, modifying as appropriate, and maintaining at each generating unit a copy of the new Camp Lejeune contingency plan.

An inspection will be conducted at New River in conjunction with the follow-up inspection to be held for Camp Lejeune during the first quarter of fiscal year 87.

If you have any questions, please contact me at (919) 733-2178.

Sincerely,

Jerry Rhodes

Jerry Rhodes, Assistant Branch Head
Solid & Hazardous Waste Management Branch
Environmental Health Section

JR:pgb

cc: Richard Gay
Doug Holyfield

UNITED STATES MARINE CORPS
Natural Resources and Environmental Affairs Division
Marine Corps Base
Camp Lejeune, North Carolina 28542

IN REPLY REFER TO:
6240
NREAD
4 Jun 86

From: Director, Natural Resources and Environmental Affairs Division, Marine Corps Base, Camp Lejeune
To: Assistant Chief of Staff, Facilities, Marine Corps Base, Camp Lejeune

Subj: INTERNAL ENFORCEMENT OF HAZARDOUS WASTE REGULATIONS

Ref: (a) BO 6240.5

Encl: (1) SJA ltr 5800 SJA of 26 Feb 86

1. The enclosure provides a series of memos written regarding issues pertaining to enforcement of the subject regulations which are outlined in the reference. Unfortunately, SJA chose to ignore the real world situation where working level officials have failed to act in good faith. Most problems are of this nature.

2. It is recommended that a meeting be called between NREAD, SJA representatives from various commands and Hazardous Material Disposal Coordinators to develop draft guidelines for internal enforcement of the subject regulations. NREAD will arrange. Please advise.

Julian I. Wooten
JULIAN I. WOOTEN

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13 JUNE 1986

TO: Director, NREAD

Although the doctrine of immunity of government officials is cited by SJA as a barrier in enforcement, I feel we do have sufficient leverage through the military chain of command. Further meetings with SJA will not help.

Guidance: When an inspection is conducted you will provide a copy of the inspection report to the OIC/SNCOIC noting discrepancies. Recommended corrective action will be provided including applicable references. A reinspection will be scheduled at an appropriate time.

In addition to the above a letter from CG MCB, signed by me, will be prepared to go through the chain of command to the unit involved citing the violations and corrective action

(OVER)

required. The letter will stress the requirements to adhear to the provisions of the Base Order and the warning of criminal and/or civil liability.

Respectfully,

T. J. Dalzell
Colonel USMC

dlw 28 Feb 86

DPNAV 5216/144A (Rev. 8-81)
S/N 0107-LF-052-2320

DEPARTMENT OF THE NAVY
Memorandum

5800
SJA

DATE: FEB 26 1986

FROM: Staff Judge Advocate, Marine Corps Base, Camp Lejeune

TO: Assistant Chief of Staff, Facilities, Marine Corps Base, Camp Lejeune

SUBJ: HAZARDOUS WASTE INSPECTION

Ref: (a) Yr memo 6280/2 FAC of 13Feb86 w/encl
(b) BO 6240.5, Hazardous Material Disposal Program
(c) N.C. GEN. STAT. 130A, Public Health
(d) N.C. GEN. STAT. 14-3, Punishment of Misdemeanors

1. Pursuant to reference (a), I have reviewed the applicable regulation and statutes pertaining to hazardous waste disposal to determine whether individuals may be personally fined as a result of hazardous waste violations.

2. Paragraph 3a of reference (b) indicates "Civilian and military personnel failing to follow established procedures may be subject to both civil and criminal penalties." Because the Environmental Protection Agency has approved North Carolina's hazardous waste plan, state law is generally controlling. Section 130A-22 of reference (c) provides for imposition of an administrative penalty on any person who violates the laws or regulations pertaining to hazardous waste, not to exceed $10,000 per day. Section 130A-25 of reference (c) further provides that a person who violates such laws or regulations shall be guilty of a misdemeanor, for which reference (d) authorizes punishment of a fine, imprisonment not to exceed two years, or both, in the discretion of the court. Accordingly, military and civilian personnel could be personally fined for hazardous waste violations. However, in my opinion, the likelihood of a civil or criminal sanction being imposed upon a civilian employee or military member at Camp Lejeune for violating an environmental law or regulation is remote. A public official, when acting in good faith within the scope of his authority, is normally immune from liability in a private action for his official acts or omissions. Federal case law indicates: "The policy consideration underlying the concept of immunity, absolute or qualified, for public officials is the necessity of insuring principled and conscientious governmental decision making by affording some measure of freedom from fear of personal liability for the official exercise of discretion and the performance of required duties." The doctrine of immunity of government officials has been expanded to include military officers, provided they are acting within the scope of their official duties and are performing discretionary acts. Although the immunity doctrine does not absolutely foreclose the possibility of a civilian employee or a military officer being held personally liable for his acts, it does significantly reduce that possibility.

3. Paragraph 4a(2) of reference (b) requires organizational commanders to maintain copies of that order at work sites where hazardous material and

waste are routinely handled, stored or generated and ensure that personnel are familiar with the contents thereof. I have been advised that you are considering publication of additional warnings concerning civil and criminal liability, either as an internal message or on the inspection forms used by the Natural Resources and Environmental Affairs Division. In my opinion, the publication of warnings might reinforce public perception of this Command's commitment to the letter and spirit of hazardous waste laws and regulations.

Very respectfully,

RL Vogel

R. L. VOGEL

T6280/2

6280/2
FAC

FEB 13 1986

Assistant Chief of Staff, Facilities, Marine Corps Base,
Camp Lejeune
Staff Judge Advocate

HAZARDOUS WASTE INSPECTION

Encl: (1) NREAD memo 6240 NREAD dtd 4 Feb 86

1. The enclosure advises of deficiencies detected during routine inspections and requested guidance concerning notification. This office is advising Natural Resources personnel to prepare a notification letter that will advise organizations concerning findings during inspection.

2. Our NREAD staff has also advised that the State will not be doing courtesy inspections in the future. In view of the above, it is requested that you provide an opinion as to whether individuals may be personally fined as a result of hazardous waste violations. If it is found that individuals may be fined, request you provide comments concerning notification to units/organizations when violations are detected.

B. W. ELSTON
By direction

T-5800

OPNAV 5216/144A (Rev. 8-81)
S/N 0107-LF-052-2320

DEPARTMENT OF THE NAVY

Memorandum

5800
SJA

DATE: JAN 23 1986

FROM: Staff Judge Advocate, Marine Corps Base, Camp Lejeune

TO: Director, Natural Resources and Environmental Affairs Division, Marine Corps Base, Camp Lejeune

Via: Assistant Chief of Staff, Facilities, Marine Corps Base, Camp Lejeune: BURKSLAW 1/27/86

SUBJ: STATE FEES FOR HANDLERS OF HAZARDOUS WASTE (HW)

Ref: (a) Yr ltr 6240 NREAD of 30Dec85 w/encl

1. Pursuant to the reference, I have reviewed the fees assessed by the North Carolina Department of Natural Resources for the generation, storage and transporation of hazardous waste by Marine Corps Base, Camp Lejeune. In my opinion, the fee assessed Marine Corps Base is consistent with applicable federal law and regulations. Accordingly, I recommend Marine Corps Base pay the assessment but offer no opinion regarding payment for Marine Corps Air Station, New River. A legal opinion concerning the assessment of the hazardous waste generation fee for MCAS, New River should be requested from the Director, Law Center, MCAS(H)-2dMAW or the Staff Judge Advocate, MCAS, Cherry Point.

Respectfully,

RL Vogel

R. L. VOGEL

8dw

T-5800

File - Hg Work

S MARINE CORPS
/WESTERN RECRUITING REGION
LIFORNIA 92140

5800
91C4146

8 JAN 1986

MEMORANDUM

From: Assistant Chief of Staff, Staff Judge Advocate
To: Mr. Julian I. Wooten, Director, NREAD, AC/S, Facilities, Marine Corps Base, Camp Lejeune, North Carolina 28542-5000
Via: Lieutenant Colonel R. L. Vogel, USMC, Staff Judge Advocate, Marine Corps Base, Camp Lejeune, North Carolina

Subj: HAZARDOUS WASTE MANAGEMENT PLANNING AND COMPLIANCE

Encl: (1) Hazardous Waste Management Planning Guide, NEESA 20.2-029A, Vols. 1-3 (Sep 1985)
(2) Continuing Legal Education - Outline dtd 21 Nov 1985

1. Enclosed is your copy of the three volume NEESA Hazardous Waste Management Planning Guide to which I referred during my presentation on the legal aspects of hazardous waste at the HQMC Natural Resources/Environmental Workshop at Camp Pendleton on 19 November 1985. (I had hoped to have copies to pass out to you at the workshop. Unfortunately they did not arrive in time nor in sufficient quantity to provide a copy for each registrant). I have sent your copy via your Staff Judge Advocate to underscore the point that the legal aspects of hazardous materials and hazardous waste have become so complex that a close working relationship with your Staff Judge Advocate is, in my view, absolutely essential. Staying abreast of the highly technical developments in this dynamic area of the law constitutes an extraordinary challenge for you and your staff judge advocate. Providing timely advice to you and others on your staff as to the requirements of federal, state and local hazardous waste laws and administrative regulations is every bit as complicated as keeping up with the most intricate aspects of the Internal Revenue Code. I encourage you and your SJA to work closely together.

2. The NEESA Hazardous Waste Planning Guide and the sample hazardous waste management plans (volumes 2 and 3 of enclosure 1) are particularly well done. I think you and your SJA will find them to be very helpful. Bear in mind that the statutes, regulations, and directives on which they are based are continually evolving. For that reason, I encourage you and your SJA to establish a program for continuous review of federal, state and local HW laws and to make that program a part of your HW Management Plan. Only with a continuous monitoring process can you be confident that your HW plan continues to rest on firm legal ground. In this regard, the NEESA Information Bulletins (a subscription to which may be obtained at no charge by calling AV 360-5952) can be most helpful for both you and your SJA.

T-5800

UNITED STATES MARINE CORPS
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
SAN DIEGO, CALIFORNIA 92140

5800
91C4146

8 JAN 1986

MEMORANDUM

From: Assistant Chief of Staff, Staff Judge Advocate
To: Mr. Julian I. Wooten, Director, NREAD, AC/S, Facilities, Marine Corps Base, Camp Lejeune, North Carolina 28542-5000
Via: Lieutenant Colonel R. L. Vogel, USMC, Staff Judge Advocate, Marine Corps Base, Camp Lejeune, North Carolina

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Subj: HAZARDOUS WASTE MANAGEMENT PLANNING AND COMPLIANCE

3. For your staff judge advocate, I have enclosed a copy of the outline I used for a presentation on the legal aspects of hazardous materials and hazardous waste. I stress the point made in part VI: compliance is a team effort.

Rufus C. Young Jr.

RUFUS C. YOUNG, Jr.

Copy to:
CMC (Code LFL, Attn: Mr. Hubbell & Code CL)
NEESA
Advance Copy (Less Encls) to Mr. Julian I. Wooten