



RCRA Enforcement

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History of Enforcement Actions

The Regulatory Reform Act

- Became law on July 25, 2011 & Implemented as of February 1, 2012
- Uniform policy for NOVs for all regulatory programs within NCDEQ
- Potential or actual level of harm to public health, the environment and the natural resources of NC



Most Common Violations

Waste Determination
Weekly Inspections
Container Management
Labeling



Training
Tank Management
Universal Waste
& Used Oil Management



Types of Inspections

CAV

Compliance
Assistance
Visit



CEI

Compliance
Evaluation
Inspection



CMP

Complaint
Investigation



FCI

Focused
Compliance
Inspection





Violation Severity Levels

Tier 1 Violations

- Minor duration and/or gravity
- Not committed willfully
- Little or no harm
- **Ticket Notice of Violation (TNOV)**

Tier 2:

- More serious
- Documented harm or the potential for moderate to severe harm
- Moderate duration & gravity
- Continued noncompliance w/ Tier 1 violations
- Prior history of noncompliance
- **Typically, a Standard Notice of Violation (NOV) will be issued.**

Tier 3:

- Most serious violations
- Significant harm
- Committed willfully and intentionally
- Significant prior history
- Continued noncompliance w/ Tier 2 violations
- **Civil Penalties, Consent Orders, Injunctions, or other compliance tools**



Levels of NOVs

TNOV

Ticket Notice of Violation

NOV

(Standard) Notice of Violation

IANOV

Immediate Action Notice of Violation

CO

Compliance Order



What's Next?

So you've had an inspection

Compliance Orders

Types:

- Short Form
- Standard Form
- Administrative Order on Consent



Compliance Orders

	Short Form	Standard Form
Max. penalty	\$6,500.00	\$32,500.00
Issued for	violations that creates an imminent potential threat to human health or the environment.	significant violations that pose an <u>immediate</u> threat to human health and the environment.
Ex	<ul style="list-style-type: none"> Repeat violations discovered during a re-inspection Non-compliance with previous NOV's 	<ul style="list-style-type: none"> Failing to conduct and document proper waste determinations Operating as a TSD Facility without a permit



Compliance Orders

Administrative Orders on Consent

- Typically, based either on a resolution to a Compliance Order or as a voluntary action of the facility identifying a problem.
- A stipulated penalty is typically included to recover any economic benefit gained from non-compliance & the cost of investigation.



Audit Policy

- Will not seek administrative / civil penalties beyond the economic benefit
- Must provide sufficient documentation to be eligible
- Must meet all nine conditions



Audit Policy – 9 Conditions Required

1. Discovered through environmental audit
2. Voluntarily
3. Within **21 calendar days** after discovery
4. Independently
5. Correction and remediation



Audit Policy – 9 Conditions Required

6. Prevent a recurrence
7. May not be a same or related violation (past 3 years)
8. May not be a violations that caused serious harm to the environment/public
9. Cooperate



Example – Audit Policy

- SQG. Un-notified for 3 years.
- Not penalized beyond the economic benefit gained for non-compliance
- Economic Benefit calculations

Small Quantity Generator fees \$525

Document daily inspections \$585

Provide RCRA training to six employees \$2,340

Post contingency planning information \$159

Make emergency arrangements w/ local authorities \$206

Total: \$3,815



Hazardous Waste Section 2023 Data

Evaluation	
Commercial TSD Facilities	9 CEIs, 401 FCIs
Attachment List CEI	84
LQG CEI	171
SQG CEI	87
Citizen Complaint	87
Emergency Response	11
Compliance Assistance Visit	50
Compliance Schedule Evaluation	108
Enforcement	
Notices of Violation (NOV)	81
IANOV	9
Compliance Order	8



EPA Region 4 HW Enforcement Response Policy

- Guidance for taking civil enforcement action.
- Consistent, appropriate, and timely enforcement in all states in Region 4.
- Violators are grouped into two different categories:
 - Significant Non-Complier (SNC)
 - Secondary Violator (SV)



RCRA Civil Penalty Policy

- Describes calculation matrix.
- Penalty calculation is determined by reviewing:
 - Potential for Harm
 - "Extent of Deviation" from a statutory or regulatory requirement



Penalty Matrix

Short form Order PENALTY ASSESSMENT MATRIX		Degree of Deviation from Requirements		
		MAJOR	MODERATE	MINOR
Nature and Degree of Harm	MAJOR	\$6500 - 1300	\$5200-1000	\$3800-700
	MODERATE	\$2800-500	\$2000-300	\$1300-200
	MINOR	\$800-130	\$400-130	\$130



Example – Penalty Calculation

LQG, 3 violations:

- Failure to mark each piece of equipment for a hazardous waste tank
- Failure to accumulate hazardous waste in a tank for less-than 90-days while operating as an LQG
- State administrative code - Failure to comply with the requirements of any person who treats, stores, or disposes of hazardous waste by failing to have a permit to store hazardous waste on-site in excess of 90-days



Example – Penalty Calculation

Container Management violations **\$3,900**

Unpermitted Storage Facility violations **\$6,500**

Storage facility fee **\$1,680**

Investigative costs **\$762.34**



Civil penalties received by the State are governed by the NC State Constitution, Article IX, Sec. 7.

Sec. 7. County school fund; State fund for certain moneys.

(a) Except as provided in subsection (b) of this section, all moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

(b) The General Assembly may place in a State fund the clear proceeds of all civil penalties, forfeitures, and fines which are collected by State agencies and which belong to the public schools pursuant to subsection (a) of this section. Moneys in such State fund shall be faithfully appropriated by the General Assembly, on a per pupil basis, to the counties, to be used exclusively for maintaining free public schools. (2003-423, s.1.)



Penalty Consequences

<https://deq.nc.gov/about/divisions/waste-management/hw/civil-penalties>

Administrative Order(s) Issued	Violations	Penalty Amount	Administrative Order(s) Issued
<p>Transcontinental AC US LLC 700 Crestdale Road, Matthews, NC; Mecklenburg County Docket #2022-095</p>	<p>Failed to:</p> <ul style="list-style-type: none"> • Have waste in container; • have containers properly labeled with an indication of the hazards in SAA; • remove the excess from the satellite accumulation area; • have containers properly labeled with an indication of the hazards in CAA; • updated their contingency; • request an extension; • have a RCRA storage Permit; and • not accumulated hazardous waste longer than the 90 days allowed. 	<p>penalty of \$13,758.33</p> <p>\$ 1,757.08 for investigative and inspection costs</p> <p>\$1,680.00 in fees for acting as a hazardous waste storage facility</p>	<p>Signed March 13, 2023</p>
<p>Advanced Environmental Options, Inc. 1383 NC Hwy 120 Mooresboro, NC; Rutherford County Docket #2022-073</p>	<p>Failed to:</p> <ul style="list-style-type: none"> • have to perform a proper waste determination. 	<p>penalty of \$10,152.90</p> <p>\$1,251.29 for investigative and inspection costs</p>	<p>Signed March 17, 2023</p>
<p>DyStar Carolina Chemical Corp. 8309 Wilkinson Boulevard, Charlotte, Mecklenburg County Docket #2023-010</p>	<p>Failed to:</p> <ul style="list-style-type: none"> • make a proper waste determination; • maintain hazardous waste containers in good condition; • mark or label an indication of the hazards; • properly maintain ground water monitoring wells; • updated their contingency; • request a 30-day extension; • have a RCRA storage Permit; and • not accumulated hazardous waste longer than the 90 days allowed. 	<p>penalty of \$19,700.00</p> <p>\$ 1,769.42 for investigative and inspection costs</p> <p>\$1,680.00 in fees for acting as a hazardous waste storage facility</p>	<p>Signed April 3, 2023</p>





Thank you for your attention!

