

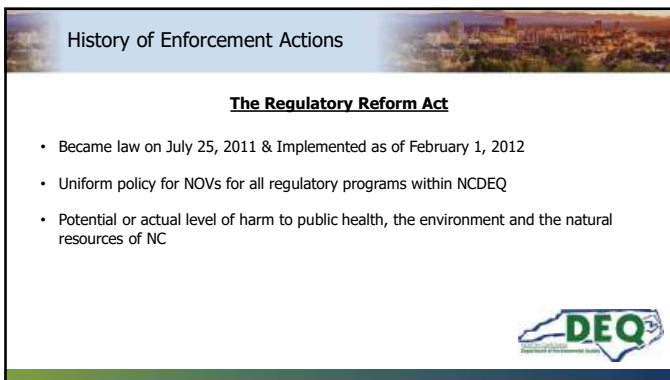


RCRA Enforcement

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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 NOV's for all regulatory programs within NCDEQ
- Potential or actual level of harm to public health, the environment and the natural resources of NC



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Most Common Violations


Waste Determination		Training
Weekly Inspections		Tank Management
Container Management		Universal Waste
Labeling		& Used Oil Management



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Types of Inspections

CAV Compliance Assistance Visit 	CEI Compliance Evaluation Inspection 	CMP Complaint Investigation 	FCI Focused Compliance Inspection 
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Violation Severity Levels

Tier 1 Violations <ul style="list-style-type: none">• Minor duration and/or gravity• Not committed willfully• Little or no harm• Ticket Notice of Violation (TNOV)	Tier 2: <ul style="list-style-type: none">• 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: <ul style="list-style-type: none">• 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
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Levels of NOVs

TNOV	Ticket Notice of Violation
NOV	(Standard) Notice of Violation
IANOV	Immediate Action Notice of Violation
CO	Compliance Order

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What's Next?
So you've had an inspection

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Compliance Orders

Types:


- Short Form
- Standard Form
- Administrative Order on Consent



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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 immediate 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




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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.



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Audit Policy


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



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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



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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



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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



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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



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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)



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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



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Penalty Matrix

Short-Term Order PENALTY ASSESSMENT MATRIX		Degree of Deviation from Requirements		
		MAJOR	MODERATE	MINOR
Nature and Degree of Harm	MAJOR	\$2500 - 1300	\$5200-1000	\$3300-700
	MODERATE	\$2000-500	\$2000-300	\$1300-200
	MINOR	\$800-130	\$400-130	\$130




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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



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Example – Penalty Calculation

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

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

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


Investigative costs **\$762.34**



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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.)




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Penalty Consequences

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


Administrative Order/Board	Violations	Penalty Amount	Administrative Order/Board
Transportation NC 13B 11.0 101, Wadesboro Road, Matthews, NC 28105 Miles: 63023-000	Failed to: <ul style="list-style-type: none"> have waste in receipt; have containers properly labeled with an indication of the contents in V.A.S.; ensure the owner, from the outside, cannot identify the contents; have containers properly labeled with an indication of the contents in V.A.S.; provide Risk Assessment; provide an inventory; have a RCRA Storage Plan; and not accumulated liquid in waste longer than the 90 days allowed. 	penalty of \$ 1,271 daily for each infraction and applicable civil penalty.	Signed March 17, 2023
Administrative Order 1341 101 106 (101 Milestones), NC, Matthews County Miles: 63023-073	Failed to: <ul style="list-style-type: none"> have in place a permit waste stream. 	penalty of \$1,271 daily for each infraction and applicable civil penalty.	Signed March 27, 2023
In Situ Leach Uranium Corp 5200 Matthews Boulevard Miles: 63023-000	Failed to: <ul style="list-style-type: none"> make a proper waste determination; manage, store, or dispose of waste in good condition; keep records and indicators of the health and safety of the waste; properly maintain ground water monitoring wells; provide Risk Assessment; provide an inventory; have a RCRA Storage Plan; and not accumulated liquid in waste longer than the 90 days allowed. 	penalty of \$ 1,271 daily for each infraction and applicable civil penalty.	Signed April 1, 2022



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Thank you for your attention!



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