



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

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

August 10, 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Colonel T.J. Dalzell
Assistant Chief of Staff, Facilities
United States Marine Corps Base
Camp Lejeune, North Carolina

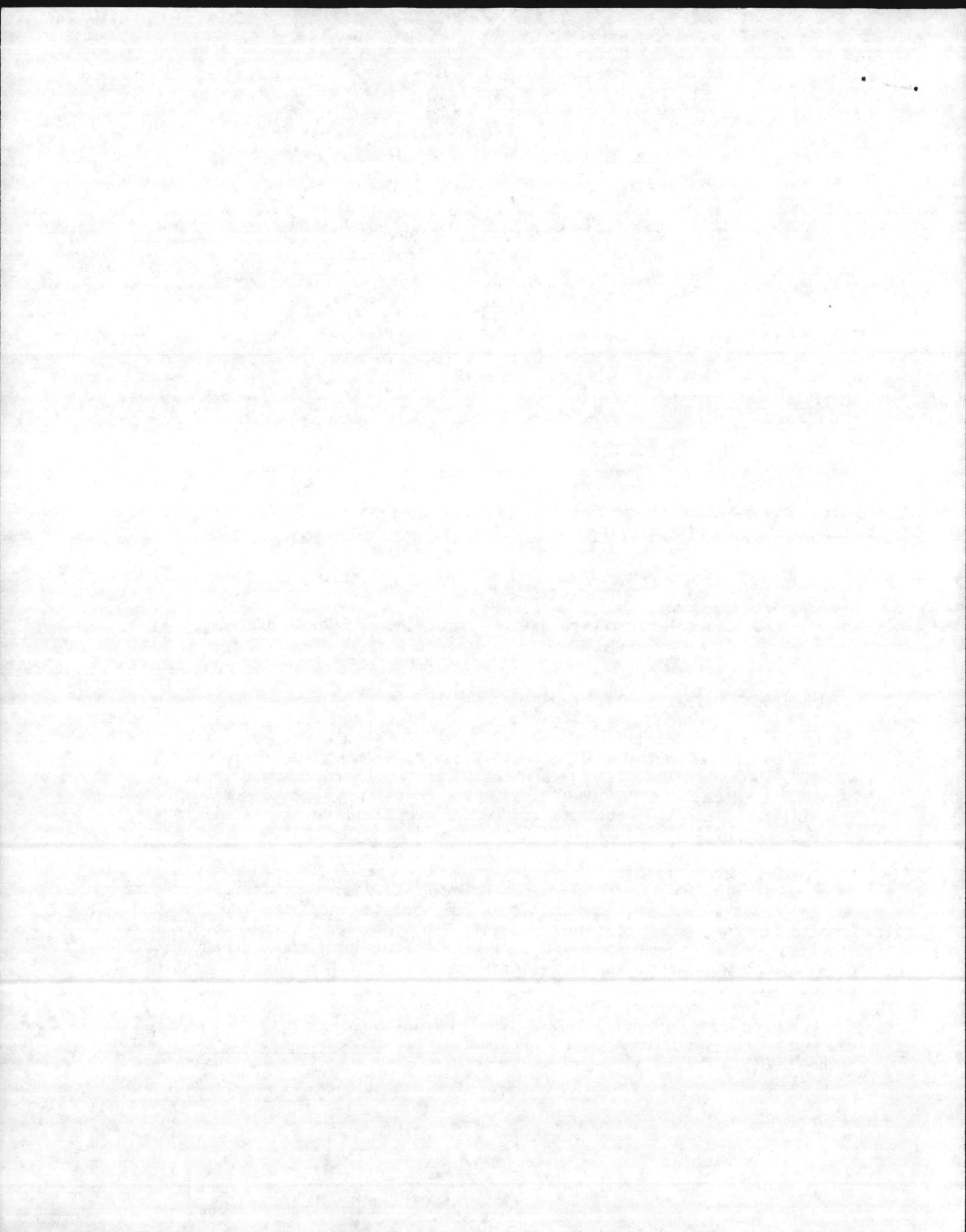
Re: Compliance Order
United States Marine Corps Base - Camp Lejeune, NC6170022580

Dear Colonel Dalzell:

Enclosed is a Compliance Order issued to USMCB - Camp Lejeune, for certain violations of the North Carolina Solid Waste Management Act and rules, 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.

In the past, the informal meetings have been productive in that the lines of communication have been improved. However, to ensure compliance with the Act and Rules in a timely manner, it is now necessary to issue the attached Compliance Order which contains a specific and detailed schedule for compliance. It is suggested that adherence to this compliance schedule by Camp Lejeune will avoid further enforcement action such as reconsideration of the current permitted status of the facility.

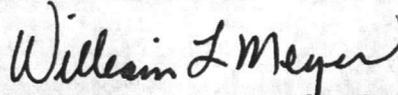
Pursuant to N.C.G.S. 130A-22(a), an administrative penalty of \$30,000 is imposed on the Compliance Order. However, based on Meyer v. U.S. Coast Guard No.86-02-CIV-2 the penalty imposed is moot.



Colonel T.J. Dalzell
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If you desire to schedule an informal conference to discuss the Compliance Order, please contact Dr. Carol Schiller, Branch Attorney, at (919) 733-2178.

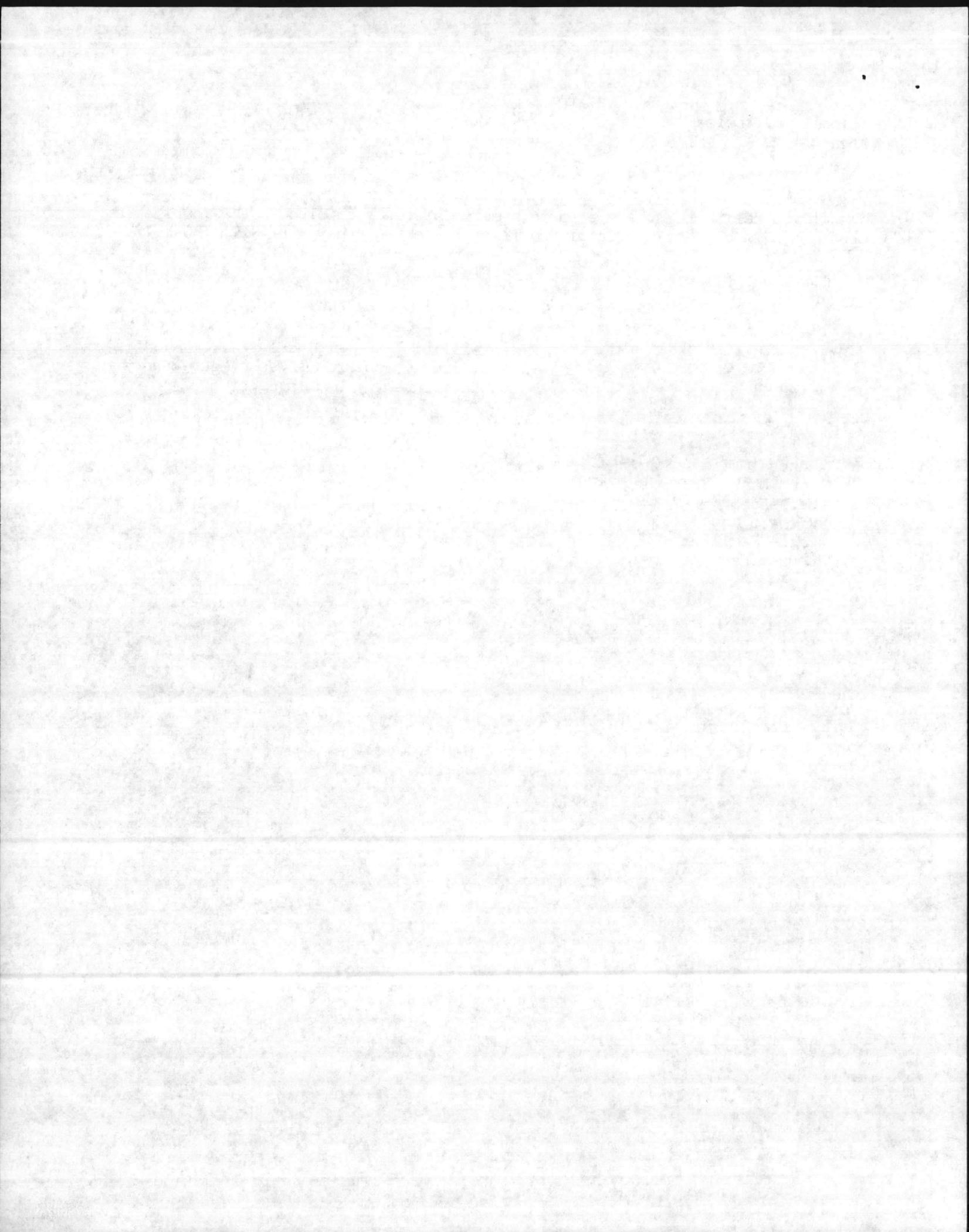
Sincerely



William L. Meyer, Head
Solid and Hazardous Waste Mgt. Branch
Environmental Health Section

WLM/pgb/6913A

cc: Central File
John Lank, EPA - Region IV
Gary Babb
Richard Gay
Carol Schiller
County Health Director



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

In Re: United States Marine Corps Base)
Camp Lejeune, North Carolina)
NC6170022580

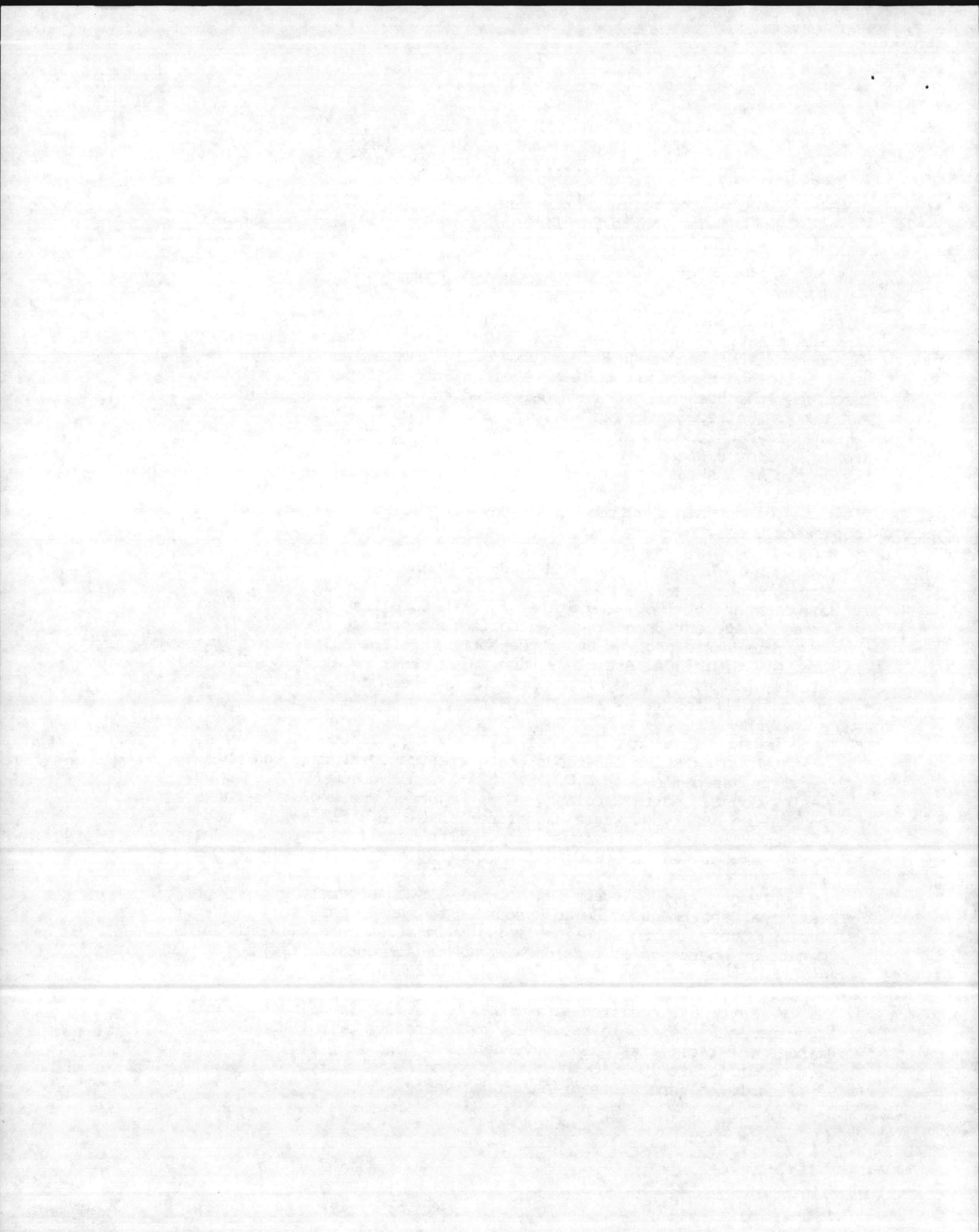
COMPLIANCE ORDER
Docket # 87-493

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). William L. Meyer, Head, Solid and Hazardous Waste Management Branch, Department of Human Resources (the Branch), has been delegated the authority to implement the Act and Rules. United States 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 Solid and Hazardous Waste Management 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, Solid and Hazardous Waste Management 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. William L. Meyer, 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 owns and/or operates a site generating hazardous waste as defined in N.C.G.S. 130A-290-7 and 10 NCAC 10F .0002 located at Onslow County, North Carolina. 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 by the North Carolina Department of Human Resources to manage hazardous waste at the Onslow County, North Carolina facility in accordance with standards for owners or operators of hazardous waste management facilities set forth in 40 CFR 264 as adopted in 10 NCAC 10F .0032.
4. 40 CFR Part 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. 40 CFR Part 262, codified at 10 NCAC 10F .0030, contains standards and requirements applicable to generators of hazardous waste.



5. On March 31, and April 1, 1987, a joint EPA/Branch inspection was made of the Camp Lejeune facility by David Ellison (US-EPA), Scott McPhiliamy (US-EPA) and Richard Gay, Waste Management Specialist (the Branch). The Camp Lejeune facility was found to be in violation of certain requirements contained in 40 CFR 262, and 264, codified at 10 NCAC 10F .0030, and .0032 respectively. 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, provided that:

(1) the waste is placed in containers and the generator complies with Subpart I of 40 CFR Part 265.

40 CFR 265.171 (Subpart I), codified at 10 NCAC 10F .0033 states that if a container holding hazardous waste is not in good condition or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that complies with the requirements of this part.

Camp Lejeune is in violation of 262.34(a)(1), codified at 10 NCAC 10F .0030 in that it did not transfer the contents of a dented container to a container that is in good condition at the generator site. (These hazardous wastes may be stored at the permitted storage area for more than 90 days.)

- B. 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, provided that:

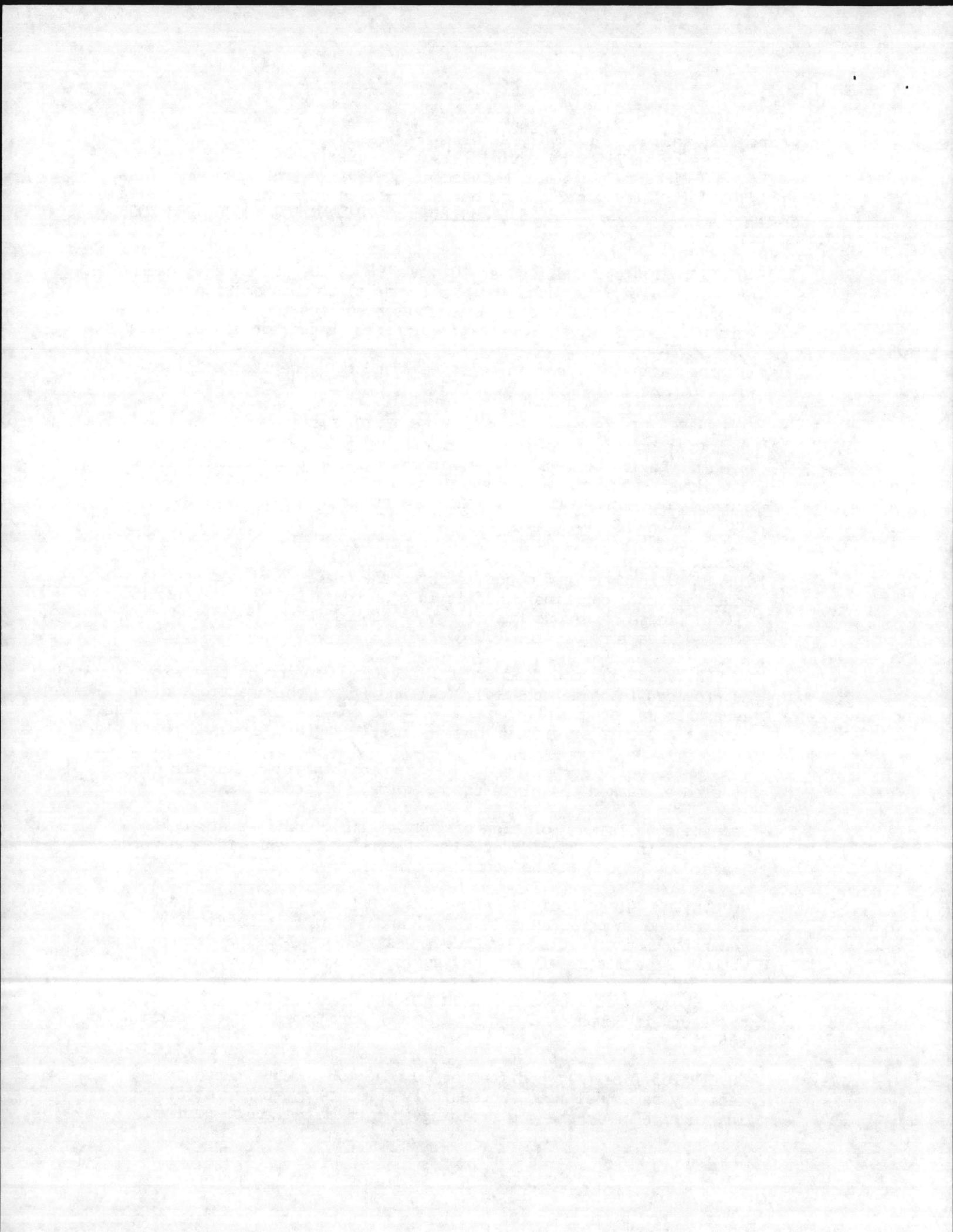
(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste."

Camp Lejeune is in violation of 262.34(a)(3), codified at 10 NCAC 10F .0030 in that it did not mark all its containers with the words "Hazardous Waste" at the generator site.

- C. 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, provided that:

(4) The generator complies with the requirements for owners or operators in Subparts C and D in 40 CFR Part 265 and with Section 265.16.

40 CFR 265.16(a)(1), codified at 10 NCAC 10F .0033, states that facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform



their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section.

40 CFR 265.16(a)(2), codified at 10 NCAC 10F .0033, states that this program must be directed by a person trained in hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

40 CFR 265.16(c), codified at 10 NCAC 10F .0033, states that facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section.

Camp Lejeune is in violation of 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030, in that facility personnel have not completed a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part as specified by 40 CFR 265.16(a)(1), and personnel directing the program of training in hazardous waste management procedures have not been trained in those procedures as specified by 40 CFR 265.16(a)(2) and facility personnel previously trained have not taken part in an annual review of the initial training required by paragraph (a) as specified by 40 CFR 265.16(c).

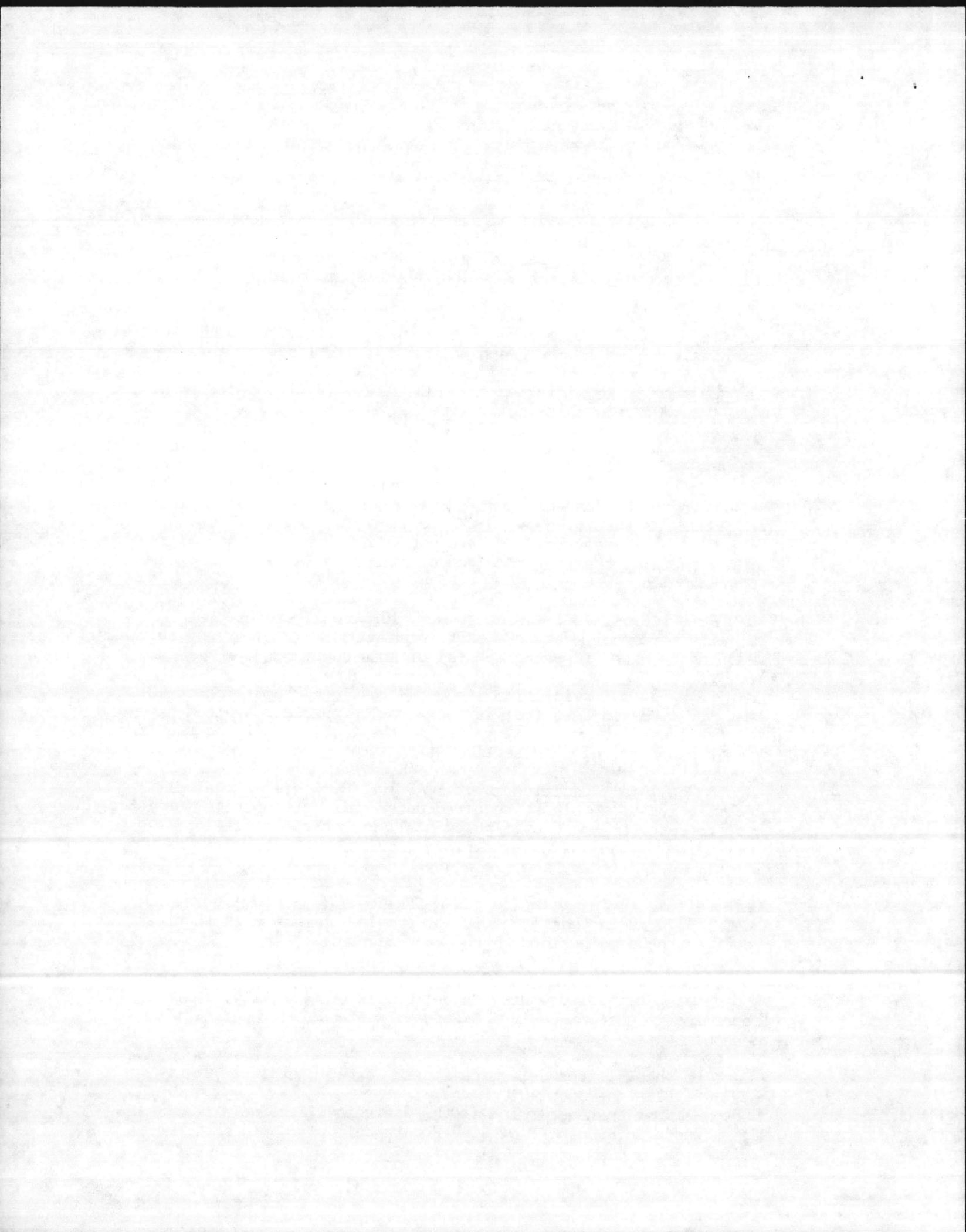
- D. 40 CFR 264.16(c), codified at 10 NCAC 10F .0032, states that facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section.

Camp Lejeune is in violation of 40 CFR 264.16(c), codified at 10 NCAC 10F .0032 in that facility personnel previously trained have not taken part in an annual review of the initial training required by paragraph (a) of this section at the storage area.

- E. 40 CFR 264.74(a), codified at 10 NCAC 10F .0032 states that all records, including plans, required under this Part must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of DHR who is duly designated by the Secretary.

Camp Lejeune is in violation of 40 CFR 264.74(a), codified at 10 NCAC 10F .0032 in that it could not provide upon request records required to be maintained by the Part B Permit.

- F. 40 CFR 262.11, codified at 10 NCAC 10F .0030, states that a person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:
- a. He should first determine if the waste is excluded from regulation under 40 CFR 261.4;
 - b. He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.



Note: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.

- c. If the waste is not listed as a hazardous waste in Subpart D of 40 CFR Part 261, he must determine whether the waste is identified in Subpart C of 40 CFR Part 261 by either:
 1. Testing the waste according to the methods set forth in Subpart C of 40 CFR Part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or
 2. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

Camp Lejeune is in violation of 40 CFR 262.11, codified at 10 NCAC 10F .0030, in that it has not determined if the solid wastes it generates are hazardous wastes.

- G. Permit condition - Part I F of the Part B Permit states that all amendments, revisions and modifications to any plan required by this permit shall be submitted to the Secretary of the Department of Human Resources for approval and permit modification.

Camp Lejeune is in violation of Permit Condition Part I F in that it failed to submit to the Secretary of the Department of Human Resources for approval and permit modifications changes in plans required by its permit.

- H. Permit Condition - Part II L 3 of the Part B Permit states that the Base Fire Chief will, at least annually, review the contingency plan and the types of wastes located in the hazardous waste storage facility with representatives of the Naval Hospital and Base Provost Marshall.

Camp Lejeune is in violation of Permit Condition - Part II L 3, in that the Base Fire Chief does not annually review the contingency plan and the types of wastes located in the hazardous waste storage facility.

- I. Permit Condition - Part III C Management of Containers states that the permittee shall manage containers in accordance with 40 CFR 264.173 as adopted in 10 NCAC 10F .0032 and as described on page 25, Part D of the attachment.

40 CFR 264.173(b), codified at 10 NCAC 10F .0032, states that a container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

Part D-1a(1) of the attachment, Description of Containers, states that containers used to store HM at the DPDO are either the original shipping container or a DOT-approved container, as listed in 49 CFR 100.

Camp Lejeune is in violation of Permit Condition Part III C and Permit Condition Part D-1a(1), in that containers of hazardous waste are not the original shipping container or a DOT-approved container, as listed in 40 CFR 100 and the containers are stored in a manner which may cause the containers to rupture.

- J. 3005(a) of RCRA states that after the effective date of that part (i.e. Parts 270 and 124 of this chapter) the treatment, storage and disposal of hazardous waste is prohibited except in accordance with a permit.

Camp Lejeune is in violation of 3005(a) of RCRA in that its treatment of hazardous waste was not in accordance with a permit in that it is not permitted to treat any hazardous on site.

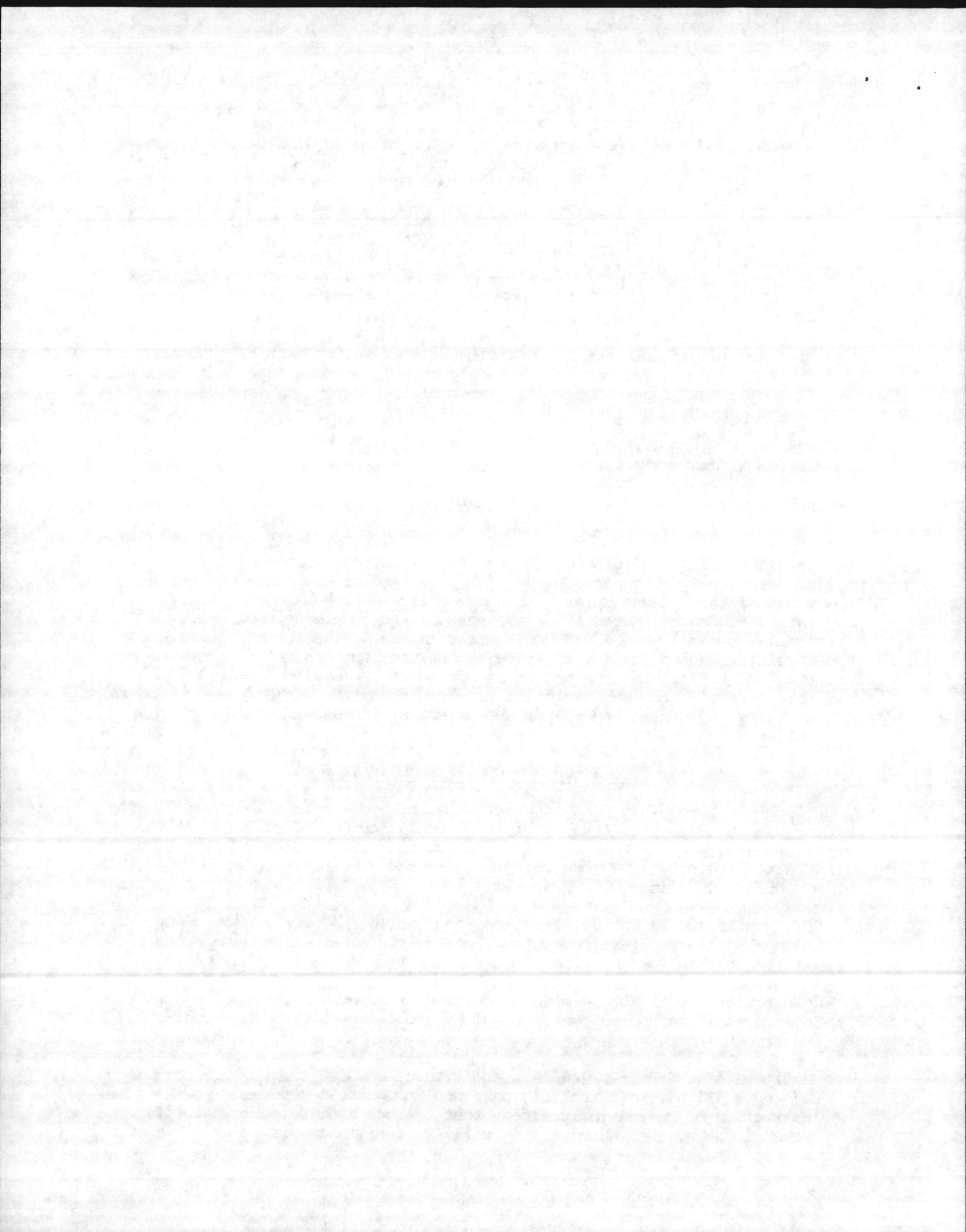
CIVIL PENALTY

N.C.G.S. 130A-22(a) and 10 NCAC 10G .0701-.0707 authorize an administrative penalty of up to \$10,000 per day for each violation of the hazardous waste provisions of the Act and Rules. The N.C. Solid Waste Management Penalty Computation Procedure (March 19, 1985) was used to determine the penalty. Accordingly, a penalty of \$30,000 is hereby imposed. The factors considered in determining 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.

CONDITIONS FOR CONTINUED OPERATION

Based upon the foregoing, Camp Lejeune is hereby ordered to take the following actions within 10 days of receipt of this Compliance Order to correct all violations as stated in this Compliance Order and otherwise be in compliance with the requirements of 40 CFR 262, 264, 265 and 270, codified at 10 NCAC 10F .0030, .0032, .0033 and .0034 respectively:

1. Comply with 40 CFR 262.34(a)(1), codified at 10 NCAC 10F .0030. Camp Lejeune shall transfer the contents of any container of hazardous waste which is not in good condition to a container which is in good condition.
2. Comply with 40 CFR 262.34(a)(3), codified at 10 NCAC 10F .0030. Camp Lejeune shall mark each container of hazardous waste with the words "Hazardous Waste."
3. Comply with 40 CFR 262.34(a)(4), codified at 10 NCAC 10F .0030. Camp Lejeune shall have all facility personnel complete a program of class room instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facilities compliance with the

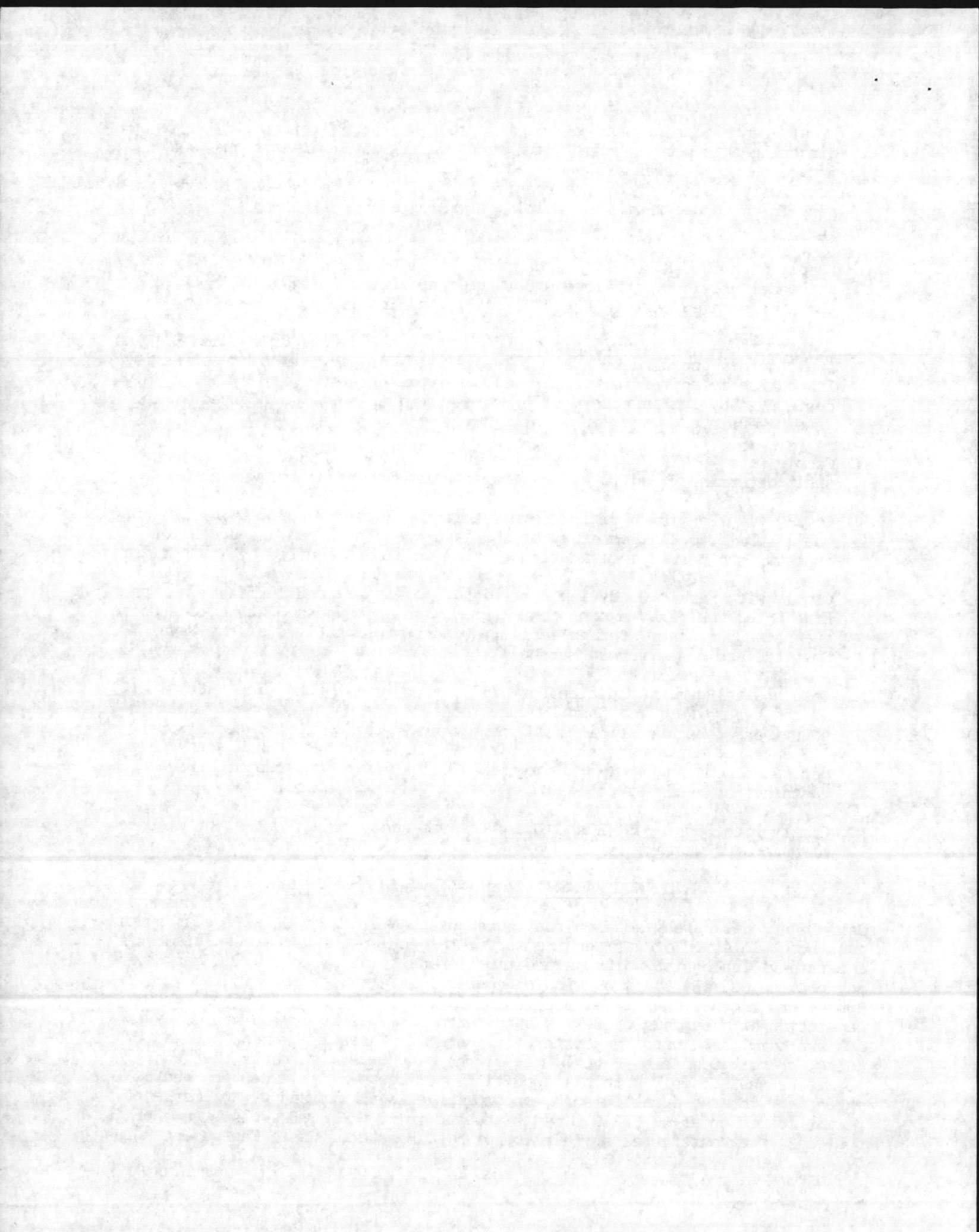


requirements of this part as specified by 40 CFR 256.16(a)(1). Personnel directing this program shall have received training in hazardous waste management procedures as specified by 40 CFR 265.16(a)(2). Personnel previously trained under the requirements of 262.34(a)(4) shall have taken part in an annual review of initial training as specified by 40 CFR 265.16(c).

4. Comply with 40 CFR 264.16(c), codified at 10 NCAC 10F .0032. Facility personnel previously trained under the requirements of 40 CFR 264.16(a) shall have taken part in an annual review of initial training.
5. Comply with 40 CFR 264.74(a), codified at 10 NCAC 10F .0032. Camp Lejeune shall furnish upon request and make available at all reasonable times for inspection by any officer, employee, or representative of DHR who is duly designated by the Secretary all records required to be maintained by the Part B Permit.
6. Comply with 40 CFR 262.11, codified at 10 NCAC 10F .0030. Camp Lejeune shall determine if solid wastes it generates are hazardous waste.
7. Comply with Permit Condition Part I F of the Part B Permit. Camp Lejeune shall submit to the Secretary of the Department of Human Resources for approval and permit modification changes in plans required by its permit.
8. Comply with Permit Condition Part II L. 3 of the Part B Permit. The Base Fire Chief shall review the contingency plan and types of waste located in the hazardous waste storage facility with representatives of the Naval Hospital and Base Provost Marshall.
9. Comply with Permit Condition Part III C. and Permit Condition Part D-1a(1) of the Part B Permit. Camp Lejeune shall manage hazardous waste only in containers that are original shipping containers for that material or in a DOT-approved containers as listed in 49 CFR 100. These containers shall not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.
10. Comply with 3005(a) of RCRA. Camp Lejeune shall treat, store, or dispose of hazardous waste only in accordance with a permit.

POTENTIAL CONSEQUENCES OF FAILURE TO COMPLY

Camp Lejeune is hereby advised that pursuant to N.C.G.S. 130A-22, each day of continued violation of any requirement of the Act or the Rules, constitutes a separate violation for which an additional penalty of up to \$10,000 per day may be imposed. 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. Permit Condition Part I D.1. of the Part B Permit states that the permittee shall comply with all conditions of this permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit issued under 40 CFR 270.61 as adopted in 10 NCAC 10F .0034. Any permit noncompliance constitutes a violation of N.C. Hazardous Waste Management Rules



and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or for denial of a permit renewal application.

OPPORTUNITY TO REQUEST A HEARING

Camp Lejeune has the right to request an administrative hearing to contest any matter of law, material fact, requirement, set forth in this Compliance Order. To request an administrative hearing, a written petition must be submitted upon receipt of this Compliance Order in accordance with N.C.G.S. 150B-23(a) and 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 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 Betty Turner, Agent, Department of Human Resources, 325 N. Salisbury Street, Raleigh, North Carolina 27611. 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.

If compliance is not satisfied as required, the Secretary of Human Resources may request the Attorney General to commence injunctive action to achieve compliance pursuant to 130A-22(g).

INFORMAL CONFERENCE

Whether or not Camp Lejeune requests an administrative hearing, the Branch encourages an informal conference to discuss this matter and to 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:

Dr. Carol M. Schiller, Branch Attorney
Solid and Hazardous Waste Management Branch
P. O. Box 2091, 306 N. Wilmington Street
Raleigh, N. C. 27602-2091
(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.

By:

William L. Meyer

William L. Meyer, Head
Solid & Hazardous Waste Management Branch
Division of Health Services
Department of Human Resources

Date:

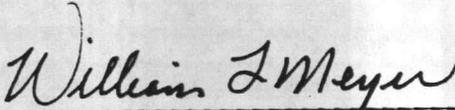
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CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Compliance Order with Administrative Penalty 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
United States Marine Corps Base
Camp Lejeune, North Carolina

Dated this 11th day of August, 1987.



William L. Meyer, Head
Solid and Hazardous Waste Management Branch

6913A

