



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

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March 18, 1999



Larry B. Lackey, Vice President
Permits, Compliance & Engineering
North Country Environmental Services, Inc.
16 State Street
Montpelier, Vermont 05602



**Subject: NCES Solid Waste Landfill, Bethlehem, N.H.
Hazardous Waste Waiver Request for Env-Wm 404.01(b)(2)**

Dear Mr. Lackey:

The Department of Environmental Services, Waste Management Division (Department) has completed review of the North Country Environmental Services, Inc. (NCES) December 11, 1998 correspondence which requests a waiver to Env-Wm 404.01(b)(2) [Hazardous Waste Mixtures] of the N. H. Hazardous Waste Rules, Env-Wm 100 - 1000 (HW Rules). The Bethlehem landfill's Stage I - Phase III leachate has periodically failed the hazardous waste mixture rule with listed volatile organic solvents (acetone & MEK) reported at greater than the 100 parts per million (ppm) regulatory limit. The NCES landfill does not provide the capability to directly pipe the leachate to a local wastewater treatment facility for disposal. The NCES landfill leachate collection system is currently designed to collect leachate in four separate tanks. The leachate is then trucked off-site for disposal at an out-of-state publicly owned treatment works (POTW).

MSW landfill leachate is subject to a federal and state hazardous waste determination at the point at which the leachate exits the landfill unit and is collected in the individual storage tanks (i.e. the point of generation). The Department understands that the leachate collection tank for Stage I - Phase III contains waste that has marginally failed N.H.'s Hazardous Waste Mixture Rule, Env-Wm 404.01(b)(2), on three occasions and would therefore be regulated as a hazardous waste mixture in New Hampshire. Presuming that a representative sample of the leachate contained in the Stage I - Phase III tank is determined to be a regulated hazardous waste, then all applicable collection, storage and treatment requirements of the NH Hazardous Waste Rules would apply to the waste. In this regard, NCES has requested that the hazardous waste mixture rule be waived in order for the leachate to be accepted at the City of Concord's wastewater treatment facility.

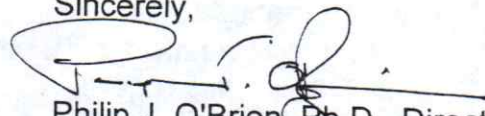
The Department can not waive the hazardous waste definitional criteria at Env-Wm 404.01(b)(2) N.H.'s Hazardous Waste Mixture Rule, and hereby denies your request for a waiver. Hazardous Waste definitions (i.e. the Hazardous Waste Listings, Characteristics, and the Mixture Rule) can only be changed through a rule making process. However, the Department has reviewed your request and offers the following options for your consideration:

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1. Under Env-Wm 404.01(f), NCES may petition the Department to exempt waste mixtures regulated by Env-Wm 404.01(b) by submitting the information specified in Env-Wm 406.02(c) and any laboratory analyses required by the Department. The petitioner shall demonstrate that the waste is not capable of posing a threat to the environment if improperly treated, stored, transported or otherwise mismanaged.
2. In accordance with the requirements of Env-Wm 353.03, Permits by Rule, which references 40 CFR Part 270.60(c), a POTW can accept hazardous waste for treatment. The POTW facility is subject to the following requirements: compliance with the NPDES permit; holds an EPA identification number; uses a hazardous waste manifest, and complies with the applicable reporting requirements.
3. Env-Wm 404.01(c) states: "Mixing, neutralizing, diluting, or otherwise treating any hazardous waste or other material regulated under Chapter Env-Wm 400 shall constitute hazardous waste treatment. Any such treatment shall comply with all permit requirements and facility standards". In order for NCES to combine or mix leachate following the "point of generation", NCES would need to obtain a Hazardous Waste Limited Permit in accordance with the requirements of Env-Wm 353.04 of the HW Rules. These regulations also require that NCES obtain an EPA Identification Number and comply with the requirements for Hazardous Waste Generators as defined in Chapter Env-Wm 500.

Should you have any questions on the above hazardous waste determination or wish to schedule a meeting to discuss this matter in detail, please contact John J. Duclos, Supervisor of the Hazardous Waste Compliance Section at 271-2942.

Sincerely,



Philip J. O'Brien, Ph.D., Director
Waste Management Division

cc: Concord POTW
KWM, JJD, RSR, MS

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