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Division of Waste Management – Solid Waste Section  
1646 Mail Service Center  
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**Re: Objection to Proposed Rule Changes  
15A NCAC 13B .1604 and .1626**

.1604 General Requirements for MSWLF Facilities

We believe the specific reference is to .1604 (L)(iii) which states, “The permittee shall report orally within 24 hours from the time the permittee becomes aware of the circumstances of any release, discharge, fire or explosion from the permitted landfill facility.”

DENR’s reason #1 for the proposed rule change stated that, “some in the regulated community have interpreted this to mean that leachate could flow anywhere and any distance beyond the liner or leachate collection system as long as it stayed within the permitted landfill facility.” It goes on to say, “Obviously, this interpretation is in direct contradiction to the primary reason for lined landfill facilities, CFR 258 Subtitle D regulations and NC’s lined landfill rules (ie. Section .1600).”

We strongly disagree with this reasoning based on the fact that .1604 (2)(B) Duty to Mitigate, already requires, “In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent adverse impacts on human health or the environment.”

In addition, .1624 (3)(A through E) establishes Horizontal separation requirements (ie. buffers). These requirements include 300-ft property line buffers, 500-ft private residence and well buffers, 50-ft surface water buffers and adequate buffers between existing landfill units and new units. These buffers provide adequate time for a permitted facility, that is complying with .1604 (2)(B), to take all reasonable steps to minimize releases to the environment and prevent adverse impacts on human health.

DENR’s reason #2 states that, “Once released, the contaminants can be difficult to retrieve and remediate...and that the present ambiguity in the rules has provided an avenue for a permitted facility not to report a release to the Solid Waste Section and not to react to releases unless they believe the release has migrated outside the permitted facility boundary.”

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We strongly disagree with this reasoning based on the fact that many, if not all, approved Operations Plans or Permits to Operate, include language that requires the Landfill Operator to inform the Section within 24 hours of operational problems or violations. The release of leachate from the lined area would constitute an operational problem, not a violation, and should be reported. This could be added to every permit as a specific condition without a rule change.

DENR's own policy of self-disclosures approved by the DENR Secretary on September 1, 1995 and revised on July 10, 2000 was established to encourage self reporting between the regulated community and the regulators of problems and/or violations without penalty. The Solid Waste Section refuses to adopt this policy and has followed through on enforcement actions for events that were self reported. These actions are more likely contributing to the permitted facilities unwillingness to report a release to the Section.

In conclusion, it is our belief, that the proposed rule changes are unnecessary and provide no added benefit, other than increased enforcement actions, as they do not address the underlying problems that currently lead to these issues. We would encourage the Section staff to discuss these issues with the regulated community, to seek the underlying issues, and to support and adapt the Self-Disclosure Policy as a way of establishing more open communications. This will provide the best protection for the safety and health of the public and protection for the environment.

Sincerely,



Raymond Hoffman, PE  
Republic Services of NC, LLC

Cc: Drew Isenhour, Area President  
Steve Weber, *Parker Poe*

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