

April 21, 1995

Philip J. O'Brien, Ph.D., Director  
Waste Management Division  
Department of Environmental Services  
6 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095

RE: Applicability of the Household Hazardous Waste Exclusion to  
Lead Contaminated Residential Soils

Dear Dr. O'Brien:

Thank you for your April 19, 1995 letter requesting EPA's interpretation on the RCRA Subtitle C regulatory status of lead contaminated residential soils. In your letter you state that the New Hampshire Department of Health and Human Services conducted an inspection at the residence of a child with elevated blood lead levels to identify possible lead exposure hazards. The inspection established that the exterior of the residence is painted with lead-based paint and that the soil in the yard is contaminated with lead. You further state that no known regulated sources for the lead were identified other than the residence itself. The household hazardous waste exclusion is applicable to the case described in your letter.

It is the Region's position that lead contamination detected in soils located within the property boundaries of a household, the source of which is the result of routine residential maintenance (intentional paint removal) and/or the natural weathering or chalking of lead-based paint, is exempt from being a hazardous waste under the household waste exclusion found at 40 C.F.R. § 261.4(a). These soils may be managed on-site or disposed of off-site without invoking RCRA Subtitle C.

If the site-specific facts indicate, however, that the source of the lead contamination of the residential soils is the result of activities not associated with the household, such as air emissions from a regulated source, paint stripping of a nearby

bridge, waste from a former business located at the property, or other regulated activity under RCRA, the exclusion will not apply and all applicable RCRA Subtitle C regulations will apply.

Off-site disposal of residential lead paint contaminated soils must be in compliance with applicable RCRA Subtitle D regulations and State and local requirements. The Region would recommend that the homeowner contact the appropriate State environmental

office(s) for guidance on specific off-site disposal options for these soils.

If you have any questions concerning this matter, please call the RCRA Enforcement Unit at 617/573-5750.

Sincerely yours,

David M. Webster, Chief  
RCRA Branch

cc: Tod Leedberg, Waste Management Specialist, NHDES  
Sharon Yergeau, Solid Waste Program Coordinator, NHDES  
Martha Wells, Division of Public Health Services