



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
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NEW YORK, NY 10007-1866

OCT 5 2006

Honorable Aníbal Acevedo Vilá  
Governor of the Commonwealth of Puerto Rico  
La Fortaleza  
P.O. Box 00902-0082  
San Juan, PR 00902-0082

Dear Governor Acevedo Vilá:

On May 10, 2006 the U.S. Environmental Protection Agency (EPA) received an electronic copy of the English version of the Commonwealth's current solid waste management regulations from the Environmental Quality Board. This submittal was provided in response to a specific request EPA made in our November 2, 2005 letter to you. Although this submittal partially addresses our request, it does not address all the elements of the request. Additionally, based on a preliminary review of this submittal, EPA has concerns regarding the consistency of the Commonwealth's current solid waste management regulations with federal requirements.

In EPA's November 2, 2005 letter to you, among other things EPA requested that by November 30, 2005 the Commonwealth officially notify EPA, in writing (in English), of all changes that have been made to Puerto Rico's solid waste management program, including any changes to the solid waste management regulations that EPA approved in 1993. 40 CFR Part 239 requires the Commonwealth to inform EPA of these changes. EPA requested that for all regulatory changes, the Attorney General provide a precise description of the changes and the rationale for the changes, and that he/she certify the adoption of the changes. EPA also requested an English-language text of the revised regulations with a certification that the English-language version was properly translated. In that letter EPA noted particular concern with changes to the definition of lateral expansion, and changes to the financial assurance requirements.

EPA requested these regulatory changes and documentation because the Commonwealth's solid waste regulations were a key component of EPA's approval of the Solid Waste Management Program.

In response to this request, on May 10, 2006, EPA received via email an electronic copy, translated into English, of the Commonwealth's most current solid waste management regulations. EPA did not receive the Attorney General's description of the changes, the rationale for the changes, the certification that the changes were in effect, nor the assurance that the regulations were accurately translated.

EPA has been assured verbally by the Chairman of the Environmental Quality Board, Carlos Lopez, that all regulatory changes required by EPA will be made.

EPA currently is reviewing the translated version of the regulations it received electronically. Upon our preliminary review, we have noted a number of changes which are not consistent with federal requirements pursuant to 40 CFR Part 239 and Part 258. These changes include the definition of lateral expansion and the applicability of financial assurance requirements which were highlighted previously. We also noted a significant change to the definition of composite liner.

These changes, along with others EPA has noted, may jeopardize Puerto Rico's municipal solid waste landfill (MSWLF) permitting program approval status. Although this review will be on going for several weeks, EPA advises that the Commonwealth, acting through the Environmental Quality Board, promptly commence the process to revise the definition of lateral expansion and composite liner, and the financial assurance applicability provisions of the regulations back to the 1993 versions which EPA approved as part of the Commonwealth's overall MSWLF permit program.

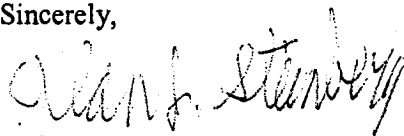
EPA advises the Commonwealth to refrain from making any additional changes to its solid waste management regulations. In addition, the most efficient means of assuring that EPA's review of the Commonwealth's current regulations is complete may be to use the 1993 version of the regulations as a basis, identify the changes, and transmit them to EPA.

Furthermore, EPA notes that any landfill closures and/or projected expansions in the Commonwealth should be designed and implemented in accordance with 40 CFR Part 258 MSWLF requirements and the Commonwealth's EPA-approved 1993 solid waste regulatory provisions.

For your convenience we have enclosed the original Spanish versions of the Commonwealth's 1993 EPA-approved definitions of lateral expansion and composite liner, and the financial assurance applicability provisions.

Please feel free to contact me directly at (212) 637-5000 if you wish to discuss this further, or please have your staff contact Adolph Everett, Chief of our RCRA Programs Branch, at (212) 637-4109 to set up a conference call to discuss the details. Thank you.

Sincerely,



Alan J. Steinberg  
Regional Administrator

Enclosure