The State of New Hampshire

***Department of Environmental Services***

**Michael P. Nolin**
Commissioner

February 4, 2005

**CERTIFIED MAIL**
**7000 1670 0001 2915 7509**
**RETURN RECEIPT REQUESTED**

**LETTER OF DEFICIENCY**
**No. WMD 05-07**

Tedeschi Food Shops
14 Howard St
Rockland, MA 02370

Attn: Robert McGann, Vice President

**Re: Tedeschi Food Shops**
**162 Rockingham Rd**
**Londonderry, New Hampshire**
**EPA ID # NHD510090939**

Dear Mr. McGann:

On May 11, 2004, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection of Tedeschi Food Shops ("Tedeschi") in Londonderry, NH. The purpose of the inspection was to determine Tedeschi's compliance status relative to RSA Ch. 147-A and the New Hampshire Hazardous Waste Rules, Env-Wm 100-1100.

As a result of the inspection, the following deficiency in your hazardous waste management program were documented:

1. Env-Wm 502.01 – Hazardous Waste Determination

   At the time of inspection, Tedeschi was manifesting "gasoline and water" as a "D001/D018" hazardous waste and was not managing the hazardous waste gasoline and water according to all of the requirements of the Hazardous Waste Rules.

   Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules.

   DES requests that Tedeschi manage the hazardous waste gasoline and water according to the rules of Env-Wm 500, including, but not limited to:

   a. The Environmental and Health Requirements specified in Env-Wm 506;

b. The Storage Requirements specified in Env-Wm 507.01;

c. The Storage Time Requirements specified in Env-Wm 507.02;

d. The Packaging/Labeling/Pre-transport Requirements specified in Env-Wm 507.03;

e. Full Quantity Generator requirements, as specified in Env-Wm 509; and

f. The Delivery Requirements specified in Env-Wm 511.01.

**Alternatively, Tedeschi may handle the gasoline and water as an off-specification commercial chemical product instead of handling it as a hazardous waste. The gasoline and water mixture is considered an off-specification product and is excluded from being a solid waste when it is recovered and used as a fuel. Therefore, fuel and water mixtures generated as a result of fuel management activities may be managed as an off-specification commercial chemical product and not as a hazardous or solid waste provided that the mixture only contains fuel and water, and the fuel portion is legitimately reclaimed and used as a commercial fuel. Enclosed please find the DES Environmental Fact Sheet # WMD-HW-30 "Management of Fuel and Water Mixtures" to aid you in determining how to properly handle this material as an off-specification commercial chemical product.**

**If these mixtures are not managed as off-specification commercial chemical products, they are considered wastes. The *Hazardous Waste Rules* require that all generators of waste determine if their waste is a hazardous waste. Wastes determined to be hazardous must be handled pursuant to the requirements of the *Hazardous Waste Rules*.**

DES believes the cited deficiency can be corrected and a report describing the corrective measures taken by Tedeschi can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against Tedeschi including issuing an order requiring that the deficiency be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may re-inspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during this or subsequent inspections of the facility.

The written report as requested above should be addressed as follows:

Robert Bishop, Waste Management Specialist
DES/WMD
P.O. Box 95
Concord, New Hampshire 03302-0095

Enclosed you will find a copy of the completed Hazardous Waste Generator Inspection Report which documents the compliance status of your facility at the time of the inspection. This report may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

The State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at http://www.des.state.nh.us/hwcs/, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline which is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at (1-866) HAZ-WAST (in-state only) or (603) 271-2942.

We regret the length of time taken to formally report our findings on your inspection but believe a careful review of all the hazardous waste issues involved regarding the gasoline and water mixture was required for the benefit of both Tedeschi and DES. In fact, this inspection was one of a series of inspections conducted to better understand the current management of gasoline and water mixtures so that an appropriate policy could be established as seen through the attached fact sheet.

Should you have any questions regarding this letter, please contact the lead inspector, Robert Bishop, or Tod Leedberg of the Hazardous Waste Compliance Section at 271-2942. Thank you for your cooperation.

Sincerely,

COPY

John J. Duclos, Administrator
Hazardous Waste Compliance Bureau
Waste Management Division

cc: DB/RCRA/LOD/Archives
Anthony P. Giunta, P.G., Director, WMD
Paul L. Heirtzler, P.E., Administrator, Waste Management Programs, WMD
Gretchen Hamel, Administrator, DES Legal Unit

E-mail: JJD/SD

Enclosure: Hazardous Waste Generator Inspection Report
DES Environmental Fact Sheet # WMD-HW-30 "Management of Fuel and Water Mixtures"