State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867

Larry B. Lackey
3202 South Road
Williston, VT 05495

NOTICE OF PROPOSED LICENSE ACTION
NO. LA 01-04

May 15, 2001

I. Introduction

This Notice of Proposed License Action is issued by the Department of Environmental Services, Waste Management Division (the Division) to Larry B. Lackey, pursuant to RSA 541-A:30 and Env-Wm 3307.02. The Division is proposing to refuse to renew, or alternatively to suspend for a period of 5 years, the level IV Solid Waste Operator Certification # 000907, held by Larry B. Lackey, based on the violation alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. Parties

1. The Department of Environmental Services, Waste Management Division is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH.

2. Larry B. Lackey is an individual having a mailing address of 3202 South Road, Williston, VT 05495.

III. Summary of Facts and Law Supporting Proposed Action

1. RSA 149-M: 6, XIII authorizes the Department of Environmental Services (DES) to establish and administer a solid waste operator certification program. Pursuant to RSA 149-M: 7, VI, the Commissioner of DES has adopted Env-Wm 3300 to administer the program.

2. Env-Wm 3306.02 requires that in order to renew an operator certification, each applicant shall participate in an operator training update program prior to filing the application for solid waste operator certification renewal.

3. Env-Wm 3307 authorizes DES to revoke or suspend a solid waste operator s certification for good cause.

4. Good cause pursuant to Env-Wm 3307.03 includes, but is not limited to, falsifying attendance at operator training and/or update training.

5. Larry B. Lackey holds a level IV Solid Waste Operator Certification, #000907. Mr. Lackey is Vice President of Permits, Compliance & Engineering, for Casella Waste Management, Inc., 3 Pitkin Court, Montpelier, Vermont. Casella Waste Management Inc. owns and operates the North Country Environmental Services (NCES) Landfill, at Trudeau Rd., in Bethlehem, NH.

6. As a condition of his certification renewal, Mr. Lackey registered to attend an operator update training scheduled April 10, 2001. The expiration date on Mr. Lackey s certification is May 3, 2001.

7. In advance of the April 10th training, a certificate of attendance for the update training had been prepared for Mr. Lackey. The certificates are generated based on the training pre-registration list. A certificate of attendance is the documentation required to accompany an application for certification renewal, in order to demonstrate that the applicant has attended the required update training. The certificates are made available on a table, in alphabetical order, as operators exit the update training.

8. Mr. Lackey did not attend the update training on April 10, 2001.

9. Enclosed with a letter dated April 20,2001, Mr. Lackey submitted a copy of his certificate of attendance for the April 10, 2001 update training. When Division personnel phoned Mr. Lackey on April 30, 2001 to inquire how he came into possession of the certificate of attendance since he had not attended the training, Mr. Lackey admitted that he did not attend the training, and that an NCES employee who had attended the training, Mr. Lenny Wing, picked up the certificate of attendance from the table.

10. Mr. Lackey stated that he would attend the next workshop. Division personnel informed him that the next update training was scheduled for May 2, 2001, at the City of Keene s Recycling Center, Keene, NH. Mr. Lackey did not attend the May 2nd training.

IV. Violations Alleged

1. Mr. Lackey submitted false information as part of his Solid Waste Operator Certification renewal application. Mr. Lackey signed a declaration at the bottom of the renewal application, stating that the information provided in the application was true.

2. Mr. Lackey knew or should have known that attending an operator update training is a condition of renewing his Solid Waste Operator Certification.

V. Proposed Action

Based on the violations identified in IV, above, the Division believes that Mr. Lackey has failed to meet the requirements for renewing his level IV Solid Waste Operator Certification #000907 and that good cause exists to revoke Mr. Lackey s level IV Solid Waste Operator

Certification #000907. DES therefore proposes to refuse to renew the certification or, alternatively, to suspend the certification for 5 years.

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VI. Hearing, Response, Proposed Settlement

Larry B. Lackey has the right to a hearing to contest the Division s allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:30, at which Mr. Lackey and any witnesses he may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross-examination. If Mr. Lackey wishes to have a hearing, one will be scheduled promptly.

Mr. Lackey may waive his right to a hearing. If Mr. Lackey waives the hearing, the Division is willing to settle this matter by suspending his certification for 1 (one) year, during which time he will be required to repeat the two-day Solid Waste Operator Training and Certification Course and successfully complete the requisite written examination. Mr. Lackey should notify the Division of his decision by filling out and returning the enclosed form by June 15, 2001.

If anyone has any questions or would like to schedule a meeting regarding this matter, please contact Patricia A. Hannon, Program Coordinator, Solid Waste Operator Training and Certification Program, at 603-271-2928.

COPY

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

Certified Mail #7099 3400 0002 9770 5404

Enclosure

cc: John Casella, Casella Waste Management, Inc.
Richard Reed, SW Compliance Bureau Administrator
Gretchen Rule, DES Enforcement Coordinator
Patricia Hannon, Program Coordinator, WMD/DES
File

RETURN THIS PAGE BY JUNE 15, 2001

APPEARANCE

___ I, Larry B. Lackey, desire a hearing in accordance with Env-Wm 3307.02 regarding my solid waste operator certification.

_____ _____
Signature Date

WAIVER OF HEARING

___ I, Larry B. Lackey, certify that I understand my rights to a hearing regarding the suspension of my solid waste operator certification and that I hereby waive those rights.

_____ _____
Signature Date

Please return to: Solid Waste Operator Training & Certification Program
Attn: Patricia Hannon, Program Coordinator
Department of Environmental Services
6 Hazen Drive
Concord, NH 03301