

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

Feb 05, 2002

DE-9J

Mr. Mark_Giesfeldt,P.E.,Director
Bureau for Remediation and Redevelopment
101 S.Webster St.
Box 7921
Madison, WI 53707-7921

Ms. Suzanne Bangert, Director
Bureau of Waste Management
101 S.Webster St.
Box 7921
Madison, WI 53707-7921

Subject: Implementation of the AOC Policy

Dear Mr. Giesfeldt and Ms. Bangert:

Thank you for your letter of January 24, 2002. That letter supercedes your June 5, 2001 letter requesting our concurrence with your proposal to "expand the Area of Contamination (AOC) policy." In our recent telephone conversations, you have clarified that you are proposing to provide some guidance to your staff for interpreting the existing federal policy. You are not actually proposing to allow consolidation of hazardous wastes from widely separated areas of contamination, except as allowed under the rules governing Corrective Action Management Units.

You have explained that Wisconsin will exercise its judgment in interpreting "generally dispersed" areas of contamination" and that it will make such judgments in a reasonable, common-sense manner on a site-specific basis. So far, we haven't heard any conflicts between your interpretations and the existing federal guidance on this subject. You're already authorized to use your judgment in making such interpretations, and we expect you to continue making reasonable judgments.

We appreciate your continued efforts to address clean-up issues in Wisconsin. If we can be of

any further assistance on this matter, please contact George Hamper of my staff at (312) 353-7925.

Sincerely yours,

A handwritten signature in black ink that reads "Robert Springer". The signature is written in a cursive style with a large, prominent initial "R".

Robert Springer, Director
Waste, Pesticides and Toxics Division

cc: G. Hamper, ECAB
K. Peaceman, ORC
G. Phillips, WPTD



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

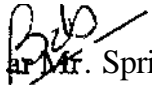
Scott McCallum, Governor
Darrell Bazzell, Secretary

Box 101 S. Webster St.
7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY 608-267-6897

January 24, 2002

Mr. Robert Springer, Director
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
77 West Jackson Blvd.
Chicago, IL 60604-3507

Subject: Implementation of the AOC Policy


Mr. Springer:

WDNR and EPA have been working for well over a year to resolve a number of issues, including implementation of EPA's Area of Contamination (AOC) policy. During that time frame we have prepared several different proposals, the most recent of which was submitted on June 5, 2001. Based on EPA's comments during a number of conference calls over the last several months, we are submitting a revised proposal for addressing the questions that have been raised when responsible parties (RP's) have considered utilizing the AOC concept. We are providing some brief background information on this issue as well as a specific proposal, which we are confident addresses the concerns raised by U.S. EPA.

Background Information

EPA has developed numerous policies, regulations, and guidance documents addressing the application of the RCRA subtitle C regulations for as generated wastes to wastes managed for implementing cleanup. One of these tools is the Area of Contamination (AOC) policy. Specifically, on March 13, 1996, EPA issued a document entitled: "Use of the AOC Concept During RCRA Cleanups." The memo indicates that "although the AOC concept was initially discussed in the context of the CERCLA Program, it applies equally to RCRA corrective action sites, cleanups under state law, and voluntary cleanups."

Under EPA's existing policy, AOC's are considered to be RCRA units. Consolidation of hazardous wastes within an AOC is not considered to be placement into a unit or creation of a new unit such that it triggers Land Disposal Restrictions (LDR's) or Minimum Technology Requirements (MTR's). Therefore, compliance with LDR's or MTR's in these situations is not required. While EPA's AOC policy allows consolidation of generally dispersed contamination on the same site, it does not currently allow wastes to be consolidated from "widely separated areas" without the waste being considered to have been "actively managed."

WDNR Proposal

As you are aware, WDNR has been authorized to implement the RCRA Corrective Action program since April, 1992. We have comprehensive state cleanup rules (NR 700 series) and groundwater cleanup standards (NR 140). As an authorized state, we are responsible for ensuring that projects are remediated to the appropriate state standards. EPA has recognized that WDNR does a good job carrying out the cleanup of hazardous waste releases and numerous projects have been completed with oversight by WDNR.

One issue that has been the subject of numerous questions is when contamination on a particular site is considered to be "generally dispersed" and therefore potentially able to utilize the AOC concept when consolidating waste. We feel that as an authorized state with a significant amount of experience in cleanups, we have the discretion to exercise our judgment on when contamination at a site would be considered "generally dispersed."

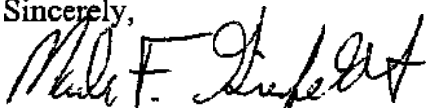
As part of the hazardous waste guidance document being developed, we intend to identify a process to ensure that reasonable, common sense judgments are made when approving the consolidation of wastes within an AOC. In those situations where the proposal calls for the consolidation of widely separated areas of contamination, WDNR will utilize the CAMU rule or other appropriate regulatory authority.

Summary

WDNR is proposing to use reasonable, common sense judgment when determining whether the contamination at a particular site would be considered "generally dispersed" and therefore eligible to utilize the AOC policy. When contamination is determined to be widely separated, WDNR will use the CAMU rule or other appropriate authorities.

We look forward to receiving your response to this letter. If you have any questions, please do not hesitate to contact Mark Gordon at (608) 266-7278.

Sincerely,



Mark F. Giesfeldt, P.E., Director
Bureau for Remediation and Redevelopment

^
Suzanne Bangert, Director
Bureau of Waste Management

c: Air and Waste Management Team
Waste Management Team
RR Management Team
Deb Johnson - LC/5
Mark McDermid - CE/8