



Department of Energy

Ohio Field Office
Fernald Area Office
P. O. Box 538705
Cincinnati, Ohio 45253-8705
(513) 648-3155



1930

JAN 15 1999

Mr. James A. Saric, Remedial Project Manager
U.S. Environmental Protection Agency
Region V-SRF-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

DOE-0343-99

Mr. Tom Schneider, Project Manager
Ohio Environmental Protection Agency
401 East 5th Street
Dayton, Ohio 45402-2911

Dear Mr. Saric and Mr. Schneider:

WASTE SAMPLING STRATEGY FOR OPERABLE UNIT 1 REMEDIATION

The purpose of this letter is to provide the Department of Energy's (DOE) position relative to the point of Operable Unit 1 (OU1) waste generation during implementation of remedial action. More specifically, and as requested by your Agency, the discussion below represents the regulatory justification for the proposal to satisfy the requirements of 40 CFR 262.11 at a point after waste consolidation and treatment (as required).

The waste pits are being remediated under the requirements of the OU1 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Record of Decision (ROD). There is no distinction among the individual waste pits in the ROD as it relates to remedial requirements. The ROD, in Table B-3, establishes that the project will satisfy 40 CFR 262.11 with characterization of the waste generated based on process knowledge and through sampling of the waste after treatment. Subsequent approved OU1 CERCLA documentation has maintained consistency with this position. The June 1996 Ohio Environmental Protection Agency (OEPA) Director's Findings and Orders (DF&O) established, generally, that Waste Pits 4 and 5 would be closed using the CERCLA process. Accordingly, the CERCLA Area of Contamination Concept is being used in this discussion.

Under the EPA's Area of Contamination (AOC) Policy, where a CERCLA AOC is generally equated to a Resource Conservation and Recovery Act (RCRA) land-based unit, consolidation of wastes within the AOC does not create a new point waste generation for the purposes of RCRA (EPA 530-F-98-026, October 1998). The AOC concept is only

Mr. James A. Saric
Mr. Tom Schneider

-2-

JAN 15 1999

allowable when consolidation and/or treatment occur within the contiguous area of contamination. When wastes leave the AOC, a new point of generation is established triggering 40 CFR 262.11 requirements. This is the case for the OU1 remedy when wastes are loaded into railcars for off-site shipments. Accordingly, consistent with the AOC Policy, the ROD established the point of characterization for sampling just prior to the railcar loadout.

It is recognized the EPA generally equates the CERCLA AOC with a single RCRA land-based unit, usually a landfill. Historically, the waste pits were viewed as separate units. However, as discussed above, the OU1 ROD establishes one remedy without distinction among the waste pits. The supporting Remedial Investigation (RI) established that contamination was contiguous/present throughout the boundaries of the Operable Unit, thereby, establishing a single CERCLA AOC. Please note that EPA guidance allows differing types and levels of contamination within a single AOC. The preamble of the Nation Contingency Plan (NCP) Final Rule (March 8, 1990) discusses what is not eligible for consideration as a single AOC to be, ". . . discrete, widely separated areas of contamination" Again, the OU1 RI clearly established that such is not the case within the boundaries of OU1.

While use of the AOC concept above is adequate as justification by itself, DOE believes other supporting arguments are available if your Agency deems necessary. DOE respectfully requests your concurrence with DOE's position that the proposal to satisfy 40 CFR 262.11 requirements after waste consolidation across pit boundaries and treatment is valid for OU1 wastes inclusive of those originating from Waste Pits 4 and 5 (designed as Hazardous Waste Management Units (HWMU)).

If you have any questions, please contact Dave Lojek of my staff at (513) 648-3127.

Sincerely,



Johnny W. Reising
Fernald Remedial Action
Project Manager

FEMP:Lojek

Mr. James A. Saric
Mr. Tom Schneider

-3-

JAN 15 1999

1930

cc:

N. Hallein, EM-42/CLOV
J. Hall, OH/FEMP
A. Tanner, OH/FEMP
G. Jablonowski, USEPA-V, SRF-5J
D. Carr, FDF/52-2
R. Fellman, FDF/52-1
T. Hagen, FDF/65-2
J. Harmon, FDF/90
R. Heck, FDF/2
S. Hinnefeld, FDF/90
AR Coordinator, FDF/78
ECDC, FDF/52-7

3