



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

December 6, 1993

Mr. Fred Evans
Department of the Navy
Northern Division
Naval Facilities Engineering Command
10 Industrial Highway, Mailstop 82
Lester, PA 19113-2090

Re: Draft Technical Memorandum
Site 11
Fire Training Area
November 1993

Dear Fred:

The United States Environmental Protection Agency (USEPA) has reviewed the document entitled "Draft Technical Memorandum, Site 11, Fire Training Area" dated November 1993. USEPA's comments are to be found in Attachment I of this letter.

USEPA concurs with the Navy's proposal to perform a time-critical removal action of all drums and a confirmatory geophysical survey to help ensure a complete removal of all drums from the site. USEPA is looking forward to reviewing the Navy's removal action memorandum for Site 11.

Since the most recent schedule for Site 11 did not take into consideration the removal action, USEPA is concerned about the removal action's effect on the overall schedule of Sites 4, 11, and 13. USEPA is also looking forward to reviewing a revised schedule for Sites 4, 11, and 13.

At this time, USEPA would like to take this opportunity to notify the Navy of the new Off-Site Rule, effective September 22, 1993, which codified CERCLA §121(d)(3) and previously published policy and guidance. The purpose of the rule is to ensure that wastes from CERCLA sites are sent only to environmentally sound facilities and do not contribute to future environmental problems. Enclosed for your information are two fact sheets which further summarize the Off-Site Rule.



Should you have any questions regarding USEPA's comments, please feel free to call me at (617) 223-5521.

Sincerely,



Robert Lim
Remedial Project Manager

cc. Meghan Cassidy/USEPA
Nancy Beardsley/ME DEP
Jim Caruthers/NASB
Robert McGirr/ABB
Susan Weddle/BACSE
Carolyn LePage/Gerber, Inc.
Sam Butcher/Harpswell Community Rep.
Rene Bernier/Topsham Community Rep.

Enclosures

ATTACHMENT I

The following are USEPA's comments pertaining to the document entitled "Draft Technical Memorandum, Site 11, Fire Training Area" dated November 1993.

1. pg 6-1, ¶ 2 - At what level was BEHP detected in the method blank sample. Appendix D does not contain method blank sample data and the conclusion that BEHP is a lab contaminant cannot be made without additional information. USEPA considers sample results as positive only if the concentrations in the sample exceed ten times the maximum detected in any blank. Please provide information.
2. pg 6-2, ¶ 1 - The conclusion that the TP-93-11 drum sample "was mostly water" is not acceptable if it contained MEK at 0.1% or 1000 mg/L. Revise sentence accordingly.
3. pg 7-1, ¶ 1 - Second to the last sentence states that "two of the drums were nearly pure MEK." However according to the data, only one was pure at 100% and the other contained 0.1% MEK. Revise sentence accordingly.

United States
Environmental Protection
Agency

EPA 8834, 11FSa
September 19, 1993

Solid Waste and Emergency Response



Environmental Fact Sheet Update

PROCEDURES FOR PLANNING AND IMPLEMENTING OFF-SITE RESPONSE ACTIONS

BACKGROUND

On November 5, 1985 EPA published a policy to ensure that wastes shipped off-site from CERCLA clean-ups were sent to environmentally sound waste management facilities. When CERCLA was reauthorized in 1986, Congress incorporated this policy into §121(d)(3) of the CERCLA statute. The policy was subsequently updated and on September 22, 1993 the final rule, Procedures for Planning and Implementing Off-site Response Actions (the Off-site Rule), was published in the Federal Register. This rule codifies the statute and previous policy by describing the criteria that off-site waste management facilities must meet when taking waste from CERCLA sites and the procedures that EPA must follow when making determinations on the acceptability of these facilities.

APPLICABILITY

The off-site rule applies to:

- all CERCLA remedial or removal actions
- actions taken under §311 of the Clean Water Act
- the clean-up of Federal facilities under §120 of SARA
- Superfund-financed response actions
- State-lead enforcement actions if CERCLA funds are used

Lab samples and treatability samples from these facilities are generally exempt from this rule.

FOR MORE IN- FORMATION

For further information, please call the RCRA/SUPERFUND Hotline,
Monday through Friday, 8:30 a.m. to 7:30 p.m., EST.

National Toll-Free:	(800) 424-9346
Washington, DC area	(703) 920-9810
For the Hearing Impaired (TDD)	(800) 553-7672
	(703) 486-3323

Please send written requests to:
Superfund Docket (OS-245)
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

CRITERIA

All facilities receiving off-site CERCLA wastes must be in physical compliance with all applicable State and Federal requirements.

At RCRA Subtitle C land disposal facilities:

- There should be no releases at the receiving unit
- Releases must be controlled under RCRA corrective action at all other units

At RCRA Subtitle C treatment and storage facilities:

- There should be no releases at the receiving unit
- All environmentally significant releases at other units must be controlled under RCRA corrective action

At all other types of facilities:

- Environmentally significant releases must be controlled under an appropriate corrective action authority

NOTIFICATION

EPA must determine whether a facility is acceptable before that facility can receive off-site waste.

- If EPA finds that a facility has violations or releases that may make it unacceptable the facility is notified in writing.
- Facilities may ask for a meeting to discuss the determination.
- Any new information from the facility will be evaluated within 60 days of the initial notice.
- The facility may ask the Regional Administrator to reconsider the final determination. (Reconsideration does not stay the determination.)

CHANGES FROM POLICY

The Off-site Rule is very similar to previous policy, with only a few differences. The rule:

- Eliminates the differences in acceptability criteria for pre-SARA and post-Sara facilities
- Does not apply to actions taken under RCRA §7003
- Provides facilities with a right to have unacceptability determinations reviewed by the Regional Administrator
- Clarifies that criminal violations are always considered relevant violations where an indictment is issued

REMEMBER

Regional Off-site Contacts February, 1993

United States Environmental Protection Agency
EPA 9834.11F
September 1993

Solid Waste and Emergency Response

EPA Overview of the Off-site Rule for OSCs and RPMs

Region 1	Lynn Hanifan	(617) 573-5755
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Region 10	Ron Lillich	(206) 553-6646



The Off-site Rule applies to any remedial or removal action under any CERCLA authority or using any Fund money; response actions under §311 of the Clean Water Act (except cleanup of petroleum products); and cleanups at Federal Facilities under §120 of SARA.



Ensure that a receiving facility's permit or interim status authorizes the receipt of the wastes anticipated to be transferred.



Contact the appropriate ROC immediately prior to sending wastes off-site to ensure the receiving facility is acceptable.



Wastes that are treated on-site are still subject to the rule when transferred off-site.



RRPs must have prior approval from an OSC before sending waste to a facility in an emergency situation when human health or the environment is threatened.

The Procedures for Planning and Implementing Off-site Response Actions (September 22, 1993) describes procedures that should be observed when a response action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) involves off-site storage, treatment, or disposal of CERCLA waste.

The purpose of the Off-site Rule is to avoid having wastes from CERCLA-authorized or -Funded response actions contribute to present or future environmental problems by directing these wastes to management units determined to be environmentally sound.

CERCLA §121(d)(3) requires that hazardous substances, pollutants or contaminants transferred off-site for treatment, storage or disposal during a CERCLA response action be transferred to a facility operating in compliance with §3004 and §3005 of RCRA and all other applicable Federal laws and all applicable state requirements.

Role Of OSCs and RPMs

OSCs and RPMs play a critical role in ensuring effective implementation of the Off-site Rule. They must determine if the facility's permit or interim status authorizes: 1) the receipt of the wastes that would be transported to the facility; and 2) the process contemplated for the waste. They are also responsible for contacting the Regional Off-site Contact (ROC) in the region where the receiving facility is located prior to wastes being shipped.

Acceptability Status

The ROC will provide the current acceptability status of the facility to receive CERCLA waste. Often, an off-site determination is specific to particular units within a facility, rather than to an entire facility. Because of the dynamic nature of compliance conditions at these units or facilities, it is important to recheck a facility's status prior to each shipment of waste.

A facility that has received a notice of unacceptability (issued by the ROC) has a 60-day period during which it may continue to receive CERCLA wastes while it addresses the violations cited. The ROC and OSC/RPM should maintain close coordination throughout the 60-day period. On the 60th day after issuance of the unacceptability notice, the OSC or RPM must stop transfer of wastes to the facility and/or stop the transfer of CERCLA waste

already received by the facility from its storage unit to an unacceptable unit if the facility or receiving unit has not regained its acceptability. Transfers within a facility are more difficult for a ROC to monitor and thus the Agency contemplates that restrictions on such transfers under the Off-site Rule will be included in contracts for off-site disposal or treatment of wastes. If the primary facility becomes unacceptable, the acceptability status of the backup or secondary receiving facility must be checked with the ROC.

The disposal contract between the Agency and the company chosen to manage the disposal of CERCLA wastes off-site should specify the primary facilities that will receive the wastes for ultimate treatment, storage or disposal, as well as alternate facilities.

Emergencies

Although compliance with the rule is mandatory for removal and remedial actions, OSCs may determine that an emergency exists and that the need for fast action prevents ensuring that all of the criteria in the rule are met. This exemption may be used if the OSC believes the threat to human health and the environment posed by the substances requires a removal action without observing the rule procedures. Temporary solutions, such as interim storage, should be considered to allow time to locate an acceptable facility. If this exemption is used, the OSC must provide a written explanation to the Regional Administrator within 60 days of taking the action.

Inspections

OSCs and RPMs do not have the authority to conduct inspections for purpose of compliance determinations under the rule. If a facility has not been inspected for off-site acceptability, contact the ROC to get that facility on the inspection schedule. In emergency situations, the OSC should make every effort to use the most environmentally sound facility.

If you have any questions regarding the Off-site Rule, contact Ellen Epstein at (202)260-4849.
