

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

FEBRUARY 12, 1991

Mr. Alan Howard, Chief
Waste Management Division
Michigan Department of Natural Resources
P. O. Box 30241
Lansing, Michigan 48909

Dear Mr. Howard:

I am writing in regard to hazardous waste delisting. It is my understanding that Michigan's application for a "partial" delisting authorization for wastes involving closure or partial closure of a hazardous waste management facility is currently in the final stages.

As mentioned in a letter dated November 26, 1990 from William Muno of EPA Region V to you, all affected delisting petitions being processed by the EPA Headquarters will be transferred to Michigan upon authorization. You should be aware that a State having formal authorization for delisting operates its own RCRA delisting program in lieu of the Federal delisting program. Once authorized, Michigan must assume the responsibility of evaluating all pending and new delisting petitions submitted by those facilities located in the State of Michigan for listed wastes involving closure activities. Please recognize that EPA loses its authority to delist hazardous waste in any State that has been authorized to administer a RCRA delisting program. Any final delisting decision by EPA would have no effect on hazardous wastes generated or managed within the authorized State, unless the wastes would be transported to unauthorized States for disposal.

In recent telephone conversations between Chichang Chen of my staff with Jim Roberts of the MDNR, your office expressed reluctance to complete the State's application for delisting authorization due to concerns over accepting responsibility for two delisting evaluations. These petitions include one submitted by Quanex Corporation, South Lyon, Michigan for a lime-treated K062 waste contained in two on-site surface impoundments, and another submitted by General Motors Corporation (GMC), Flint, Michigan for an F006 sludge in two BOD reduction impoundments located at the GMC-BOC Flint Operations. While the Agency has already published a proposed rule (55 FR 48248; November 20, 1990) denying Quanex's petition. GMC's petition is still under technical review. Mr. Roberts indicated that the final decisions on these two petitions would be delayed should it be necessary for the State to assume the evaluations, because the State would need to 'start from scratch'. In order to address these concerns, I am enclosing the following three guidance materials to assist you in initiating a delisting program: 1) "An Information Package from EPA Headquarters' Delisting Program to States Authorized to Administer a Delisting Program"; 2) a draft informational memo describing the responsibilities of States authorized to administer a RCRA delisting program; and 3) draft update to

“Petitions to Delist Hazardous Wastes: A Guidance Manual”, which will supersede the April 1985 manual (EPA/530/SW-85-003).

Furthermore, we will provide you with the summaries of our evaluations of the pending petitions and any supporting documentation, along with copies of all relevant files for these petitions. We will also provide limited technical guidance to facilitate your delisting evaluations. For an expeditious delisting review, you may want to base your decision on our proposed rule (for the Quanex petition) or our evaluation (for the GMC petition). Nevertheless, the ultimate decision to grant or deny these petitions must be made by the State of Michigan.

A successful transition of the RCRA delisting program will enable the State to start processing delisting petitions promptly and avoid unnecessary delays. Toward this end, I encourage coordination between your and my staff, as necessary. Even if the State chooses to delay its application for a “partial” delisting authorization at this time, the burden of completing the review of all affected pending petitions would still exist when the State resumes its pursuit of this authorization.

Finally, I would like to elaborate on several issues discussed in the enclosed guidance materials:

1. While we currently use the VHS ground-water transport model to evaluate levels of hazardous constituents in wastes, we plan to adopt a more sophisticated model (EPACML) in the future. The EPACML model was recently used in promulgation of the Toxicity Characteristic rule (55 FR 11796; March 29, 1990), and we are adapting it for use in delisting. We intend to announce the use of the new model in the Federal Register, and we will provide documentation to States authorized for delisting.
2. The list of "Health-Based Levels and Solubilities for Constituents of Concern in Delisting Petitions", dated April 1990, is being updated to incorporate the new and proposed Maximum Contaminant Levels (MCLs). When available, we normally use an MCL as a health-based level (HBL) for delisting purposes. For example, the HBLs for nickel and cyanide (0.7 ppm for both constituents) listed in the April 1990 docket report now need to be changed to 0.1 ppm and 0.2 ppm, respectively; and an HBL of 0.001 ppm for beryllium needs to be added to the list. When available, we plan to distribute an updated list of health-based levels to the States authorized for delisting.

If Michigan is likely to receive authorization for delisting, we plan to forward our files for existing petitions in Michigan to your Division for further action. Please have your staff contact Chichang Chen at (202)382-4787 to coordinate this transfer. If you have questions concerning delisting, or if you have further doubt about proceeding with the delisting authorization, please feel free to call me at (202)382-4770.

Sincerely,

Bob Kayser, Acting Chief

Enclosures

cc: Judy Greenburg, EPA Region V
Suzanne Rudzinske, EPA HQ
Chichang Chen, EPA HQ
Jim Roberts, MDNR