



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

March 13, 2000

Michael Conway, Vice President
GZA, GeoEnvironmental, Inc.
320 Needham Street
Newton Upper Falls, MA 02464-7769

re: Request for Agency Interpretation on "Area of Contamination" Policy and its Application to TCLP Lead and PCB Soil

Dear Mr. Conway:

The Hazardous Waste Program Unit of EPA New England is in receipt of your letter dated January 20, 2000, in which you request the EPA's interpretation of the "Area of Contamination" (AOC) policy as it applies to the proposed remediation of soils contaminated with lead in excess of the Toxicity Characteristic (TC) level and with polychlorinated biphenals (PCBs). In your letter you propose to treat the lead in the soil through stabilization using the Maectite process and subsequently have the remaining PCB-contaminated soil disposed of under TSCA requirements. Your primary concern is that the Land Disposal Restrictions (LDRs) no longer be applicable to the soil after it has been treated for lead contamination given the limitations of the LDR universal treatment standards for PCB in soil. To support this, you refer to Section VII (B)(9) and footnote 43 on page 28617 of the LDR Phase IV Final Rule which suggests that once the soil is treated in the AOC for the hazardous waste characteristic of toxicity removal of the soil from the AOC would not constitute the generation of hazardous waste.

The purpose of the AOC policy is to allow certain activities within the area to deal with the management of contaminated soils without triggering RCRA requirements and therefore, encourage clean-up. Those activities include consolidation and *in situ* treatment of hazardous waste. For waste that is actively managed (e.g. treated *ex situ*) within or outside the AOC and then returned to the land RCRA requirements would apply. As indicated in the LDR Phase IV rule, nothing in that rule changes the affect of the AOC policy.

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EPA has always considered the act of removing soil from the ground and then treating it in separate units either inside or outside of the AOC as constituting a RCRA activity (treatment). EPA New England has addressed this issue in previous correspondence, see attached letter dated December 22, 1997, to Mr. Peter M. Zuk of the Central Artery/Tunnel Project. In that letter there is a discussion regarding the applicability of RCRA requirements to *in situ* treatment (treatment occurring prior to removal of soil from the ground) and *ex situ* treatment (treatment occurring after removal of soil from the ground). As we indicated in the letter to Mr. Zuk, removal of soil from the ground in order to treat it for a toxicity characteristic is considered a RCRA activity.

In summary, LDRs and other RCRA requirements would apply to an activity that treats a TC soil within the AOC if that soil is removed from the ground prior to treatment.

If you have any questions regarding this or any other issue, please do not hesitate to contact Sharon Leitch, in the Hazardous Waste Program Unit, at (617)918-1647.

Sincerely,



Edward K. McSweeney, Associate Director
Waste Policy

cc: G. Gosbee, Chief, Hazardous Waste Program Unit, EPA (w/o)
M. Hoagland, Chief, RCRA Corrective Action Unit, EPA
K. Rota, Chief RCRA Enforcement Unit, EPA (w/o)
J. Fowley, Atty., ORC-EPA (w/o)
J. Miller, Chief, Waste Branch, MADEP (w/o)
J. Duclos, Supervisor, Hazardous Waste Compliance Section, NHDES (w/o)
D. Sattler, Supervisor, WEED, CTDEP (w/o)
L. Hellested, Chief, Waste Management, RIDEM (w/o)
S. Ladner, Supervisor, Licensing Unit, MEDEP (w/o)
P. Marshall, Chief, Hazardous Materials Management Division, VTDEC (w/o)

enclosure

January 20, 2000
File No. 00-904

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HAZARDOUS WASTE PROGRAM UNIT



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Re: Request for Agency Interpretation on
"Area of Contamination" Policy and its
Application to TCLP Lead and PCB Soils

COPY

Dear Mr. McSweeney:

The purpose of this letter is to request United States Environmental Protection Agency (EPA) interpretation of existing regulations and policies with respect to the "Area of Contamination" (AOC) policy/concept and its application to a proposed remedial approach for soils containing lead and polychlorinated biphenals (PCBs). I write to you at the suggestion of Raphael Cody of EPA's RCRA Corrective Action Section who I was referred to by Frank Gardner of EPA's Superfund Removal Program.

The subject material is primarily soil and some debris. It is at a former scrap yard. It has been "accumulated" or "consolidated" within the existing area of contamination. Sampling and analyses indicate that the accumulated material (and surrounding unaccumulated material) exhibits lead above 5.0 ppm (by the Toxicity Characteristic Leaching Procedure (TCLP)) and PCBs above 100 ppm. The goal is to cost effectively clear the site to allow future development. The most cost effective approach we have identified is to stabilize the lead by treatment within the area of contamination and then landfill the remaining PCB-containing soils under the purview of the Toxic Substances Control Act (TSCA). Because the universal treatment standard (UTS) for PCBs in soil is 100 ppm, for this approach to be possible, it is necessary for the Land Disposal Restrictions (LDRs) to not apply.

As I read the existing regulations and policies, support for the position that LDRs do not apply may be found in the existing AOC concept as it is disseminated throughout various regulations and policies. One of these regulations/policies which I believe supports our proposed approach is the preamble of the Federal Register/Vol. 63. No. 001/Tuesday May 26, 1998/Rules and Regulations: Part II, Environmental Protection Agency, 40

CFR Parts 148, 261, 266, 268, and 271 Land Disposal Restrictions Phase IV, Final Rule (LDR Phase IV Final Rule).



Specifically, Section VII (B)(9) and footnote 43 on page 28617 of the LDR Phase IV Final Rule suggests that if the TCLP lead characteristic is eliminated by stabilization treatment prior to its removal from the AOC, the subject material has not been "generated" under the Resource Conservation and Recovery Act. Therefore, the LDRs and the universal treatment standards would not apply.

Again, after successful lead stabilization, the PCB contaminated soil is still fully regulated under TSCA and would be required to be disposed in an appropriately permitted landfill, subject to the landfill's acceptance criteria and operating permit.

Mr. Cody suggested that a stabilization treatment process may be possible to implement without a Corrective Action Management Unit (CAMU) or Temporary Unit (TU) permit if such a treatment process could be conducted entirely within the AOC in enclosed and containerized equipment and tanks. For your information, the planned stabilization treatment methodology is the Maectite process which can be implemented in this manner. However, although Mr. Cody explained the regulatory basis for such a remedial approach, I would request a more formal agency clarification of the regulations with respect to this matter.

As indicated above, we are requesting an interpretation of the existing AOC regulations and policies as they may apply to our proposed remedial approach, and, hopefully, some indication of agency concurrence.

If I can answer any questions, or otherwise assist your review in any way, please contact me directly at 617-630-6550.

Thank you very much for your consideration of this request.

Very truly yours,

GZA GEOENVIRONMENTAL, INC.

A handwritten signature in black ink, appearing to read 'mfc', followed by a large, stylized flourish that loops around the text below.

Michael F. Conway, P.E., LSP
Vice President

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