

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 West JACKSON BOULEVARD
CHICAGO, IL 30604-3590

December 15, 1985

REPLY

TO THE ATTENTION OF:

D-8J

Mr. Paul Didier, P.E.
Director
Bureau of Solid and Hazardous Waste Management
Wisconsin Department of Natural Resources
101 South Webster Street
Box 7921
Madison, Wisconsin 53707

RE: Initial Feedback on Draft Consolidated Remediation Proposal

Dear Mr. Didier;

This is in response to your request, during a conference call held on December 8, 1995, for some feedback from the United States Environmental Protection Agency-Region 5, RCRA program on Wisconsin's draft consolidated remediation proposal.

Overall, we support your proposal to implement a voluntary cleanup program and to consolidate the remedial standards for all cleanups in the Wisconsin Administrative Code (MAC), Series NR 700, provided that certain key requirements of the State's authorized hazardous waste program, found in WAC, Series MR 600, remain in effect. We feel that it is imperative that the State preserve the ability to enforce the corrective action requirements in the event that the voluntary cleanup process at a given facility is not successful.

We concur, however, that there are circumstances where the NR 700 process can be utilized rather than the current NR 600 approach. For those facilities required to have a corrective action permit, NR 600 permitting requirements should not be waived nor should the financial assurance requirements be rescinded. We would like to emphasize that treatment, storage and disposal (TSD) facilities subject to permitting requirements must be placed on enforceable schedules for completing corrective action, when permits are issued. Financial assurance for completing corrective measures is also required under these permits. However, under NR 700, if an owner/operator voluntarily carries out corrective action in advance of the schedule required by the permit, then the financial assurance obligations may be waived.

For unapproved TSDs or Generators that will not be seeking permits, we believe that you may allow the use of the NR 700 process to voluntarily complete any necessary investigation and clean-up by these facilities. However, you must preserve the applicability of the MR 600 provisions in case the voluntary clean-up process is not successful and must, in any event, retain your ability to pursue appropriate hazardous waste enforcement for past or ongoing violations.

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We support flexibility in the implementation of these requirements, which could potentially include elements of the NR 700 process, and we would be happy to consult with the State on a case-by-case basis.

During the conference call, you also requested that we provide you with Information regarding the process for revising the State's RCRA Corrective Action authorization to reflect the changes embodied in your draft consolidated remediation proposal. The proposed revisions to the State's authorized hazardous waste program would require the State to submit an Authorization Revision Application (ARA).

The ARA should include a revised Memorandum of Agreement (MOA) that clearly specifies how the current RCRA Corrective Action process, found in the Wisconsin Administrative Code (MAC), Series NR 600, would be altered by the proposed consolidation found in WAC, Series NR 700. The MOA should also include any proposed changes to the RCRA permitting program, including information on any permit transfers and information on how facilities currently in the permit pipeline would be addressed.

Additionally, the ARA should include an Attorney General Statement that specifies which regulations and statutes will apply to RCRA facilities pursuing cleanup and a certification that these provisions are equivalent and are no less stringent than the Federal requirements and the State's authorized RCRA Corrective Action program. The ARA should also include copies of any statutory revisions and the corresponding regulations. Also, the ARA should include a Program Description that details WDNR's reorganization and differentiates the roles and responsibilities of the Environmental Remediation and Redevelopment program and the Hazardous Waste Management program.

If you have any further questions or are in need of additional Information, please do not hesitate to call me at (312) 886-7435.

Sincerely,

Norman R. Niedergang, Director 
Waste, Pesticides and Toxics Division