



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SUBJECT: Request for a Change in Scope of Work for a Removal Action at the Erie Coke Site, Erie, PA

FROM: Christopher Guzzetti, On-Scene Coordinator
Western Response Section (3SD32)

TO: Linda Dietz, Acting Director
Superfund and Emergency Management Division (3SD00)

THRU: Dominic Ventura, Chief
Western Response Section (3SD32)

Mike Towle, Branch Chief
Preparedness and Response Branch (3SD30)

I. PURPOSE

The purpose of this Action Memorandum (Memorandum) is to request approval for a change in the Scope of Work set forth in the *Request for Funding, 12-Month and \$2 Million Exemptions for a Removal Action at the Erie Coke Site, Erie, Pennsylvania*, as approved September 10, 2020 (2020 Action Memorandum), which is attached as Attachment "A." The requested change in Scope of Work is to include an alternative to traditional off-Site disposal (incineration) of coal tar waste which is a K-listed waste under the Resource Conservation and Recovery Act (RCRA). This alternative was not identified during the development of the original Scope of Work set forth in the 2020 Action Memorandum. Therefore, this Memorandum shall serve as a supplement to the 2020 Action Memorandum.

This Memorandum is intended to add to the Scope of Work in the 2020 Action Memorandum, Section VI. A., Proposed Actions. In addition to activities associated with the collection, sampling and disposal of waste in drums, totes, tanks, piping and other containers, as provided in the 2020 Action Memorandum, the approval of this change in the Scope of Work would allow for the recycling of K-listed wastes to be reused in the stream of commerce, as described in 40 C.F.R. § 261.4(a)(10) in addition to traditional off-Site disposal.

II. SITE DESCRIPTION AND BACKGROUND

An industrial manufacturing facility operated at the Site since approximately 1833. From 1925 to 1987, various owners operated a foundry coke production facility (Facility) at the Site that processed coal into coke for use in the steel industry. In 1987, the current owner acquired the Site and began operating the Facility, which contained 58 coke

ovens, under the name Erie Coke Corporation (Erie Coke).

The Facility has had a long history of violations under Pennsylvania environmental laws, including the Air Pollution Control Act, the Solid Waste Management Act, and the Clean Streams Law, as well as Federal environmental laws and regulations. These violations resulted in, among other things, repeated neighborhood complaints over air quality; the issuance by the Pennsylvania Department of Environmental Protection (PADEP) to Facility owners of numerous Notices of Violations, penalty assessments, and permit denials, and the negotiation and entry of Consent Decrees and Administrative Orders requiring Facility owners to address Facility conditions.

In December 2019, Erie Coke ceased operations and closed the Facility. Subsequently, PADEP directed Erie Coke to address all regulatory issues associated with closure, including removal of all waste and wastewaters from the Site; however, only one million dollars was set aside to perform these tasks, which primarily focused on wastewater disposal and generating a materials list that was shared with EPA. On May 19, 2020, the PADEP requested assistance from EPA to conduct a Removal Site Evaluation and determine if the Site meets the threshold criteria for an EPA Removal Action. On July 28, 2020, three On-Scene Coordinators (OSCs) inspected the Facility and found that the Site contains, in part, office buildings, a laboratory, coke ovens, by-products process areas, bulk tank storage areas, a boiler house, other supporting structures, and a large coal yard.

The information below provides an update since the 2020 Action Memorandum.

EPA commenced the removal activities (Removal Activities) set forth in the Scope of Work, Section VI.A. of the 2020 Action Memorandum on September 28, 2020. Removal Activities primarily focused on locating, transferring, hazard categorization testing, as well as sampling, bulking and preparing all drums, totes, cans, tubes, cylinders, and other containers throughout the entire Site for future disposal. EPA also focused efforts on pumping and transporting off-Site nearly 208,000 gallons of water/sludge that remained in the on-Site wastewater treatment tanks.

The next phase of Removal Activities at the Site is to address the process tanks and piping referred to as the “by-products” area that contains coal tar, decanter sludge, coke oven gas residues and other process wastes which contain K-listed coal tar wastes. While considering options for disposal, the OSC evaluated the potential to reuse the K-listed coal tar wastes rather than sending them for traditional off-Site disposal. There is a process that involves blending the K-listed coal tar wastes with coal fines, which are found on-Site, to generate a viable fuel product. The process improves coking coal or can enhance coal that is of lesser quality because it increases their BTU value. The process can be implemented at a significantly reduced cost as compared to traditional transportation and off-Site disposal, potentially saving nearly \$ 5.5 million.

There is a RCRA exclusion set forth at 40 C.F.R. § 261.4(a)(10) that is applicable to this process. Pursuant to 40 C.F.R. § 261.4(a)(10), K-listed coal tar wastes (K060, K087, K141, K142, K143, K144, K145, K147, and K148) that are hazardous only because the waste fails the toxicity characteristic (TC) are excluded from the definition of solid waste (i.e., no longer

regulated under RCRA) where the coal tar waste is mixed with coal fines and processed into a legitimate fuel. The exclusion requires that the coal tar cannot be placed on the land again (i.e., land disposed) from the point when the coal tar waste is generated during the response (removed from the source) to the point that the coal tar is recycled. While traditional off-Site disposal is common and is still an acceptable alternative, the alternative of recycling and reuse of the K-listed coal tar waste as documented in this amendment is also an acceptable alternative and will be incorporated into the approved Scope of Work for this removal action.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT

See 2020 Action Memorandum, Section III. No additional threats to public health or welfare or the environment are identified in this Memorandum.

IV. EXEMPTION FROM STATUTORY LIMITS

See 2020 Action Memorandum, Section IV. No additional exemptions are sought in this Memorandum.

V. ENDANGERMENT DETERMINATION

See 2020 Action Memorandum, Section V.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

This Memorandum will amend the 2020 Action Memorandum Section VI.A.1. (Description of Proposed Actions) as follows:

Section VI.A.1.e. will be amended to provide:

- e. With the exception of K-listed hazardous substances that are removed, recycled, and reused, as described in VI.A.1.g., below, remove and prepare for off-site disposal hazardous substances found in drums, totes, tanks, piping and other containers at the Site;

A new Section VI.A.1.g. will be added as follows:

- g. Remove, recycle, and reuse, as appropriate, K-listed hazardous substances found in process tanks and piping from the “by-products” area of the Facility.

The proposed Change in Scope set forth in this Memorandum will result in no increase in the project ceiling as set forth in the 2020 Action Memorandum.

VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

See 2020 Action Memorandum, Section VII.

VIII. OUTSTANDING POLICY ISSUES

There are no outstanding policy issues pertaining to the Site.

IX. ENFORCEMENT STATUS

See 2020 Action Memorandum, Section IX. An updated Confidential Enforcement Addendum is attached as Attachment “B.”

X. RECOMMENDATION

Conditions at the Site continue to meet the criteria for the CERCLA Section 104(c), 42 U.S.C. § 9604(c), emergency exemption, and I recommend that you approve a change in Scope of Work to include the recycling and reuse of K-listed wastes in addition to traditional off-Site disposal, with no increase in the total project ceiling.

The Memorandum is based on the Administrative Record for the Site. By signing this Memorandum, you are also hereby establishing the documents listed below as the Administrative Record, supporting the issuance of this Memorandum, pursuant to Section 113 (k) of CERCLA and EPA Delegation 14-22.

1. Letter from EPA to the Pennsylvania Department of Environmental Protection regarding the Proposed Recycling of Coal Tar at Erie Coke Site City of Erie, Erie County
2. Response from Pennsylvania Department of Environmental Protection to EPA regarding the Proposed Recycling of Coal Tar at Erie Coke Site City of Erie, Erie County

Approved: _____
 Linda Dietz, Acting Division Director
 Superfund and Emergency Management Division

 Date