



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

May 6, 2005

Ms. Susan S. Carrington
Vice President and Director
Michigan Dioxin Initiative
The Dow Chemical Company
47 Building
Midland, Michigan 48667

Mr. Paul E. Dean, II
EH&S Responsible Care Leader
Environment, Health, and Safety
The Dow Chemical Company
1261 Building
Midland, Michigan 48667

Dear Ms. Carrington and Mr. Dean:

SUBJECT: Information Request; The Dow Chemical Company, Midland Operations, (Dow);
EPA ID No. MID 000 724 724

Purpose

This is a request for information issued by the Department of Environmental Quality (DEQ) pursuant to Section 11146 of Part 111, Hazardous Waste Management, and Section 20117(1) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws 324.101 *et seq.*; the rules promulgated under these parts; Section 3007 of the federal Resource Conservation and Recovery Act, as amended (RCRA), Title 42 of the United States Code (U.S.C.), Section 6927; and the omnibus provision of the RCRA, Section 3005(c)(3), as codified at Title 40 of the Code of Federal Regulations (CFR), Section 270.32(b)(2). The purpose of this information request is to gather information and documents concerning the release of dioxins, furans, and other hazardous constituents from Dow's facility in Midland, Michigan. You are requested to provide information concerning the items shown in Attachment A of this Information Request.

Section 324.11146(1) of Part 111 states, in part:

Any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste shall furnish information relating to the hazardous wastes or permit access to and copying of all records relating to the hazardous wastes, or both, if the information and records are required to be kept under this part or the rules promulgated under this part, upon a request of the department, made for the purpose of developing a rule or enforcing or administering this part or rule promulgated under this part.

Section 324.20117(1) of Part 201 states:

To determine the need for response activity or selecting or taking a response activity or otherwise enforcing this part or a rule promulgated under this part, the directors or their authorized representatives may upon reasonable notice require a person to furnish any information that the person may have relating to any of the following:

(a) The identification, nature, and quantity of materials that have been or are generated, treated, stored, handled, or disposed of at a facility or transported to a facility.

(b) The nature or extent of a release or threatened release at or from a facility.

42 U.S.C., Section 6927(a), provides, in part, that:

For purposes of developing or assisting in the development of any regulation or enforcing the provisions of this chapter, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer, employee or representative of a State having an authorized hazardous waste program, furnish information relating to such wastes and permit such person at all reasonable times to have access to, and to copy all records relating to such wastes. For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this chapter, such officers, employees or representatives are authorized—

(1) to enter at reasonable times any establishment or other place where hazardous wastes are or have been generated, stored, treated, disposed of, or transported from;

(2) to inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes. . . .

40 CFR, Section 270.32(b)(2), provides that:

Each permit issued under section 3005 of this act shall contain terms and conditions as the Administrator or State Director determines necessary to protect human health and the environment.

The information requested herein must be provided to this office within 30 days of receipt of this letter, notwithstanding its possible characterization as confidential information. You may, pursuant to Part 111, assert a business confidentiality claim covering all or part of the information in the manner described in Attachment A. Any request for confidentiality must be made when the information is submitted since any information not so identified may be made available to the public without further notice.

The written statements submitted pursuant to this request must be notarized and submitted under an authorized signature certifying that all statements contained therein are true and accurate to the best of the signatory's knowledge and belief. Any documents submitted to the DEQ pursuant to this information request should be certified as true and authentic pursuant to 40 CFR, Section 270.11, to the best of the signatory's knowledge and belief.

Should the signatory find, at any time after the submittal of the requested information, that any portion of the submitted information is false, misleading, or incomplete, the signatory should so notify the DEQ. If any answer certified as true should be found to be untrue or misleading, the signatory can and may be prosecuted pursuant to 18 U.S.C., Section 1001. The DEQ has the authority to use the information requested herein in an administrative, civil, or criminal action.

Background

On June 12, 2003, Dow was issued a Hazardous Waste Management Facility Operating License (License) for storage, treatment, and postclosure activities at the Michigan Operations, Midland Plant, by the DEQ. The License was issued pursuant to Part 111, the rules promulgated under Part 111, and the authority vested in the DEQ as an authorized state under the RCRA.

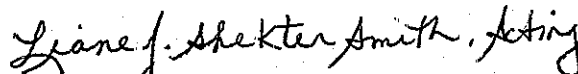
Condition II.L.6., Additional Environmental Sampling and Analysis, requires that Dow report any additional environmental sampling or analysis conducted, beyond that required by the License, and that such increased frequency be indicated in the Environmental Monitoring Report, submitted in accordance with Condition II.L.4., Environmental Monitoring Reports.

Staff of the DEQ, Waste and Hazardous Materials Division (WHMD), and the U.S. Environmental Protection Agency observed employees of Dow's contractor, Limno-Tech, placing sampling equipment and conducting sampling outside of the facility boundaries at Imerman Park and the Center Road (Leonard Boer III) Boat Launch on April 13, 2005. This investigation work was not being conducted with the knowledge of the DEQ, nor have the work plans to conduct this work and the results from this work been reported, as required, under the License and as further agreed to under the Framework Agreement. The WHMD has, therefore, determined that the DEQ needs to review any investigation work plans and data not previously submitted concerning the nature, extent, and duration of dioxins, furans, or other hazardous constituent contamination in the Saginaw Bay watershed in order to protect public health and the environment and to assess Dow's compliance with the provisions of Part 111 and the License.

If Dow is unable to respond by the requested date, Dow must respond, in writing, providing a detailed description of the reason(s) for the delay, including a complete description of the information to be provided and the date the information will be submitted. The requested information may be submitted in two or more submittals if the entire information request cannot be submitted by the due date. Prior approval must be given by the DEQ for partial submittals. If you have any questions relating to this request, you may consult with the DEQ prior to the time period specified above. Please direct technical questions to Ms. Cheryl Howe, Hazardous Waste Section, WHMD, at 517-373-9881.

Thank you for your cooperation in providing the information as requested.

Sincerely,



George W. Bruchmann, Chief
Waste and Hazardous Materials Division
517-373-9523

Attachment

Ms. Susan S. Carrington
Mr. Paul E. Dean, II

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May 6, 2005

cc: Mr. Robert Reichel, Department of Attorney General
Mr. John Craig, DEQ
Ms. Cheryl Howe, DEQ
Ms. Trisha Peters, DEQ
Mr. Allan Taylor, DEQ
Mr. Gary Tuma, DEQ

The Dow Chemical Company

INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every inquiry and subpart of an inquiry set forth in this Information Request.
2. Precede each answer with the number of the inquiry to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the Department of Environmental Quality (DEQ). Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify the DEQ of this fact as soon as possible and provide the DEQ with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the inquiry to which it responds.
5. The information requested herein must be provided even though the Respondent may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested pursuant to Section 11129 of Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and Sections 13(1)(a) or (g) of the Freedom of Information Act, 1976 PA 442, as amended, by attaching to such information at the time it is submitted a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Information covered by such a claim will be disclosed by the DEQ only to the extent and only by means of the procedures set forth in statutes and regulation set forth above. If no such claim accompanies the information when it is received by the DEQ, it may be made available to the public by the DEQ without further notice to you. You should read carefully the above-cited laws before asserting a business confidentiality claim since certain categories of information are not properly the subject of such a claim.

TERMS USED IN DEFINING INFORMATION REQUESTED

The following definitions shall apply to the following words as they appear in this Attachment A:

1. The terms "and" and "or" shall be construed either distinctively or conjunctively as necessary to bring within the scope of this Information Request any information that might otherwise be construed to be outside its scope.
2. The term "arrangement" means every separate contract or other agreement between two or more persons.
3. The terms "dioxins and furans (D/F)" means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo D/F including, but not limited to, the 17 World Health Organization D/F congeners that have associated toxic equivalency factors.
4. The terms "discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.
5. The term "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on land or water in such a manner that the hazardous waste or a constituent of the hazardous waste might enter the environment, be emitted into the air, or be discharged into water, including groundwater.
6. The terms "document" and "documents" shall mean any object that records, stores, or presents information and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations (including meetings, agreements, and the like), diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, intraoffice and interoffice communications, photostat or other copy of any documents, microfilm or other film record, photograph, sound recording on any type of device, punch card, disc or disc pack, tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape, or other type of memory, including printouts of such punch card, disc, or disc pack, tape or

- other type of memory); and (a) every copy of each document that is not an exact duplicate of a document that is produced, (b) every copy that has any writing, figure, notation, annotation, or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.
7. The term "facility" shall have the same definition as that contained in R 299.9103 of the rules promulgated pursuant to Part 111.
 8. The term "hazardous waste" shall have the same definition as that contained in Part 111.
 9. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position, or business.
 10. The term "identify" means, with respect to a corporation, partnership, business trust, or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
 11. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number (invoice or purchase order number), if any, the identity of the author, addresser, addressee and/or recipient, and the substance or the subject matter of the document.
 12. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the property including, but not limited to, all hazardous wastes and solid wastes as those terms are defined herein and D/F as defined above and any hazardous waste or hazardous constituents or contaminants.
 13. The term "nonhazardous material" shall mean all material as defined herein, excluding materials containing hazardous substances or hazardous wastes.
 14. The term "person" means an individual, partnership, corporation, association, government entity, or other legal entity.
 15. The term "property" shall mean and include the Dow Main Plant located at 1000 East Main Street, Midland, Michigan (U.S. EPA ID No. MID 000 724 724); the wastewater treatment plant; and the Dow

Salzburg Landfill located at 2314 Salzburg Road, Midland, Michigan
(U.S. EPA ID No. MID 980 617 435).

16. The term "property interest" means any interest in property including, but not limited to, any ownership interest, including an easement, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents or owned or rented property.
17. The term "solid waste" shall have the same definition as that contained in Part 115, Solid Waste Management, of the NREPA.
18. The terms "transaction" and "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.
19. The terms "underground storage tank system" and "USTs" mean a tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of materials and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is ten percent or more beneath the surface of the ground.
20. The terms "you" and "respondent" shall mean the addressee of this Information Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
21. Words in the masculine shall be construed in the feminine and vice versa, and words in the singular shall be construed in the plural and vice versa, where appropriate, in the context of a particular inquiry or inquiries.
22. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in Part 31, Water Resources Protection, Part 111, Part 115, and Part 201, Environmental Remediation, of the NREPA, in which case the statutory or regulatory definitions shall apply.

REQUIREMENTS FOR THE COMPLETION OF EACH AND EVERY INQUIRY

Provide the information required in the following three statements for each and every inquiry that follows after them:

1. Identify the person(s) answering these inquiries on behalf of the Respondent.
2. For each and every inquiry contained herein, identify all persons consulted in the preparation of the answer.

- 3 For each and every inquiry contained herein, identify all documents, materials, records, or other information that was examined or referred to in the preparation of the answer or that contain information responsive to the inquiry and provide true and accurate copies of all such documents.
- 4 If you have reason to believe that other persons may be able to provide a more detailed or complete response to any inquiry contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents they may have.
- 5 For each and every inquiry contained herein, if information or documents responsive to this Information Request are not in your possession, custody, or control, then identify the persons from whom such information or documents may be obtained.

INQUIRIES TO WHICH THE RESPONDENT(S) OR HIS/HER
REPRESENTATIVE(S) SHALL REPLY

1. Regarding the work that was, in part, observed on April 13, 2005, and related activities conducted by Limno-Tech:
 - a. Describe the nature and scope of these investigations.
 - b. Identify the persons who are conducting these investigations.
 - c. Describe the purpose of the investigations.
 - d. State the inclusive dates of such investigations.
 - e. Describe as precisely as possible the locations where such investigations have taken or are taking place.
 - f. Provide copies of all contracts, work plans, invoices, analyses, reports, and any other documents associated with the sampling and placement of sampling equipment.
2. Did the investigation(s) identified in the response to question no. 1, above, result in the collection of samples to test for or potentially test for levels of D/F? If so:
 - a. Itemize each sample collected and identify whether the sample was analyzed, stored, and/or destroyed.
 - b. Describe the purpose, nature, size, and, as precisely as possible, the collection location of each sample.

- c. Describe all tests, analyses, and analytical results pertaining to each sample.
- d. Provide the analytical data from the analysis of each sample collected, if performed.