



PCB Risk Based Disposal Approval Questions and Answers Document

On September 29, 2017, the Environmental Protection Agency (EPA) issued a risk-based approval (Approval) to regular utility members of the American Public Power Association (Association), allowing them the option of disposing of PCB remediation wastes from a ≥ 50 parts per million (ppm) source, but found at concentrations < 50 ppm PCB, in municipal solid waste landfills (MSWLF) and facilities permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste. Previously, these wastes had to be disposed of in TSCA-permitted disposal facilities. This approval expands the allowable disposal options for wastes containing low concentrations of PCBs from public power utility remediation activities.

What are the disposal requirements applicable to PCB remediation wastes with “as found” concentrations of PCBs less than 50 part per million (ppm)?

Background: Historically, waste contaminated by spills of PCBs has been regulated based on the PCB concentrations found in the original source of the spill, rather than the spill itself, even if the actual PCB concentration in the contaminated material was below the 50 ppm regulatory threshold for triggering the PCB disposal requirements (pursuant to the PCB anti-dilution rule at 40 C.F.R. § 761.1(b)(5)).

The 1998 PCB “Mega Rule” included changes to eliminate some of the adverse consequences of strict application of the anti-dilution rule to PCB remediation wastes. Specifically, the 1998 amendments established three new PCB cleanup options at 40 C.F.R. § 761.61, as well as a roadmap to the PCB cleanup provisions at 40 C.F.R. § 761.50. 63 Fed. Reg. 35383 (June 29, 1998). One of the purposes of the new amendments was to allow for the disposal of PCB remediation wastes based on the PCB concentration in the waste as found, as opposed to the concentration of the source itself. 40 C.F.R. § 761.61 (“any person cleaning up and disposing of PCBs managed under this section shall do so based on the concentration at which the PCBs are found”). Further, 40 C.F.R. § 761.50(b)(3) provides that only wastes with as-found concentrations of > 50 ppm PCBs need be disposed of in a TSCA landfill. However, shortly after these rules were promulgated, EPA’s PCB program office took the position that the as-found rule only applied to remediation wastes generated through the so-called “self-implementing cleanup” option (40 C.F.R. § 761.61(a)), or if authorized under a risk-based disposal approval (40 C.F.R. § 761.61(c)); in other words, remediation wastes generated under the so-called “performance-based cleanup” option (40 C.F.R. § 761.61(b)) or the PCB Spill Cleanup Policy and from sources with ≥ 50 ppm PCBs cannot be sent to non-TSCA landfills (such as a municipal solid waste landfill (“MSWLF”)), even if they are found with concentrations of < 50 ppm.

Importance to Industry: Disposing of PCB remediation waste with as-found concentrations of < 50 ppm PCBs in TSCA landfills results in significantly greater costs than disposal in MSWLFs and is not justified from a risk perspective when otherwise identical wastes generated under the self-implementing cleanup option (per 40 C.F.R. § 761.61(a)) or a risk-based disposal approval (per 40 C.F.R. § 761.61(c)) can go to a MSWLF.

Why did EPA issue this Approval?

EPA has previously determined that the disposal for remediation wastes containing <50 ppm PCBs at non-TSCA facilities, including MSWLF, does not pose an unreasonable risk to health of the environment. In fact, the PCB regulations already provide for the disposal of this kind of waste in MSWLFs and other non-TSCA facilities when that waste is generated under the “self-implementing cleanup” option (40 C.F.R. 761.61(a)). Based on this finding of no unreasonable risk, EPA issued the Approval to remove unnecessary obstacles to public power PCB remediation projects.

Who can use the Approval?

The Approval represents a set of “bundled approvals” issued to each Association regular utility member identified in Appendix II of the Approval, referred to in the Approval as an APPA member.

What kinds of waste does the Approval apply?

The Approval applies to non-liquid PCB Remediation Waste (as defined in EPA’s PCB regulations) that is found with concentrations <50 ppm PCB, if that waste was generated at a “secure utility asset” that is owned or operated by an APPA member. A “secure electric utility asset” means “a facility that is fenced, locked, guarded/monitored, or otherwise not accessible to the general public where PCB response actions are conducted and performed by, or under the supervision of, municipal utility professionals and/or consultants with experience in responding to and remediating PCB releases. This includes, for example, service centers, substations, switch-yards, power generating stations, and network vaults that are properly fenced, locked, guarded/monitored, or otherwise not accessible to the general public.”

What are the conditions of the Approval?

1. Each a regular utility member operating under the Approval must comply with waste characterization and analysis (to confirm the waste contains <50 ppm PCBs), equipment handling, and recordkeeping requirements, and must maintain on its company webpage a notice of the Approval.
2. Each time a regular utility member operates under the Approval it must notify EPA, the appropriate EPA Region, and appropriate state, local and/or tribal authorities with details of the disposal (Appendix III to the Approval includes a template notification form).
3. Prior to shipping PCB remediation waste off-site for disposal under the Approval, the regular utility member must notify the disposal facility in writing that it will ship PCB Remediation Waste with as-found concentrations of <50 ppm PCB to that facility.

Does use of the Approval require separate permission from the applicable EPA region and/or state/local regulatory authorities?

No.

Who can I contact with questions about the Approval?

- APPA's Director of Environmental Policy, [Carolyn Slaughter](#)
- Webinar on PCB clean up and disposal [part 1](#) and [part 2](#) (Members Only)
- EPA's website on "[Nationwide Risk-Based Polychlorinated Biphenyls \(PCBs\) Remediation Waste Disposal Approvals under Title 40 of the Code of Federal Regulations \(CFR\) Section 761.61\(c\)](#)"
- [EPA's PCB Q&A Manual \(2014\)](#)