

VII. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this permit will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. The provisions in this permit include new requirements for erosion and sediment control and pollution prevention, and result in an increase in the level of environmental protection. For sites covered under the new permit, the requirements in this permit apply equally to all construction projects that disturb one or more acres in areas where EPA is the permitting authority, and therefore do not disproportionately and adversely affect minority or low-income populations.

VIII. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

In compliance with Executive Order 13175, EPA has consulted with tribal officials to gain an understanding of and, where necessary, to address the tribal implications of the final CGP. In the course of this consultation, EPA undertook the following activities:

- *December 15, 2010*—EPA presented an overview of the current CGP and the requirements in the C&D rule to the National Tribal Water Council. The presentation was posted on the Council's portal Web site at <http://www.epa.gov/tp/consultation/calendar-arch.htm>.

- *March 16, 2011*—EPA presented additional information to the Council related to the CGP and the C&D rule requirements that would be incorporated into the proposed permit. This presentation, as well as a document providing written answers to

questions, was posted on the Council's portal Web site at <http://www.epa.gov/tp/pdf/meeting-qa-031611.pdf>.

- *April 26, 2011*—EPA provided email notification to Tribes of the April 25, 2011 proposal of the draft CGP, and invited those interested to provide the Agency with comments. EPA notes that during the public comment period on the proposed CGP, EPA received written comments from one tribe. The tribe provided specific comments requesting modifications or clarification for provisions in several permit sections, including erosion and sediment control, pollution prevention, water quality-based requirements, inspections, corrective action, and permit termination. EPA addressed many of the tribe's concerns in the final permit, and responded to each of the tribe's comments in the Response to Comment Document located in the docket.

- *January 19, 2012*—EPA provided an overview to Tribal Historic Preservation Officials (THPOs) of the screening process to be used in the new permit for determining whether stormwater control activities authorized under the permit could affect historic properties.

EPA also notes that as part of the finalization of this permit it has completed Section 401 certification procedures with all applicable tribes where this permit will apply (see Appendix B), with the exception of tribes in Region 5, which, as noted above, are still in the process of completing such certification.

IX. Analysis of Economic Impacts

EPA expects the economic impact on entities covered under this permit, including small businesses, to be minimal. A copy of EPA's economic analysis, titled, "Economic Analysis: Cost Implications of the 2012 CGP" is available in the docket for this permit. The economic impact analysis indicates that while there will be some incremental increase in the costs of complying with the new permit, these costs will not have a significant economic impact on a substantial number of small entities. The economic impact analysis is included in the administrative record for this permit.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: February 16, 2012.

H. Curtis Spalding,

Regional Administrator, EPA Region 1.

Dated: February 19, 2012.

José C. Font,

Acting Division Director, Caribbean Environmental Protection Division, EPA Region 2.

Dated: February 16, 2012.

John Filippelli,

Director, Division of Environmental Planning & Protection, EPA Region 2.

Dated: February 16, 2012.

Catherine A. Libertz,

Assistant Director, Water Protection Division, EPA Region 3.

Dated: February 16, 2012.

James D. Giattina,

Director, Water Protection Division, EPA Region 4.

Dated: February 16, 2012.

Tinka G. Hyde,

Director, Water Division, EPA Region 5.

Dated: February 16, 2012.

William K. Honker,

Acting Director, Water Quality Protection Division, EPA Region 6.

Dated: February 16, 2012.

Karen Flournoy,

Director, Water, Wetlands and Pesticides Division, EPA Region 7.

Dated: February 16, 2012.

Melanie L. Pallman,

Acting Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance, EPA Region 8.

Dated: February 16, 2012.

Nancy Woo,

Deputy Director, Water Division, EPA Region 9.

Dated: February 16, 2012.

Michael J. Lidgard,

Director, Office of Water and Watersheds, EPA Region 10.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-RCRA-2011-0847; FRL-9641-2]

PCBs Bulk Product v. Remediation Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Public Comment.

SUMMARY: EPA is seeking comment on a proposed reinterpretation of its position regarding the polychlorinated biphenyl (PCB) disposal regulations regarding PCB bulk product and PCB remediation waste. The proposed reinterpretation is

in response to questions EPA received about the application of particular disposal and cleanup regulatory requirements regarding PCB-contaminated building materials designated for disposal. Please see the epa.gov/pcb web page for further information and for instruction regarding how to submit comments.

DATES: Comments must be received on or before March 30, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2011-0847, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* rcra-docket@epa.gov, Attention Docket ID No. EPA-HQ-RCRA-2011-0847.
- *Fax:* Comments may be faxed to 202-566-9744, Attention Docket ID No. EPA-HQ-RCRA-2011-0847.
- *Mail:* U.S. Environmental Protection Agency; EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460, Attention Docket ID EPA-HQ-RCRA-2011-0847. Please include two copies of your submission.
- *Hand Delivery:* Deliver two copies of your submission to Docket ID No. EPA-HQ-RCRA-2011-0847, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-RCRA-2011-0847. EPA's policy is that all submissions received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the submission includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you send an email directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the submission that is placed in the public docket and made available on the Internet. If you

submit an electronic document, EPA recommends that you include your name and other contact information in the body of your submission and with any disk or CD-ROM you submit. If EPA cannot read your submission due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270.

FOR FURTHER INFORMATION CONTACT: Molly Finn, Cleanup Programs Branch, Office of Resource Conservation and Recovery, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Mail Code 5303P, Washington, DC 20460; telephone: (703) 347-8785; fax number: 703-308-0509; email address: ORCRPCBs@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

This notice is directed to the public in general, and may be of interest to a wide range of stakeholders, including private citizens, federal, tribal, state and local governments, environmental consulting firms, industry representatives, environmental organizations and other public interest groups. Since others may also be interested, the Agency has not attempted to describe all the specific entities that may have interest in this notice. If you have any questions regarding the applicability of this action to a particular entity, consult the EPA personnel listed under **FOR FURTHER INFORMATION CONTACT**.

The EPA is inviting the public to provide comments on a proposed

reinterpretation of its position regarding PCB bulk product and PCB remediation waste under regulations promulgated at 40 CFR part 761. The EPA has opened the docket for public comment for 30 days after publication in the **Federal Register**. Details on how to provide comments to the docket are provided under **ADDRESSES**.

II. Background

EPA has received several questions from the regulated community regarding the disposal and cleanup requirements for PCB-contaminated building materials. The Toxic Substances Control Act (TSCA) regulations at 40 CFR 761 provide disposal and cleanup requirements for PCBs. The disposal and cleanup requirements for PCB-contaminated building material depend on whether the material is classified as PCB bulk product waste or PCB remediation waste.

Waste derived from caulk or paint containing PCBs at ≥ 50 parts per million (ppm) is defined as PCB bulk product waste in 40 CFR 761.3. The definition of PCB bulk product waste includes "non-liquid bulk wastes or debris from the demolition of buildings and other man-made structures manufactured, coated, or serviced with PCBs." Other PCB bulk product wastes may include, but are not limited to, mastics, sealants, or adhesives containing PCBs at ≥ 50 ppm.

PCB remediation waste is defined as "waste containing PCBs as a result of a spill, release, or other unauthorized disposal * * *", and leaching may be considered a release of PCBs.

The Agency proposes to reinterpret its position regarding the status of PCB-contaminated building materials under the definition of PCB bulk product waste and is seeking comment on this proposal. In association with this reinterpretation, EPA has identified several guidance documents that would be changed with this proposed reinterpretation if the Agency finalizes this proposal.

EPA believes that this proposed reinterpretation would allow for accelerated cleanups of PCB-contaminated building material by providing a more straightforward path for disposal pursuant to the regulations. Speeding up removal and disposal of the PCB-contaminated material is critical for reducing exposure potential, such as in schools or other locations where such PCB-contaminated building materials are currently in place. The current interpretation of these regulations applies different requirements to PCB-contaminated building materials than to the products

that were originally manufactured with PCBs (e.g., paint or caulk). Labeling the building materials a different type of PCB waste than PCB bulk product waste (e.g., paint or caulk) can result in slower and more costly removal and disposal. This proposed reinterpretation maintains existing environmental and human health protections and removes unnecessary burdens to allow for more expedient cleanups, thus reducing potential exposures, for example, in schools and commercial buildings.

In particular, protecting children's health from environmental risks is fundamental to EPA's mission. Caulks and paints containing PCBs were used in building some schools from 1950 to 1978. The proposed reinterpretation will help to promote healthy school environments by reducing exposure to PCBs in schools.

III. Summary of Proposed Reinterpretation

Current EPA guidance states that building material contaminated by the migration of PCBs from PCB bulk product waste, such as caulk or paint, is considered a PCB remediation waste. The proposed reinterpretation would modify this guidance to specify that only PCB-contaminated building material from which the PCB bulk product has been removed from the substrate is a PCB remediation waste. That is, the distinction lies in whether or not the PCB bulk product is still attached to the building materials.

The reinterpretation being proposed in this notice would allow building material (*i.e.*, substrate) "coated or serviced" with PCB bulk product waste (e.g., caulk, paint, mastics, sealants) at the time of disposal to be managed as a PCB bulk product waste, even if the PCBs have migrated from the overlying bulk product waste into the substrate, provided there is no other source of PCB contamination on or in the substrate. However, if the substrate is not "coated or serviced" (*i.e.*, the PCB bulk product waste, such as caulk or paint has been removed from the building material) at the time of disposal and the substrate is contaminated with PCBs that have migrated from the bulk product waste (or from another unauthorized disposal), the substrate would be considered a PCB remediation waste. EPA is seeking comment on this proposed reinterpretation in its position.

Finally, we would note that there may be instances where additional hazardous constituents are present and should be considered in making cleanup decisions. In addition, site-specific factors may influence how to manage these PCB wastes. Consideration of

these constituents and site-specific factors, and coordination with appropriate regulators is important to ensure safe practices. Therefore, in such situations, we believe that the appropriate EPA regional office and regional PCB coordinator should be consulted as necessary for assistance with making these decisions. For instance, property owners have identified instances where PCB caulk contained high levels of other hazardous constituents, such as asbestos. Similarly, there are cases where PCB paint has been found to contain high levels of leachable metals. In such situations, care must be taken to determine the appropriate disposal option.

Please see the epa.gov/pcb Web page for further information and for instruction regarding how to submit comments. EPA will accept comments for 30 days from the date published in the **Federal Register**.

Dated: February 15, 2012.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste & Emergency Response.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2011-0004; FRL-9332-8]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any previously registered pesticide products. Pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before March 30, 2012.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the file symbol(s) for the product(s) of interest as listed in Unit II., by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200

Pennsylvania Ave. NW., Washington, DC 20460-0001.

• *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to the docket ID number and the file symbol(s) for the product(s) of interest as listed in Unit II. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or email. The [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only