

TSCA PCB Remediation - The Coordinated Approval Process

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Outline

- TSCA Background
- Another TSCA Option
- Why a coordinated approval?
- How the process works
- Recommendations

TSCA Background

- If subject to TSCA - Options for TSCA PCB Cleanup and Disposal:
 - a. Self-implementing onsite cleanup and disposal of PCB remediation waste (40 CFR §761.61(a))
 - b. Performance-based disposal (40 CFR §761.61(b))
 - c. Risk-based disposal approval (40 CFR §761.61(c))

» **Coordinated approval (40 CFR §761.77)**

Another TSCA Option

- **Coordinated Approval** (40 CFR §761.77)

Approval needed from multiple agencies/
programs for a remediation project

- PCBs require or may require TSCA approval

- Risk-based, not self-implementing or disposal

- Other contaminants subject to remediation under other authority (e.g., state program)

- Needs an enforceable agreement

Why a Coordinated Approval?

- Remediation must be approved by non-TSCA program (e.g., other contaminants)
- TSCA cannot be delegated to states
- Framework for approvals under both authorities (EPA & other agency) that is coordinated
- Streamline EPA review/approval process, based on working with other agency/program

Why a Coordinated Approval?

- Relies on other cleanup authorities requirements
 - Demonstrated to be equivalent to TSCA
 - Minimizes redundancy and competing requirements
- For pre-1978 as found levels > 50 ppm, EPA may decide there is an unreasonable risk
 - Coordinated approval assures against additional work later

How the process works

1. Facility must request a coordinated approval from EPA (40 CFR §761.77(a)(1)) **by certified mail**
 - Typically when work plan is submitted to both DEQ and EPA
2. DEQ reviews work plan and recommends decision to EPA
3. EPA reviews, concurs, provide comments, requests additional information, or requests more time

How the process works

4. DEQ issues final approval (once receives EPA's concurrence) to facility
5. EPA provides coordinated approval to facility shortly thereafter
6. Facility implements the project
 - In accordance with the approvals (40 CFR §761.77(a)(2) and (c)(3))
 - And the TSCA reporting/recordkeeping requirements under TSCA Subparts J and K (40 CFR §761.77(c)(3))

Recommendations

- Engage DEQ staff during decision making and planning process
 - Draft work plan review with DEQ project staff and coordinator
 - DEQ and facility on same page when submitting to EPA
- If complex, meet with EPA to explain the approach prior to submittal of coordinated approval request

Questions?

Additional PCB Background Info

TSCA Applicability

- Remediation with PCB contamination **is** subject to TSCA (40 CFR §761.50(b)(3) and §761.61)
 - If release after July 2, 1979 and source \geq 50 ppm
 - If release April 18, 1978 – July 2, 1979 and source \geq 500 ppm
 - Date of release and/or source concentration is unknown or cannot be demonstrated (40 CFR §761.50(b)(3)(iii))

Additional PCB Background Info

TSCA Applicability - Continued

- Remediation with PCB contamination **may be** subject to TSCA (40 CFR §761.50(b)(3) and §761.61)
 - If release before April 18, 1978 and as found ≥ 50 ppm (**typically yes**)
 - If release April 18, 1978 – July 2, 1979 and source ≥ 50 ppm & < 500 ppm (**typically yes**)
 - EPA Regional Administrator may find that an unreasonable risk exists
 - May be prudent to get an EPA approval of response activities in these circumstances

TSCA Background

a. Self-Implementing (40 CFR §761.61(a))

- Notify EPA, state & local government (30 days before)
- High occupancy - Soil
 - < 1 ppm total PCBs – no restrictions
 - 1-10 ppm total PCBs – cap and deed restriction
- Low occupancy - Soil
 - <25 ppm total PCBs - deed restriction
 - <50 ppm total PCBs - specific marker, fence, and deed restriction
 - <100 ppm - cap and deed restriction
- Certification, reporting, recordkeeping

TSCA Background

- b. Performance-based disposal (40 CFR §761.61**(b)**)
 - Cleanup all below 1 ppm
 - Treat all waste as TSCA waste
 - Document cleanup and keep records on file

- c. Risk-based disposal approval (40 CFR §761.61**(c)**)
 - EPA approval needed
 - Public notification
 - Address any media
 - Any approach that differs from (a) and (b)

Additional PCB Background Info

- Other important considerations
 - Disposal based on in situ concentrations, not after removal (40 CFR §761.1(b)(5)) – may characterize in place pursuant to 40 CFR §761 Subparts N and O
 - Reporting and recordkeeping pursuant to 40 CFR §761 Subparts J and K