



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 25 2013

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

James Roewer  
Executive Director  
Utility Solid Waste Activities Group  
c/o Edison Electric Institute  
701 Pennsylvania Avenue, NW  
Washington, DC 20004-2696

Dear Mr. Roewer:

This letter is in response to the April 4, 2012 Utility Solid Waste Activities Group's (USWAG) application for a national risk-based disposal approval pursuant to 40 C.F.R. §761.61(c). USWAG, on behalf of its member companies is applying to dispose of polychlorinated biphenyl (PCB) Remediation Wastes generated at secure utility assets with as-found PCB concentrations of less than 50 parts per million (ppm) in non-TSCA approved landfill facilities (e.g., municipal solid waste landfills (MSWLFs)).

The United States Environmental Protection Agency (EPA) has reviewed the application and believes that the proposed disposal method, with the conditions listed in the attached draft approval, would meet the requirements under §761.61(c) and would not result in an unreasonable risk to health or the environment when conducted in accordance with this draft approval.

EPA is issuing this draft national §761.61(c) risk-based disposal approval for public comment. The public comment period will begin once EPA's public notice is posted on EPA's PCB webpage at [www.epa.gov/pcb](http://www.epa.gov/pcb) and will last for 30 days. Pursuant to this letter, EPA is requiring USWAG to post EPA's public notice in a prominent location on its website ([www.uswag.org](http://www.uswag.org)) at the same time that the public notice is posted on EPA's PCB webpage. Upon evaluating comments received on this draft approval, EPA will issue a final revised approval (if comments warrant revisions to the draft approval), finalize the draft approval without changes, or deny the approval request. The final approval, if issued, would become effective upon signature after this process is complete.

If you have any questions regarding this matter, please contact Molly Finn of my staff at [finn.molly@epa.gov](mailto:finn.molly@epa.gov) or (703) 347-8785.

Sincerely,

A handwritten signature in black ink that reads "Barnes Johnson". The signature is written in a cursive style with a long horizontal stroke at the end.

Barnes Johnson, Acting Director  
Office of Resource Conservation and Recovery

Enclosure

CC: EPA Regional RCRA and TSCA Division Directors  
EPA Regional PCB Coordinators  
EPA Office of Enforcement and Compliance Assurance (OECA)  
EPA Office of Pollution Prevention and Toxics (OPPT)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Draft Risk-Based Approval to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste

**COMPANIES COVERED BY THIS APPROVAL**

Utility Solid Waste Activities Group Member Companies (Identified in Appendix II)  
c/o Edison Electric Institute  
701 Pennsylvania Avenue, NW  
Washington, DC 20004-2696

**APPROVAL TYPE**

National approval to dispose of PCB Remediation Waste generated at secure utility assets with as-found PCB concentrations less than (<) 50 parts per million (ppm) pursuant to 40 C.F.R. § 761.61(c).

**EFFECTIVE DATE**

Date of signature.

**EXPIRATION DATE**

Five years after date of signature, except as provided for in Condition 13.

**AUTHORITY**

This approval is issued pursuant to Section 6(e)(1) of the Toxic Substances Control Act of 1976 (TSCA), Public Law No. 94-469, and the Federal PCB Regulations, 40 C.F.R. §761.61 (c) (63 FR 35384, June 29, 1998).

**DEFINITIONS**

“Appropriate EPA Regional PCB Coordinator” means the PCB Coordinator(s) for the EPA Region(s) where the cleanup site and final disposal facility are located. A list of PCB Coordinators and their contact information can be found at the following website:

<http://www.epa.gov/epawaste/hazard/tsd/pcbs/pubs/coordin.htm>.

“As-found” means the concentration of PCBs in the waste at the site at the time the waste is discovered, as opposed to the concentration of the PCBs in the material that was originally spilled, released, or otherwise disposed of at the site. As-found refers to *in situ* concentrations (i.e., concentration in the material prior to excavation).

“MSWLF” means municipal solid waste landfill.

“PCB Remediation waste” means PCB remediation waste as defined in 40 C.F.R. § 761.3.

“Secure 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, 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, network vaults, gas utility distribution centers, and natural gas metering, regulating, and compressor stations and service centers that are properly fenced, locked, guarded/monitored, or otherwise not accessible to the general public.

“USWAG Member” means the USWAG member, as identified in Appendix II of this Approval, who intends to utilize this Approval for disposal of as-found < 50 ppm PCB Remediation Waste originating from a secure utility asset it owns or operates.

## CONDITIONS OF APPROVAL

### 1. Applicability

USWAG Members may dispose of non-liquid PCB Remediation Wastes with as-found PCB concentrations of less than 50 parts per million (ppm)<sup>1</sup> in non-TSCA approved landfill facilities, which includes MSWLFs, as described in Condition 9, provided the USWAG Member satisfies the conditions of this Approval, and the PCB Remediation Waste is generated at a secure utility asset that is owned or operated by a USWAG Member.

### 2. Agency Approvals or Permits

Prior to commencing operations under this Approval, the USWAG Member shall obtain any other necessary Federal, State or local permits or approvals associated with the cleanup, removal, storage, transportation, and disposal of the PCB Remediation Waste subject to this Approval.

This Approval does not shield USWAG Members from obligations to comply with any other applicable Federal, State and/or local law, regulations, or ordinances.

PCB Remediation Waste remaining at the Site that is not disposed of under this Approval is not covered by this Approval, but remains subject to any applicable cleanup and disposal requirements of 40 C.F.R. § 761 Subpart D.

### 3. Authorized Application of Approval

USWAG Members (listed in Appendix II) are authorized to dispose of PCB Remediation Waste with an as-found concentration of < 50 ppm PCBs in disposal facilities or units enumerated in Condition 9. This Approval only applies to PCB Remediation Waste generated within secure utility assets that are owned or operated by a USWAG Member.

### 4. Public Notice

No less than two working days before the first shipment of PCB Remediation waste leaves the control of each USWAG Member utilizing this Approval, the USWAG Member shall post prominently on their website a copy of this Approval and a notice to the public stating that this Approval allows the Member to dispose of PCB Remediation Waste with as-found concentrations of < 50 ppm PCBs in non-TSCA approved landfill facilities, including MSWLFs, as defined in Condition 9. The notice shall include contact information for individuals seeking

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<sup>1</sup> This approval also applies to PCB remediation waste non-porous surfaces having surface concentrations less than 100 µg/cm<sup>2</sup>.

additional information from the USWAG Member. This notice and the copy of the Approval shall stay posted on the Member's website until they are no longer members of USWAG or this Approval expires, whichever comes first.

5. Notification

- A. For each disposal conducted under this Approval, USWAG Members shall submit notification to the Office of Resource Conservation and Recovery's (ORCR's) Cleanup Programs Branch Chief and the appropriate EPA Regional PCB Coordinator by certified mail or email no less than 2 working days before the first shipment of PCB Remediation Waste leaves the control of the USWAG Member. This notification is required each time that the USWAG Member disposes of PCB Remediation Waste using this Approval.

The notification shall contain the following information (see Appendix III):

- a. USWAG Member name and address
- b. EPA ID number of the secured asset, if the USWAG Member has one
- c. Name and contact information of primary USWAG Member contact
- d. Name and contact information of primary USWAG Member recordkeeping contact
- e. Site location (street address, city, county, and state; lat/long coordinates are permissible if site does not have a street address)
- f. Date waste was discovered (i.e., determined to be a PCB Remediation Waste)
- g. Size of site area containing the PCB Remediation Waste being disposed of pursuant to this Approval
- h. Description of the waste, including maximum as-found PCB concentration and estimated quantity to be disposed of under this Approval
- i. Name, location, and type of facility where the waste will be disposed

EPA will make these notices available to the public on its website at [www.epa.gov/pcb](http://www.epa.gov/pcb).

- B. For each disposal conducted under this Approval, the USWAG Member shall provide written notice to the disposal facility stating that it will ship PCB Remediation Waste with as-found PCB concentrations of < 50 ppm PCBs to the disposal facility (see Condition 9). This written notice shall be kept in accordance with the recordkeeping requirements of Condition 6.
- C. USWAG shall submit electronically a list of current members in an updated "Appendix II: USWAG Members" to ORCR's Cleanup Programs Branch Chief at the end of each fiscal quarter (the end of March, June, September, and December; see Condition 12).

6. Record Keeping

The USWAG Member shall maintain the following records either at the site where the

Remediation Waste was generated, or at a facility owned or operated by the USWAG Member, for a period of five years following the transport of the PCB Remediation Waste off-site for disposal and shall make such records available upon request from EPA:

- a. Copy of this Approval
- b. Copy of the notification submitted to EPA (see Condition 5)
- c. Description of the sampling and analytical methodologies used to confirm PCB concentrations (see Conditions 7 and 8)
- d. Copy of analytical results from the characterization sampling conducted (See Conditions 7 and 8)
- e. Copy of the written notice the USWAG Member provided the disposal facility (See Condition 9)
- f. Identification of the source of the spill (e.g., type of equipment) if known
- g. Date, time, and source concentration of the spill, if known
- h. A brief description of the spill location and the nature of the materials contaminated
- i. The amount of PCB Remediation Waste disposed of

#### 7. Waste Characterization

The USWAG Member shall characterize, at the time of discovery, the PCB Remediation Waste in accordance with one of the following procedures, as applicable to the particular substrate, to verify that the PCB Remediation Waste does contain as-found concentrations of <50 ppm PCB:

- a. 40 C.F.R. § 761.265
- b. EPA guidance "*Standard Operating Procedure for Sampling Porous Surfaces for Polychlorinated Biphenyls (PCBs)* Revision 4, May 5, 2011."<sup>2</sup>
- c. For non-porous surfaces only, standard wipe test as specified in 40 C.F.R. § 761.123

#### 8. Waste Analysis

The USWAG Member shall conduct chemical extraction for PCBs using extraction Method 3500C/3540C, or the most current version of these methods, from EPA's SW-846, Test Methods for Evaluating Solid Waste, and chemical analysis for PCBs using Method 8082A from SW-846, unless another extraction/analytical method is validated under Subpart Q.

#### 9. Disposal Options

Under this Approval, PCB Remediation Wastes with as-found concentrations of < 50 ppm PCB may be disposed of in any of the following facilities subject to state and local regulations

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<sup>2</sup> This guidance can be found at: <http://www.epa.gov/region1/cleanup/pcbs/pdfs/484692.pdf>

regarding such disposal:<sup>3</sup>

- a. Facilities permitted, licensed, or registered by a state to manage municipal solid waste subject to 40 C.F.R. Part 258
- b. Facilities permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste subject to 40 C.F.R. §§ 257.5-257.30, as applicable, including, as appropriate, recommendations in EPA's Guide for Industrial Waste Management;
- c. Hazardous waste landfills permitted by EPA under section 3004 of RCRA, or by a State authorized under section 3006 of RCRA
- d. Landfill facilities permitted or licensed by a state or otherwise authorized by a state to manage waste with as-found concentrations of < 50 ppm PCBs

#### 10. Waste Sampling and Handling Equipment

The USWAG Member shall ensure equipment used for conducting waste sampling or waste handling (e.g., personal protective equipment, shovels, brushes, decontamination liquids, etc.) which is contaminated with, or has been in contact with, PCBs is managed according to the requirements of 40 C.F.R. § 761.61(a)(5)(v) or 40 C.F.R. § 761.79.

#### 11. Compliance

- a. The USWAG Member shall ensure that activities conducted pursuant to this Approval are in full compliance with conditions of the Approval. Violation of any requirement of this Approval is a violation of 40 C.F.R. § 761.61(c). A violation of the regulations is a prohibited act under Section 15 of TSCA. Any actions by the USWAG Member which violate the terms and conditions of this Approval may result in administrative, civil judicial, or criminal enforcement by EPA in accordance with Section 16 of TSCA, 15 USC § 2615.
- b. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by the USWAG Member are authorized to conduct the activities set forth in the notification. The USWAG Member is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
- c. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release the USWAG Member from compliance with any applicable requirements of federal, state or local law; or 3) release the USWAG Member from

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<sup>3</sup> Although not listed here, EPA-approved PCB disposal facilities are allowable disposal options for PCB Remediation Waste < 50 ppm outside of this Approval under the PCB regulations.



liability for, or otherwise resolve any violations of federal, state or local laws, regulations, or ordinances.

- d. Compliance with applicable PCB regulations at 40 C.F.R. § 761 shall be maintained during all phases of work involving removal, handling, storage, and disposal of PCB Remediation Waste.

## 12. Membership Changes

In the event that USWAG's membership changes and a company that joins USWAG wants to obtain an approval with the same conditions, USWAG shall submit electronically a list of current members in an updated "Appendix II: USWAG Members" to ORCR's Cleanup Programs Branch Chief at the end of a fiscal quarter (the end of March, June, September, and December). USWAG shall specify the new members in each quarterly update. Upon receipt of a quarterly submission, and to the extent that new companies join USWAG, EPA intends to publish for public comment a draft approval containing the same terms as this approval for each new company.

In the event that a Member leaves USWAG, USWAG shall include a list of any leaving members from the past quarter in their quarterly submission required above. The leaving Member is no longer approved to operate under the terms of this Approval. If the leaving Member rejoins USWAG, EPA intends to follow the procedure described above to determine whether to approve it to operate under the terms of this Approval. The leaving Member may also apply to EPA to obtain its own, separate approval.

## 13. Expiration/Renewal

- a. This Approval shall become effective upon signature and will expire five (5) years from the date of signature. In order to continue operating under this Approval pending EPA action on reissuance, USWAG must submit a written renewal application to EPA at least 90 days prior to the expiration date of this Approval.
- b. This Approval and its conditions herein will remain in effect beyond the Approval expiration date if USWAG has submitted a timely and complete Approval application and, through no fault of USWAG, EPA has not issued a renewed Approval, an Approval renewal application denial, or an official Approval termination.
- c. EPA may require USWAG to submit additional information in connection with the renewal of this Approval.

APPROVAL

1. Approval to dispose of PCB Remediation Waste generated at secure utility assets with as-found concentrations less than 50 ppm PCBs in non-TSCA approved disposal facilities pursuant to 40 C.F.R. § 761.61(c) is hereby granted to the USWAG Member Companies as identified in Appendix II of this Approval, subject to the conditions expressed herein. PCB Remediation Wastes managed in accordance with the conditions of this approval shall not be subject to the requirements of 40 C.F.R. 761.65 or Subparts J and K of 40 C.F.R. 761. EPA reserves the right to modify the conditions of this Approval or to withdraw the Approval when 1) EPA obtains information demonstrating that operating in accordance with the conditions of this Approval presents an unreasonable risk to health or the environment; or 2) EPA becomes aware of new information that requires changes; or 3) EPA issues new regulations, standards, or guidance for such approvals.
2. This Approval does not relieve USWAG or its Member Companies (identified in Appendix II of this Approval) of the responsibility to comply with all applicable federal, state, and local laws, regulations, or ordinances. Violations of any applicable federal, state and local regulations or ordinances by any USWAG Member may subject them to enforcement action, and may result in such USWAG Member's exclusion from this Approval.
3. This Approval may be rescinded at any time with respect to any USWAG Member at a particular location(s) as a result of such USWAG Member's failure to comply with the terms and conditions herein, failure to disclose all relevant facts, or for any other reasons which the Director of ORCR deems necessary to ensure that work conducted pursuant to this Approval does not pose unreasonable risk of injury to health or the environment.
4. The USWAG Member shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by the USWAG Member to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for exclusion of said USWAG Member from this Approval.

\_\_\_\_\_

Date

\_\_\_\_\_

Barnes Johnson, Acting Director  
Office of Resource Conservation and Recovery

## **APPENDIX I: Background and Findings**

### BACKGROUND

The Utility Solid Waste Activities Group (USWAG) was founded in 1978 and is an association of energy utilities, utility operating companies, and trade associations, including approximately eighty energy industry operating companies. Together, USWAG Members represent more than 73 % of the total electric generating capacity of the United States, service more than 95 % of the nation's consumers of electricity, and deliver 91% of all natural gas provided by the nation's natural gas utilities. USWAG Members include companies that generate electricity but do not directly provide electricity to the public and are therefore technically not "utilities." On April 4, 2012, USWAG submitted an application for a national risk-based disposal approval under 40 C.F.R. § 761.61(c) requesting authorization for its Member Companies to dispose of PCB Remediation Waste generated at secure utility assets with an as-found concentrations of < 50 ppm PCBs in non-TSCA approved disposal facilities.

### FINDINGS

EPA finds that the disposal of PCB Remediation Waste generated at secure utility assets with as-found concentrations < 50 ppm PCBs in the facilities listed in Condition 9 poses no unreasonable risk of injury to health or the environment when conducted in accordance with the conditions of this Approval.

## APPENDIX II: USWAG Members

AEP Ohio  
AEP Texas  
AES Corporation  
Alabama Power Company  
ALLETE  
Alliant Energy Corporation  
Ameren Corporation  
Ameren Illinois  
Ameren Missouri  
American Electric Power Company  
American Transmission Company LLC  
Appalachian Power Company  
Arizona's G&Ts  
Arizona Electric Power Cooperative, Inc.  
Arizona Public Service Company  
Atlantic City Electric  
Aurora Energy LLC  
Avista Corporation  
Avista Utilities  
Baltimore Gas and Electric Company  
Birchwood Power Partners  
Buckeye Power Inc.  
CenterPoint Energy, Inc.  
Central Hudson Gas & Electric Corporation  
Central Maine Power  
CMS Energy Corporation  
Commonwealth Edison Co. (ComEd)  
Consolidated Edison Co. of New York, Inc.  
Consolidated Edison, Inc.  
Consumers Energy  
Dairyland Power Cooperative  
Dayton Power & Light  
Delmarva Power  
Dominion  
DTE Energy Company  
Duke Energy  
Duke Energy Carolinas, LLC  
Duke Energy Commercial Power  
Duke Energy Florida, Inc.  
Duke Energy Indiana, Inc.  
Duke Energy Kentucky, Inc.  
Duke Energy Ohio, Inc.  
Duke Energy Progress, Inc.  
Duke Energy Renewables  
Duquesne Light Company  
Dynegy  
Entergy Corporation  
Exelon  
FirstEnergy Corp.  
Florida Power & Light Company  
Georgia Power Company  
Great Plains Energy, Inc.  
Great River Energy  
Hawaiian Electric Company, Inc.  
Hoosier Energy Rural Electric Cooperative, Inc.  
Iberdrola USA  
Indiana Michigan Power  
Indianapolis Power & Light Company  
Integrys Energy Group  
Interstate Power and Light Company  
Jersey Central Power & Light  
KCP&L  
Kentucky Power  
LG&E and KU Energy  
Los Angeles Department of Water & Power  
Luminant  
Madison Gas and Electric Company  
Memphis Light, Gas, and Water Division  
Metropolitan Edison  
MidAmerican Energy Company  
MidAmerican Energy Holdings Company  
Minnesota Power  
Mississippi Power Company  
Monongahela Power  
Montana-Dakota Utilities Co.  
National Grid  
New York Power Authority  
New York State Electric & Gas (NYSEG)  
NextEra Energy, Inc.  
NiSource, Inc.

Northeast Utilities Service Company  
Northern Indiana Public Service Co.  
NRG Energy, Inc.  
NSTAR  
NV Energy  
OGE Energy Corporation  
Ohio Edison  
Ohio Power Company  
Ohio Valley Electric Corporation  
Oncor Electric Delivery  
Orange and Rockland Utilities, Inc.  
Orlando Utilities Commission  
Pacific Gas & Electric Company  
PacifiCorp  
PECO Energy  
Pennsylvania Electric  
Pennsylvania Power  
Pepco  
Pepco Holdings, Inc.  
Pinnacle West Capital Corporation  
PNM  
PNM Resources, Inc.  
Portland General Electric  
Potomac Edison Power  
PowerSouth Energy Cooperative  
PPL Corporation  
PPL Electric Utilities Corporation  
Prairie State Generating Company, LLC  
Progress Energy Carolinas  
Progress Energy Florida  
Public Service Co. of New Hampshire  
Public Service Company of Oklahoma  
Public Service Electric and Gas Company  
Public Service Enterprise Group, Inc.  
Puget Energy, Inc.  
Puget Sound Energy  
Raven Power  
Rochester Gas & Electric

Salt River Project  
San Diego Gas & Electric Company  
SCANA Corporation  
Sempra Energy  
Sierra Southwest Cooperative Services, Inc.  
South Carolina Electric & Gas Company  
Southern California Edison Company  
Southern California Gas Company  
Southern Company  
Southern Nuclear  
Southwest Transmission Cooperative, Inc.  
Southwestern Electric Power Company  
Sunflower Electric Power Corporation  
Tampa Electric Company  
TECO Energy  
Tennessee Valley Authority  
Texas-New Mexico Power Company  
The Cleveland Electric Illuminating Co.  
The Connecticut Light and Power Co.  
The Detroit Edison Company  
Toledo Edison  
Topaz Power Management LLC  
Tri-State Generation & Transmission  
Tucson Electric Power Company  
Unisource Energy Corporation  
UniSource Energy Services  
Upper Peninsula Power Company  
Vectren Corporation  
Wabash Valley Power Association  
We Energies  
West Penn Power  
Westar Energy Inc.  
Western Massachusetts Electric Co.  
Wisconsin Power and Light Company  
Wisconsin Public Service Corporation  
Wolf Creek Nuclear Operating Corporation  
Xcel Energy, Inc.

**APPENDIX III**

**\*\*\*\*NOTIFICATION FORM\*\*\*\***  
*Submit via certified mail or email.*

In accordance with the 40 C.F.R. §761.61 (c) risk-based disposal approval issued by the US EPA on \_\_\_\_\_, 2013, to USWAG Members to dispose of PCB Remediation Wastes generated at secure utility assets and containing as found concentrations < 50 pp PCBs, the following information is provided:

**A. USWAG MEMBER IDENTIFICATION:**

Company Name:

\_\_\_\_\_

Address:

\_\_\_\_\_

Primary USWAG Member Contact Name:

\_\_\_\_\_

Primary USWAG Member Contact Information (phone and email address):

\_\_\_\_\_

Primary Recordkeeping Contact Name (if not the same as the Primary USWAG Member Contact):

\_\_\_\_\_

Primary Recordkeeping Contact Information (phone, email address, and address if not the same as the addresses listed above):

\_\_\_\_\_

**B. SITE LOCATION:**

EPA ID Number of the Secured Asset (if available):

\_\_\_\_\_

Address:

\_\_\_\_\_

City, County, State, Zip:

\_\_\_\_\_

Latitude/Longitude if no street Address:

\_\_\_\_\_

**C. WASTE**

Date waste was identified: \_\_\_\_\_

Description of Waste (max concentration, media, estimated quantity):  
\_\_\_\_\_

Size of site area containing the PCB Remediation Waste being disposed of: \_\_\_\_\_

Name, location, and type of facility at which the waste will be disposed of:  
\_\_\_\_\_

\_\_\_\_\_  
Method of Submittal of this Notification (i.e., Certified Mail or Email)

\_\_\_\_\_  
Date Submitted

\_\_\_\_\_  
Submitted to

\_\_\_\_\_  
Submitted by (signature)

\_\_\_\_\_  
Submitted by (print name)