

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF	)	APPROVALS FOR USE OF
	)	
NATIONAL RURAL ELECTRIC	)	RISK-BASED DISPOSAL
COOPERATIVE ASSOCIATION	)	
MEMBER COOPERATIVES	)	FOR POLYCHLORINATED BIPHENYL
IDENTIFIED IN APPENDIX II	)	
	)	(PCB) REMEDIATION WASTE
4301 WILSON BLVD	)	
	)	
ARLINGTON, VA 22203	)	

AUTHORITY

These approvals are issued pursuant to Section 6(e)(1) of the Toxic Substances Control Act of 1976 (TSCA), Public Law No. 94-469, and the Federal Polychlorinated Biphenyl (PCB) Regulation at 40 CFR 761.61(c).

Failure to comply with the approval conditions specified herein shall constitute a violation of 40 CFR 761.61(c) and 761.50(a) and may also be a violation of other provisions of 40 CFR 761 subpart D. A violation of the regulations is a prohibited act under Section 15 of TSCA.

EFFECTIVE DATE

These approvals are effective upon signature by the Director of the Office of Resource Conservation and Recovery (ORCR) and shall expire on February 9, 2021, unless otherwise specified in Condition 13.

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## DEFINITIONS AND ACRONYMS

Definitions found in 40 CFR 761.3 apply unless otherwise noted below.

“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 CFR 761.3.

“Secure electric cooperative asset” or “Site” 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, electric cooperative 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.

“NRECA Member” means the NRECA member cooperative, as identified in Appendix II of these Approvals, who is receiving approval for disposal of as-found concentrations of < 50 ppm PCB Remediation Waste originating from a secure electric cooperative asset it owns or operates.

## CONDITIONS OF APPROVALS

### (1) Applicability

NRECA Members (listed in Appendix II) 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 NRECA Member satisfies the conditions of these Approvals, and the PCB Remediation Waste is generated at a secure electric cooperative asset that is owned or operated by a NRECA Member.

### (2) Agency Approvals or Permits

Prior to commencing operations under these Approvals, the NRECA 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 these approvals.

These Approvals do not shield NRECA Members from obligations to comply with any other applicable Federal, State and/or local laws, regulations, or ordinances.

PCB Remediation Waste remaining at the Site that is not disposed of under these Approvals is not covered by these Approvals, but remains subject to any applicable cleanup and disposal requirements of 40 CFR part 761 subpart D.

### (3) Authorized Application of Approvals

NRECA 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. These Approvals only apply to PCB Remediation Waste generated within secure electric cooperative assets that are owned or operated by a NRECA Member listed in Appendix II.

### (4) Public Notice

To provide information to the public, no less than two working days before the first shipment of PCB Remediation Waste leaves the control of each NRECA Member utilizing these Approvals, the NRECA Member shall post prominently on their website this approval document and a notice to the public stating that the 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. Such notification shall be considered “prominent” for purposes of this condition if posted on a part of the NRECA Member’s website where a visitor to the website would reasonably expect to see announcements of environmental projects or community outreach activities, including for example and without limitation, an Environmental Services or Member Services webpage of the NRECA Member’s website. The notice shall include contact information of an individual employed by, or an office of, the NRECA Member to be used by individuals seeking additional information from the NRECA Member regarding existence,

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<sup>1</sup> These approvals also apply to PCB Remediation Waste non-porous surfaces having surface concentrations less than 100 µg / 100 cm<sup>2</sup>.

applicability, and/or use of the Approvals. The aforementioned public notice and the copy of the Approvals shall stay posted on the NRECA Member's website until these Approvals expire.

(5) Notification

For each disposal conducted under these Approvals, the NRECA Member shall submit notification by certified mail or email no less than two (2) working days before the first shipment of PCB Remediation Waste leaves the control of the NRECA Member to:

- a) the EPA Headquarters Office of Resource Conservation and Recovery's (ORCR's) Cleanup Programs Branch Chief;
- b) the appropriate EPA Regional PCB Coordinator; and
- c) the appropriate State, Tribal and/or Local government officials where the NRECA member's secure electric cooperative asset is located.

This notification is required each time that the NRECA Member disposes of PCB Remediation Waste using these Approvals.

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

- a) NRECA Member name and address;
- b) EPA ID number of the secured electric cooperative asset, if the NRECA Member has one;
- c) Name and contact information (phone and email address) of primary NRECA Member contact;
- d) Name and contact information (phone and email address and, if not the same as the address of NRECA Member, mailing address) of primary NRECA Member recordkeeping contact;
- e) Site location (street address, city, county, state, and zip code; latitude/longitude coordinates are permissible if Site does not have a street address);
- f) Date PCB Remediation Waste was discovered;
- g) Size of Site area containing the PCB Remediation Waste being disposed of pursuant to these Approvals;
- h) Description of the PCB Remediation Waste, including maximum as-found PCB concentration and estimated quantity to be disposed of under these Approvals; and
- 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 <http://www3.epa.gov/epawaste/hazard/tsd/pcbs/>.

For each disposal conducted under these Approvals, the NRECA 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.

(6) Record Keeping

The NRECA Member shall maintain the following records either at the Site where the PCB Remediation Waste was generated, or at a facility owned or operated by the NRECA Member, for a period of five (5) years following the transport of the PCB Remediation Waste off-site for disposal and shall make such records, in hard copy or electronic format, available upon request to EPA:

- a) Copy of this approval document;
- b) Copy of the notification submitted to EPA (see Condition 5);
- c) Description of the sampling and analytical methodologies used to confirm PCB concentrations of the PCB Remediation Wastes (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 NRECA 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 contaminated materials; and
- i) The amount of PCB Remediation Waste disposed of.

(7) Waste Characterization

The NRECA 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 CFR 761.265;

- b) EPA guidance “*Standard Operating Procedure for Sampling Porous Surfaces for Polychlorinated Biphenyls (PCBs)*”<sup>2</sup> Revision 4, May 5, 2011, as that document may be amended, replaced, and/or superseded; or;
- c) For non-porous surfaces only, standard wipe test as specified in 40 CFR 761.123 and 761.267.

(8) Waste Analysis

The NRECA Member shall conduct chemical extraction for PCBs using extraction Method 3500C/3540C and chemical analysis for PCBs using Method 8082A, or the most current version of these methods, from EPA’s publication SW-846, *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, unless another extraction/analytical method is validated under 40 CFR part 761 subpart Q. 40 CFR 761.1(b)(2) requires that PCBs be quantified based on the formulation of PCBs present in the material analyzed.<sup>3</sup>

(9) Disposal Options

Under these Approvals, PCB Remediation Wastes with as-found concentrations of < 50 ppm PCBs may be disposed of in any of the following facilities subject to state and local regulations regarding such disposal:

- a) Facilities permitted, licensed, or registered by a state to manage municipal solid waste subject to 40 CFR part 258;
- b) Facilities permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste subject to 40 CFR 257.5-257.30, as applicable, with the exception of any such unit that manages liquid wastes including pits, ponds, and lagoons;
- c) Hazardous waste landfills permitted by EPA under section 3004 of RCRA, or by a state authorized under section 3006 of RCRA;

In addition to the disposal options listed in these Approvals, PCB disposal facilities approved under 40 CFR part 761 are disposal options for PCB Remediation Waste < 50 ppm.

(10) Waste Sampling and Handling Equipment

The NRECA Member shall ensure equipment used for conducting waste sampling or waste handling (e.g., personal protective equipment, shovels, brushes, rags and wipes) which is contaminated, or has been in contact with, PCB Remediation Waste disposed of under these Approvals is managed according to the requirements of 40 CFR 761.61(a)(5)(v) (including

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<sup>2</sup> This guidance can be found at: <http://www3.epa.gov/region9/pcbs/disposal/cleanharbors/pdfs/application/2011-appendix-k-epa-guidance.pdf>

<sup>3</sup> For example, measure Aroclor™ 1242 PCBs based on a comparison with Aroclor™ 1242 standards. Measure individual congener PCBs based on a comparison with individual congener standards. The results must be reported as total PCBs in the sample analyzed.

disposal in a MSWLF) or 40 CFR 761.79.

(11) Compliance

- a. The NRECA Member shall ensure that activities conducted pursuant to these Approvals are in full compliance with conditions of the Approvals. Failure to comply with any term or condition of these Approvals is a violation of 40 CFR 761.50(a) and 761.61(c). A violation of the regulations is a prohibited act under Section 15 of TSCA. Any actions by the NRECA Member which violate the terms and conditions of these Approvals may result in administrative, civil judicial, or criminal enforcement by EPA in accordance with Section 16 of TSCA, 15 USC § 2615.
- b. These Approvals do not constitute a determination by EPA that the transporters or disposal facilities selected by the NRECA Member are authorized to conduct the activities set forth in the notification. The NRECA 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. These Approvals do not: (1) waive or compromise EPA's enforcement and regulatory authority; (2) release the NRECA Member from compliance with any applicable requirements of federal, state, or local law; or (3) release the NRECA Member from liability for, or otherwise resolve any violations of federal, state, or local laws, regulations, or ordinances.
- d. Compliance with applicable PCB regulations at 40 CFR part 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 a company that joins NRECA wants to obtain an approval with the same conditions, the new member cooperative must be submitted by NRECA as follows. NRECA shall submit electronically a list of current members in an updated "Appendix II: NRECA Members" to ORCR's Cleanup Programs Branch Chief quarterly, as needed. NRECA shall specify the new members in each update. Upon receipt of a submission reflecting new member companies that want to obtain an approval with the same conditions, EPA intends to publish for public comment a draft approval containing the same terms as these Approvals for each new company.

In the event that a Member listed in Appendix II leaves NRECA, NRECA may submit electronically a list of the departing Members to ORCR's Cleanup Programs Branch Chief quarterly, as needed. Those companies shall continue to be able to utilize their approvals and will continue to be listed on Appendix II until their approvals expire.

(13) Expiration/Renewal

- a. These Approvals shall become effective upon signature and will expire on February 9, 2021. In order to continue operating under these Approvals pending EPA action on reissuance, NRECA Members, individually or through NRECA, must submit written renewal applications to EPA at least ninety (90) days prior to the expiration date of these Approvals.

- b. These Approvals and their conditions herein will remain in effect beyond the Approvals' expiration date if NRECA Members, individually or through NRECA, have submitted timely and complete applications for Approval and, through no fault of NRECA or NRECA members, EPA has not issued renewed Approvals, a denial of an application for Approvals' renewal, or an official termination of Approvals.
- c. EPA may require submission of additional information in connection with the renewal of these Approvals.

(14) Non-Applicable Requirements

PCB Remediation Wastes managed in accordance with the Approval shall not be subject to the requirements of 40 CFR 761.65 or subparts J and K of 40 CFR part 761, except as otherwise noted in this Approval.



DECISION TO APPROVE THE REQUEST FOR RISK-BASED DISPOSAL OF SELECT PCB  
REMEDIATION WASTES

1. Approvals to dispose of PCB Remediation Waste generated at secure electric cooperative assets with as-found concentrations less than 50 ppm PCBs in non-TSCA approved disposal facilities pursuant to 40 CFR 761.61(c) are hereby granted to NRECA Members identified in Appendix II of these Approvals, subject to the conditions expressed herein. EPA reserves the right to modify the conditions of these Approvals or to withdraw the Approvals when (1) EPA obtains information demonstrating that operating in accordance with the conditions of these Approvals presents an unreasonable risk of injury to health or the environment; (2) EPA becomes aware of new information that requires changes; or (3) EPA issues new regulations, standards, or guidance for such approvals.
2. These Approvals do not relieve NRECA Members (identified in Appendix II of these Approvals) 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 NRECA Member may subject them to enforcement action, and may result in such NRECA Member's exclusion from these Approvals.
3. These Approvals may be rescinded at any time with respect to any NRECA Member at a particular location(s) as a result of such NRECA 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 these Approvals does not pose unreasonable risk of injury to health or the environment.
4. The NRECA 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 these Approvals. Any refusal by the NRECA Member to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for exclusion of said NRECA Member from these Approvals.

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Date

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Barnes Johnson, Director  
Office of Resource Conservation and Recovery

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

### **BACKGROUND**

The National Rural Electric Cooperative Association (NRECA) is the national service organization for more than 900 not-for-profit rural electric utilities. Electric cooperatives are private, independent, and owned and governed by the members they serve. Both distribution cooperatives and generation and transmission (G&T) cooperatives were formed to provide reliable electric service to their member-owners at the lowest reasonable cost. NRECA members provide electric energy to approximately 42 million member-owners in 80% of U.S. counties in 47 states.

The vast majority of NRECA's members – all of NRECA's distribution cooperatives and all but three of the G&T cooperatives – are "small entities" as defined under the Small Business Regulatory Enforcement Fairness Act ("SBREFA"). Though overwhelmingly small, cooperatives own and maintain 2.5 million miles (42%) of the nation's electric distribution lines and, on average, serve seven customers per mile of electric distribution line – far fewer than the national average of 34 customers per mile for investor-owned utilities and 48 customers per mile for publicly owned (municipal) utilities. On March 20, 2015, NRECA submitted an application for a risk-based disposal approval under 40 CFR 761.61(c) requesting authorization for its Member Companies to dispose of PCB Remediation Waste generated at secure electric cooperative assets with 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 electric cooperative 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 these Approvals.

## APPENDIX II: NRECA Members Receiving Approval

NRECA Member Cooperative	City	State
Consumers Energy	Marshalltown	IA

### APPENDIX III

#### \*\*\*\*NOTIFICATION FORM\*\*\*\*

*Submit via certified mail or email.*

In accordance with the 40 CFR 761.61(c) risk-based disposal approval issued by the U.S. EPA on \_\_\_\_\_, 2015, to dispose of PCB Remediation Wastes generated at secure electric cooperative assets and containing as-found concentrations < 50 ppm PCBs, the following information is provided:

#### A. NRECA MEMBER IDENTIFICATION:

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Primary NRECA Member Contact Name: \_\_\_\_\_

Primary NRECA Member Contact Information (phone and email address):  
\_\_\_\_\_

Primary Recordkeeping Contact Name (if not the same as the Primary NRECA 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 discovered: \_\_\_\_\_

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)