




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

MEMORANDUM

SUBJECT: Policy Regarding Use of On-Site Disposal Methods When Calculating
Financial Assurance Closure Cost Estimates

FROM: Maria J. Doa, Director 
National Program Chemicals Division

TO: Regional TSCA-PCB Division Directors
Regional TSCA-PCB Coordinators

This policy is intended to address the use of on-site disposal methods when calculating closure cost estimates for PCB commercial storage approvals. Section 761.65(f)(1)(iii) provides an exception that allows for use of on-site disposal costs "...if on-site disposal capacity will exist at the facility at all times over the life of the PCB storage facility." Estimates cannot be based on on-site disposal if the disposal process is proprietary, mobile or technologically complex. This policy lists several factors to be considered when determining if the exception offered at § 761.65(f)(1)(iii) can be allowed in the calculation of closure cost estimates.

The regulations at § 761.65(f)(1)(ii) and (iii) require that closure cost estimates reflect the cost for a third party to dispose of all PCB waste off-site (unless the exception at § 761.65(f)(1)(iii) for on-site disposal applies), and close the facility. If, however, a facility's on-site disposal process is a proprietary, mobile, or technologically complex unit, it cannot be guaranteed that this equipment will be available for use by a third party at the time of closure, for the following reasons:

- If a facility's on-site disposal process is proprietary, a third party closing the facility would not have the necessary operational information and training to operate the process and ensure the protection of human health and the environment, unless otherwise specified in the closure plans.
- If a facility's on-site disposal process is mobile, there is no way to guarantee that it will be in existence, available, or operational in the event of closure. At the time of closure, the equipment could be broken or off-

line for operation and maintenance repairs, off-site, or no longer present due to discharge of assets.

- If a facility's on-site disposal process is technologically complex, and not proprietary, the third party will require proper training to operate the disposal unit to safely operate and ensure protection of human health and the environment. The operator of the unit must also be familiar with other state or federal regulations applicable to the operation of the unit.

As a result, the exception at 40 C.F.R. § 761.65(f)(1)(iii) would not apply to the commercial storage closure cost estimates if the facility's on-site disposal process is proprietary, mobile, or technologically complex. Further, even where the exception applies, § 761.65(f)(1)(ii) still requires that the closure cost estimate must be calculated based on the cost of hiring a third party to close the facility. Therefore, if on-site disposal costs are used, they must be based on the cost to hire a third party to use the on-site disposal to dispose of the maximum amount of inventory at the facility.

If you have any questions or additional concerns, please call me or contact Lynn Vendinello (202/566-0514) or Rebecca Woods (202/566-1277) of my staff.