Statement of Basis and Response to Public Comment
Final Approval for Commercial Disposal of Polychlorinated Biphenyls

Chemical Waste Management of the Northwest, Inc.
Arlington, Oregon
U.S. EPA ID: ORD089452353

Issued by
U.S. Environmental Protection Agency, Region 10
Seattle, Washington

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1. Introduction

The EPA is finalizing (1) a renewed and modified Approval ("TSCA Approval" or "Approval") for Chemical Waste Management of the Northwest, Inc. (CWMNW) to store for disposal, treat for disposal, and dispose of PCB waste at its Arlington Facility[1] (hereinafter Facility or Arlington Facility) located near Arlington in Gilliam County, Oregon (See Figure 1), (2) a determination that historic properties will not be affected by the issuance of the Approval, (3) a determination that listed species will not be affected by issuance of the Approval, (4) an evaluation of the Approval's potential impact on communities with environmental justice concerns, and (5) a determination that no additional conditions were required to address climate change impacts. This Statement of Basis presents the EPA's rationale for issuing the Approval.

CWMNW has been operating under an existing Approval issued by the EPA Region 10 in August 2006 to manage, store, and dispose of PCB wastes. The Approval is renewing and modifying the 2006 Approval and is based on the final Application from CWMNW titled, "Final Application for Commercial Disposal of Polychlorinated Biphenyls (PCBs) under the Toxic Substances Control Act (TSCA) Chemical Waste Management of the Northwest, Inc. (CWMNW)" dated May 12, 2023, and signed by CWMNW on June 22, 2023. The Approval is based on attachments submitted by CWMNW at the time of the final Application, which can be found in the Administrative Record. The Approval is issued pursuant to Section 6(e)(1) of the Toxic Substances Control Act of 1976, 15 U.S.C. § 2605(e)(1), and 40 C.F.R. Part 761, including any amendments or revisions thereto.

Under TSCA, this action is known as an "Approval," which is essentially a permit. The EPA follows a similar administrative process for Approval issuance, renewal, and modification as a permit. This Approval authorizes CWMNW to: (1) continue to dispose of non-liquid PCB waste in an existing landfill (L-14 Cells 1-4), (2) dispose of non-liquid PCB waste in a landfill cell to be built (L-14 Cell 5), (3) store for treatment and disposal containerized and bulk PCB waste and PCB Items in existing and to-be-constructed waste storage areas, and (4) process and treat PCB-containing wastes prior to disposal. The Approval also requires CWMNW to monitor and perform post-closure maintenance at the non-operating landfills (L-1, L-3, L-5, L-6, L-7, L-8, L-9, L-10, L-12, and L-13).

All the units authorized by the Approval for PCB waste management are also separately permitted by the State of Oregon to store, treat and dispose of hazardous waste under the Resource Conservation and Recovery Act (RCRA). CWMNW's current State RCRA Permit[2] is being reviewed for renewal by the Oregon Department of Environmental Quality (ODEQ). CWMNW operates many portions of the Facility for the management of both RCRA and PCB wastes concurrently. The Approval applies to management and disposal of all PCB waste, whether PCB-only waste or PCB waste mixed with constituents regulated under RCRA. The units approved for treatment, storage, and disposal of PCBs are shown in Figure 2. Please note that Figure 2 also includes non-PCB RCRA units and units that are not yet constructed. The units included in the Approval are presented in Section 5.

[1] The EPA Administrator delegated authority to issue Approvals under TSCA to the Regional Administrator of Region 10 by EPA Delegation Order 12-5 issued January 9, 2008. The Regional Administrator further delegated authority to issue Approvals to the Director of the Land, Chemicals, and Redevelopment Division by EPA Regional Order R10-12-5 issued April 15, 2019.

[2] As used throughout this Statement of Basis, the term "State RCRA Permit" refers to Permit Number ORD089452353 issued by the ODEQ to CWMNW in 2006. The State RCRA Permit is administratively continued and ODEQ is currently evaluating CWMNW's RCRA renewal application.

2. Statement of Basis Organization

This Statement of Basis explains and justifies the EPA's renewal and modification of CWMNW's Approval for storage for disposal, treatment for disposal, and disposal of PCB wastes. The remainder of this Statement of Basis is organized into the following sections:

- Section 3 - Public Participation for Renewal and Modification of Approval
- Section 4 - Facility Description
- Section 5 - PCB Unit Descriptions
- Section 6 - Regulatory Determination for Storage and Treatment of PCB Wastes
- Section 7 - Regulatory Determination for Chemical Waste Landfills
- Section 8 – Review of Recordkeeping and Reporting of PCB Management
- Section 9 - Use of U.S. EPA Authority Under 40 C.F.R. §§ 761.65(d)(4)(iv) and 761.75(c)(3)(ii)
- Section 10 - Other Requirements and Programs
- Section 11 – Public Comments on the Proposed Approval and the EPA's Response
- Section 12 - Differences between the Proposed and Final Approval
- Section 13 – Final Action

3. Public Participation for Renewal and Modification of Approval

On October 30, 2023, the EPA began a 30-day public comment period during which it solicited comments on its Proposed Approval. The EPA sought comments on its determinations that historic properties and listed species will not be affected by the issuance of this Approval. The comment period closed on November 29, 2023.

The public comments and the EPA's response are provided in Section 11 below. The EPA made changes to the Proposed Approval in response to comments received during the public comment period. Differences between the Proposed and Final Approval are included in Section 12.

4. Facility Description

The CWMNW Facility is located on 17629 Cedar Springs Lane, approximately 12 road miles south/southwest of the town of Arlington, Oregon, in Gilliam County (Figure 1). The Facility sits on an approximately 2,600-acre parcel, in which 942 acres are used for hazardous waste management-related activities. The Facility treats, stores, and disposes of hazardous waste, PCBs, and non-hazardous industrial material. The site is owned and operated by CWMNW.

The CWMNW Facility is permitted to receive both RCRA and TSCA waste. The Facility was established as a chemical waste disposal site in the 1970s. The Facility consists of multiple storage, treatment, and disposal units and employs approximately 64 workers.

CWMNW does not discharge any stormwater to surface waters per the requirements contained in 40 C.F.R. § 761.75(b)(3). All stormwater is retained on site by the Facility's stormwater retention ponds. The run-on prevention system at the CWMNW units described below in Section 5.c. is typical for an arid climate, where the annual average rainfall is less than 10 inches and a high-intensity rainfall event such as the 25-year, 24-hour storm would produce only 1.8 inches of rain.

The Facility accepts PCB waste such as ballasts, capacitors, drained transformers, solid remediation waste, and other solids containing PCBs such as paint and caulk. The Facility occasionally will conduct stabilization of contaminated soil that contains PCBs, with the stabilization treatment focused on co-contaminants and not PCBs. The Facility may also encapsulate PCB contaminated debris for disposal in the active landfills using micro- and macro-encapsulation. The Facility drains and flushes transformers, capacitors, electrical equipment, and other PCB articles. Any liquid PCBs and solvents containing PCBs are sent off-site for incineration. Liquids containing PCBs from incidental sources such as leachate, precipitation, condensation, and load separation, may be solidified prior to disposal. PCB waste contaminated with RCRA-regulated constituents may be treated using other methods such as oxidation, precipitation, deactivation, neutralization, chemical oxidation, and adsorption for the purpose of complying with State RCRA Permit requirements applicable to RCRA-regulated waste constituents.

5. PCB Unit Descriptions

This Approval authorizes the storage for disposal of PCB wastes at the following units: S-2, S-6, S-10, S-11, S-12, B-5, B-6, B-7, and B-8. This Approval authorizes the treatment for disposal of PCB wastes at the following units: S-2, S-6, S-10, S-12, B-5, B-6, B-7, B-8, OSU-1 through OSU-6, and SU-B8. This Approval authorizes disposal of PCB wastes at the following units: Landfill L-14 Cells 1-5, and conditionally authorizes Cells 6-8. The following are detailed descriptions of the PCB Units in the Approval:

a. Storage

The ***S-2*** building has exterior dimensions of approximately 80 × 200 feet and has a 12-inch to 18-inch thick, cast-in-place homogeneous reinforced concrete floor surrounded by a 36-inch-high concrete containment wall. The floor and sumps are completely sealed with a chemically resistant epoxy coating. The building has five storage bays designated: S-2a, S-2b, S-2c, S-2d, and S-2e. Each storage bay is surrounded by concrete containment walls that vary from 8 inches to 4 feet in height. Each bay maintains signage that identifies the current hazard class of the materials stored within.

S-6 is an outdoor container storage area. To prevent releases of stored waste, S-6 is constructed of the following materials described from top to bottom: 6 inches of 1" minus crushed rock, 18 inches soil compacted to 95% of the standard maximum dry density, 12-oz Geotextile, and 60-mil high-density polyethylene (HDPE) liner. The base of the outside container storage areas is sloped so that any liquids resulting from leaks, spills, or precipitation can be collected and removed from the sumps situated at the rear of the container storage area.

S-10 is an outdoor container storage area. To prevent releases of stored wastes, S-10 is constructed of the following material described from top to bottom: 6 inches of 1" minus crushed rock, 18 inches soil compacted to 95% of the standard maximum dry density, 16-oz Geotextile, and 60-mil HDPE liner. The base of the outside container storage area is sloped so that any liquids resulting from leaks, spills, or precipitation can be collected and removed from the sumps situated at the rear of the container storage area.

S-11 is a manufactured mobile steel containment container with storage for up to 44 55-gallon drums. S-11 is generally used for reactive wastes or other drums that require segregation from other wastes. S-11 is located within S-2 and can be moved as needed for operational efficiency.

S-12 is an outdoor container storage area. To prevent releases of stored waste, S-12 is constructed of the following material described from top to bottom: six inches of 1" minus crushed rock, 18 inches soil compacted to 95% of the standard maximum dry density, 12-oz Geotextile, and 60-mil HDPE liner. The base of the outside container storage area is sloped so that any liquids resulting from leaks, spills, or precipitation can be collected and removed from the sumps situated at the rear of the container storage area.

The ***B-5*** storage building is equipped with a series of "push walls" designed to contain the bulk piles and maintain a protective five-foot separation from the exterior wall. Staff are trained to not accumulate waste above the height of the push walls and to ensure that the waste slopes away. The building has exterior dimensions of approximately 230 × 390 feet with a floor and liner system consisting of the following from top to bottom: eight-inch-thick concrete slab, six inches of ⅝" minus base rock, 6-oz. non-woven geotextile filter, 12 inches of ½-1¼" crushed rock for drainage layer, 16-oz. non-woven geotextile cushion, 60-mil HDPE primary geomembrane, 200-mil secondary geonet drainage layer, and 60-mil HDPE secondary geomembrane. Each of the drainage layers terminates in a separate sump that has an access riser. This allows monitoring for the presence of liquid in the secondary leak detection system and the removal of liquid from the primary collection system.

The ***B-6*** storage building, not yet constructed, will have an overall exterior dimension of approximately 230 × 1170 feet. The building is modular and will be built in up to three modules 230 feet wide by 390 feet long, designated as B-6 Modules 1, 2 and 3. Each building module will be continuous with its adjacent unit and constructed with a floor and liner systems consistent with the same design used in B-5 (see above). Each of the two drainage layer systems will terminate in a separate sump that has an access riser. At full buildout, the liner system will be constructed with three primary and three secondary sumps. This will allow monitoring for the presence of liquid in the secondary leak detection system and the removal of liquid from the primary collection system.

The ***B-7*** storage building, not yet constructed, will have an exterior dimension of approximately 230 × 390 feet with a floor and liner system consistent with the same design used in B-5 (see above). Bulk waste solids may be stockpiled up to 25 feet high inside the building. Bulk waste stockpiles will be surrounded on three sides by an eco-block (or equivalent) separation wall. Each of the drainage layers will terminate in a separate sump that will have an access riser. This will allow monitoring for the presence of liquid in the secondary leak detection system and the removal of liquid from the primary collection system.

The ***B-8*** building, not yet constructed, will have exterior dimensions of 230 × 390 feet and is designed with a floor and liner system consistent with Building B-5 containment and liner (see above). Building B-8 will be primarily for housing filtration, neutralization, and stabilization/solidification process equipment, and for storage of liquid, solid, and semi-solid per- and polyfluoroalkyl substances (PFAS) contaminated wastes. PFAS waste may also contain PCBs.

b. Treatment of PCB Wastes for Disposal

The Approval authorizes processing activities which are primarily associated with and facilitate treatment or disposal as described in 40 C.F.R. § 761.20(c)(2)(ii). Generally speaking, the TSCA regulations only specify treatment requirements for one type of PCB waste: liquids from

incidental sources, such as precipitation, condensation, leachate, or load separation, that are associated with PCB articles or non-liquid PCB wastes. *See* 40 C.F.R. §§ 761.60(a)(3) and 761.75(b)(8)(ii). These incidental liquids must be pretreated and/or stabilized prior to landfill disposal.

In addition, CWMNW is separately permitted to receive some RCRA hazardous waste, and RCRA regulations require treatment for some types of hazardous wastes prior to disposal in a landfill to meet RCRA Land Disposal Restrictions (LDR), or other applicable criteria. In cases where a waste is both a non-liquid PCB waste and a RCRA hazardous waste, CWMNW may be required to conduct treatment prior to disposal beyond what is required by TSCA or the PCB regulations. The Approval contains operational and regulatory conditions to ensure that all treatment operations are conducted in a safe manner and that the treatment units are closed properly to minimize the chance of future PCB releases into the environment.

CWMNW is authorized to treat PCB-only waste using methods such as solidification and stabilization prior to disposal in the landfill. The Facility is also authorized to manage PCB waste using methods such as draining/flushing, repacking, bulking, and transfer of PCB liquids. Such treatment and management are authorized at units S-2, S-6, S-10, S-11, S-12, B-5, B-6, B-7, B-8, OSU-1, OSU-2, OSU-3, OSU-4, OSU-5, OSU-6, and SU-B8, as described in the Approval. All PCB wastes disposed at the Facility must meet the disposal requirements at 40 C.F.R. § 761.60.

CWMNW is authorized to treat RCRA hazardous waste contaminated with PCBs using methods such as micro-encapsulation, macro-encapsulation, solidification, stabilization, oxidation, precipitation, deactivation, neutralization, chemical oxidation, and adsorption to address RCRA-regulated constituents. These treatment methods are authorized at units OSU-1, OSU-2, OSU-3, OSU-4, OSU-5, and OSU-6, and in SU-B8. Macro-encapsulation also occurs in S-6, S-10, S-12, B-5, B-6, B-7, and B-8.

Micro-encapsulation and macro-encapsulation of hazardous debris that may be contaminated with PCBs are needed to meet the LDR, which allows the debris to be disposed of in the chemical waste landfill. Micro-encapsulation is the stabilization of hazardous debris with reagents such that the leachability of the hazardous contaminants is reduced. The macro-encapsulation process encases the debris to provide a physical barrier that minimizes potential leaching of hazardous constituents from the debris.

Units OSU-1 through OSU-6 are authorized to treat non-bulk and bulk wastes. The treatment methods are performed within inground units. OSU-1 through OSU-6 have two compartments each for a total of 12 compartments that are carbon steel bins open to the atmosphere. The bins are situated partially below the surface of the ground, and the rim of each bin is raised 12 inches above the surrounding grade to prevent run on from entering the bins. Hazardous wastes, nonhazardous wastes, and hazardous debris are batch treated in one of these twelve carbon steel compartments and then removed for disposal in the landfill.

The SU-B8 stabilization area will contain a tipping area for bulk loads of wastes. SU-B8 will be located inside Storage Building B-8. Four stabilization batch tipping areas with three-sided push walls accept wastes from the emerging contaminant pile in the B-8 tipping area and loads of metals-bearing waste for stabilization.

Under the Approval, thermal treatment of PCB wastes is prohibited at the Facility without following the procedures under 40 C.F.R. §§ 761.60(e), 761.70(d), or 761.71, as applicable.

c. Landfill Disposal of PCB Wastes

Landfill L-14 is permitted to receive non-liquid PCB wastes as well as non-liquid RCRA hazardous waste. Cells 1-4 of Landfill L-14 are currently in operation. CWMNW anticipates that Cells 5-8 will be constructed in the future. The Approval authorizes Cells 1-5 (only) of Landfill L-14 to accept PCB wastes for disposal. The Approval also conditionally authorizes Cells 6-8 (only) of Landfill L-14 to accept PCB wastes for disposal, conditioned on the EPA approving CWMNW's compliance schedule in the future.

Landfill L-14 is designed to meet RCRA requirements in 40 C.F.R. § 264.301. The base footprint for Landfill L-14 Cells 1-5 will be 67.9 acres. Cell 5 will be rotated and Cells 6 through 8 will add 16.4 acres to L-14. The location of Landfill L-14 with its respective cells is shown on Figure 2.

Detailed geotechnical analyses were conducted as part of the original Landfill L-14 siting/design to evaluate settlement/heave, bearing capacity, and cut slope stability under static and dynamic loading conditions. The landfill's foundation is > 100 feet above groundwater. Construction of the landfill is conducted following a construction quality assurance plan and process.

Landfill L-14 has bottom and sidewall liner systems that incorporate primary and secondary liners as well as leachate collection and recovery systems. The liner system in all cells of L-14 utilizes a geosynthetic clay liner (GCL) in the upper (primary) liner, instead of the soil/bentonite liner used in older landfills. For Cells 4 through 8, GCL will also be used in the construction of the lower (secondary) liner as a replacement for the compacted soil/bentonite layer because of the lower permeability of the GCL.

Within each cell, leachate from the primary and secondary collection systems is channeled toward primary and secondary leachate collection sumps, respectively, located on the landfill bottom. Each cell within L-14 has a tertiary sump constructed beneath the primary and secondary leachate collection sump system. The tertiary sumps are designed to provide the landfill unit with the earliest possible indication of a release that can be effectively monitored.

CWMNW must remove leachate from the primary leachate removal sump prior to leachate levels reaching a depth of one foot. Leachate either may be used for dust control within the landfill as described below or transported to on-site wastewater treatment plants for treatment prior to disposal in any of the on-site surface impoundments for solar evaporation.

Control of fugitive dust at the landfills is accomplished by surface application of leachate within the lined area of the landfill from which it was pumped. Leachate is pumped from the leachate detection sumps either to a container located within the lined footprint of the landfill or directly to the leachate distribution system (sprinklers or drip hoses). No leachate leaves the landfill from which it was pumped and the leachate, at all times, remains over the lined area that collected the leachate. If not applied directly, the leachate is collected in a portable container that stores the leachate until it is needed for dust control. Leachate is not applied to roadways due to the risk that leachate could percolate to groundwater, leachate could contaminate stormwater, and vehicles could inadvertently transport contaminated leachate offsite.

Run-on and run-off are managed at the landfills based on the phase of operation of the landfill cell. First, while waste elevations are below surrounding grade, precipitation is contained within each landfill by the lined side slopes and is prevented from being discharged onto the adjacent ground. CWMNW directs any precipitation falling inside the perimeter of the active cells of the landfill to temporary, geomembrane-lined surface water basins within each landfill footprint. The temporary detention basins are in each cell between the toe of the waste slope and the cell divider berms, or immediately adjacent to each cell. Each area is lined with a geomembrane to prevent infiltration of precipitation into the waste. The basins are sufficiently sized to contain run-off from a 25-year, 24-hour storm. CWMNW removes liquid collected in the temporary basins with vacuum trucks or portable pumps. CWMNW tests precipitation run-off for toxicity, and then treats or discharges the run-off directly to the stormwater retention ponds.

Second, when waste elevations within the landfill exceed the adjacent perimeter grade, and prior to constructing final cover, CWMNW directs precipitation falling on the outer slopes of the landfill to a channel formed by the toe of the slope and the liner, which directs flow to a basin. A berm is maintained around the perimeter of the landfill to prevent overflow.

During the final cover phase of landfill cell operation, CWMNW considers precipitation that falls on the landfill areas with final cover in place or into cells that do not contain waste as uncontaminated and discharges any accumulated precipitation to the stormwater retention ponds without testing. After final cover is in place, no contaminated run-off is allowed to flow onto the adjacent covered areas. CWMNW prohibits operation of contaminated vehicles on the final cover, and precipitation is directed away from these areas.

Run-off from active slope areas could flow downslope over previously covered areas during placement of subsequent lifts (layers) of waste. To prevent this run-off from occurring, CWMNW maintains a channel along the toe of the exposed waste slope, adjacent to the cover of the previous lift (layer). The channel collects all run-off from the active slope areas and has the capacity to contain a 25-year, 24-hour storm. To minimize the potential for run-off in the active slope areas, CWMNW places cover over these areas as soon as practical. CWMNW constructs a final cover system after waste reaches final design grades.

The EPA has reviewed all information provided by CWMNW regarding the design and operation of the landfill cells, and the EPA believes these specifications are sufficient to prevent risk to human health and the environment.

d. Post-Closure Care for Landfills

As shown on Figure 2, there are ten landfills at the Facility which have been completely filled and closed in accordance with their approved closure plans (L-1, L-3, L-5, L-6, L-7, L-8, L-9, L-10, L-12, and L-13). The Approval includes post-closure care for the ten non-operating PCB landfills and the active landfill L-14. Post-closure care includes financial assurance, groundwater monitoring, corrective action, and other requirements. Post-closure care must begin after final closure is certified complete for each unit and continues for 30 years after the date of closure for each unit.

6. Regulatory Determination for Storage and Treatment of PCB Wastes (40 C.F.R. § 761.65(b) and (d)(2))

The EPA has evaluated the Application and its appendices, additional supporting information submitted by CWMNW, and other available information. Based on this evaluation, the EPA has determined that the Approval of storage and treatment of PCB wastes at the Facility satisfies the criteria contained in 40 C.F.R. § 761.65(b) and (d)(2). This determination allows the EPA to issue an Approval authorizing CWMNW to store PCBs on a long-term and temporary basis at the storage areas at the Facility. Long-term storage per 40 C.F.R. § 761.65(a) and (b) may not exceed one year from the date it was determined to be PCB waste unless extended under 40 C.F.R. § 761.65(a)(2)-(3). Temporary storage per 40 C.F.R. § 761.65(c)(1) is allowed for up to 30 days for specific PCB Items.

A detailed breakdown of the EPA's evaluation of the requirements of 40 C.F.R. § 761.65 is provided in the EPA's Application Review Checklist for Storage for Disposal contained in the Administrative Record.

The EPA's findings for each requirement in 40 C.F.R. § 761.65(d)(2) are discussed below:

e. Personnel Requirements

Under 40 C.F.R. § 761.65(d)(2)(i), the EPA may only issue an approval if it finds that CWMNW, its principals, and its key employees responsible for the establishment and operation of the commercial storage facility are qualified to engage in the business of commercial storage of PCB waste. The EPA has reviewed employee qualification information and has determined that this requirement is met. This determination is based on the EPA's evaluation of the experience of the personnel that manage the Facility, as provided in Exhibit A.

This determination is also based on the Facility's compliance with the worker training program as described Section 2.7, Personnel Protection, and Section 3.0, Training Program, in Application Appendix E, Security Procedures, Hazards Prevention and Training Plan.

f. Facility Capacity Requirements

Under 40 C.F.R. § 761.65(d)(2)(ii), the EPA may only issue an approval if it finds that the Facility possesses the capacity to handle the quantity of PCB waste, which CWMNW has estimated will be the maximum quantity of PCB waste that will be stored at any one time at the Facility. The EPA has determined that this requirement is met. This determination is based on the secondary containment capacity contained in Table 9-1, Materials Storage Units and Capacities, Application Appendix J, Waste Storage Design and Operations Plan.

g. Storage Facility Standards

CWMNW certified compliance with the storage unit requirements in 40 C.F.R. §§ 761.65(b) and (c)(7) in Section 5 of the Application. Therefore, the EPA has determined that the requirement in 40 C.F.R. § 761.65(d)(2)(iii) has been met.

h. Closure Plan Development

Under 40 C.F.R. § 761.65(d)(2)(iv), the EPA may only issue an approval if it finds that CWMNW has a written Closure/ Post-Closure Plan for the Facility that is deemed acceptable

under the closure plan standards of 40 C.F.R. § 761.65(e). The EPA has determined that this requirement is met. This determination is based on the EPA's evaluation of the CWMNW closure plan information contained in Application Sections 3.36 and 3.37, and Application Appendix H, Closure/ Post-Closure Plan.

As required by 40 C.F.R. § 761.65(e), the Closure Plan includes a description of closure work for the PCB storage areas, the maximum extent of storage operations (including the locations where waste will be stored), an estimate of the maximum amount of waste that could be stored at the Facility at any one time, a detailed description of the steps necessary to decontaminate PCB waste residues, a detailed description of the steps necessary to ensure that any post-closure releases of PCBs will not present unreasonable risks to human health or the environment, and a schedule for closure of each area of the Facility where PCBs were stored or handled.

As required by 40 C.F.R. § 761.65(e)(2), the EPA has incorporated CWMNW's closure plan into the Approval at Condition IV.B.10.

i. Demonstration of Financial Responsibility for Closure

Under 40 C.F.R. § 761.65(d)(2)(v), the EPA may only issue an approval if it finds that CWMNW maintains financial assurance for closure and post-closure care. The EPA has determined that this requirement is met. CWMNW maintains financial assurance for both closure and post-closure estimated costs for RCRA and TSCA in the form of a Surety Bond. See Application Appendix B, TSCA Closure Cost Estimates and Engineering Certification; and Application Appendix C, RCRA Financial Assurance Documents.

j. Operations Will Not Pose an Unreasonable Risk

Under 40 C.F.R. § 761.65(d)(2)(vi), the EPA may only issue an approval if it finds that the operation of the long-term and temporary PCB container storage units and the treatment for disposal operations at the Facility will not pose an unreasonable risk of injury to health or the environment. The EPA has determined that this requirement is met. This determination is based on the EPA's evaluation of the Application and its appendices.

Regarding operations at the Facility, the Approval requires that storage units are designed to reduce potential human health and environmental exposures. All the storage units include impermeable surface floors, liners, dead-end sumps, and sloped floors that facilitate spill cleanup and minimize potential soil and groundwater contamination. The remote location of the Facility helps to reduce potential human health exposures. PCBs have limited volatility to get into the air from storage operations and there are no other reasonably identifiable pathways of exposure to the closest residents. There are approximately 19 people living within a five-mile radius (79 square miles) and 1,025 people living within a ten-mile radius (314 square miles) surrounding the Facility (see Exhibit D). There are also limited pathways for environmental exposure since operation of the storage units do not create PCB airborne emissions, as much of the waste will be containerized upon receipt by the Facility. In addition, the Approval requires the storage of containers at the Facility to minimize spills and facilitate response when spills occur, such as having requirements for container stacking and minimum aisle space. Furthermore, access to the storage areas by unauthorized persons and animals is prevented by a 6-foot-high chain link fence and other site security features.

Personnel handling PCB waste are required to use appropriate personal protective equipment to prevent exposures to PCBs. In addition, the Approval includes provisions requiring protection for workers at the Facility. For all of these reasons, the EPA has determined that the operation of the long-term and temporary PCB container storage units and the treatment for disposal operations at the Facility will not pose an unreasonable risk of injury to health or the environment.

The EPA has also made a determination under the Endangered Species Act that management and disposal of PCB wastes at the Facility, as allowed in the Approval, "will not affect" any listed species or designated critical habitat. More details on the process the EPA used to make this determination are in Section 10.c. below. The EPA's determination can be found in Exhibit E.

k. Compliance History

Under 40 C.F.R. § 761.65(d)(2)(vii), the EPA must evaluate the history of environmental civil or criminal violations by CWMNW, its principals, and its key employees. If this history evidences a pattern or practice of noncompliance that demonstrates CWMNW's unwillingness or inability to achieve and maintain compliance with the regulations, then such history may constitute a sufficient basis for denial of approval.

Pursuant to this requirement, the EPA (1) evaluated the results of a technical assistance site visit conducted by the EPA on April 6, 2022, (2) reviewed CWMNW's federal and state compliance history as reflected in the EPA Enforcement and Compliance History Online (ECHO) database, and (3) reviewed the compliance history provided by CWMNW titled "5-Year Violation History" in Section 3.26 of the Application.

The EPA's April 6, 2022, technical assistance site visit did not identify any significant issues of concern. The EPA reviewed the Facility's compliance history on the ECHO database (see Exhibit F), which contains a record of ODEQ RCRA inspections and the EPA compliance actions. The EPA issued a formal administrative civil enforcement action (Case 10-2020-0111) to CWMNW for violating third-party liability financial assurance requirements. This enforcement action was closed on September 25, 2020. No other environmental civil violations or criminal convictions were noted by the EPA or ODEQ over the past five years. CWMNW provided compliance history over the past five years, which is included in Exhibit F. In addition to the violations provided in ECHO, CWMNW noted individual violations from U.S. Department of Homeland Security and Oregon Department of Energy. CWMNW was required to pay a penalty and take corrective action for these violations. Based on the information described above, the EPA has determined that CWMNW's compliance history does not constitute a basis for denial of approval.

7. Regulatory Determination for Chemical Waste Landfills (40 C.F.R. §§ 761.75(c)(1) and (c)(3)(i))

The EPA has evaluated the CWMNW's Application and its appendices, additional supporting information submitted by CWMNW, and other available information. Accordingly, the EPA has determined that the requirements contained in 40 C.F.R. §§ 761.75(c)(1) and (c)(3)(i) have been satisfied for the disposal of PCB wastes in Landfills L-14 Cells 1-8 at the CWMNW Facility. The EPA's findings for each requirement are discussed below.

l. Initial Report/ Application

As required in 40 C.F.R. § 761.75(c)(1), the Application and supporting documents such as figures and appendices:

- Specify the location of the CWMNW Facility landfills:
  - Section 2.14, Location
  - Figure 1-0, Site Location Map
  - Figure 1-2, Facility Layout Map
  - Application Appendix M, Landfill L-14 Design Drawings

- Include a detailed description of the CWMNW Facility landfill units including general site plans and design drawings:
  - Application Appendix L, Landfill Design, Operations and Response Action Plan
  - Application Appendix M, Landfill L-14 Design Drawings
  - Application Appendix O, Alternative Final Cover Design Plan, Landfills L-12, L-13, L-14, and L-15

- Describe how the landfill complies with the technical requirements specified in 40 C.F.R. § 761.75(b):
  - Application Appendix A, PCB Operations Plan
  - Application Appendix D, Waste Analysis Plan
  - Application Appendix E, Security Procedures, Hazard Prevention, and Training Plan
  - Application Appendix I, Groundwater Monitoring Plan
  - Application Appendix L, Landfill Design, Operations and Response Plan,
  - Application Appendix N, Construction Quality Assurance Plan
  - Application Appendix O, Alternative Final Cover Design Plan, Landfill L-12, L-13, L-14, and L-15

- Describe sampling and monitoring equipment:
  - Section 2.17, Sampling and monitoring equipment
  - Application Appendix A, PCB Operations Plan
  - Application Appendix D, Waste Analysis Plan
  - Application Appendix E, Security Procedures, Hazard Prevention, and Training Plan
  - Application Appendix F, Inspection Plan
  - Application Appendix H, Closure/Post-Closure Plan

- Specify the expected waste volumes of PCBs:
  - Section 3.29, Estimate of Maximum PCB Waste Handled
  - Section 5.1, Application Appendix A, PCB Operations Plan

- Provide a general description of waste materials other than PCBs that are expected to be disposed of in the CWMNW landfill:
  - Application Appendix D, Waste Analysis Plan
  - Application Appendix H, Closure/ Post-Closure Plan
  - Application Appendix L, Landfill Design, Operations and Response Plan

- Include a Facility Operations Plan:
  - Application Appendix A, PCB Operations Plan
  - Application Appendix L, Landfill Design, Operations and Response Plan

- List local, State or Federal permits or approvals:
  - Section 1.0, Introduction
  - Section 2.1, General

m. Technical Requirements for Chemical Waste Landfills (40 C.F.R. §§ 761.75(b) and (c)(3)(i))

Under 40 C.F.R. § 761.75(c)(3)(i), the Facility must meet the technical requirements contained in 40 C.F.R. § 761.75(b), unless the EPA has approved an exemption from those requirements under 40 C.F.R. § 761.75(c)(4). The EPA reviewed information contained in CWMNW's application and has determined that the existing and approved future landfill units meet these technical requirements. A detailed breakdown of how the requirements of 40 C.F.R. § 761.75(b) are satisfied is provided in the EPA's Application Review Checklist for Chemical Waste Landfills contained in the Administrative Record. The EPA has also made ongoing compliance with these requirements an Approval requirement at Condition VI.A.6.

n. Waivers of Technical Requirements for Chemical Waste Landfills

40 C.F.R. § 761.75(c)(4) allows an owner or operator to request a waiver of any requirement under 40 C.F.R. § 761.75(b), upon a showing that waiver of the requirement at the landfill will not present an unreasonable risk of injury to health or the environment from PCBs. In accordance with 40 C.F.R. § 761.75(c)(4), CWMNW is requesting waivers from the requirements of 40 C.F.R. § 761.75(b) applicable to groundwater and leachate analyses, and supporting facilities (fencing), as described in more detail below:

i. Water and Leachate Analyses – 40 C.F.R. §§ 761.75(b)(6)(iii) and (b)(7)

40 C.F.R. §§ 761.75(b)(6)(iii) and (b)(7) specify the sampling methods that must be used to analyze groundwater and leachate samples for the presence of PCBs, pH, specific conductance, and chlorinated organics. In its Application and associated appendices, CWMNW requested to use alternative test methods for these and some additional parameters when analyzing leachate and groundwater. The EPA has determined that use of these alternative methods—which are specified in the most current version of the EPA Publication SW-846, "Test Methods for Evaluating Solid Wastes" and American Society for Testing and Materials (ASTM)—will not present an unreasonable risk of injury to human health or the environment. As a result, the EPA is approving this waiver, which would allow for the substitution of SW-846 Methods 6010, 8260, 8270, 8082, 8081, and other methods as required, and for the parameters listed in Application Appendix D, Waste Analysis Plan.

ii. Supporting Facilities - 40 C.F.R. § 761.75(b)(9)(i)

40 C.F.R. § 761.75(b)(9)(i) requires a six-foot woven mesh fence, wall, or similar device shall be placed around the site to prevent unauthorized persons and animals from entering. CWMNW's current operations area is surrounded by an approximately six-foot-high chain link fence. The chain-link fence is a similar conforming device that, in

addition to other security features, prevents unauthorized persons and animals from entering. CWMNW proposes to install additional six-foot-high chain link fencing in phases around future PCB Units when they are constructed, to prevent unauthorized persons and animals from entering. CWMNW has requested a waiver to allow for the operational area fencing to be constructed in phases to satisfy the requirements of 40 C.F.R. § 761.75(b)(9)(i).

CWMNW submitted site plans that include building and landfill locations and size specifications. In addition, Application Appendix E, Security Procedures, Hazards Prevention and Training Plan describes procedures used by CWMNW for preventing unauthorized entry from persons, livestock, and wildlife.

The EPA believes the current use of a chain-link fence—and the proposal to build chain-link fencing around future PCB units as they are constructed—will not present an unreasonable risk of injury to human health or the environment. Therefore, the EPA is approving this waiver of the 40 C.F.R. § 761.75(b)(9)(i) requirements pursuant to 40 C.F.R. § 761.75(c)(4) and incorporating the above into the Approval.

8. Review of Recordkeeping and Reporting of PCB Management (40 C.F.R. § 761.180 and Subpart K (40 C.F.R. §§ 761.202-219 as appropriate))

40 C.F.R. § 761.180 and applicable sections of Subpart K contain recordkeeping and reporting requirements that apply to PCBs, PCB Items, and PCB storage and disposal facilities that are subject to the requirements of 40 C.F.R. Part 761.

The EPA has evaluated the Application and its appendices, additional supporting information submitted by CWMNW, and other available information. Accordingly, the EPA has determined that these combined with the Approval conditions satisfy the criteria contained in 40 C.F.R. § 761.180 and applicable sections of Subpart K.

A detailed breakdown of how CWMNW's recordkeeping and reporting procedures satisfy the requirements of 40 C.F.R. § 761.180 and Subpart K is provided in the EPA's Application Review Checklist for Recordkeeping and Reporting contained in the Administrative Record.

9. Use of U.S. EPA Authority Under 40 C.F.R. §§ 761.65(d)(4)(iv) and 761.75(c)(3)(ii)

The TSCA regulations at 40 C.F.R. § 761.65(d)(4)(iv) and 40 C.F.R. § 761.75(c)(3)(ii) allow the EPA to include other requirements in an approval that the agency finds necessary to ensure that PCB storage and disposal operations at the Facility "will not pose an unreasonable risk of injury to health or the environment."

The Approval relies in part on these provisions to include requirements that are not specifically delineated in the TSCA regulations but are nonetheless necessary to ensure that operations at the Facility will not pose an unreasonable risk of injury to health or the environment. For example, the TSCA regulations for chemical waste landfills at 40 C.F.R. § 761.75 do not include the requirement for a closure plan. The EPA is nonetheless requiring that the L-14 landfill be included in the Facility Closure Plan based on its authority under 40 C.F.R. § 761.75(c)(3)(ii) because the EPA believes a closure plan is necessary to ensure the landfill does not present an unreasonable risk of injury to health or the environment from PCBs.

The EPA's justification for use of authority under 40 C.F.R. §§ 761.65(d)(4)(iv) and 761.75(c)(3)(ii) in the Approval is provided in Exhibit B and is also addressed in response to comments below.

10. Other Requirements and Programs

As part of its issuance of the CWMNW Approval, the EPA has determined that the Approval will meet the requirements of Section 106 of the National Historic Preservation Act, Executive Order 12898, Section 7 of the Endangered Species Act, and Executive Order 14008.

The EPA has determined that the Approval for the CWMNW Facility complies with these other requirements and has concluded that there are no unreasonable risks to health or the environment from climate change threats to the CWMNW Facility. These determinations are discussed in more detail below:

o. Section 106 of the National Historic Preservation Act

The EPA has determined that the Approval will have "No Adverse Effect" on historic properties. The EPA, as the permitting agency, is responsible for complying with the National Historic Preservation Act of 1966 (NHPA), as amended, 54 U.S.C. §§ 300101 *et seq*. The NHPA requires federal agencies to evaluate the effects of their actions (undertakings) on historic properties and afford consulting parties and the public reasonable opportunity to comment.

The EPA's determination of "No Adverse Effect" is based on several factors: (1) none of the structures at the Facility are listed on the National Register of Historic Places, (2) no areas with Tribal cultural, subsistence, or ceremonial interest have been identified during the Tribal coordination process, and (3) no listed or eligible historic properties have been identified in the immediate area based on the Oregon Heritage/State Historic Preservation Office's Historic Sites Database. The closest eligible property, about four miles away from the Facility, will not be impacted by this Approval (Exhibit C).

p. Environmental Justice

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. Pursuant to Executive Order 12898, the the EPA evaluated whether there is any basis to believe that the operation of the Facility or issuance of the Approval may have a disproportionate impact on a minority or low-income segment of an affected community.

The Facility is in a remote area with a very low population density. According to the EJ Screen Model used at the EPA nationally, there are approximately 19 people living within a five-mile radius and approximately 1,025 people living within a ten-mile radius (314 square miles) surrounding the Facility (see Exhibit D). The EPA evaluated the area using the EJ Screen Model. In the ten-mile radius, demographically, 20 percent of the 1,025 people in the area are under the age of 17; 17 percent of the population are People of Color; and 33 percent of the residents are renters. About 96 percent of residents speak only English at home, resulting in no households being noted as linguistically isolated. About 40 percent of the population is low-income, which is

higher than the state, the EPA Region 10, and U.S. averages. Per capita income was $26,482 as of the 2015-2019 timeframe. The area does not reach the 80th percentile for any of the EJ indices presented in the model. That is, compared to the state, regional, and national population, none of these percentages score higher than 80 percent of the general population. Based on this information, the EPA believes this action will not impact any communities with environmental justice concerns. Although the EPA evaluated this information as part of its analysis, this information was not a basis for the EPA's action.

q. Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. § 1536(a)(2), requires all federal agencies, in consultation with the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS), to ensure that any action they carry out, fund, or authorize (such as through a permit) is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Under the ESA, management of listed species is divided between the USFWS and the NMFS.

As part of the Approval, the EPA conducted a search for threatened and endangered species in the area surrounding the CWMNW Facility using web-based tools provided by the USFWS and the NMFS. Based on the results of these searches, the EPA determined that there are no listed species or designated critical habitat present at or near the CWMNW Facility. In addition, the EPA determined that the Approval "will not affect" any listed species or designated critical habitat. Accordingly, consultation with the USFWS or the NMFS is not required. See Exhibit E for additional details of the EPA's determination.

r. Climate Change Assessment

As required by Executive Order 14008: Tackling the Climate Crisis at Home and Abroad, the EPA has assessed possible climate change impacts to the CWMNW Facility. This evaluation is part of the EPA's ongoing effort to ensure that climate change impacts to the long-term effectiveness of the design, construction, and controls for management of toxic and hazardous waste are considered when the agency takes an action such as issuing this Approval for management of PCBs.

The EPA believes that this evaluation of potential climate threats to the site is appropriate under 40 C.F.R. § 761.65(d)(4)(iv) and 40 C.F.R. § 761.75(c)(3)(ii), which provide the EPA authority to include requirements necessary to ensure that the operations of PCB storage and treatment units and the landfill do not present an unreasonable risk of injury to health or the environment from PCBs. No new or additional conditions were added to the Approval based on the climate change assessment.

The EPA conducted a screening level climate change impact analysis for the Facility and the surrounding area using an internal EPA, Region 10 tool. This GIS-based tool allows the EPA staff to explore potential climate change impacts using data produced by federal agencies and other parties. The EPA staff evaluated available data on landslide susceptibility, wildfire risk, and drought for the CWMNW Facility.

Based on current landslide susceptibility data produced by the National Aeronautics and Space Administration (NASA), the EPA determined that there is a very low to moderate probability of landslides at the site (Figure 3). However, landslide susceptibility may increase as the frequency

and intensity of precipitation and/or flooding and flash-flooding increases. These risks will be mitigated by sloping landfills to minimize landslides and inspecting and repairing infrastructure from any landslides that occur.

Based on an evaluation of annual burn probability provided by the United States Forest Service (USFS) the EPA has determined that the area has a 1:2154 to 1:100 chance of burning in a given year (Figure 4) (i.e., a one percent or less chance of burning). The CWMNW Facility is located in arid conditions and much of the vegetation has been removed from the site for Facility operations, with the exception of the vegetated landfill caps. The vegetation surrounding the Facility is characteristic of the Columbia River Plateau, composed predominantly of sagebrush and grasses. The National Oceanic and Atmospheric Administration (NOAA) Climate Prediction Center currently estimates that the site is not in an area experiencing drought; however, this should not be interpreted as indicating that the area will not experience drought conditions in the future. CWMNW has procedures for training personnel on incident response described in Application Appendix E, Security Procedures, Hazards Prevention and Training Plan, for addressing fires at the Facility.

The EPA was not able to evaluate other potential climate change impacts for the site and was not able to assess flood risk because the Federal Emergency Management Agency (FEMA) national Flood Hazard Layer tool does not include data for the county where CWMNW is located. The Fourth National Climate Assessment, published by the U.S. Global Change Research Program in 2018, notes that infrastructure in the Pacific Northwest will be susceptible to extreme weather conditions including heat waves and heavy rains, but the EPA does not currently have predictive tools to evaluate the potential for these climate impacts at the Facility.

11. Public Comments on the Proposed Approval and the EPA's Response

The EPA received comments from three parties during the public comment period. The comments, in pertinent part, and the EPA's responses are provided below.

s. Comment #1, received from a member of the public, November 1, 2023

"*Is PFAS disposal regulated at Chemical Waste Management's Arlington Oregon facility? I have been trying to find out how many states send biosolids and firefighting foams to the Arlington because they contain PFAS and their states want them disposed of elsewhere. I know it is a dry area and PGAS* [sic] *are not likely to contaminate groundwater – but I wanted to know for sure whether this is tested for. I am also concerned about worker protection from these dangerous persistent chemicals."*

EPA Response to Comment #1: The Approval only authorizes storage and disposal of PCBs under 40 C.F.R. Part 761, and therefore does not include storage and disposal of PFAS. The EPA has forwarded the comment to ODEQ, who may be able to provide further information regarding disposal of PFAS at the Facility.

t. Comment #2, received from Portland General Electric (PGE), November 29, 2023

"PGE encourages EPA to continue the authorization of safe disposal of PCB-contaminated materials at Chemical Waste Management of the Northwest. PGE is a vertically integrated utility engaged in generating and distributing electricity to approximately 900,000 customers across a service area population of 2 million Oregonians in seven counties and 51 cities. Nearly half of

Oregon's population lives in our service area, which is home to roughly 75% of the state's commercial and industrial activity. As PGE continues to remove PCB-tainted oil over time, we occasionally generate clean up wastes as a result of spill clean actions, and replacements and upgrades of older equipment (PGE does not use or reuse PCBs in new equipment).

PGE supports EPA's proposed authorization for PCB disposal at Chemical Waste Management of the Northwest. This facility has provided safe, compliant and cost-effective disposal services to PGE and other businesses in the area. Having this disposal option located relatively close to the Portland area helps keep disposal costs low, which helps us control costs to our customers. The proximity also keeps transportation emissions lower (the next nearest approved PCB disposal facility is 400 miles further away in Idaho).

PGE encourages EPA to continue the authorization of safe disposal of PCB-contaminated materials at Chemical Waste Management of the Northwest. Thank you for your consideration of our comments."

EPA Response to Comment #2: Thank you for the information. The comment has been noted. No changes to the Approval are contemplated based on this comment.

u. Comment #3, received from CWMNW, November 29, 2023

"The Regional Administrator Proposes to Overuse The Catchall Permitting Authority For The Vast Majority of the Draft Permit and Inadequately Uses TSCA Coordination Authority. ... The Draft Permit Uses EPA's Catchall Authority More Than Specific TSCA Authority. CWMNW's review of the Draft Permit has revealed that U.S. EPA justifies approximately 102 conditions in the Draft Permit on its 'Catchall' permitting authority that U.S. EPA gave to itself in 40 C.F.R § 761.65 and 40 C.F.R. § 761.75. It appears that more conditions in the Draft Permit are authorized by the Catchall authority than a specific TSCA rule. Congress gave U.S. EPA broad authority to draft rules on disposal of PCB's [sic] in Section 6(e) of TSCA, and U.S. EPA has previously exercised that authority in promulgating the existing PCB disposal regulations. And yet, to the extent to which U.S. EPA cannot point to requirements in its previously adopted PCB Disposal rules when imposing many of the conditions proposed in the Draft Permit, these operating conditions represent overreach by U.S. EPA to address its concerns with the Oregon RCRA program, and not a proper and lawful use of the Regional Administrator's authority under the TSCA PCB Disposal regulations to ensure PCB wastes accepted at the Facility do not present a risk of injury to health or the environment. For example, the Draft Permit contains several very specific requirements relating to post-Closure maintenance of the Facility. The TSCA PCB regulations contain several provisions relating to the closure of facilities in 40 C.F.R. 761.65(e), so clearly U.S. EPA is aware of the needs and requirements relating to the closure of PCB facilities. The Regional Administrator here has gone far beyond what is contemplated in the TSCA PCB regulations in adding these post-closure requirements, with the effect of usurping the authority of the State of Oregon to regulate the Facility."

EPA Response to Comment #3: CWMNW chose to give numerous comments to the EPA in the format of a marked-up Approval. CWMNW made multiple comments, regarding conditions in the Proposed Approval, asserting that the EPA overreached its regulatory authority. The EPA is addressing these similar multiple comments as part of this response. Pursuant to its statutory authority under TSCA Section 6(e)(1), the EPA has promulgated rules related to storage and disposal of PCBs and codified them at 40 C.F.R. Part 761. Those rules contain prescriptive

requirements for storage of PCBs (at 40 C.F.R. § 761.65) and disposal of PCBs (at 40 C.F.R. § 761.75). In addition, the rules provide the EPA with authority to include additional approval conditions on a case-by-case basis when the Agency finds such conditions are necessary to ensure that PCB storage and disposal operations at the Facility "will not pose an unreasonable risk of injury to health or the environment." *See* 40 C.F.R. §§ 761.65(d)(4)(iv) and 761.75(c)(3)(ii).

Relying on these authorities and based on the specific storage and disposal operations at CWMNW's Facility, the EPA included in the Proposed Approval certain conditions the Agency determined were necessary to ensure no unreasonable risk to human health and the environment would occur from the storage, treatment and disposal of PCBs at this Facility. The EPA also provided a detailed explanation for the determination that each of these conditions was necessary to ensure PCB operations meet this standard. *See* Statement of Basis, Exhibit B.

As a general matter, the EPA disagrees that conditions included pursuant to 40 C.F.R. §§ 761.65(d)(4)(iv) and 761.75(c)(3)(ii) "represent overreach by the EPA to address its concerns with the Oregon RCRA program." It is not clear from the comment what sort of "concerns" CWMNW may be referring to. As explained in Exhibit B to the Statement of Basis accompanying the Proposed Approval, the EPA determined that each of the referenced conditions are necessary to ensure that PCB operations at the Facility will not present an unreasonable risk of injury to human health or the environment. In other words, the EPA determined that these conditions are necessary pursuant to the Agency's authority under Section 6(e)(1) of TSCA, which is separate and distinct from RCRA authority exercised either by the EPA or ODEQ.

The EPA also disagrees that conditions in the Approval have "the effect of usurping the authority of the State of Oregon to regulate the Facility." The EPA's authority to issue this Approval arises under TSCA and its implementing regulations at 40 C.F.R. Part 761, and the EPA relied on that authority in determining what Approval conditions are necessary to meet TSCA requirements. Although requirements imposed pursuant to RCRA and TSCA may overlap in some circumstances—especially in the case of a Facility that stores, treats, and disposes of both TSCA- and RCRA-regulated wastes—none of the conditions included in the Approval impose RCRA requirements or otherwise impact ODEQ's RCRA authority.

Beyond these generalized points, CWMNW's comment identifies only one example of Approval conditions that purportedly exceed the EPA's authority: conditions related to post-closure maintenance of disposal areas. As explained in the Proposed Approval, the EPA determined that closure and post-closure requirements are necessary to prevent future releases of PCB wastes, which—once disposed in the landfill units—will remain at the site indefinitely. The EPA continues to believe that these conditions are appropriate under 40 C.F.R. § 761.75(d)(4)(iv), and CWMNW has not identified any specific basis for the EPA to reconsider that conclusion.

For all of the foregoing reasons, the EPA does not believe any changes to the Approval are necessary based on this comment.

v. Comment #4, CWMNW, November 29, 2023

"The Draft Permit Does Not Coordinate with Other Programs Despite Clear Authority to Rely on Related Programs. In numerous places, EPA's own TSCA PCB regulations authorize the Regional Administrator to coordinate TSCA PCB disposal approvals with various RCRA requirements. For example, the Regional Administrator is authorized in 40 C.F.R. § 761.65(d) to reply upon a facility's

RCRA Closure Plan, closure cost estimate, and financial assurances instead of requiring separate TSCA storage approvals. Thus, CWMNW faces the prospect of having conflicting regulatory requirements, to the extent that Oregon DEQ and U.S. EPA might not agree upon closure requirements, as well as onerous, burdensome, and duplicative regulatory process to report and update regulatory filings that achieve the exact same purpose.

Similarly, the Regional Administrator is authorized in 40 C.F.R § 761.77(b) to issue a Coordinated Approval for a facility that will landfill PCB wastes, such as the Facility. U.S. EPA specifically stated in approving the final rule that the purpose of the TSCA PCB Coordinated Approvals is 'to eliminate duplicative approval processes, to foster communications and coordination among Federal and State environmental officials, and to ensure a more efficient use of limited resources.' 63 FR 35415 (1998). In fact, EPA noted when issuing the final rule that RCRA permit were the types of permits that were to be covered by a coordinated approval. See 40 FR 35417.

These provisions all provide the Regional Administrator ample authority to coordinate the Facility's TSCA permit with its RCRA permit, and yet the Draft Permit does little if anything to facilitate such coordination. This is a marked change from the 2006 approval issued by U.S. EPA. This undercut the implicit finding in the Approval that the 102 conditions that are based on U.S. EPA's 'catchall' authority are necessary."

EPA Response to Comment #4: CWMNW made numerous comments requesting that the EPA address specific aspects of the Proposed Approval through a Coordinated Approval. A Coordinated Approval is defined as "the process used to recognize other Federal or State waste management documents governing the storage, cleanup, treatment, and disposal of PCB wastes." *See* 40 C.F.R. § 761.3. The conditions in 40 C.F.R. § 761.77(a) must be met for the Regional Administrator to issue a Coordinated Approval. 40 C.F.R. § 761.77(a)(1) states that persons seeking a TSCA PCB Coordinated Approval must submit a request for approval by certified mail, to the Regional Administrator at the same time they seek a permit, approval, or other action for a PCB waste management activity under any other Federal or State authority. CWMNW did not request or otherwise mention a Coordinated Approval in its TSCA Approval application, so this initial prerequisite has not been met here.

Even if CWMNW had properly requested a Coordinated Approval, the EPA disagrees that the other requirements under 40 C.F.R. § 761.77 have been met. Under 40 C.F.R. § 761.77(b)(1)(i), the EPA may approve a Coordinated Approval request if CWMNW "[h]as a waste management permit or other decision or enforcement document which exercises control over PCB wastes, issued by the EPA or an authorized State Director for a State program that has been approved by the EPA[.]" In addition, the EPA must find that this "permit or other decision or enforcement document" both (1) "will not pose an unreasonable risk of injury to health or the environment" and (2) "is no less stringent in protection of health or the environment than the applicable TSCA requirements found in [40 C.F.R. Part 761]." *Id.*

ODEQ has not had an updated permit in place since expiring in 2016. The "permit or other decision or enforcement document" that CWMNW appears to be referring to in its comments is the anticipated RCRA permit to be issued by ODEQ. But ODEQ is still reviewing CWMNW's RCRA application and has not issued a revised RCRA permit, so there is currently no "permit or other decision or enforcement document" that the EPA could rely upon as the basis for a Coordinated Approval. Moreover, the EPA cannot evaluate if the permit would meet Part 761 requirements or would pose an unreasonable risk or injury to health or the environment because the terms of the

permit are not yet finalized. In these circumstances, issuance of a Coordinated Approval would be premature and inconsistent with 40 C.F.R. § 761.77.

Likewise, because there is no RCRA permit or other decision or enforcement document, the TSCA Approval cannot rely upon the RCRA Closure Plan, closure cost estimate, and financial assurances under 40 C.F.R. § 761.65(d)(6). The existing versions of these documents do not cover the new storage, treatment, or disposal units that CWMNW is proposing, and do not cover the new storage, treatment, and disposal units allowed under this Approval. In these circumstances, the EPA disagrees that CWMNW has made an adequate showing that the criteria for exemption under 40 C.F.R. § 761.65(d)(6) have been met.

The EPA also disagrees that its Proposed Approval is a "marked change from the 2006 approval by U.S. EPA," since the 2006 Approval was similarly not a Coordinated Approval. To the extent CWMNW is suggesting that the Oregon Environmental Quality Commission letter included with the 2006 Approval suggests otherwise, the EPA disagrees. CWMNW submitted a version of the 2006 Approval that included a letter documenting Oregon's finding that the PCB Approval met state statutory requirements. However, the EPA's issuance letter did not state or otherwise suggest that the TSCA Approval was based on an external permit issued by the state, which is what a Coordinated Approval would require. Therefore, the EPA not issuing a Coordinated Approval here is not a change from that historic approach.

CWMNW may request a modification to the Approval at any time, including once ODEQ has issued a final RCRA permit. To the extent conditions of that permit conflict with the TSCA Approval, those conflicts may be addressed through a modification. In addition, CWMNW may choose to request that the EPA approve an exemption from the TSCA storage requirements under 40 C.F.R. § 761.65(d)(6) or issue a Coordinated Approval under 40 C.F.R. § 761.77 at that time.

In the present circumstances, however, the EPA does not believe any changes to the Approval are necessary based on these comments.

w. Comment #5, CWMNW, November 29, 2023

"The Overreach into RCRA and Lack of Coordination Taints the Entire Draft Permit. The Regional Administrator's overreach taints the entire Draft Permit to the extent that CWMNW submitted drafts of RCRA Plans that were submitted to the Oregon Department of Environmental Quality for reauthorization of the Facility's hazardous waste disposal permits. Thus, CWMNW finds itself in the position where two separate agencies seek to exert authority over the same regulatory approvals, without any process for coordination. This creates a substantial risk of conflicting regulatory requirements and wastes resources. This is exactly the evil that U.S EPA sought to avoid with the Coordinated Approvals. Unless the Draft Permit is revised significantly to address how the various plans are coordinated, CWMNW finds itself with a Hobson's Choice of attempting to reconcile the potentially disparate views of Region X with the State of Oregon, or simply forgo providing an important regional waste disposal resource to avoid being stuck between two regulators. CWMNW would prefer to have a clear documented process for ensuring the plans for the Facility are coordinated without unnecessary and onerous approval and modification processes to facilitate agreement amongst the agencies."

EPA Response to Comment #5: As an initial matter, the EPA is confused by CWMNW's statement that the Agency's reliance on attachments to CWMNW's Application in the Proposed Approval constitutes "overreach" that "taints the entire Draft Permit." CWMNW included the attachments in its TSCA Approval application, apparently to demonstrate that operations at the Facility would meet applicable requirements under TSCA and 40 C.F.R. Part 761. To the extent the EPA evaluated those attachments and incorporated relevant portions of them into the Proposed Approval, that is because CWMNW submitted them for that purpose.

The EPA recognizes CWMNW's concern about potentially being subject to inconsistent TSCA and RCRA requirements. However, the EPA's authority here arises under TSCA, not RCRA, and the EPA must ensure that any Approval for storage, treatment, or disposal of PCB wastes at the Facility meets TSCA requirements, including 40 C.F.R. Part 761.The EPA would be acting outside its TSCA authority by incorporating RCRA requirements into the Approval for the purpose of ensuring consistency between the TSCA Approval and RCRA permit.

Although CWMNW generally asserts concerns about potential inconsistency between the TSCA Approval and RCRA permit, the comments do not point to any specific inconsistency that CWMNW believes the EPA should address in its Final Approval. The EPA is similarly not able to identify any such inconsistency on its own because ODEQ has not yet issued a final RCRA permit that could be compared to the conditions in the TSCA Approval. Therefore, the EPA believes CWMNW's comments regarding conflicting regulatory requirements are premature.

As noted above, CWMNW reserves the right to request a modification to the Approval at any time, including once ODEQ has issued a final RCRA permit. To the extent conditions of that permit conflict with the TSCA Approval, those conflicts may be addressed through a modification. In addition, CWMNW may choose to request that EPA issue a Coordinated Approval under 40 C.F.R. § 761.77 at that time. For all the foregoing reasons, the EPA does not believe any change to the Approval is necessary at this time based on these comments.

x. Comment #6, CWMNW, November 29, 2023

"U.S. EPA Cannot Make a Present Decision Based on Future Laws. CWMNW notes that any approval of the final permit will be 'pursuant to Section 6(e)(1) of the Toxic Substances Control Act (TSCA) of 1976, 15 U.S.C. § 2605(e)(1), and 40 C.F.R. Part 761, including any amendments or revisions thereto.' It is unclear to CWMNW how U.S. EPA can decide if a permit is within and consistent with its authority based on laws or regulations that do not exist at the time of the decision or based on the terms of a law as revised in the future. U.S. EPA can only make a decision based on the laws that are in effect at the time of the decision. This is an issue not only with the stated basis for U.S. EPA's decision, but similarly is an infirmity with Condition 1.(c) in Section VII.C. of the Draft Permit."

EPA Response to Comment #6: CWMNW made multiple comments regarding how it is unclear to them that the EPA can issue an Approval in consideration of, or reliance upon, laws that do not exist

or amendments that have not been approved. The EPA will address these multiple comments as part of this response.

The EPA explained in the cover letter to the Proposed Approval that it was issued pursuant to TSCA, "including any amendments or revisions thereto." The purpose of this sentence was to explain the EPA's authority to issue the TSCA PCB Approval, and CWMNW does not appear to be disputing that the EPA has authority to issue the approval under TSCA and its current implementing regulations. In response to this comment, the EPA has removed this language from the cover letter to the Final Approval. Because this language was merely related to a statement of statutory authority, the EPA believes removing that language does not impact any applicable requirements under the Approval.

CWMNW similarly takes issue with Condition VII.C.1.c of the Approval, which gives the EPA authority to take certain actions with respect to the Approval if the EPA issues new regulations, standards, or guidance for issuing PCB approvals in the future. This could include issuing a notice of deficiency, suspending, or revoking the Approval, denying an Application for Approval renewal, and/or taking an enforcement action. The EPA disagrees with this comment. If the EPA revises its regulations or guidance related to management of PCBs in the future, the EPA believes it is within its authority to take appropriate action to ensure that CWMNW's operations at the Facility are consistent with those revised requirements.

y. Comment #7, CWMNW, November 29, 2023

"The Draft Permit Does Not Approve The Use of All Applicable Waste Management Units at the Facility. The Draft Permit states that it approves disposal of PCB wastes at units Landfill L-14 (Cells 1-5). CWMNW has included in the impending RCRA Part B Permit Landfill Unit L-14 (Cells 1-8) and Unit L-15 (Cells 1-4). CWMNW requests that all approved RCRA Part B Permit Units be approved for disposal under the Final PCB Permit. Specifically, all references to 'Landfill L-14 (Cells 1-5)' should be replaced with 'Landfill L-14 (Cells 1-8) and Landfill L-15 (Cells 1-5).' To the extent that the Regional Administrator has not reviewed all the plans and specifications for these units, CWMNW will provide copies of any such plans upon request.

It is important to note that the Draft Permit expressly approves in landfill cells to be built, and yet there is no explanation as to why the Draft Permit does not include all landfill cells that are under construction. Ostensibly, the fact that the cells are not yet constructed is not a basis for excluding those cells from approval."

EPA Response to Comment #7: CWMNW's existing TSCA approval—which was issued January 31, 2006—authorizes disposal of PCB waste in Landfill L-14, Cells 1-4. In its renewal application, CWMNW has requested to approve disposal in four additional cells (Cells 5-8), which approximately doubles the capacity of Landfill L-14. The EPA's Proposed Approval continued to authorize disposal in Cells 1-4, and added Cell 5 because that cell has already been approved by ODEQ for disposal under RCRA.

In its comments, CWMNW renews its request that the EPA approve disposal in Landfill L-14, Cells 6-8. The EPA has reviewed this request—along with the materials provided in CWMNW's final application—and the EPA is conditionally approving future placement of waste in these units. Prior to commencing construction, however, CWMNW must submit to the EPA a compliance schedule setting forth a binding timeline for constructing the additional units. In addition, CWMNW must submit to the EPA a final construction report documenting that the units were constructed according to the approved specifications set forth in the application prior to placing waste in any additional units.

CWMNW's comments also request that the EPA expand the approval to include disposal in Landfill L-15, Cells 1-5. Although CWMNW's application includes design drawings, engineering design reports, and geotechnical evaluations for the expansion in Landfill L-14, it does not include this detailed information for Landfill L-15, Cells 1-5. Instead, CWMNW's application states that these additional materials will be submitted at a future date.

Based on information provided in CWMNW's application, the EPA lacks sufficient information to determine whether disposal in Landfill L-15, Cells 1-5 will cause an unreasonable risk to human health or the environment. Therefore, the EPA has not included these units in its Final Approval. CWMNW may choose to submit an Approval modification to incorporate the additional capacity at a future date, such as when it can provide further details on the construction specifications and timeline for these units.

z. Comment #8, CWMNW, November 29, 2023

"The Draft Permit Creates Unnecessary Duplication of Effort and Could Create Conflicting Compliance Obligations by Relying on RCRA Documents That Are Undergoing Review and Revision by Oregon DEQ. Condition 2 in Section IV.A. of the Draft Permit incorporates by reference any plan or other submission included in the application. Condition 3 in Section IV.A. requires CWMNW to submit any such documents that CWMNW proposes to modify to U.S. EPA for approval prior to making changes. While CWMNW understands the general need for U.S. EPA to review and approve modifications to the Facility's applicable plans and similar documents that effect PCB materials storage, treatment and disposal, CWMNW is concerned that applying approval conditions to plans that are also part of the Facility's RCRA Part B permit – and are likely to be revised significantly in the coming months – will create unnecessary duplication of effort and could create conflicting compliance obligations.

Specifically, the Draft Permit incorporates by the reference certain RCRA Permit Attachments:(a) Closure/Post-Closure Plan (as PCB attachment 1a), (b) Landfill Design, Operations and Response Action Plan (as PCB Attachment 5), and (c) (Emergency) Contingency Plan (as PCB Attachment 3) that are the RCRA Part B permit renewal documents. As you know, Oregon DEQ has requested and received comments from U.S. EPA on the RCRA Permit Attachments including the 3 identified above. Since the submittal of these draft RCRA Attachments these documents have undergone significant modifications in response to U.S. EPA's comments. Additionally, CWMNW expects

further revisions, including structural revisions, to be made to these documents as U.S. EPA, EPA's Contractor, Oregon DEQ, and CWMNW work cooperatively through the revisions to RCRA Part B Permit documents. Going forward once the RCRA Part B Renewal has been completed, CWMNW contends that separately submitting RCRA Modifications for the RCRA Permit Attachments to U.S. EPA for approval under the PCB permit process is unnecessarily duplicative, and to the extent that there are any missteps in the separate PCB approval and RCRA Part B approval processes, seeking separate approvals from the same agency for the same plan creates a risk that CWMNW will have disparate compliance obligations if all modifications are not fully approved through both processes.

Accordingly, CWMNW requests that any modifications made to the RCRA Permit Attachments and approved by Oregon DEQ be addressed as part of a TSCA Coordinated Approval pursuant to 40 C.F.R. § 761.77."

EPA Response to Comment #8: The EPA based its writing of the Proposed Approval on information provided by CWMNW in its application dated May 12, 2023, and signed by CWMNW on June 22, 2023. The application included the attachments that are referenced in Comment #8, and the EPA reviewed those submitted attachments as part of its evaluation of whether the application met TSCA requirements.

The EPA disagrees that requiring submittal of attachment revisions would be duplicative. TSCA and RCRA impose independent statutory and regulatory requirements on affected facilities. If CWMNW would like to use the same documents to meet requirements for its RCRA Part B Application, CWMNW is responsible for ensuring that the Facility's plans meet all applicable local, state, and federal regulations that they are intended to cover. ODEQ is authorized to implement the RCRA program in Oregon, but the EPA remains the authority for implementing TSCA. Thus, even if ODEQ determines that future modifications to permit attachments meet RCRA requirements, the EPA has an independent obligation to ensure that any changes meet TSCA prior to incorporating them into the TSCA Approval. The EPA disagrees that a prospective approval and incorporation of all future hypothetical modifications to CWMNW's RCRA permit into the TSCA Approval, with no review or oversight by the EPA, would be appropriate.

Please refer to Comment #4 for a more detailed description of why the EPA is not issuing a Coordinated Approval.

aa. Comment #9, CWMNW, November 29, 2023

"The Draft Permit's Incorporation of 29 C.F.R. § 1910.120 Creates A Risk of Inconsistent Enforcement by Multiple Agencies and is Unnecessarily Duplicative. Condition 1 of Section IV.E. of the Draft Permit requires CWMNW to conduct all PCB-related work at the Facility in accordance with 29 C.F.R § 1910,120 [sic]. *This condition could present various compliance issues to the extent that the incorporated regulation is a workplace regulation enforced by the Occupational Safety and Health Administration ("OSHA"). This risk exists because OSHA might have various administrative interpretations of their regulations, of which U.S. EPA staff might be unaware. Thus, U.S. EPA staff could cite CWMNW for violating the incorporated regulation, while OSHA might have found*

CWMNW's practices fully consistent with OSHA's interpretation and implementation of the regulation.

Incorporating this regulation by reference is also unnecessarily duplicative. First, the Draft Permit already requires CWMNW to comply with applicable OSHA laws and regulations in Condition 2 of Section IV.B. Second, if the incorporated law already applies to operations at the Facility, incorporating the regulation by reference into the permit does not add clarity to CWMNW's compliance obligations. If, however, the cited regulation does not apply to the Facility's operations by its terms, then U.S. EPA should not use its general authority under 40 C.F.R. §761.65(d)(4)(iv) and 40 C.F.R. §761.75(c)(3)(ii) to simply incorporate another law by reference. Instead, U.S. EPA should put those requirements through notice-and-comment rulemaking and include those requirements in its own regulation. This ensures that the regulated industry can ensure a thorough understanding of its compliance obligations, as well as ensuring there are no unintended conflicts should the incorporated regulation have requirements that are infeasible or conflict with other obligations."

EPA Response to Comment #9: CWMNW made multiple comments regarding conditions in the Proposed Approval in which it alleges the EPA overreached its regulatory authority by including OSHA requirements. The EPA will address these multiple comments as part of this response.

The EPA agrees with CWMNW's concern that citing another agency's regulation could cause potential conflict if there are differences in interpretation. Therefore, the EPA will remove Condition IV.B.1 of the Proposed Approval from the Final Approval.

Deletion of this condition will not pose an unreasonable risk to human health and the environment. Condition 2 of Section IV.B requires compliance with all applicable federal, state, and local laws, which would include OSHA requirements. Health and safety information is also addressed by the next condition addressing TSCA requirements in 40 C.F.R. § 761.60(b)(8) and 40 C.F.R. § 761.79(e)(2). These regulations require that persons disposing of PCB Articles and participating in decontamination activities must wear or use protective clothing or equipment to protect against dermal contact with or inhalation of PCBs or materials containing PCBs.

bb. Comment #10, CWMNW, November 29, 2023

"The Prohibition on Thermal Treatment of PCB-Containing Wastes Adversely Affects Regional Management of Superfund Remediation Projects. Condition 5 in Section V.D. prohibits the thermal treatment of PCB-containing wastes at the Facility. The Regional Administrator cited 40 C.F.R. § 761.60(e) as authority for this condition. The cited rule, however, does not use the term 'thermal treatment' but instead specifically uses the defined term 'incinerate.' CWMNW requests that this condition be revised to use the defined terms in the rule, and not attempt to expand the prohibitions of rules adopted through notice-and-comment rulemaking by selectively replacing defined terms with undefined terms.

Moreover, CWMNW is in the process of permitting TDU-1 as part of the facility's RCRA Part B permit renewal. The TDU-1 unit is not designed to incinerate contaminants, but rather is specifically designed to treat remediation wastes contaminated with a complex mixture of organic contaminants from remediation projects such as the Portland Harbor and Duwamish River Superfund Sites through thermal desorption. Condition D.5 as drafted could be interpreted to prevent CWMNW from treating in TDU-1 these remediation wastes if those waste contain any level of PCBs. This would effectively prohibit acceptance of all remediation wastes from these sites containing any concentration of PCBs, leaving these important Superfund projects with no viable alternative treatment facility with capacity in the US. Accordingly, CWMNW looks forward to working cooperatively with U.S. EPA and the State of Oregon to resolve any concerns that the thermal desorption process of TDU-1 requires approval pursuant to 40 C.F.R. § 761.60(e) as a method for treating wastes from remediation projects."

EPA Response to Comment #10: The method of thermal treatment CWMNW has proposed to use at the Facility—thermal desorption—is not an authorized disposal method under the PCB regulations, including under 40 C.F.R. § 761.60. Therefore, the proposed TDU-1 treatment unit would be an alternative method of thermal treatment under the rules, and CWMNW must seek approval under 40 C.F.R. § 761.60(e) prior to operating that unit. The EPA agrees that the language in Condition V.D.5 of the Proposed Approval may not have been clear on this point, so the EPA has amended the condition to state: "Treatment of any PCBs using thermal desorption is prohibited without first obtaining the EPA approval for an alternative disposal method under 40 C.F.R. § 761.60(e)." The EPA believes that this change addresses CWMNW's comment and allows CWMNW to seek future approval of alternative treatment methods.

Based on the language in the comment, however, the EPA is concerned that CWMNW may believe it can begin operating TDU-1 without seeking the EPA approval. This is not the case.

CWMNW must submit a written request to the EPA for approval of the alternative method per 40 C.F.R. § 761.60(e) and demonstrate that the proposed alternative can achieve a level of performance equivalent to an incinerator approved under 40 C.F.R. § 761.70 or a high efficiency boiler operating in compliance with 40 C.F.R. § 761.71. CWMNW must also provide information demonstrating that the proposed alternative method of destroying PCBs will not present an unreasonable risk of injury to health or the environment. Any approval must be stated in writing and may include such conditions and provisions as the EPA deems appropriate.

The EPA notes that it has issued a 40 C.F.R. § 761.60(e) approval for a facility using a thermal desorption unit (TDU) to treat waste that is both PCB-contaminated and a mixture of radioactive and hazardous waste. More information about the approval for TD*X Associates, LP's Treatment Unit at the EnergySolutions, Inc. Facility in Clive, Utah, can be found under Success Stories from the PCB Cleanup and Disposal Program on the EPA website (https://www.epa.gov/pcbs/success-stories-pcb-cleanup-and-disposal-program#:~:text=TD*X%20Associates%2C%20LP%27s%20Treatment%20Unit%20at%20the%20

EnergySolutions%2C%20Inc.%20Facility). The EPA also has required other companies seeking to treat PCB remediation wastes using thermal desorption to apply for 40 C.F.R. § 761.60(e) approvals.

At present, CWMNW has not submitted a written request for approval of TDU-1, so the EPA does not have enough information to assess whether CWMNW's proposed TDU meets TSCA regulatory requirements. Therefore, the EPA is not approving use of TDU-1 as an alternative treatment method in the Final Approval.

cc. Comment #11, CWMNW, November 29, 2023

CWMNW made the following comment on numerous provisions in the Proposed Approval: *"CWMNW requests that any changes to these documents made in the RCRA Part B process be 'deemed approved' for the purposes of this permit until Oregon DEQ takes final action on the RCRA Part B permit because these documents are undergoing substantial changes in the RCRA Part B Permit Renewal process."*

EPA Response to Comment #11: CWMNW made multiple comments requesting that any changes to these documents made in the RCRA Part B process be "deemed approved" for the purposes of this Approval until ODEQ takes final action on the RCRA Part B permit because these documents are undergoing substantial changes in the RCRA Part B Permit Renewal process. The EPA will address these multiple comments as part of this response.

As explained in response to Comment #8 above, the EPA is the implementing authority for TSCA in Oregon, and the EPA must ensure the Approval, including future versions, meets TSCA requirements. Thus, even if ODEQ determines that future modifications to permit attachments meet RCRA requirements, the EPA has an independent obligation to ensure any changes meet TSCA prior to incorporating them into the TSCA Approval. The EPA disagrees that a prospective approval and incorporation of all future hypothetical modifications to CWMNW's RCRA permit into the TSCA Approval, with no review or oversight by the EPA, would be appropriate. The EPA does not believe any change to the Approval is necessary based on these comments.

dd. Comment #12, CWMNW, November 29, 2023

CWMNW requested to add a condition that states, *"This Approval does not apply to PCB Bulk Product Wastes that are allowed to be disposed of in solid waste landfills pursuant to 40 C.F.R. § 761.62(b) or require the Operator to apply the requirements of this Approval to such wastes disposed of at the Facility."*

EPA Response to Comment #12: 40 C.F.R. § 761.62(b) authorizes disposal of certain specified categories of PCB Bulk Product Wastes in non-hazardous solid waste landfills. TSCA regulations do not prohibit chemical waste landfills from accepting PCB Bulk Product Wastes that are allowed to be disposed of in solid waste landfills. However, the fact that these wastes could alternatively be disposed in a solid waste landfill does not mean they are not otherwise subject to TSCA requirements when disposed at a TSCA PCB landfill. Moreover, these wastes are subject to other

non-disposal requirements under the Approval, such as requirements related to storage and treatment. CWMNW's proposed condition would exempt these wastes from other applicable requirements under the PCB regulations. Finally, the EPA does not believe this proposed condition is appropriate because it would make implementation and enforcement of the PCB regulations unworkable at the Facility by creating two categories of waste regulation, one applicable to PCB wastes listed under 40 C.F.R. § 761.62(b) and a second applicable to all other PCB wastes. For these reasons, the EPA is not adding this proposed condition.

ee. Comment #13, CWMNW, November 29, 2023

With respect to Condition III.F.3, CWMNW states: *"CWMNW requests that that the incident notification be changed to 3 business days consistent with other conditions in this permit. The requirement for 24 hour notice does not allow the facility adequate time to research the incident to identify what wastes may have been involved in the incident."*

EPA Response to Comment #13: The 24-hour notice is consistent with other TSCA PCB Approvals as well as other related requirements in the Approval, such as the spills reporting requirements. 40 C.F.R. §§ 761.125(a)(1)(i)-(iii) requires notifying the EPA, Region 10 for specific types of spills "in the shortest possible time after discovery, but in no case later than 24 hours after discovery." An example of an applicable reporting requirement is under the National Contingency Plan, for which 40 C.F.R. § 302.6(a) requires CWMNW to immediately notify the National Response Center of any release of a hazardous substance from such vessel or facility in a quantity equal to or exceeding the reportable quantity determined by this part in any 24-hour period. The written report must be submitted to the EPA within fifteen (15) days of the incident, which gives CWMNW sufficient time to identify the details of what wastes may have been involved in the incident. The 24-hour condition only requires notification be made to the Agency and does not require specificity in identifying what wastes were involved in the incident. The EPA has determined that three business days is too long of a delay for notification of a serious incident, such as a fire or explosion, that may require use of Application Appendix G, the Contingency Plan. In the event of a serious incident, the EPA may need to respond by putting additional measures in place to protect human health and the environment in less than three business days. Accordingly, the EPA does not believe any change to the Approval is appropriate.

ff. Comment #14, CWMNW, November 29, 2023

CWMNW proposed adding *"in the incident"* to Condition IV.F.4.a in the Proposed Approval after *"All emergency equipment"* to read: *"All emergency equipment used in the incident listed in the Contingency Plan, Attachment 3, Application Appendix G, is cleaned and fit for usage after the incident is addressed."*

EPA Response to Comment #14: The EPA has determined that the requested language does not affect the condition's ability to protect human health and the environment. The EPA will update Condition IV.F.5 in the Final Approval to include "in the incident."

gg. Comment #15, CWMNW, November 29, 2023

"CWMNW Requests that this condition [IV.F.7] *be removed from the permit as it is duplicative with condition IV.F.5. Condition IV.F.5 already required notices for spills of PCBs greater than 1 pound."*

EPA Response to Comment #15: The EPA has reviewed the comment and believes CWMNW intended to refer to Conditions IV.F.6 and IV.F.7 of the Proposed Approval. Condition IV.F.6 cited 40 C.F.R. Part 302, which describes a requirement under the National Contingency Plan to report to the National Response Center all spills involving 1 pound or more by weight of PCBs. Condition IV.F.7 cited 40 C.F.R. § 761.125(a)(1)(iii), which describes notifying the EPA Region 10 when a spill exceeds 10 pounds of PCBs by weight.

The EPA deleted these two conditions (IV.F.6 and IV.F.7) because they are duplicative with Condition IV.F.1 that states that "CWMNW must clean up and adequately address all spills of PCBs at the Facility in accordance with 40 C.F.R. Part 761, Subpart G – PCB Spill Cleanup Policy." 40 C.F.R. § 761.125(a)(1) includes applicable reporting requirements under CERLCA, which includes 40 C.F.R. Part 302 as an applicable reporting requirement. Condition IV.F.1 will also encompass the additional spill reporting requirements in the PCB Spill Cleanup Policy described in IV.F.7. There is not anticipated to be any impact to human health and the environment from this change since the PCB Spill Cleanup Policy already addresses these reporting requirements. The EPA has updated the Final Approval to delete the duplicative Conditions IV.F.6 and 7 of the Proposed Approval.

hh. Comment #16, CWMNW, November 29, 2023

With respect to Condition IV.F.9, *"CWMNW requests the removal of the annual update by June 30th. RCRA Requirement is to update within 30 days of any change."*

EPA Response to Comment #16: Condition IV.F.9 of the Proposed Approval required CWMNW to update the list annually no later than June 30 of every year or within thirty days of any change in emergency contacts or telephone numbers. The EPA agrees that the annual update of the list by June 30 is not necessary if CWMNW is already updating the list within 30 days of a change. Therefore, the EPA has made the requested change in the Final Approval.

ii. Comment #17, CWMNW, November 29, 2023

"CWMNW request that this condition [IV.F.10] *be removed as this condition be revised* [sic] *to acknowledge that all of these tasks are included in RCRA Inspection Plan."*

EPA Response to Comment #17: Proposed Condition IV.F.10 (renumbered to Condition IV.F.8 in the Final Approval) states that CWMNW must, at a minimum, monthly test and maintain the alarm system, Facility communications systems, fire extinguishing systems, spills kits, spill control equipment, and personnel and equipment decontamination equipment as recommended by the manufacturer to assure its proper operation in time of emergency. Consistent with CWMNW's

suggestion, the requirements of the inspection plan are already incorporated into the Approval at Condition IV.H.1. However, the EPA determined that the additional inspection-related requirements in Condition IV.F.10 (renumbered to Condition IV.F.8 in the Final Approval) are necessary to ensure adequate protection of human health and the environment at the Facility. For example, the Inspection Plan does not require inspections consistent with manufacturer recommendations for this equipment, nor does it require that CWMNW establish a testing and maintenance plan for equipment manufactured onsite. In other words, the EPA believes this condition adds important and necessary protections that are not included in the referenced Inspection Plan. Therefore, the EPA does not believe any change to the Approval is necessary.

jj. Comment #18, CWMNW, November 29, 2023

"CWMNW requests the removal of this condition [IV.F.12 in the Proposed Approval] *as it is condition already covered by the facility's RCRA Emergency Contingency Plan, so this is unnecessary and duplicative."*

EPA Response to Comment #18: Condition IV.F.12 in the Proposed Approval requires that at all times, there must be at least one employee either at the Facility or on call who has the responsibility for coordinating all emergency response measures, the authority to carry out Application Appendix G, the Contingency Plan, and immediate access to the entire Facility and to a communication device immediately available at the scene of operation capable of summoning external emergency assistance. Although these topics are covered in the Contingency Plan, the additional language the EPA has provided in the approval is not duplicative of what is in the RCRA counterpart, which is necessary to sufficiently meet the TSCA requirement to protect public health and the environment. The EPA does not believe any change to Condition IV.F.12 in the Proposed Approval (renumbered to IV.F.10 in the Final Approval) is necessary.

kk. Comment #19, CWMNW, November 29, 2023

"CWMNW requests U.S. EPA to remove this condition [IV.F.13.a in the Proposed Approval] *as it is vague and ambiguous. The purposes of this condition are adequately served in condition (e) (if changes are proposed by CWMNW) or condition (f) (if U.S. EPA believes the plan failed and needs revision)."*

EPA Response to Comment #19: Proposed Condition IV.F.13.a (renumbered to Condition IV.F.11.a in the Final Approval) requires CWMNW to review and amend, as necessary, its Contingency Plan, within thirty days and to submit the updated plan to the EPA for approval if the Contingency Plan fails during an emergency. 40 C.F.R. § 761.75(b)(8)(ii) provides that an operation plan shall include environmental emergency contingency plans. A contingency plan is necessary to protect human health and the environment. This Approval condition ensures that procedures used by CWMNW are sufficient to effectively respond to an environmental emergency. If these procedures fail during a real-world environmental emergency, the EPA believes it is necessary to update or revise the procedures to respond in the future more effectively.

The EPA disagrees that this condition is "vague and ambiguous." The purpose of the Contingency Plan is to describe actions that personnel must take in response to an emergency incident at the Facility, such as a fire or explosion. In this context, a "failure" entails circumstances where the Contingency Plan failed to adequately address risks during such an incident.

In addition, the EPA disagrees that this requirement is adequately covered by Conditions IV.F.13.e and f in the Proposed Approval (renumbered to Conditions IV.F.11.e and f in the Final Approval). Condition IV.F.13.a in the Proposed Approval (renumbered to IV.F.11.a in the Final Approval) requires CWMNW to proactively evaluate the efficacy of the Contingency Plan after an incident, without requiring either a determination by CWMNW under Condition IV.F.13.e in the Proposed Approval (renumbered to IV.F.11.e in the Final Approval), or by the EPA under Condition IV.F.13.f in the Proposed Approval (renumbered to IV.F.11.f in the Final Approval), that a revision would otherwise be appropriate. Thus, Condition IV.F.13.a in the Proposed Approval (renumbered to IV.F.11.a in the Final Approval) is necessary to prevent unreasonable risk of injury to human health or the environment. Accordingly, the EPA does not believe any change to the Approval is necessary.

ll. Comment #20, CWMNW, November 29, 2023

"CWMNW requests U.S. EPA to remove this condition [IV.F.13.c in the Proposed Approval]. *CWMNW is unaware of any authority for U.S. EPA to approve the roles and responsibilities of specific employees employed by CWMNW."*

EPA Response to Comment #20: As a preliminary matter, the EPA disagrees that the condition (renumbered to IV.F.11.c in the Final Approval) has the effect of providing approval authority over CWMNW employee roles and responsibilities. Rather, this condition requires CWMNW to ensure that information in the Contingency Plan is up to date, including information regarding which employees at the Facility are responsible for implementing emergency response procedures. The EPA needs to be aware of when the Contingency Plan is updated, and which qualified and trained personnel are available onsite in the event of an emergency. This condition also allows the EPA to ensure that CWMNW complies with the Approval conditions and promptly responds to PCB spills and emergencies in a safe manner to minimize potential harm to human health and the environment.

Moreover, the condition requiring CWMNW to provide updates when emergency coordinators change at the Facility is a reasonable application of the authority in 40 C.F.R. § 761.65(d)(2)(ii). That provision requires the EPA to determine that "[t]he applicant, its principals, and its key employees responsible for the establishment or operation of the commercial storage facility are qualified to engage in the business of commercial storage of PCB waste" as part of its approval of commercial storage at the Facility. As discussed above in this Statement of Basis, the EPA has evaluated the qualifications of key employees at the Facility as part of its determination that the requirements of 40 C.F.R. § 761.65 have been met. If those employees change in the future, it is important for the EPA to be able to confirm that both the specific criteria in 40 C.F.R. § 761.65(d)(2)(ii) and also the overarching TSCA requirement to ensure operations at the Facility will not present an unreasonable risk of injury to human health or the environment will continue to be

satisfied. Accordingly, the EPA does not believe any change to the Approval is necessary based on this comment.

mm. Comment #21, CWMNW, November 29, 2023

"Requests modification of this condition [IV.F.13.d in the Proposed Approval]. *CWMNW needs the flexibility to use various products with the same overlying purpose to adapt to market conditions and technological improvements. Requiring any change, particularly changes in manufacturer, etc., is overly burdensome and does not materially affect whether the Facility will pose an unreasonable risk of injury to health or the environment."*

EPA Response to Comment #21: Condition IV.F.13.d (renumbered to Condition IV.F.11.d in the Final Approval) requires CWMNW to review and amend, as necessary, its Contingency Plan, within thirty days and to submit the updated plan to the EPA for approval if there is a change in the list of emergency equipment. Appendix G of the Approval, Table 4-4, specifies the types of emergency equipment currently required at the Facility, and includes, among other things: a siren, a radio system, a commercial phone system, portable fire extinguishers, fire hoses, and a fire truck. Notably, this list includes general categories of equipment and does not specify the manufacturer of equipment that is currently in use.

In other words, the Approval already provides CWMNW with flexibility to "adapt to market conditions and technological improvements" and does not, by its plain language, require modification for "any change, particularly changes in manufacturer." CWMNW may install and use replacement equipment, so long as the replacement equipment falls within the equipment description in Appendix G, Table 4-4. For example, CWMNW could replace all portable fire extinguishers at the Facility with a new model without modifying the approval, since the approval only requires the use of "portable fire extinguishers" and does not specify a particular manufacturer or model. For these reasons, the EPA disagrees it is appropriate or necessary to modify Condition IV.F.11.d to specify that only "material" changes to equipment necessitate a modification.

nn. Comment #22, CWMNW, November 29, 2023

With respect to Condition IV.H.3, "CWMNW requests the 48 hour timeframe be changed to 'as soon as practicable' as many of the deficiencies that can be identified will require more than 48 hours to correct." CWMNW also suggested that U.S. EPA amend the condition to require correction of deficiencies within 48 hours "after discovery, if feasible." For deficiencies that will require more than 48 hours to correct, CWMNW proposed a requirement to submit a "written work plan" within 7 days.

EPA Response to Comment #22: Condition IV.H.3 requires CWMNW to evaluate and address all deficiencies identified during the inspections, with any identified deficiency being repaired, replaced, cleaned up, or otherwise corrected within 48 hours after discovery. The condition includes specific timeframe language because this is enforceable. "As soon as practicable" is open to interpretation, discretion, and variability.

In response to CWMNW's concern that the Proposed Approval language did not account for situations where a deficiency takes longer than 48 hours to fix, the EPA has updated the Final Approval to include an option for CWMNW to notify the EPA if a deficiency will take longer than 48 hours to correct with supporting justification and an expected completion date. Based on this change, the EPA does not believe that CWMNW's proposed change to require correction within 48 hours "if feasible" is necessary or appropriate. Similarly, the EPA believes the modified condition obviates the need for a "written work plan," since this would be covered in the supporting justification for a longer timeline. Moreover, the EPA disagrees with the proposed 7-day notification timeline as seven working days may be too long to fix a particular deficiency that is affecting compliance for storage and disposal of PCBs.

oo. Comment #23, CWMNW, November 29, 2023

CWMNW proposed edits to Condition IV.H.3. The revised condition would read as follows, with CWMNW's additions indicated in underline, "CWMNW must evaluate and address all deficiencies relating to the storage or disposal of PCBs identified during the inspections. Any deficiency relating to the storage or disposal of PCBs identified during an inspection must be repaired, replaced, cleaned up, or otherwise corrected within 48 hours after discovery, if feasible. Any deficiencies that require more than 48 hours to correct, will be corrected as soon as practicable in accordance with a written work plan. Such work plans will be prepare[d] within 7 working days after discovery."

EPA Response to Comment #23: The EPA addressed the portions of the revisions related to the notification timeline in Comment #22, above. The EPA does not agree with the remaining proposed language from CWMNW. EPA's authority is not limited to addressing deficiencies related to storage or disposal. EPA's authority includes regulation of deficiencies related to processing and treatment of PCBs.

pp. Comment #24, CWMNW, November 29, 2023

"CWMNW requests that the condition [IV.I.1] *mirror the language and requirements of 40 CFR 264.14."*

EPA Response to Comment #24: Condition IV.I.1 includes requirements for site security to prevent the unauthorized entry of persons, livestock, or wildlife into the active areas of the Facility. CWMNW's proposed edits would mirror the language in 40 C.F.R. § 264.14(a), which sets forth security requirements for hazardous waste treatment, storage, and disposal facilities under RCRA. The added language would exempt CWMNW from the requirement to prevent unauthorized access to the facility if CWMNW can demonstrate it meets the requirements under 40 C.F.R. § 264.14(a)(1) and (2).

The EPA disagrees that incorporating this exemption into the Approval would be appropriate. First, as included in the Proposed Approval, the EPA believes the requirement to prevent unauthorized access is necessary to ensure that operations at the Facility do not create an unreasonable risk to public health and the environment. Moreover, the exemption under 40 C.F.R. § 264.14(a) is only

available if the owner and operator of the Facility includes a demonstration that it meets the exemption criteria in its permit application. Since CWMNW has not included such a demonstration in its Approval application, the exemption is not available.

For these reasons, the EPA has not made any changes to the Final Approval in response to this comment.

qq. Comment #25, CWMNW, November 29, 2023

"CWMNW requests the condition [IV.N.3] *be made specific to PCBs."*

EPA Response to Comment #25: Condition IV.N.3 requires at the completion of any cleanup required by the Approval, CWMNW must develop and maintain records of the cleanup. CWMNW requested that the EPA update the language to only require records of cleanups "involving a spill of PCBs," as opposed to any cleanup "required by the Approval." The EPA does not agree since this proposed revision would limit authority to spills of PCBs and would not include other types of cleanups that may be required under this Approval, such as cleanup of soil and groundwater contaminated with PCBs due to causes other than a PCB spill. The EPA does not believe any change to the Approval is necessary based on this comment.

rr. Comment #26, CWMNW, November 29, 2023

"CWMNW Requests that the condition [IV.N.5] *be removed in its entirety. CWMNW does not and cannot track airspace to this level of precision."*

EPA Response to Comment #26: Condition IV.N.5 requires CWMNW to notify the EPA in writing when 80, 90, and 95 percent of the disposal capacity is reached for Landfill L-14, Cell 5. The EPA and CWMNW must know for planning purposes when the active landfill cell is reaching capacity. Exceeding the designed capacity of the landfill would put CWMNW out of compliance with its TSCA PCB Approval. The Facility would pose an unreasonable risk to human health and the environment by exceeding the limits of the Facility's approved environmental control systems. 40 C.F.R. § 761.75(b)(8)(iv) requires that CWMNW maintain three-dimensional burial coordinates for PCBs and PCB Items. The EPA may need to plan reviews of Approval modifications and coordination with ODEQ to add landfill cells to ensure the availability of regional disposal options for PCBs to protect human health and the environment. If CWMNW would like to assess the airspace capacity for the landfill using a different approach, such as an aerial survey, it must be submitted to the EPA for review and approval. CWMNW does not offer an alternative to address the EPA's concerns. The condition has been modified to: 1.) allow for the conditional approval of additional landfill cells (L-14, Cells 6-8) and 2.) allow flexibility in reporting the percentage of airspace available and allow for an alternative approach for assessing landfill disposal and airspace capacity if the EPA determines it is protective of human health and the environment.

ss. Comment #27, CWMNW, November 29, 2023

"CWMNW requests the removal of these descriptors as the Facility employs many forms of recordkeeping and does not employ bar codes at this time, and is not required to maintain such systems under 40 C.F.R. § 761.180(b)(1)-(5)."

EPA Response to Comment #27: Condition V.B.1 of the Proposed Approval required CWMNW to operate and maintain a database and barcode system to track the volumes and locations of containerized PCB wastes throughout the Facility. CWMNW requested to remove "database and barcode" to reflect the recordkeeping practices currently used at the Facility. 40 C.F.R. § 761.180(b)(1)-(5) does not require a database and barcode system, only a written annual document log. Many companies have updated to a database and barcode system as technology, industry practice, and requirements have evolved. CWMNW indicated it has not, therefore the Approval will be updated to remove "database and barcode" from Condition V.B.1 with the edit that CWMNW provided to match the recordkeeping system used by the Facility.

tt. Comment #28, CWMNW, November 29, 2023

"CWMNW requests the single tier limitation be removed. There is no evidence that storing containers stacked more than single tiers presents an unreasonable risk."

EPA Response to Comment #28: The EPA is changing Condition V.B.4 to allow stacking drums up to two tiers to better align with TSCA storage best management practices. This condition was added to prevent container releases. Containers falling from a greater height will sustain more damage that can lead to the container releasing hazardous waste. In addition, limiting container stacking to two containers high helps ensure that container labels can be read from ground level. Intermodal containers can be stacked three high due to their greater stability if the stack is stable, there is no apparent hazard of such containers tipping or falling, and provided that inspection of such containers is not inhibited. The previous version in the Proposed Approval was based on existing ODEQ RCRA permit requirements. If waste is regulated under both TSCA and RCRA, CWMNW must follow the more stringent stacking requirements.

uu. Comment #29, CWMNW, November 29, 2023

"CWMNW suggest removing these modifiers ["excavator or other" in condition V.E.4] *for clarity."*

EPA Response to Comment #29: Condition V.E.4 of the Proposed Approval stated, **"**CWMNW must not remove any excavator or other equipment that comes into direct contact with PCBs to outside of the Facility unless it has first been decontaminated as specified in 40 C.F.R. § 761.79." The revised language does not change the meaning of the condition since it covers all equipment, it just does not name a specific example like an excavator. The EPA accepts the proposed change from CWMNW so that the revised condition will say, "must not remove any equipment."

vv. Comment #30, CWMNW, November 29, 2023

"CWMNW requests wipe samples be limited to units having stored bulk PCB wastes in the previous quarter [in Condition V.F.1]*." CWMNW also proposed a modification to the Proposed Approval language limiting the sampling requirement to units "having stored bulk PCB material >50 ppm during the preceding quarter."*

EPA Response to Comment #30: Condition V.F.1 in the Proposed Approval said that CWMNW must conduct quarterly sampling of units B-5, B-6, B-7, B-8, and SU-B8 using a standard wipe test. This proposed revision by CWMNW attempts to limit the required sampling to only units that have stored bulk PCB wastes at a concentration greater than 50 ppm in the previous quarter. The EPA disagrees that it would be appropriate to limit the sampling requirement per CWMNW's proposal since it would exclude other types of PCB wastes, as well as wastes that are at concentrations subjecting them to TSCA requirements. However, the EPA understands CWMNW's concern that wipe sampling may not be necessary in areas where no PCBs were processed or stored. Therefore, the EPA has amended the condition to allow CWMNW to forego sampling within units that have not been used to process or store PCBs at any concentration during the preceding quarter.

ww. Comment #31, CWMNW, November 29, 2023

With respect to Conditions V.H.1 and 4, CWMNW proposes modifications to closure requirements for treatment and storage units. With respect to Condition V.H.1, one CWMNW commenter requested addition of reference to the Facility's RCRA Part B Closure Plan, while another CWMNW commenter requested deleting this language, as well as other language requiring the company to update the Closure/Post-Closure Plan, if needed, at the time of final closure. CWMNW also proposed changing "facility" to "unit" in Condition V.H.1. With respect to Condition V.H.4, CWMNW requests deletion of reference to the Facility's Closure/Post-Closure Plan as a requirement during closure activities.

EPA Response to Comment #31: Processing activities primarily associated with treatment or disposal of PCBs require a TSCA PCB Approval per 40 C.F.R. § 761.20(c)(2)(ii). CWMNW must notify the EPA to determine compliance with its TSCA PCB Approval if it needs to close a processing or treatment facility, or any section of it.

The EPA evaluated the complete Application submitted by CWMNW to determine compliance with TSCA requirements, including the Closure/Post-Closure Plan included as Application Appendix H. The RCRA Closure Plan was provided as an attachment to CWMNW's TSCA PCB Approval Application to demonstrate compliance with TSCA requirements for financial assurance and closure and protection of human health and the environment. The EPA cannot disregard references submitted in CWMNW's Application at this point in the process. Moreover, 40 C.F.R. § 761.65(e)(2) requires that the EPA make compliance with the closure plan a condition of the Approval. The EPA, therefore, reviewed the RCRA Closure Plan to determine CWMNW's compliance with TSCA requirements and protection of human health and the environment. The EPA

disagrees that references to these materials should be removed from the Approval and is confused by CWMNW's request to do so.

The EPA also disagrees with CWMNW's proposed changes from "facility" to "unit" in Condition V.H.1. Condition V.H.1 is based on the requirements in 40 C.F.R. § 761.65(e)(6)(i), which state: "The commercial storer shall notify in writing the Regional Administrator or the Director, Office of Resource Conservation and Recovery, if an official at EPA's Headquarters approved the closure plan, at least 60 days prior to the date on which final closure of its PCB storage facility is expected to begin." CWMNW's proposed change is inconsistent with this regulatory requirement. For all of these reasons, the EPA has not made any changes to the Approval in response to these comments.

xx. Comment #32, CWMNW, November 29, 2023

"CWMNW requests the words 'computerized systems' be removed [in Condition VI.D.2] *as these records are kept using hardcopy paper. Proposed changes substitute the 'operating record' which is more general.*

Alternatively, CWMNW proposes to remove the computerized systems language and insert 'maintained onsite either in paper form written in ink or in an electronic reporting system. "'

EPA Response to Comment #32: Condition VI.D.2 in the Proposed Approval requires CWMNW to maintain a permanent and accurate record in the Facility's computerized systems identifying the specific three-dimensional location of each hazardous waste type, based on grid coordinates, within each cell of the L-14 landfill. 40 C.F.R. §§ 761.75(b)(8)(ii) and (iv) and 761.180 do not require computerized systems to maintain records. Many companies have updated to computerized systems as technology has evolved, however, CWMNW indicated it has not. The EPA will update Condition VI.D.2 to reflect use of CWMNW's system for maintaining the operating record.

yy. Comment #33, CWMNW, November 29, 2023

"CWMNW requests the removal of this condition [VI.D.3.a] *as Part B Subtitle C landfills do not have a requirement for placing daily cover."*

EPA Response to Comment #33: 40 C.F.R. § 761.75(b)(9)(iii) requires the site to be "operated and maintained in a manner to prevent safety problems or hazardous conditions resulting from spilled liquids and windblown materials." In order to meet this requirement, Condition VI.D.3.a requires placing daily cover over deposited wastes to control wind dispersal of particulate matter, by using non-hazardous, non-RCRA liquids and, as specified in the Approval, leachate from the landfill to suppress dispersal of particulate matter (i.e., dust suppression).

As a preliminary matter, the EPA disagrees with the commenter's conclusion that the lack of a requirement under RCRA Subtitle C means the requirement is not appropriate within the context of a TSCA Approval. As explained above, RCRA and TSCA impose distinct requirements, and the Approval must ensure compliance with TSCA.

In the EPA's experience, daily cover is an important method to prevent safety problems or hazardous conditions from windblown material at landfills managing PCB waste. For this reason, the EPA has included this requirement in Approvals issued to other TSCA landfills. In addition, CWMNW's operations plan references the use of daily cover in multiple locations, suggesting that it is commonly used at this Facility.[3] Therefore, the EPA is retaining this requirement in the Final Approval. The EPA will correct the regulatory citation in Condition VI.D.3 from "40 CFR § 761.75(b)(9)(ii)" to "40 CFR § 761.75(b)(9)(iii)."

zz. Comment #34, CWMNW, November 29, 2023

"CWMNW requests that this condition [VI.D.4 and its sub-conditions a.-d.] *be removed in its entirety as the requirements are already contained in the Facility's RCRA Part B Permit."*

EPA Response to Comment #34: Condition VI.D.4 allows CWMNW to use untreated leachate from the L-14 landfill for dust suppression only on the active parts of the landfill in accordance with the specific sub-conditions. This condition and its sub-conditions are necessary for protecting human health and the environment from PCBs, as these are about managing PCBs in untreated leachate for dust suppression within the footprint of the lined landfill footprint. Sprinkler and drip systems must be maintained to prevent sideslope erosion, runoff, and puddling, which could contribute to PCBs migrating beyond the boundaries of the landfill. Requiring that leachate can only be applied on active portions of the landfills ensures that it is used on lined areas that are already impacted by waste materials and will not contaminate other locations with PCBs. Preventing sideslope erosion ensures that the structural integrity of the landfill is maintained, and waste is not exposed to precipitation, allowing PCBs to stay within the lined portion of the landfill.

As explained in response to Comment #3 above, the EPA is the primary authority implementing TSCA in Oregon and, as such, the EPA must ensure the Approval satisfies TSCA requirements, including the requirement to ensure the Approval will not cause unreasonable risk to human health or the environment. Thus, the EPA disagrees that it would be appropriate to remove this condition based on the fact that it is also included in the Facility's RCRA permit.

aaa. Comment #35, CWMNW, November 29, 2023

"CWMNW request the correct citation be applied [to Condition VI.D.7]*, current citation is for PCB Remediation Wastes Cleanup levels. None of the cited requirements are found in the cited section of the Code of Federal Regulations. Without a specific regulatory requirement, CWMNW requests this condition be deleted as it is onerous and overly burdensome when equipment maintenance and redundancy needs are considered. Condition* [VI.D.7]*b. is adequately protective of public health without being overly restrictive and burdensome to landfill operations."*

EPA Response to Comment #35: Condition VI.D.7 in the Proposed Approval required CWMNW to implement minimum controls to assure that PCB-contaminated material is not carried from the

[3] *See* Table 14-2A, Table 14-2B, Section 5.6, and Section 5.8 in Approval Attachment 5, Application Appendix L, Landfill Design, Operations and Response Action Plan.

active disposal area. 40 C.F.R. § 761.61(a)(4)(i)(B)(1) provides the basis for the 25 ppm soil cleanup level included in Condition VI.D.7.c. In response to the comment, the EPA will update the regulatory citations for Condition VI.D.7 in the Final Approval to clarify the basis for requirements about decontaminating equipment and PCB remediation waste.

With respect to the requirement in Condition VI.D.7.b in the Proposed Approval, which CWMNW has requested be deleted, the EPA is revising Condition VI.D.7.a in the Final Approval in response to the comment. The condition will now read, "CWMNW must decontaminate equipment leaving the active PCB waste handling area in accordance with 40 C.F.R. § 761.79(b)(3)." This will allow CWMNW additional flexibility to utilize equipment between PCB and non-PCB areas, while still addressing the risk of PCBs exiting specified areas via contaminated equipment, thus protecting human health and the environment. The EPA will modify sub-condition VI.D.7.b in the Final Approval to cite "40 C.F.R. § 761.61(a)(4)(ii)." The EPA will modify proposed sub-condition VI.D.7.c in the Final Approval to cite 40 C.F.R. § 761.75(c)(3)(ii) and 40 C.F.R. § 761.61(a)(4)(i)(B).

bbb. Comment #36, CWMNW, November 29, 2023

"We asked for a waiver to allow a chain link fence. Added the language consistent with section F.3.a."

EPA Response to Comment #36: The EPA does not understand the concern raised in the comment. Condition VI.D.8 approves the use of a 6-foot-high chain link fence at the Facility, per CWMNW's request. It is also unclear what "Added the language consistent with section F.3.a" is referring to. Accordingly, the EPA does not believe any change to the Approval is necessary based on this comment.

ccc. Comment #37, CWMNW, November 29, 2023

With respect to Condition VI.E.5, CWMNW states: *"I would like to if possible confine this to our submittal of our Annual Environmental monitoring report as it contains all of [sic] the results of the annual monitoring."*

EPA Response to Comment #37: Condition VI.E.5 requires CWMNW to submit to the EPA an annual report that contains the analytical and field data results from the groundwater monitoring required by this Approval. Condition VI.E.5 does not state a specifically named report as a requirement. If the Annual Environmental monitoring report includes the information described in the condition, then the monitoring report will meet the requirements of this Approval. Accordingly, the EPA does not believe any change to the Approval is necessary.

ddd. Comment #38, CWMNW, November 29, 2023

With respect to Condition VI.F.3, *"CWMNW requests the sampling apply only to active sumps."*

EPA Response to Comment #38: Condition VI.F.3.a requires CWMNW to collect leachate samples on a quarterly basis from all landfill L-14 collection and detection sumps that contain pumpable liquids. CWMNW requested to modify the condition to only sample active sumps, which the EPA interprets to mean sumps located in areas of the landfill still accepting waste, e.g. "active" areas. Leachate in all sumps can contain hazardous constituents during the active life and after closure of the landfill. Even sumps in inactive areas of the landfill can collect leachate. Monitoring leachate in all sumps rather than just active sumps for hazardous constituents as described in Condition VI.F.3.a is necessary for protecting human health and the environment. The EPA does not believe any change to the Approval is necessary.

eee. Comment #39, CWMNW, November 29, 2023

With respect to Condition VI.F.3.b, CWMNW requested to change the notification timeline to U.S. EPA from 24 hours to 3 business days when CWMNW receives an analytical report or otherwise becomes aware of a detection of PCBs in a leachate sample.

EPA Response to Comment #39: The 2006 Approval issued by the EPA required that CWMNW report to the EPA within 48 hours of receiving an analytical report or otherwise becoming aware of a detection of PCBs in a leachate sample. The EPA understands CWMNW to be suggesting that 24 hours is too short of a timeframe for providing notification. In response to this comment, the EPA will update Condition VI.F.3.b in the Approval to change the notification timeline to the EPA from 24 hours to 48 hours when CWMNW receives an analytical report or otherwise becomes aware of a detection of PCBs in a leachate sample. This will match the reporting requirements from the 2006 Approval, and the EPA believes this notification timeline will be sufficient to ensure no unreasonable risk to human health or the environment.

12. Differences between the Proposed and Final Approval

The EPA updated the following items before issuing the Final Approval based on comments that were provided during the public comment period:

- The Final Approval has corrected spacing with regulatory citations.
- Deletion of "including any amendments or revisions thereto" from the cover letter to the Final Approval.
- Deletion of Condition IV.E.1, which stated "CWMNW must conduct all PCB related work at the Facility in accordance with 29 C.F.R. § 1910.120, including any future amendments to that rule."
- The EPA will add "used in the incident" to sub-condition IV.F.5.a to clarify which emergency equipment is required to be cleaned and fit for usage after the incident is addressed.
- The EPA will delete Conditions IV.F.6 and 7 because they are duplicative with Condition IV.F.1.
- The EPA has modified Condition IV.F.9 to be consistent with the RCRA requirement of updating the list of emergency contacts, telephone numbers, and designated emergency exits within thirty (30) days of any change in emergency contacts or telephone numbers.

- The EPA has updated Condition IV.H.3 to include an option for CWMNW to notify EPA if a deficiency will take longer than 48 hours to correct with supporting justification and an expected completion date.
- The EPA will update Condition V.B.1 to match the recordkeeping system used by CWMNW.
- The EPA will update Condition V.B.4 for better consistency with National PCB Program best management practices for stacking containers.
- The EPA will update Condition V.D.5 to clarify requirements for seeking approval for an alternate disposal method under 40 C.F.R. § 761.60(e) for PCB remediation waste.
- The EPA accepts the proposed change from CWMNW removing these modifiers, "excavator or other" in Condition V.E.4, for clarity.
- Condition VI.D.2 has been updated to reflect use of CWMNW's system for maintaining the operating record.
- The EPA has corrected the regulatory citation in Condition VI.D.3 from "40 C.F.R. § 761.75(b)(9)(ii)" to "40 C.F.R. § 761.75(b)(9)(iii)."
- The EPA has revised regulatory citations in Condition VI.D.7 to clarify requirements about unauthorized disposal of PCB remediation waste and decontaminating non-porous surfaces on equipment.
- The EPA has corrected the condition reference in Condition VI.I.10 from "VI.F.5" to "VI.F.3.a-b" and "VI.F.4.a"
- The EPA has updated sub-condition VI.F.3.b to change the notification timeline to the EPA from 24 hours to 48 hours when CWMNW receives an analytical report or otherwise becoming aware of a detection of PCBs in a leachate sample.

13. Final Action

The Approval authorizes CWMNW to store for disposal, treat for disposal, and dispose of PCB wastes at the Facility. The EPA has concluded, based upon Agency review of the Application, its supporting documents, and other information provided by CWMNW that the renewal and modification of the Approval, along with the additional and modified conditions included in the Approval, satisfies the requirements of TSCA and 40 C.F.R. Part 761 for storage for disposal, treatment for disposal, and disposal of PCBs in an approved landfill. The EPA has also concluded that PCB operations at the Facility do not pose an unreasonable risk of injury to human health and the environment.

The Approval improves and strengthens the management of PCBs at the Facility by updating items from the 2006 Approval, including the following:

- Authorizes a new disposal unit, L-14 Cell 5, to accept PCB waste for disposal;

- Conditionally approves Unit L-14 Cells 6-8 once the EPA approves CWMNW's compliance schedule and construction report for these units;

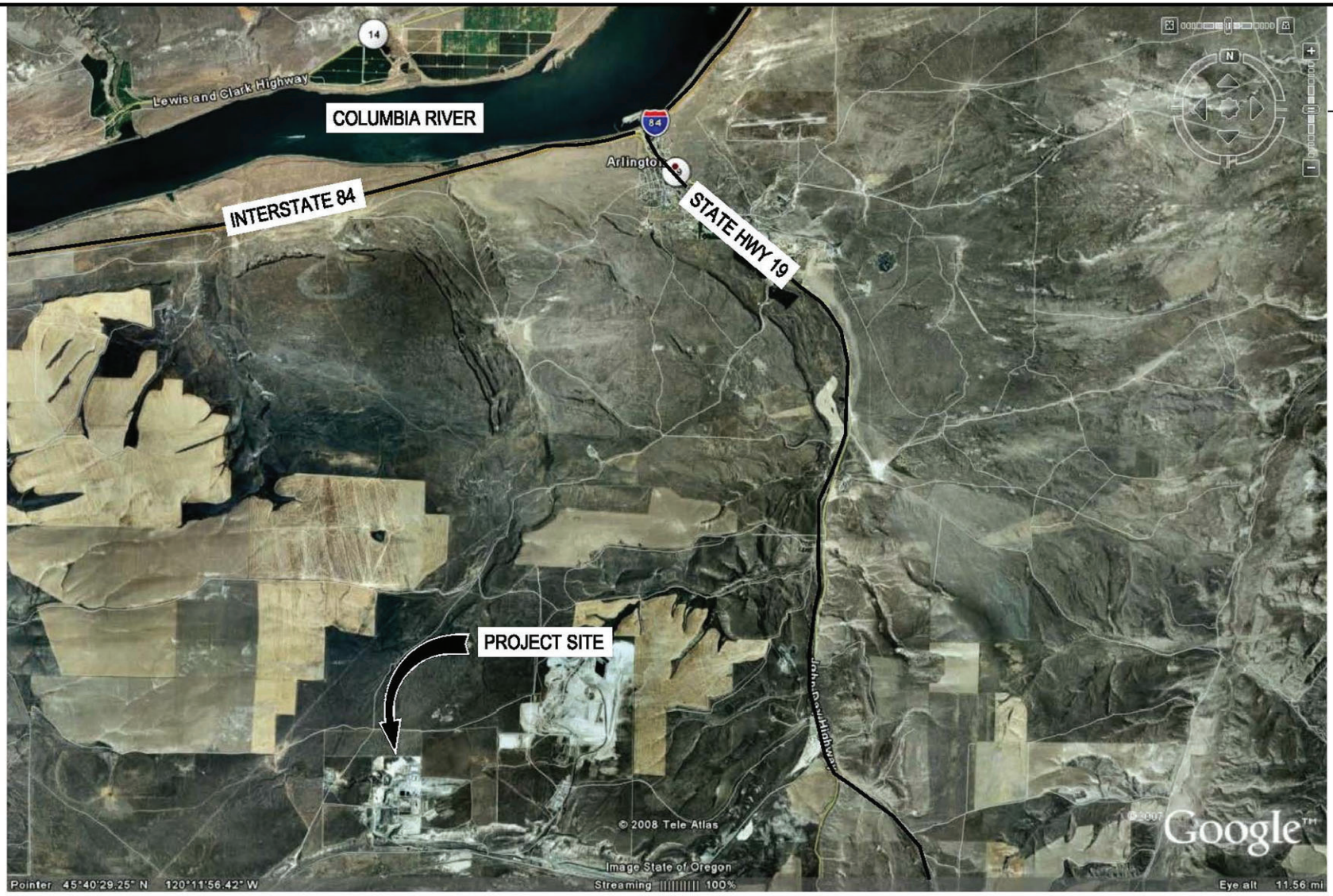
- Authorizes temporary (up to 30 days) and long-term (up to one year unless extended under 40 C.F.R. § 761.65(a)(2) and (3)) storage of PCB containerized waste in storage areas;

- Authorizes, with conditions, using untreated leachate from landfills L-14 for dust suppression within the footprint of the landfill;

- Requires quarterly wipe sampling for PCB analysis of the floors in the areas of the buildings in which PCB waste is processed for disposal;
- Requires that soils beneath any PCB units that will be fully demolished during closure in accordance with the most current version of the Facility Closure/ Post-Closure Plan, be tested for PCBs and removed if PCB concentrations exceed 1 mg/kg or as otherwise specified by the EPA;
- Shortens spill reporting timeframes to the EPA from two business days to 24 hours;
- Requires reporting the remaining landfill capacity for active landfill cells to the EPA;
- Restricts mineral oil dielectric fluid from disposal in the landfill;
- Reduces the PCB concentration of liquids that can be solidified for landfill disposal;
- Adds updated recordkeeping and reporting requirements; and
- General administrative changes and clarifications are made including, but not limited to, updating the EPA contact information.

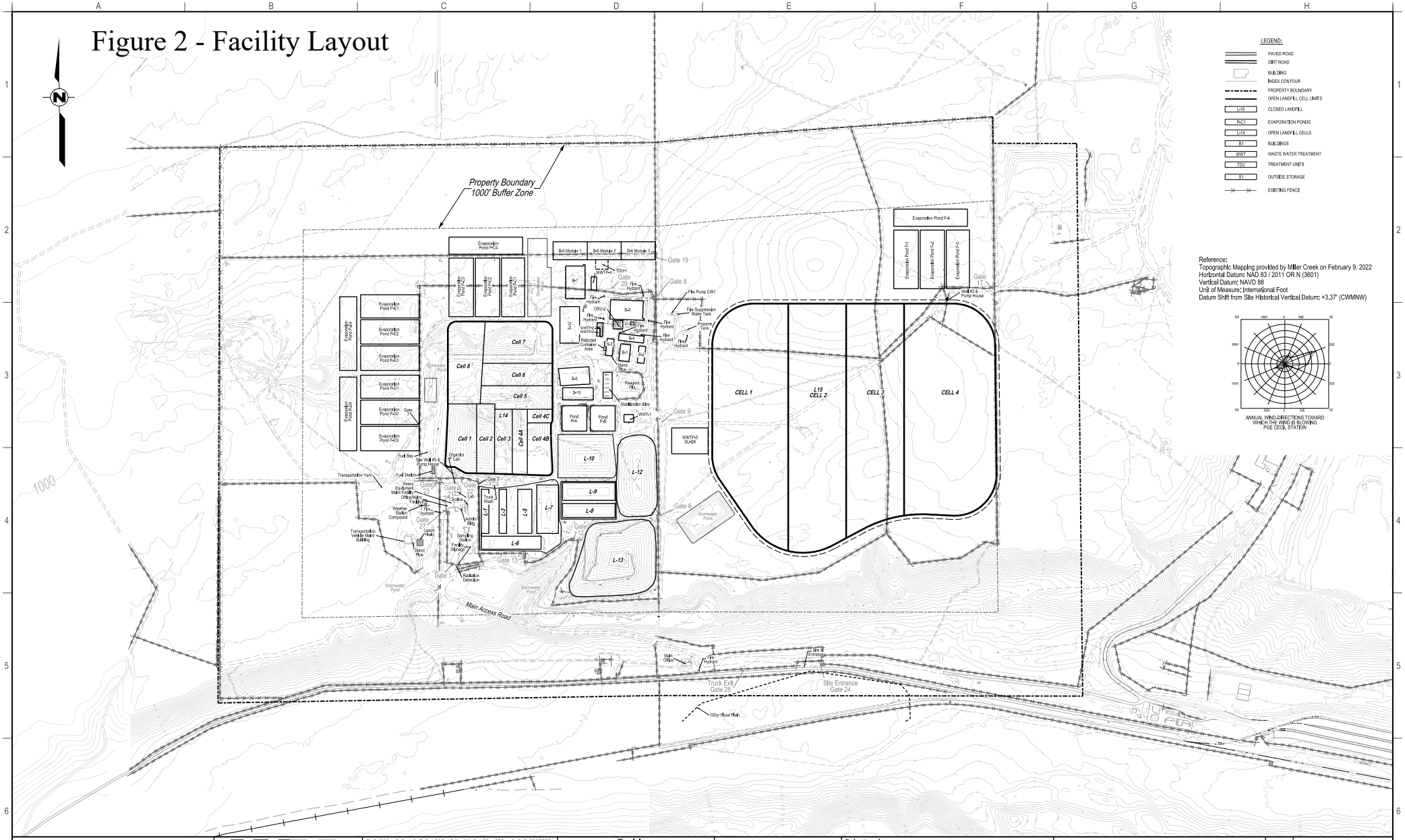
For additional information on the EPA's rationale for this Approval, see the documents included in the Administrative Record, incorporated by reference herein.

Figure 1 - Site Location Map



SCS ENGINEERS Environmental Consultants and Contractors 2405 140th Avenue NE, Suite 107 Bellevue, Washington 98005 (425) 746-4600 FAX: (425) 746-6747		PROJECT NO. 01200266.04	DES BY LEL	FACILITY LOCATION MAP CHEMICAL WASTE MANAGEMENT OF THE NORTHWEST, INC ACDP MODIFICATION APPLICATION	DATE November 2019
		SCALE N.T.S.	CHK BY EMS		FIGURE 1
		CAD FILE FIGURE 1	APP BY PSS		

Figure 2 - Facility Layout



250 0 250 500
SCALE IN FEET

WASTE MANAGEMENT

Revisions			
No.	Description	Date	By

Approved By: Dave Rettell
Checked By: Ben Arata
Drawn By: Bullseye Design Services, Inc.

Project Location:
Chemical Waste Management
Of the Northwest, Inc.
Arlington, Oregon

Part B Permit - Figure 1-1

Site ID:	OR05 - 2236	
Scale:	1" = 500'	Drawing No. 1-1
Date:	November 2022	

Or05_Overall Site Plan 2022.dgn 11/9/2022 1:21:30 PM

Figure 3 - National Aeronautics and Space Administration Landslide Susceptibility

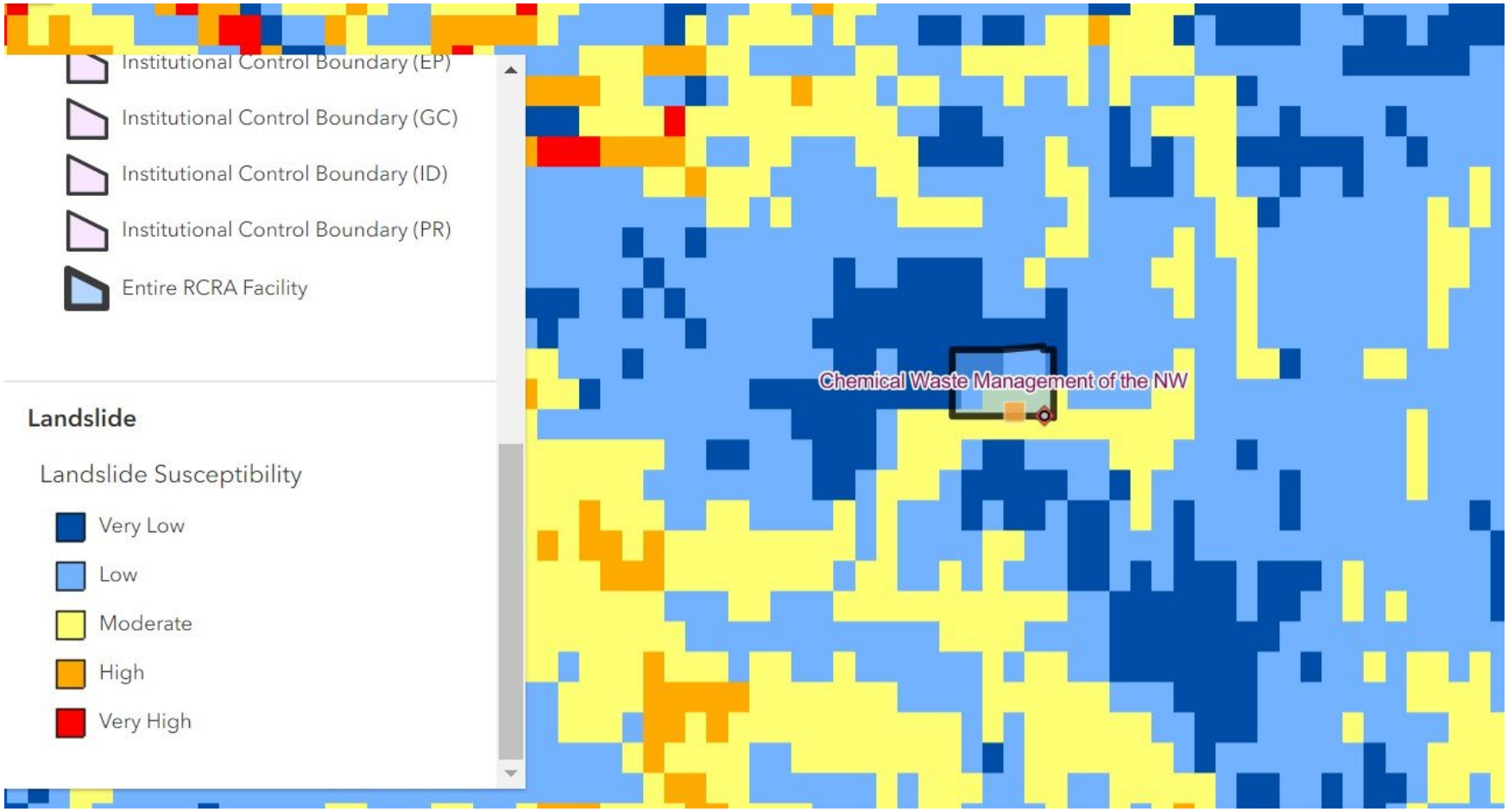
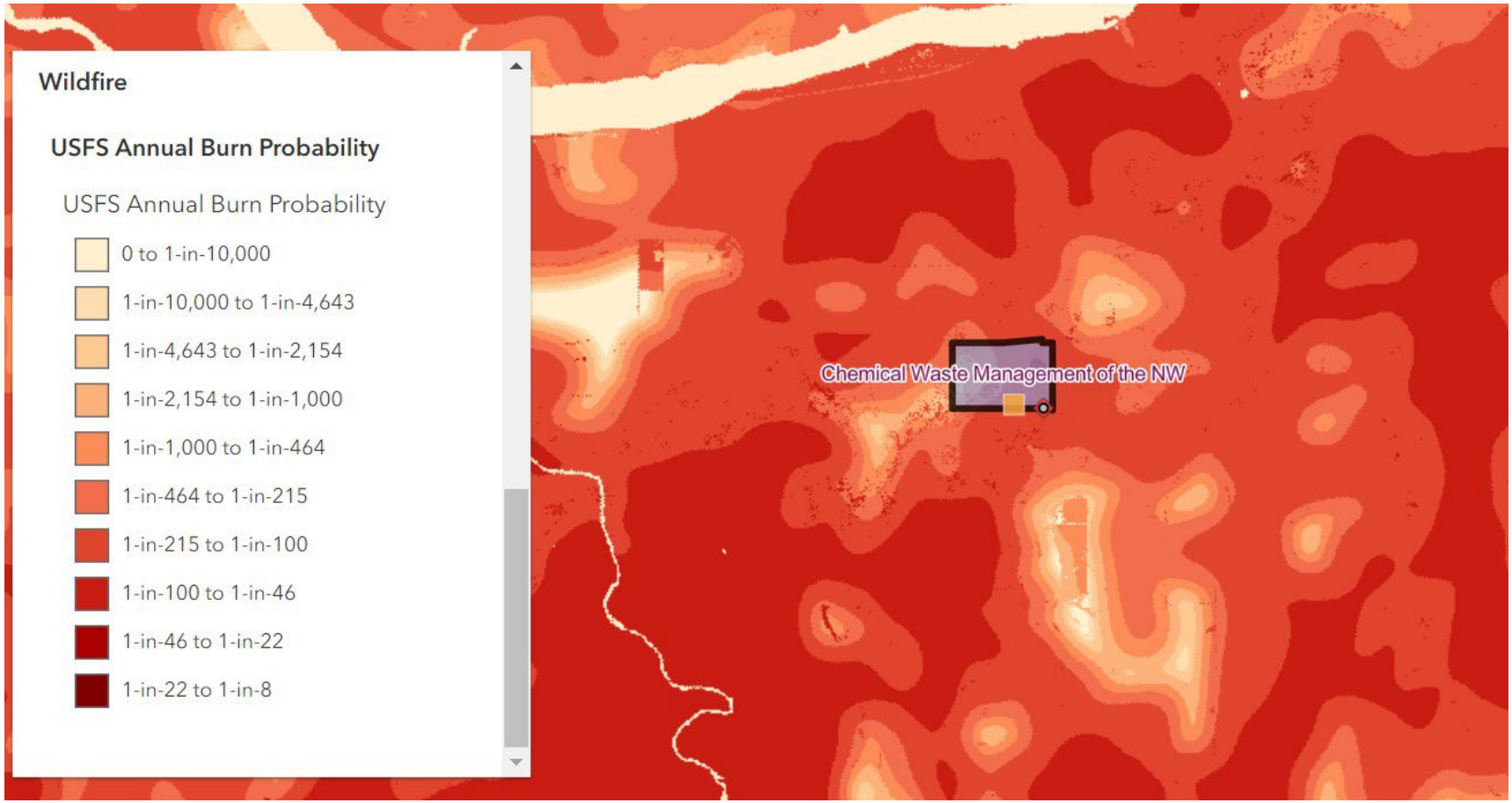


Figure 4 - U.S. Forest Service Annual Burn Probability



Statement of Basis Exhibit A

CWMNW Employee Qualifications

As provided in Sections 3.25 and 3.26 of the Final Application for Commercial Disposal of Polychlorinated Biphenyls (PCBs) under the Toxic Substances Control Act (TSCA) Chemical Waste Management of the Northwest, Inc. (CWMNW), with revisions submitted to the EPA on August 31, 2023:

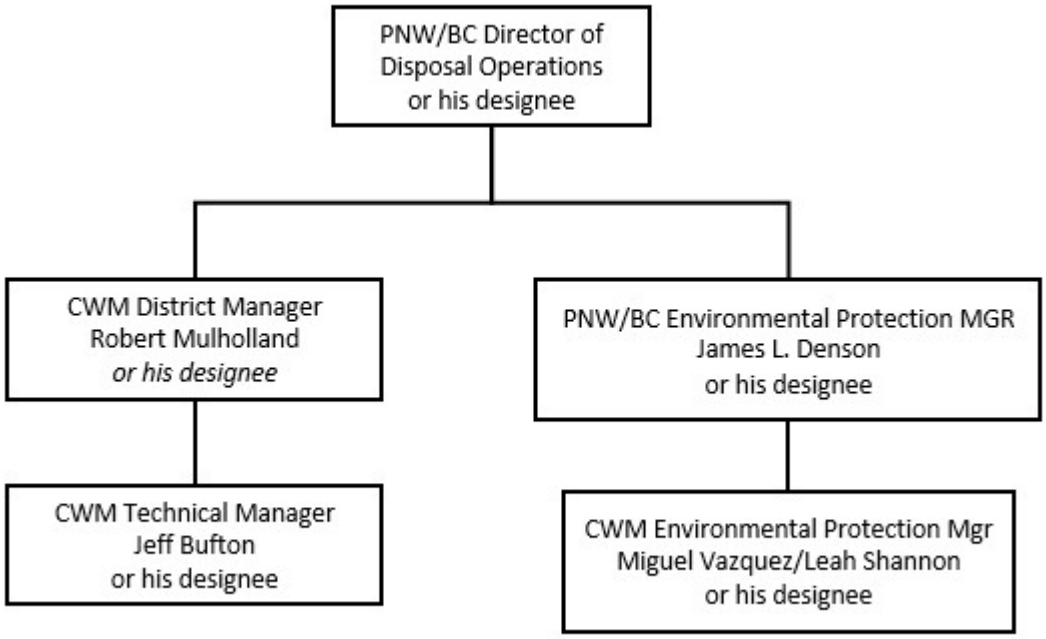


Figure 1. Chemical Waste Management, Inc. – Arlington Oregon Facility Management Structure

District Manager – Robert Mulholland

• 37 years in the hazardous waste industry, including TSCA waste management

• 5 years at CWMNW Facility

Environmental Protection Manager – Leah Shannon

• 38 years in the hazardous waste industry, including TSCA waste management

• 8 years at CWMNW in current position

Environmental Protection Manager – Miguel Vazquez

• 20 years in the solid waste industry

• 9 months at CWMNW in current position

Technical Manager – Jeff Bufton

• 31 years in the hazardous waste industry at CWMNW, including TSCA waste management

Statement of Basis Exhibit B

Justification for Use of U.S. EPA Authority Under 40 C.F.R. §§ 761.65(d)(4)(iv) and 761.75(c)(3)(ii)

TSCA Approval – Chemical Waste Management of the Northwest

The Toxic Substances Control Act (TSCA) provisions for protecting human health and the environment are located at 40 C.F.R. §§ 761.65(d)(4)(iv) and 761.75(c)(3)(ii). The provisions allow the EPA to include requirements in a TSCA Approval beyond those explicitly set forth in the regulations when the Agency finds that an Approval Condition is necessary to ensure that PCB storage and disposal operations at a facility "will not pose an unreasonable risk of injury to health or the environment." The EPA is including in the Final Chemical Waste Management of the Northwest (CWMNW) Approval certain conditions not supported by an existing TSCA regulation. For these conditions, the EPA has made a determination that the standards for use of the provisions are satisfied as follows:

Condition	Justification
IV. General Approval Conditions	
IV.B.3 (General Requirements)	The EPA must ensure protection of human health and the environment through preventing contaminant releases and minimizing physical hazards. To mitigate these concerns, CWMNW must design, construct, maintain, and operate the Facility to prevent fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, ground water, or surface water.
IV.B.4 (General Requirements)	CWMNW must keep a copy of the Approval on-site. This condition is necessary so that the Approval is readily available for Facility staff to refer to. This will facilitate compliance with Approval conditions by having them easily accessible. This condition will allow inspectors to verify that the Facility is using the current version of the Approval and have a common reference of Approval conditions during inspections.
IV.B.10 (General Requirements)	PCB Units can create a risk to public health or the environment if not managed properly, both during ongoing operations and after closure. Continued post-closure maintenance of the landfill covers, leachate collection system and groundwater monitoring network is essential for ensuring that the landfills do not release PCBs, which will remain on-site indefinitely, into the environment.
IV.C.1 (General Waste Management)	This condition is necessary to prevent dangerous conditions at the Facility resulting from improper commingling of non-PCB wastes with PCB wastes, which could lead to releases of PCBs or other contaminants that are a risk to human health and the environment. This condition applies to all PCB units at the Facility and is consistent with requirements set forth in 40 C.F.R. §§761.75(b)(8)(i) and (iii) and under the Resource Conservation and Recovery Act (RCRA).
IV.D.1 and IV.D.2 (Personnel Training)	Training is important because facility workers must be adequately prepared to safely handle PCB waste and respond to emergencies such as accidental spills. This is consistent with the requirements set forth in 40 C.F.R. §761.65(d)(3)(iii). These conditions expand upon the requirements listed in 40 C.F.R. Part 761, which the EPA believes is necessary to protect public health and the environment given the scope and scale of PCB and hazardous waste operations at the Facility.

Condition	Justification
IV.F.2 through IV. F.12 (Emergency Preparedness and Spill Cleanup)	The Approval requires that CWMNW implement site-specific emergency preparedness plans, provide notification to the EPA of PCB spills, and provide written reports of PCB spill incidents. These Approval conditions ensure both that CWMNW uses appropriate procedures for managing incidents at the Facility and also provides the EPA with authority to ensure that these procedures are sufficient to prevent risks to public health and the environment. These conditions also allow the EPA to ensure that CWMNW complies with the Approval conditions and promptly responds to PCB spills and emergencies in a safe manner to minimize potential harm to human health and the environment.
IV.G.1 and IV G.2 (Entry and Agency Inspection)	These Approval conditions provide the EPA with inspection and information gathering authorities to determine compliance with applicable statutes, regulations and Approval conditions. Given the scope and scale of PCB operations at the Facility, it is necessary for the EPA representatives to have access to the Facility and applicable records to ensure that operations are conducted in compliance with the Approval and in a manner that does not create an unreasonable risk of injury to human health and the environment.
IV.H.1 through IV.H.3 (General Inspection Requirements)	The Approval requires that CWMNW representatives conduct on-site inspections of the PCB storage units, treatment units, and chemical waste landfills. The inspections are important for ensuring that equipment used for communications, fire protection, spill control, decontamination, and groundwater monitoring are in proper working order and properly maintained to serve their functions. They are also critical for identifying potential problems such as leaks that need to be corrected as soon as possible such that they do not create hazardous situations for human health and the environment.
IV.I.1 through IV.I.3 (Security)	The Approval requires that CWMNW operate and maintain security systems for the PCB storage units and chemical waste landfills. Security systems need to be maintained to prevent unauthorized access by the public to potentially dangerous areas of the Facility, which could cause harm to those accessing the Facility and also presents a risk of a release of PCBs or other hazardous waste.
IV.K.1 through IV.K.4 (Post-Closure Cost Estimate)	The Approval requires that CWMNW maintain a closure cost estimate for post-closure care of the chemical waste landfills. The post-closure care cost estimate for the landfills is a first step toward ensuring that there is adequate funding available for post-closure care of these units. It is important that there be funding available to ensure that the landfill covers, leachate collection systems, and groundwater monitoring network remain operable after the units are closed. Since PCBs will remain in the closed landfills indefinitely, it is essential to monitor conditions to minimize potential releases of these compounds.
IV.L.1 and IV.L.2, IV.L.4 and IV.L.5 (Financial Assurance for Closure and Post-Closure)	The Approval requires that CWMNW maintain financial assurance for the closure of all active PCB units and for post-closure care of the closed landfills. It is important that funding be maintained for closure and post-closure care to ensure that all units that manage PCBs will be closed and maintained in a manner that prevents possible future releases of these compounds into the environment. Due to the high toxicity and persistence of PCBs, it is important to prevent any releases that could impact ecological and human receptors. Financial assurance ensures the costs of cleanup are placed on owner/operators rather than taxpayers.

Condition	Justification
IV.M.1 through IV.M.3 (Liability Insurance)	The Approval requires maintenance of the existing liability insurance. Liability insurance is important to ensure proper funding is available for responding to any major accidents involving PCBs at the Facility.
IV.N.2 through IV.N.5 (Recordkeeping and Reporting)	The Approval requires implementation of the recordkeeping and reporting provisions of the Application along with other reporting requirements for completion of PCB cleanups, unusual occurrences, and landfill capacity. Recordkeeping and reporting are important because they allow the EPA to monitor activities at the Facility and check compliance with the Approval. The EPA oversight ensures that operations are carried out in a manner consistent with protection of public health and the environment.
V. Conditions for Storage, Processing, and Treatment of PCBs	
V.B.2 through V.B.5 (PCB Waste Storage in Containers)	These Approval conditions establish site-specific container storage conditions to allow unobstructed access to the containers by personnel, fire protection equipment, and decontamination equipment. These conditions incorporate best management practices for storing hazardous waste containers to prevent damage, leaks, and spills. Many of these provisions are included in Application Appendix J, Waste Storage Design and Operations Plan.
V.D.1 (Processing and Treatment for Disposal of PCB-Containing Waste)	The Approval allows CWMNW to manage PCB liquids in certain types of PCB articles. These PCB liquids can contain high PCB concentrations and pose a significant risk to human health and the environment, such that they are prohibited from disposal at the Facility. Due to the risk associated with management of these materials, the EPA has incorporated conditions that require recordkeeping and reporting of activities involving PCB liquids to ensure effective oversight of the activities.
V.D.2.c (Processing and Treatment for Disposal of PCB-Containing Waste)	The Approval requires compliance with a RCRA statute applicable to halogenated organic compounds, which include PCBs. This provision aligns RCRA treatment provisions with TSCA requirements.
V.D.2.d (Processing and Treatment for Disposal of PCB-Containing Waste)	The Approval limits the kinds of PCB waste that may be treated at the Facility. This ensures that CWMNW is not treating PCB wastes in a manner that is harmful to human health and the environment. This also ensures that no wastes are treated for landfill disposal that are not allowed under 40 C.F.R. §761.75.
V.E.1 through V.E.4 (Operational and Regulatory Requirements for Processing and Treatment)	The Approval contains operational and regulatory conditions for treating PCB-containing wastes prior to disposal at the Facility. While the TSCA regulations only require treatment prior to disposal of certain incidental liquids under 40 C.F.R. §§761.60(a)(3) and 761.75(b)(8)(ii), RCRA regulations require treatment for some types of hazardous wastes prior to disposal in a landfill. In some cases, these wastes may need to be managed both as RCRA hazardous waste and as PCB waste. These Approval conditions ensure that treatment operations are conducted in a safe manner and that the treatment units are closed properly to minimize the chance of future PCB releases into the environment.

Condition	Justification
V.F.1 and V.F.2 (PCB Sampling of Treatment Units)	The Approval requires quarterly PCB sampling of the indoor treatment units. This requirement is important because it ensures that accidental releases of PCBs are detected and adequately cleaned up in a timely manner.
V.H.5 (Closure of Storage and Treatment Units)	The Approval includes closure conditions requiring sampling and cleanup of soil in storage, processing, and treatment areas. These requirements are important to ensure that storage and treatment operations are conducted in a safe manner and that the storage and treatment units are closed properly to minimize the chance of future PCB releases into the environment. V.H.5 aligns closure under the Approval with TSCA cleanup provisions under 40 C.F.R. §§761.61(a)(4)(i)(A) and (c).
VI. Conditions for Landfill Disposal of PCBs	
VI.A.3 through VI.A.5 (Approved Landfill Units and Maximum Disposal Capacities)	The Approval (1) specifies the maximum allowable disposal capacity for the L-14 landfill Cells 1-5, (2) requires CWMNW to include remaining disposal capacities for each landfill in the annual report, and (3) requires that CWMNW construct Cell 5 in accordance with the specified requirements. It is important that the Approval limit maximum disposal capacity such that excessive and unsafe amounts of PCB wastes are not disposed of in the landfills. This minimizes the potential for PCB releases to the environment by not overfilling the L-14 landfill Cells 1-5. To properly oversee PCB operations at the CWMNW Facility, the EPA must be informed about the remaining disposal capacity in each of the operating landfills, and therefore these conditions require annual capacity status reports to the EPA. To ensure that Cell 5 is constructed in a properly engineered manner to optimally contain PCBs within the landfill into the future, it is important that CWMNW complete construction in accordance with the approved plans and specifications.
VI.C.1.e and VI.C.1.f (Disposal Prohibitions)	CWMNW must comply with the regulations for disposal of mixed RCRA and TSCA wastes, which ensure that all regulatory requirements are being met. In addition, CWMNW may not dispose of radiologically contaminated waste, which is regulated by the Nuclear Regulatory Commission and U.S. Department of Energy.
VI.D.1 and VI.D.4 (Landfill Operations and Management of Wastes)	CWMNW must maintain and operate the L-14 landfill to prevent fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, ground water, or surface water that could threaten human health or the environment. The Approval allows CWMNW, if certain criteria are satisfied, to use untreated leachate from the L-14 landfill for dust suppression only on the active parts of the landfill. Requiring that leachate can only be applied on active portions of the landfills ensures that it is used on areas that are already impacted by waste materials and will not contaminate other locations.
VI.D.7 (Landfill Operations and Management of Waste)	The Approval requires CWMNW to dispose of PCBs only in approved cells. Any PCB remediation waste disposed outside of these disposal cells is considered unauthorized disposal. In order to demonstrate compliance, soil from the landfill access ramp must be sampled quarterly. If PCB contamination is detected, the ramp surface soil must be scraped and resampled until analysis shows PCB contamination less than 25 ppm. This condition is necessary for protection of human health and the environment since disposal cells have a higher probability of creating residual contamination that would turn into PCB remediation waste through leaks, spills, and dust.

Condition	Justification
VI.E.3 through VI.E.5 (Groundwater Monitoring)	The Approval requires that CWMNW (1) report to the EPA any detections in groundwater of PCBs, (2) maintain the groundwater monitoring wells, (3) receive written approval from the EPA before abandoning or decommissioning groundwater monitoring wells, and (4) submit one groundwater monitoring report per year to the EPA. Maintaining the groundwater monitoring wells is important to ensure that they are in good working order and able to detect any PCB releases from the Facility. Installation or decommissioning of wells must follow the proper procedures in order to ensure that new wells are capable of obtaining representative groundwater samples and decommissioned wells are removed without causing any contamination of the groundwater. Notification of PCB detections in groundwater and submission of one groundwater monitoring report per year is essential for the EPA oversight of PCB operations at the Facility regarding releases to groundwater.
VI.F.2 through VI.F.4 (Leachate Management, Monitoring, Sampling, and Disposal, and Reporting)	These Approval conditions require that CWMNW monitor leachate at the landfill to ensure that specified limits are not exceeded, maintain records of these activities, and report this information—including any exceedances—to the EPA. Release of PCBs through leachate represents one of the pathways of highest risk regarding contamination of groundwater resources. Compliance with these conditions is important because they specify the procedures and protocols for operating the leachate collection and detection systems in a manner that best ensures no releases of PCBs to groundwater. Monitoring the leachate fluid levels and limiting the leachate fluid levels to a maximum of one foot is important to ensure that excessive hydraulic pressure does not build up on the protective landfill liner systems which could cause them to fail. Reporting the test results is essential for the EPA oversight of PCB operations at the Facility. Maintaining records of the leachate levels and volumes pumped and requiring written agency notification if excessive levels of leachate build up is important for safe operation of the landfills and for the EPA oversight.
VI.G.1 through VI.G.3 (Inspection Requirements for Landfill Units)	The Approval requires that CWMNW (1) inspect Landfill L-14 weekly, (2) inspect the landfills within 24 hours of a storm event of 0.25 inches or greater or sustained wind speed conditions exceeding 25 miles per hour, (3) evaluate and address all deficiencies identified during the required inspections, and (4) document the findings and follow-up responses for all inspections of the landfills. Routine inspection of the landfills is essential for identifying potential problems that need to be addressed. Correcting problems that are identified during an inspection is important for ensuring that the landfills are operated in a safe and effective manner that minimizes the potential for PCB releases into the environment. Documentation of internal inspections of the landfills is critical for ensuring that potential problems are addressed and for the EPA's ability to conduct effective oversight of Facility operations.
VI.H.1 through VI.H.4 (Closure of Landfill Units)	This Approval condition ensures that the Closure/ Post-Closure Plan is consistent with current Facility operations so that CWMNW can close the landfill units in a safe manner that will limit the possibility of future PCB releases.

Condition	Justification
VI.I.1 through VI.I.11 (Post-Closure Care for Landfill Units)	The Approval requires post-closure care for all landfill units used to dispose of PCBs. Post-closure care is important to ensure that the closed landfills are adequately maintained into the future. Continued maintenance of the landfill covers, leachate collection system and groundwater monitoring network are essential for ensuring that the landfills do not release PCBs, which will remain on-site indefinitely, into the environment.
VII. Procedures to Modify, Transfer, Revoke, Suspend, Deny, Continue or Renew	
Entire Section VII	The Approval specifies the administrative procedures to modify, transfer, revoke, suspend, deny, continue, or renew the Approval. These procedures are important because they enhance the EPA's ability to oversee Facility operations and ensure that CWMNW complies with the Approval. These procedures are also necessary to allow the modification or adjustment of the Approval to address issues that may occur during future operations (e.g., need for a modification to include a new unit). To be maximally protective, the terms and conditions of the Approval should reflect the most current configuration and operation of the Facility. Also, the ability to revoke or deny the Approval is necessary in case the Facility or its operations is ever determined to pose an unreasonable risk and operations must be terminated at the site. Finally, while the TSCA regulations at 40 C.F.R. §761.65 and §761.75 do not explicitly include terms covering how to modify, transfer, revoke, suspend, deny, or renew the Approval, the EPA interprets its authority under these provisions to issue an Approval as also providing authority to undertake these associated permit processing actions.

Statement of Basis Exhibit C

National Historic Preservation Act Documentation

Chemical Waste Management of the Northwest (CWMNW) Storage and Disposal Approval for Polychlorinated Biphenyls under the Toxic Substances Control Act – Analysis for Compliance with the National Historic Preservation Act of 1966 ("NHPA")

Section 106 of the NHPA requires federal agencies to account for the effect of an undertaking on any historic property. To the extent that the Environmental Protection Agency Region 10's (EPA) decision to approve the operation of Chemical Waste Management of the Northwest (CWMNW) for storage and disposal of PCBs under the Toxic Substances Control Act (TSCA) 40 CFR § 761.65 and § 761.75 constitutes an undertaking within the meaning of 36 CFR 800.16(y), this decision was reviewed for compliance with the NHPA.

Basis of Analysis under NHPA:
36 CFR 800.16(i)
36 CFR 800.16(l)
36 CFR 800.3(a)(1)

Federal Action Summary:
The EPA is approving the renewal of the Approval for storage and disposal of polychlorinated biphenyls (PCBs) at the CWMNW facility (Facility) near Arlington, Oregon. The Facility started operating as a chemical waste disposal site in the 1970s. The Facility previously operated under an Approval issued in August 2006. The Facility submitted a final application for renewal and modification of the Approval in May 2023. The EPA is issuing the renewal and modification of this Approval to CWMNW as the current owner and operator of the Arlington Facility.

This Approval allows CWMNW to (1) continue to dispose of non-liquid PCB waste in an existing landfill (L-14 Cells 1-4), (2) dispose of non-liquid PCB waste in a landfill cell to be built (L-14 Cell 5), (3) store for treatment and disposal containerized and bulk PCB waste and PCB Items in existing and to-be-constructed waste storage areas, and (4) process and treat PCB-containing wastes prior to disposal. This Approval conditionally authorizes CWMNW to dispose of non-liquid PCB waste in landfill cells to be built (L-14 Cells 6-8) when the EPA approves a compliance schedule and construction report from CWMNW. The Approval also requires CWMNW to monitor and perform post-closure maintenance at the non-operating landfills (L-1, L-3, L-5, L-6, L-7, L-8, L-9, L-10, L-12, and L-13) that previously accepted PCB wastes.

Analysis:
A Section 106 analysis is typically conducted for projects that involve construction, alteration, renovation, or ground disturbing activities. While the issuance of an authorization may meet the definition of "undertaking" in 54 U.S. Code § 300320 ("*project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including… those requiring a Federal permit, license, or approval"*), the renewal of a previously approved "undertaking" is not explicitly addressed by the NHPA.

Historic property is any property eligible for or on the National Register of Historic Places, or properties with Tribal religious, subsistence, or cultural importance. The definition of undertaking is broad and is determined on a case-by-case basis.

State Historical Property Search:

The EPA reviewed the Historic Sites Database on the State webpage: https://www.oregon.gov/oprd/OH/pages/national-register.aspx. The EPA searched for Gilliam County then zoomed into the location on the map where CWMNW is located (Figure 1). The closest eligible historical site is about four miles away from CWMNW (Figures 2 and 3). None are on, immediately near, or in the vicinity of the CWMNW property. There is no further action that needs to happen related to this aspect of the search.

For consistency with Oregon Department of Environmental Quality (ODEQ)'s Resource Conservation and Recovery Act (RCRA) permit issued to CWMNW, and to unnecessarily avoid duplicating ODEQ's efforts, the EPA also contacted ODEQ. The EPA asked what ODEQ had already done regarding consulting with the State Historic Preservation Officer (SHPO) concerning NHPA (or any Oregon state equivalent) for the RCRA permit. ODEQ referred the EPA to the Gilliam County rezoning evaluation of the Facility done in July 2022 for the proposed Facility expansion, which identified 125 Historic Sites within the county—none of which are within the vicinity of the CWMNW Facility or likely to be impacted by continued Facility operations.

Accounting for Areas of Tribal Significance:

The EPA also evaluated whether the CWMNW property, particularly where new units will be constructed, has Tribal religious, subsistence, or cultural importance. There is no database for this information like for historic sites. There is not one Tribal Historic Preservation Officer (THPO) for the State of Oregon. Instead, each Tribe has its own THPO.

On December 7, 2022, U.S. EPA hosted a Tribal coordination webinar for THPOs and Tribal technical staff of the Yakama Nation, Confederated Tribes of Grand Ronde, Burns Paiute Tribe, Confederated Tribes of the Umatilla Indian Reservation, Nez Perce Tribe, Cowlitz Indian Tribe, and Columbia River Inter-Tribal Fish Commission. The purpose was to describe the proposed action at the CWMNW Facility and request input on whether there were any impacts to Tribal cultural, traditional, or subsistence resources. On January 19, 2023, U.S. EPA emailed the THPOs and technical staff with more specific information on the proposed NHPA assessment language. No areas with Tribal cultural, subsistence, or ceremonial interest have been identified as potentially being impacted by the proposed action during the Tribal coordination process.

Conclusion:

The PCB storage and disposal approval for CWMNW does not affect historic properties based on the EPA's research. Therefore, the EPA concludes the Approval does not have an effect on historic property and therefore it has no further obligations under Section 106 of the NHPA as part of this Approval.

Figure 1. Historical properties adjacent to the CWMNW facility.

Figure 2. Historical properties near the CWMNW facility with an aerial view.

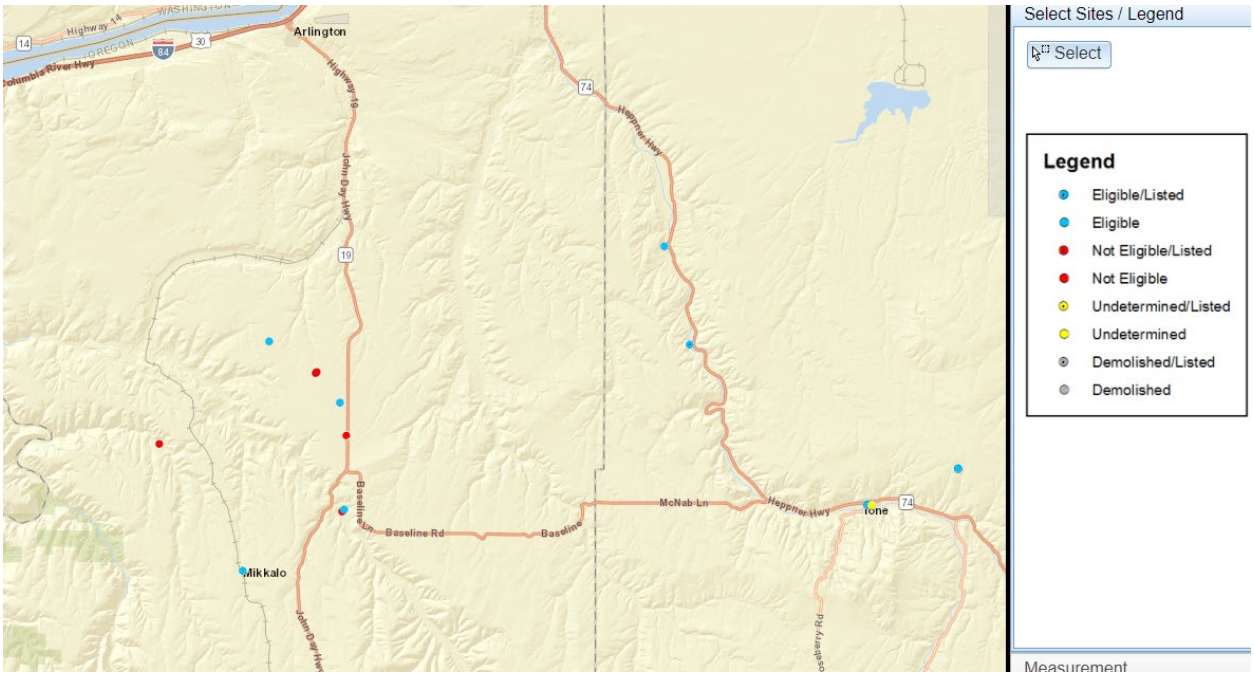


Figure 3. Historical properties near the CWMNW facility showing roads.

Statement of Basis Exhibit D

Environmental Justice Documentation

EJSCREEN ACS Summary Report

Location: User-specified point center at 45.624900, -120.252659
Ring (buffer): 5-miles radius
Description: CWMNW 5 mile

Summary of ACS Estimates	2015 - 2019
Population	19
Population Density (per sq. mile)	0
People of Color Population	3
% People of Color Population	16%
Households	9
Housing Units	11
Housing Units Built Before 1950	3
Per Capita Income	25,142
Land Area (sq. miles) (Source: SF1)	69.05
% Land Area	96%
Water Area (sq. miles) (Source: SF1)	2.75
% Water Area	4%

	2015 - 2019 ACS Estimates	Percent	MOE (±)
Population by Race			
Total	19	100%	119
Population Reporting One Race	18	96%	203
White	16	85%	112
Black	0	0%	12
American Indian	1	7%	42
Asian	0	1%	10
Pacific Islander	0	1%	11
Some Other Race	0	1%	16
Population Reporting Two or More Races	1	4%	40
Total Hispanic Population	1	6%	40
Total Non-Hispanic Population	18		
White Alone	16	84%	113
Black Alone	0	0%	12
American Indian Alone	1	7%	42
Non-Hispanic Asian Alone	0	1%	10
Pacific Islander Alone	0	1%	11
Other Race Alone	0	0%	12
Two or More Races Alone	0	1%	12
Population by Sex			
Male	9	49%	67
Female	10	51%	81
Population by Age			
Age 0-4	1	6%	24
Age 0-17	5	25%	48
Age 18+	14	75%	88
Age 65+	3	14%	38

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of any race.
N/A means not available. **Source:** U.S. Census Bureau, American Community Survey (ACS) 2015 - 2019 .

EJSCREEN ACS Summary Report

Location: User-specified point center at 45.624900, -120.252659
Ring (buffer): 5-miles radius
Description: CWMNW 5 mile

	2015 - 2019 ACS Estimates	Percent	MOE (±)
Population 25+ by Educational Attainment			
Total	13	100%	84
Less than 9th Grade	0	3%	19
9th - 12th Grade, No Diploma	1	5%	23
High School Graduate	5	37%	54
Some College, No Degree	4	27%	52
Associate Degree	1	9%	26
Bachelor's Degree or more	3	19%	43
Population Age 5+ Years by Ability to Speak English			
Total	18	100%	111
Speak only English	18	98%	105
Non-English at Home[1+2+3+4]	0	2%	20
[1]Speak English "very well"	0	1%	19
[2]Speak English "well"	0	0%	13
[3]Speak English "not well"	0	0%	12
[4]Speak English "not at all"	0	0%	12
[3+4]Speak English "less than well"	0	0%	12
[2+3+4]Speak English "less than very well"	0	0%	13
Linguistically Isolated Households*			
Total	0	0%	12
Speak Spanish	0	0%	12
Speak Other Indo-European Languages	0	0%	12
Speak Asian-Pacific Island Languages	0	0%	12
Speak Other Languages	0	0%	12
Households by Household Income			
Household Income Base	9	100%	52
< $15,000	1	11%	26
$15,000 - $25,000	0	5%	16
$25,000 - $50,000	3	29%	36
$50,000 - $75,000	1	15%	24
$75,000 +	4	40%	43
Occupied Housing Units by Tenure			
Total	9	100%	52
Owner Occupied	5	57%	42
Renter Occupied	4	43%	44
Employed Population Age 16+ Years			
Total	15	100%	97
In Labor Force	10	68%	83
Civilian Unemployed in Labor Force	1	5%	28
Not In Labor Force	5	32%	52

Data Note: Datail may not sum to totals due to rounding. Hispanic population can be of anyrace.
N/A means not available. **Source:** U.S. Census Bureau, American Community Survey (ACS)
*Households in which no one 14 and over speaks English "very well" or speaks English only.

EJSCREEN ACS Summary Report

Location: User-specified point center at 45.624900, -120.252659
Ring (buffer): 5-miles radius
Description: CWMNW 5 mile

	2015 - 2019 ACS Estimates	Percent	MOE (±)
Population by Language Spoken at Home*			
Total (persons age 5 and above)	820	100%	22
English	787	96%	51
Spanish	28	3%	49
French	0	0%	12
French Creole	N/A	N/A	N/A
Italian	N/A	N/A	N/A
Portuguese	N/A	N/A	N/A
German	0	0%	12
Yiddish	N/A	N/A	N/A
Other West Germanic	N/A	N/A	N/A
Scandinavian	N/A	N/A	N/A
Greek	N/A	N/A	N/A
Russian	N/A	N/A	N/A
Polish	N/A	N/A	N/A
Serbo-Croatian	N/A	N/A	N/A
Other Slavic	N/A	N/A	N/A
Armenian	N/A	N/A	N/A
Persian	N/A	N/A	N/A
Gujarathi	N/A	N/A	N/A
Hindi	N/A	N/A	N/A
Urdu	N/A	N/A	N/A
Other Indic	N/A	N/A	N/A
Other Indo-European	0	0%	12
Chinese	0	0%	12
Japanese	N/A	N/A	N/A
Korean	4	0%	13
Mon-Khmer, Cambodian	N/A	N/A	N/A
Hmong	N/A	N/A	N/A
Thai	N/A	N/A	N/A
Laotian	N/A	N/A	N/A
Vietnamese	0	0%	12
Other Asian	1	0%	4
Tagalog	0	0%	12
Other Pacific Island	N/A	N/A	N/A
Navajo	N/A	N/A	N/A
Other Native American	N/A	N/A	N/A
Hungarian	N/A	N/A	N/A
Arabic	0	0%	12
Hebrew	N/A	N/A	N/A
African	N/A	N/A	N/A
Other and non-specified	0	0%	12
Total Non-English	33	4%	56

Data Note: Detail may not sum to totals due to rounding. Hispanic popultion can be of any race.
N/A meansnot available. **Source:** U.S. Census Bureau, American Community Survey (ACS) 2015 - 2019.
*Population by Language Spoken at Home is available at the census tract summary level and up.

EJScreen Report (Version 2.0)

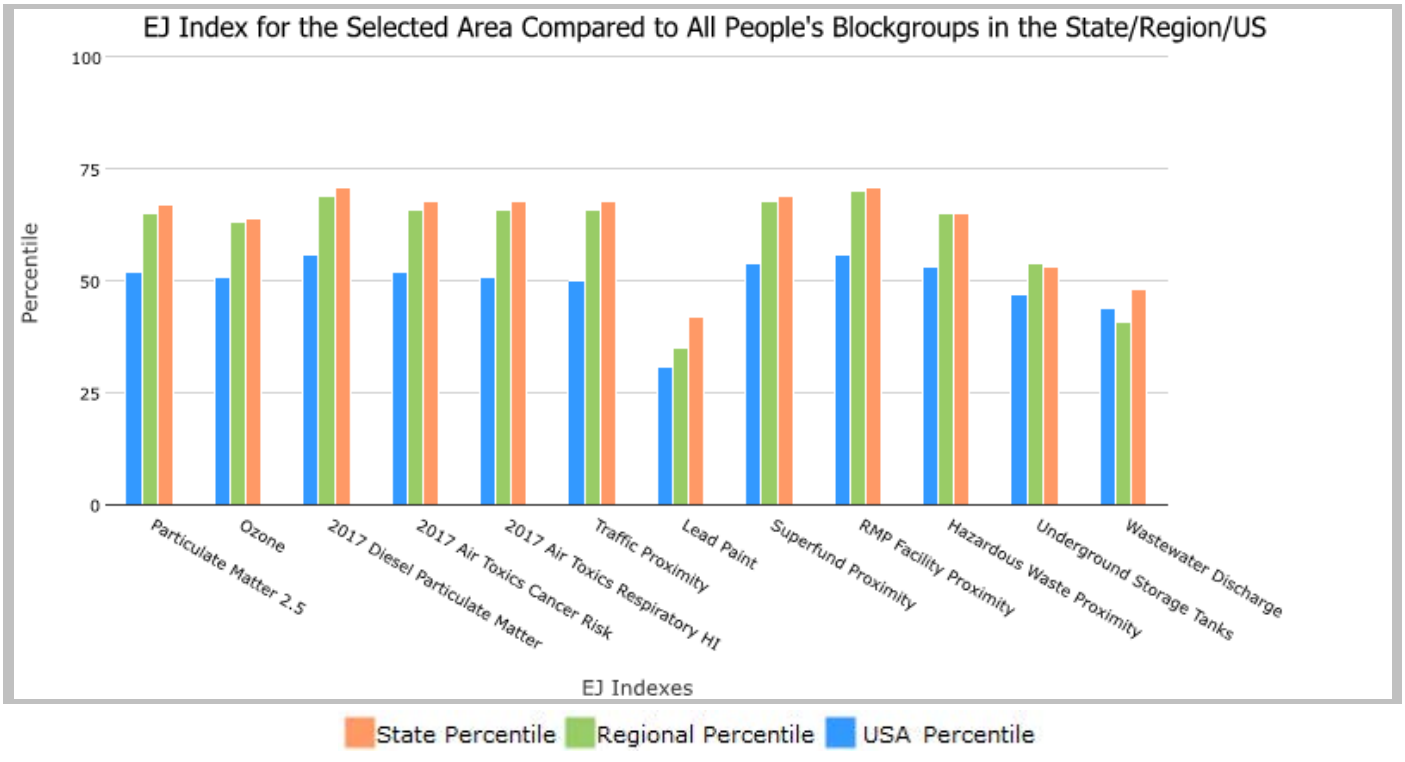
5 miles Ring Centered at 45.624900,-120.252659, OREGON, EPA Region 10

Approximate Population: 19

Input Area (sq. miles): 78.53

CWMNW 5 mile

Selected Variables	State Percentile	EPA Region Percentile	USA Percentile
Environmental Justice Indexes			
EJ Index for Particulate Matter 2.5	67	65	52
EJ Index for Ozone	64	63	51
EJ Index for 2017 Diesel Particulate Matter*	71	69	56
EJ Index for 2017 Air Toxics Cancer Risk*	68	66	52
EJ Index for 2017 Air Toxics Respiratory HI*	68	66	51
EJ Index for Traffic Proximity	68	66	50
EJ Index for Lead Paint	42	35	31
EJ Index for Superfund Proximity	69	68	54
EJ Index for RMP Facility Proximity	71	70	56
EJ Index for Hazardous Waste Proximity	65	65	53
EJ Index for Underground Storage Tanks	53	54	47
EJ Index for Wastewater Discharge	48	41	44



This report shows the values for environmental and demographic indicators and EJSCREEN indexes. It shows environmental and demographic raw data (e.g., the estimated concentration of ozone in the air), and also shows what percentile each raw data value represents. These percentiles provide perspective on how the selected block group or buffer area compares to the entire state, EPA region, or nation. For example, if a given location is at the 95th percentile nationwide, this means that only 5 percent of the US population has a higher block group value than the average person in the location being analyzed. The years for which the data are available, and the methods used, vary across these indicators. Important caveats and uncertainties apply to this screening-level information, so it is essential to understand the limitations on appropriate interpretations and applications of these indicators. Please see EJSCREEN documentation for discussion of these issues before using reports.

EJScreen Report (Version 2.0)

5 miles Ring Centered at 45.624900,-120.252659, OREGON, EPA Region 10

Approximate Population: 19

Input Area (sq. miles): 78.53

CWMNW 5 mile

Sites reporting to EPA	
Superfund NPL	0
Hazardous Waste Treatment, Storage, and Disposal Facilities (TSDF)	1

EJScreen Report (Version 2.0)

5 miles Ring Centered at 45.624900,-120.252659, OREGON, EPA Region 10

Approximate Population: 19

Input Area (sq. miles): 78.53

CWMNW 5 mile

Selected Variables	Value	State Avg.	%ile in State	EPA Region Avg.	%ile in EPA Region	USA Avg.	%ile in USA
Pollution and Sources							
Particulate Matter 2.5 (µg/m^3)	7.51	8.75	12	8.17	30	8.74	21
Ozone (ppb)	41.4	37	81	37.2	72	42.6	40
2017 Diesel Particulate Matter* (µg/m^3)	0.0428	0.345	7	0.312	<50th	0.295	<50th
2017 Air Toxics Cancer Risk* (lifetime risk per million)	20	33	15	33	<50th	29	<50th
2017 Air Toxics Respiratory HI*	0.3	0.47	15	0.47	<50th	0.36	<50th
Traffic Proximity (daily traffic count/distance to road)	23	590	12	600	13	710	14
Lead Paint (% Pre-1960 Housing)	0.36	0.25	75	0.22	77	0.28	68
Superfund Proximity (site count/km distance)	0.017	0.083	12	0.13	17	0.13	13
RMP Facility Proximity (facility count/km distance)	0.036	0.79	7	0.66	5	0.75	2
Hazardous Waste Proximity (facility count/km distance)	0.091	1.6	20	1.7	21	2.2	14
Underground Storage Tanks (count/km^2)	0.0093	3.4	25	4.5	23	3.9	16
Wastewater Discharge (toxicity-weighted concentration/m distance)	8E-05	0.004	43	0.53	50	12	30
Socioeconomic Indicators							
Demographic Index	27%	28%	56	28%	56	36%	45
People of Color	16%	24%	38	28%	33	40%	31
Low Income	39%	31%	69	28%	74	31%	67
Unemployment Rate	7%	5%	71	5%	74	5%	72
Linguistically Isolated	0%	2%	52	3%	47	5%	45
Less Than High School Education	9%	9%	57	9%	61	12%	49
Under Age 5	6%	6%	58	6%	52	6%	53
Over Age 64	14%	17%	44	16%	52	16%	51

*Diesel particular matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's 2017 Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: https://www.epa.gov/haps/air-toxics-data-update.

For additional information, see: www.epa.gov/environmentaljustice

EJSCREEN ACS Summary Report

Location: User-specified point center at 45.625083, -120.252914
Ring (buffer): 10-miles radius
Description: CWMNW 10 mile

Summary of ACS Estimates	2015 - 2019
Population	853
Population Density (per sq. mile)	2
People of Color Population	103
% People of Color Population	12%
Households	339
Housing Units	455
Housing Units Built Before 1950	181
Per Capita Income	26,482
Land Area (sq. miles) (Source: SF1)	426.72
% Land Area	99%
Water Area (sq. miles) (Source: SF1)	6.42
% Water Area	1%

	2015 - 2019 ACS Estimates	Percent	MOE (±)
Population by Race			
Total	853	100%	0
Population Reporting One Race	835	98%	147
White	784	92%	54
Black	0	0%	12
American Indian	34	4%	40
Asian	7	1%	14
Pacific Islander	6	1%	11
Some Other Race	5	1%	16
Population Reporting Two or More Races	18	2%	40
Total Hispanic Population	52	6%	50
Total Non-Hispanic Population	801		
White Alone	751	88%	62
Black Alone	0	0%	12
American Indian Alone	34	4%	40
Non-Hispanic Asian Alone	7	1%	14
Pacific Islander Alone	6	1%	11
Other Race Alone	0	0%	12
Two or More Races Alone	4	0%	12
Population by Sex			
Male	408	48%	49
Female	446	52%	49
Population by Age			
Age 0-4	34	4%	23
Age 0-17	169	20%	51
Age 18+	684	80%	126
Age 65+	216	25%	74

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of any race.
N/A means not available. **Source:** U.S. Census Bureau, American Community Survey (ACS) 2015 - 2019 .

EJSCREEN ACS Summary Report

Location: User-specified point center at 45.625083, -120.252914
Ring (buffer): 10-miles radius
Description: CWMNW 10 mile

	2015 - 2019 ACS Estimates	Percent	MOE (±)
Population 25+ by Educational Attainment			
Total	647	100%	55
Less than 9th Grade	24	4%	30
9th - 12th Grade, No Diploma	41	6%	41
High School Graduate	198	31%	67
Some College, No Degree	213	33%	82
Associate Degree	59	9%	39
Bachelor's Degree or more	113	17%	58
Population Age 5+ Years by Ability to Speak English			
Total	820	100%	22
Speak only English	787	96%	97
Non-English at Home[1+2+3+4]	33	4%	44
[1]Speak English "very well"	20	2%	33
[2]Speak English "well"	8	1%	21
[3]Speak English "not well"	5	1%	19
[4]Speak English "not at all"	0	0%	12
[3+4]Speak English "less than well"	5	1%	19
[2+3+4]Speak English "less than very well"	13	2%	26
Linguistically Isolated Households*			
Total	0	0%	12
Speak Spanish	0	0%	12
Speak Other Indo-European Languages	0	0%	12
Speak Asian-Pacific Island Languages	0	0%	12
Speak Other Languages	0	0%	12
Households by Household Income			
Household Income Base	339	100%	57
< $15,000	47	14%	44
$15,000 - $25,000	27	8%	29
$25,000 - $50,000	106	31%	60
$50,000 - $75,000	53	16%	35
$75,000 +	106	31%	59
Occupied Housing Units by Tenure			
Total	339	100%	57
Owner Occupied	228	67%	62
Renter Occupied	111	33%	59
Employed Population Age 16+ Years			
Total	709	100%	47
In Labor Force	396	56%	75
Civilian Unemployed in Labor Force	27	4%	30
Not In Labor Force	313	44%	76

Data Note: Datail may not sum to totals due to rounding. Hispanic population can be of anyrace.
N/A means not available. **Source:** U.S. Census Bureau, American Community Survey (ACS)
*Households in which no one 14 and over speaks English "very well" or speaks English only.

EJSCREEN ACS Summary Report

Location: User-specified point center at 45.625083, -120.252914
Ring (buffer): 10-miles radius
Description: CWMNW 10 mile

	2015 - 2019 ACS Estimates	Percent	MOE (±)
Population by Language Spoken at Home*			
Total (persons age 5 and above)	820	100%	22
English	787	96%	51
Spanish	28	3%	49
French	0	0%	12
French Creole	N/A	N/A	N/A
Italian	N/A	N/A	N/A
Portuguese	N/A	N/A	N/A
German	0	0%	12
Yiddish	N/A	N/A	N/A
Other West Germanic	N/A	N/A	N/A
Scandinavian	N/A	N/A	N/A
Greek	N/A	N/A	N/A
Russian	N/A	N/A	N/A
Polish	N/A	N/A	N/A
Serbo-Croatian	N/A	N/A	N/A
Other Slavic	N/A	N/A	N/A
Armenian	N/A	N/A	N/A
Persian	N/A	N/A	N/A
Gujarathi	N/A	N/A	N/A
Hindi	N/A	N/A	N/A
Urdu	N/A	N/A	N/A
Other Indic	N/A	N/A	N/A
Other Indo-European	0	0%	12
Chinese	0	0%	12
Japanese	N/A	N/A	N/A
Korean	4	0%	13
Mon-Khmer, Cambodian	N/A	N/A	N/A
Hmong	N/A	N/A	N/A
Thai	N/A	N/A	N/A
Laotian	N/A	N/A	N/A
Vietnamese	0	0%	12
Other Asian	1	0%	4
Tagalog	0	0%	12
Other Pacific Island	N/A	N/A	N/A
Navajo	N/A	N/A	N/A
Other Native American	N/A	N/A	N/A
Hungarian	N/A	N/A	N/A
Arabic	0	0%	12
Hebrew	N/A	N/A	N/A
African	N/A	N/A	N/A
Other and non-specified	0	0%	12
Total Non-English	33	4%	56

Data Note: Detail may not sum to totals due to rounding. Hispanic popultion can be of any race.
N/A meansnot available. **Source:** U.S. Census Bureau, American Community Survey (ACS) 2015 - 2019.
*Population by Language Spoken at Home is available at the census tract summary level and up.

EJScreen Report (Version 2.0)

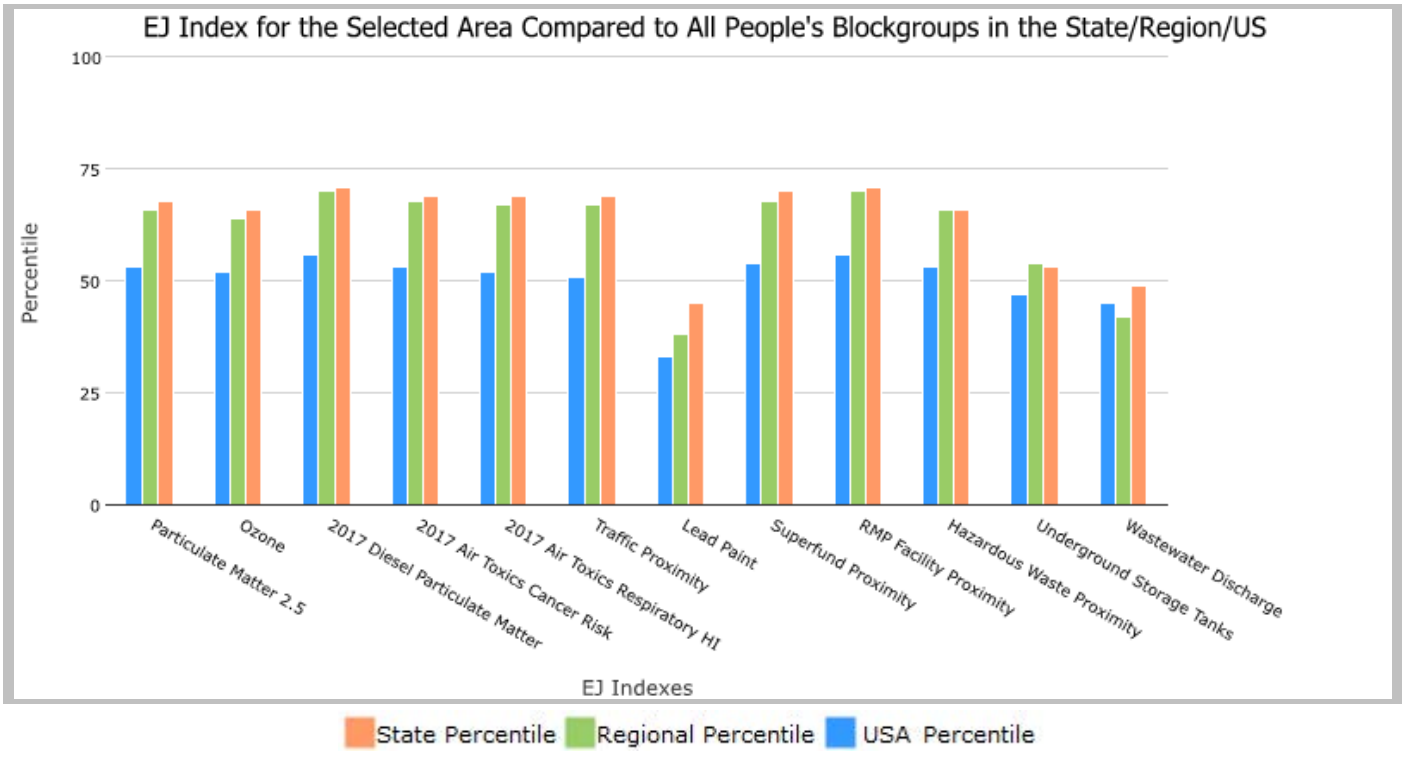
10 miles Ring Centered at 45.625083,-120.252914, OREGON, EPA Region 10

Approximate Population: 1,025

Input Area (sq. miles): 314.03

CWMNW 10 mile

Selected Variables	State Percentile	EPA Region Percentile	USA Percentile
Environmental Justice Indexes			
EJ Index for Particulate Matter 2.5	68	66	53
EJ Index for Ozone	66	64	52
EJ Index for 2017 Diesel Particulate Matter*	71	70	56
EJ Index for 2017 Air Toxics Cancer Risk*	69	68	53
EJ Index for 2017 Air Toxics Respiratory HI*	69	67	52
EJ Index for Traffic Proximity	69	67	51
EJ Index for Lead Paint	45	38	33
EJ Index for Superfund Proximity	70	68	54
EJ Index for RMP Facility Proximity	71	70	56
EJ Index for Hazardous Waste Proximity	66	66	53
EJ Index for Underground Storage Tanks	53	54	47
EJ Index for Wastewater Discharge	49	42	45



This report shows the values for environmental and demographic indicators and EJSCREEN indexes. It shows environmental and demographic raw data (e.g., the estimated concentration of ozone in the air), and also shows what percentile each raw data value represents. These percentiles provide perspective on how the selected block group or buffer area compares to the entire state, EPA region, or nation. For example, if a given location is at the 95th percentile nationwide, this means that only 5 percent of the US population has a higher block group value than the average person in the location being analyzed. The years for which the data are available, and the methods used, vary across these indicators. Important caveats and uncertainties apply to this screening-level information, so it is essential to understand the limitations on appropriate interpretations and applications of these indicators. Please see EJSCREEN documentation for discussion of these issues before using reports.

EJScreen Report (Version 2.0)

10 miles Ring Centered at 45.625083,-120.252914, OREGON, EPA Region 10

Approximate Population: 1,025

Input Area (sq. miles): 314.03

CWMNW 10 mile

Sites reporting to EPA	
Superfund NPL	0
Hazardous Waste Treatment, Storage, and Disposal Facilities (TSDF)	1

EJScreen Report (Version 2.0)

10 miles Ring Centered at 45.625083,-120.252914, OREGON, EPA Region 10

Approximate Population: 1,025

Input Area (sq. miles): 314.03

CWMNW 10 mile

Selected Variables	Value	State Avg.	%ile in State	EPA Region Avg.	%ile in EPA Region	USA Avg.	%ile in USA
Pollution and Sources							
Particulate Matter 2.5 (µg/m^3)	7.51	8.75	12	8.17	30	8.74	21
Ozone (ppb)	41.1	37	80	37.2	71	42.6	38
2017 Diesel Particulate Matter* (µg/m^3)	0.0424	0.345	7	0.312	<50th	0.295	<50th
2017 Air Toxics Cancer Risk* (lifetime risk per million)	20	33	15	33	<50th	29	<50th
2017 Air Toxics Respiratory HI*	0.32	0.47	19	0.47	<50th	0.36	50-60th
Traffic Proximity (daily traffic count/distance to road)	20	590	10	600	12	710	12
Lead Paint (% Pre-1960 Housing)	0.33	0.25	73	0.22	76	0.28	66
Superfund Proximity (site count/km distance)	0.017	0.083	12	0.13	17	0.13	14
RMP Facility Proximity (facility count/km distance)	0.046	0.79	10	0.66	8	0.75	3
Hazardous Waste Proximity (facility count/km distance)	0.082	1.6	18	1.7	19	2.2	13
Underground Storage Tanks (count/km^2)	0.0077	3.4	24	4.5	23	3.9	16
Wastewater Discharge (toxicity-weighted concentration/m distance)	7.1E-05	0.004	42	0.53	49	12	29
Socioeconomic Indicators							
Demographic Index	29%	28%	60	28%	59	36%	47
People of Color	17%	24%	42	28%	36	40%	32
Low Income	40%	31%	72	28%	75	31%	68
Unemployment Rate	7%	5%	69	5%	73	5%	71
Linguistically Isolated	0%	2%	53	3%	48	5%	46
Less Than High School Education	9%	9%	60	9%	64	12%	51
Under Age 5	7%	6%	65	6%	59	6%	59
Over Age 64	14%	17%	43	16%	51	16%	50

*Diesel particular matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's 2017 Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: https://www.epa.gov/haps/air-toxics-data-update.

For additional information, see: www.epa.gov/environmentaljustice

Statement of Basis Exhibit E

U.S. EPA Endangered Species Act Determination

This Exhibit describes the EPA, Region 10 review of United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) information as part of its evaluation of Chemical Waste Management of the Northwest's (CWMNW) application for treatment, storage, and disposal of polychlorinated biphenyl (PCB) waste under 40 C.F.R. Part 761. Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. § 1536(a)(2), requires all federal agencies, in consultation with the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS), to insure that any action they carry out, fund, or authorize (such as through a permit) is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Under the ESA, management of listed species is divided between the USFWS and the NMFS.

The EPA, Region 10 office conducted a search for threatened and endangered species for the area surrounding the CWMNW Facility using web-based tools provided by the USFWS and the NMFS.

Based on the results of these searches, the EPA determined that there are no listed species or designated critical habitat present at or near the CWMNW Facility. In addition, the EPA determined that issuance of this Approval "will not affect" any listed species or designated critical habitat. Accordingly, consultation with the USFWS or the NMFS is not required.

The EPA's ESA determination and assessment of data is derived from the following USFWS and National Oceanic and Atmospheric Administration (NOAA) web-based tools:

> USFWS Critical Habitat for Threatened & Endangered Species:
> https://fws.maps.arcgis.com/apps/mapviewer/index.html?webmap=9d8de5e265ad4fe09893cf75b8dbfb77
>
> NOAA Fisheries Protected Resources App for the West Coast Region:
> https://www.webapps.nwfsc.noaa.gov/portal/apps/webappviewer/index.html?id=7514c715b8594944a6e468dd25aaacc9

See Figures 1 through 6 below for screenshots of the web-based tool results.

To find the approximate location of the CWMNW Facility, the EPA inserted the Facility address (17629 Cedar Springs Lane, Arlington, Oregon 97812) in the USFWS and NMFS map application search boxes to conduct the searches.

The EPA used the USFWS web-based tool to generate an Official Species List dated April 28, 2022. The web-generated letter which includes the Official Species List and related information is presented at the end of this Exhibit. The letter shows that there are no threatened or endangered species or designated critical habitat under the jurisdiction of the USFWS at or near the CWMNW Facility.

The CWMNW Facility lies in Alkali Canyon, upstream of Rock Creek, the closest downstream waterway approximately four miles southwest of the Facility. The EPA used the NOAA

Fisheries Protected Resources App to find any listed species in Rock Creek. One threatened *Oncorhynchus mykiss* steelhead trout Mid-Columbia River Distinct Population Segment (DPS) was found in the Rock Creek watershed. Rock Creek is a tributary of the John Day River, with their confluence about eight miles from the closest part of the Facility. The downstream reach of the John Day River, from its confluence with Rock Creek to its confluence with the Columbia River, was reviewed as well to check if there are other species that could be potentially impacted. This downstream reach of the John Day River lists the same threatened *Oncorhynchus mykiss* steelhead trout Mid-Columbia River DPS. In addition, USFWS lists threatened *Salvelinus confluentus* bull trout in the same stretch of the John Day River under the John Day Species Management Unit (SMU). The John Day River eventually flows into the Columbia River.

The Columbia River was not reviewed in this assessment. The confluence of Rock Creek and the John Day River is over twenty river miles upstream of the Columbia River. Additionally, a ridge separates the CWMNW Facility from the Columbia River, located approximately seven miles north of the Facility. In the unlikely event that all the environmental controls described below would fail, natural drainage from the Facility would flow in the low-lying areas of Alkali Canyon along Cedar Springs Lane to Rock Creek.

The Facility and its landfill and treatment/storage units are designed to minimize leachate and wastewater generation in the areas of hazardous waste storage, treatment, and disposal. CWMNW does not discharge to any surface watercourses and all stormwater is retained on site by the Facility's stormwater retention ponds. Any stormwater runoff not captured by the retention ponds would be stormwater primarily impacted by vehicle traffic on roads, which would be similar to impacts associated with any road in the area. The active landfill at CWMNW has three levels of synthetic membrane liners to prevent migration of contaminants to groundwater that would eventually discharge to waterbodies. The landfill also has compound leachate collection systems in compliance with 40 C.F.R.§ 761.75(b)(7)(ii). Finally, the Facility also has measures in place to capture runoff within the landfill to prevent it from leaving the landfill. Leachate and runoff are tested for land disposal restriction standards before discharging to the on-site surface impoundments permitted under CWMNW's Resource Conservation and Recovery Act (RCRA) permit issued by Oregon Department of Environmental Quality.

Based on the information from the NOAA web-based tool reviewed by the EPA, the EPA's action to issue this PCB Approval is not expected to impact any threatened steelhead populations in the Mid-Columbia River Basin DPS, or any bull trout populations in the John Day River SMU. Environmental controls described above required under 40 C.F.R. § 761.75(b) would prevent releases to surface waterbodies where threatened steelhead and bull trout live. Monitoring systems required under 40 C.F.R. § 761.75(b)(6) would detect any failures that would potentially impact surface waterbodies. The considerable distance to any waterbodies with threatened steelhead and bull trout species contributes to the finding that any impact to these species would be unlikely.

For all of these reasons, the EPA has determined that issuance of the CWMNW PCB Approval "will not affect" any listed species or designated critical habitat.

Figure 1. Landfill and Storage Location (circle on map) Relative to Surrounding Waterbodies with USFWS-Listed Species (Source: USFWS).

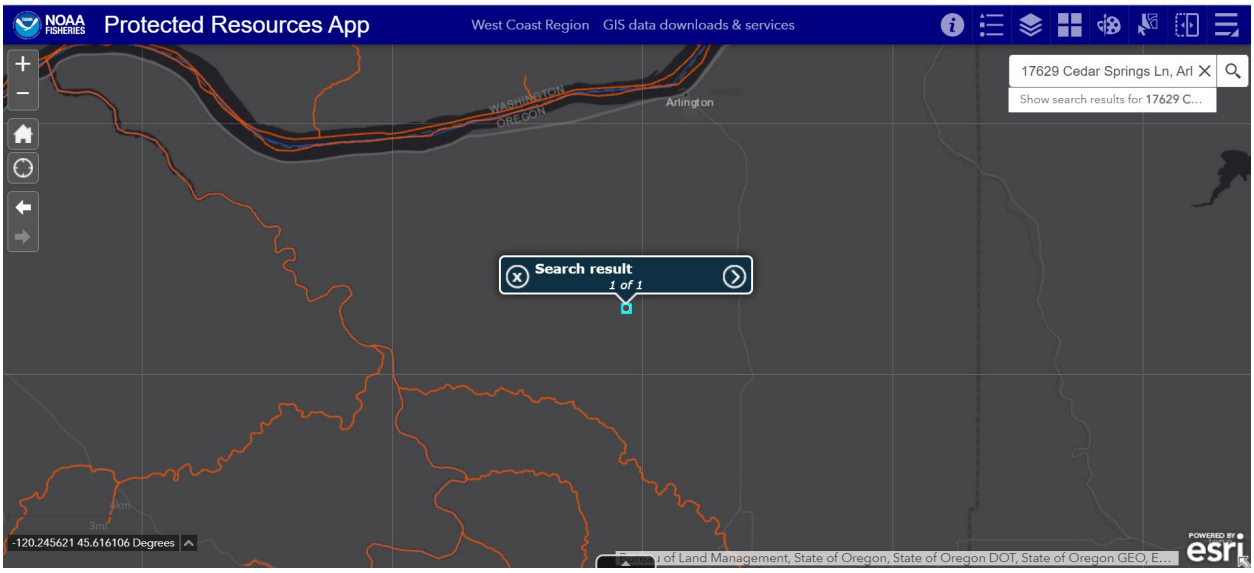


Figure 2. Landfill and Storage Location Relative to Surrounding Waterbodies with NMFS-Listed Species (Source: NOAA Fisheries).

Figure 3. Landfill location to show proximity and scale bar to Rock Creek and the John Day River (Source: Google Maps as of September 21, 2022).

Critical Habitat - Linear Features - Final: Bull Trout

singlmulti	SINGLE
comname	Bull Trout
sciname	Salvelinus confluentus
spcode	E065
vipcode	V06
unit	Please check current species specific shapefile
subunit	Please check current species specific shapefile
unitname	Please check current species specific shapefile
status	Final
leadoffice	14,420
coopoffice	Please check current species specific shapefile
coopofmore	Please check current species specific shapefile
fedreg	75FR63898 64070
pubdate	20101018

Figure 4. Screenshot of USFWS Critical Habitat for Threatened & Endangered Species with *Salvelinus confluentus* listing in the John Day River SMU.

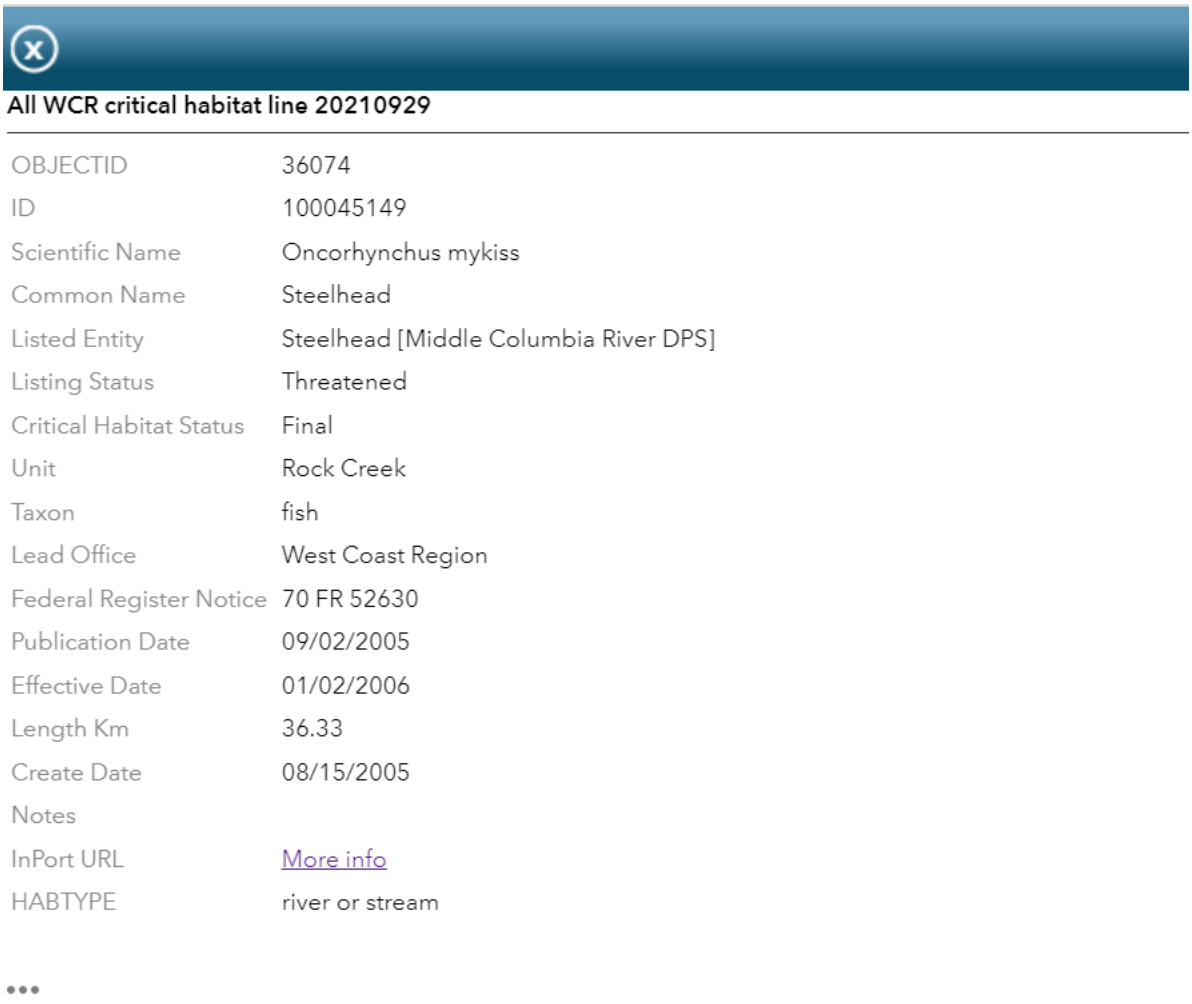


Figure 5. Screenshot of NOAA Fisheries Protected Resources App with Rock Creek Unit Steelhead listing.

Figure 6. Screenshot of NOAA Fisheries Protected Resources App with John Day River Unit Steelhead listing.

References

NOAA Fisheries. Middle Columbia River Steelhead: https://www.fisheries.noaa.gov/west-coast/endangered-species-conservation/middle-columbia-river-steelhead

Oregon Department of Fish and Wildlife. Mid-Columbia River Conservation and Recovery Plan: https://www.dfw.state.or.us/fish/crp/mid_columbia_river_plan.asp

Oregon Department of Fish and Wildlife. Oregon Native Fish Status Report – Volume II: John Day Bull Trout: https://www.dfw.state.or.us/fish/onfsr/docs/final/10-bull-trout/bt-methods-john-day.pdf

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Oregon Fish And Wildlife Office
2600 Southeast 98th Avenue, Suite 100
Portland, OR 97266-1398
Phone: (503) 231-6179 Fax: (503) 231-6195
https://www.fws.gov/oregonfwo/articles.cfm?id=149489416

In Reply Refer To: April 28, 2022
Project Code: 2022-0036988
Project Name: CWMNW TSCA PCB Approval

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). This is not a consultation.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see https://www.fws.gov/birds/policies-and-regulations.php.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of

this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Migratory Birds
- Wetlands

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Oregon Fish And Wildlife Office
2600 Southeast 98th Avenue, Suite 100
Portland, OR 97266-1398
(503) 231-6179

Project Summary

Project Code: 2022-0036988
Event Code: None
Project Name: CWMNW TSCA PCB Approval
Project Type: Disposal / Transfer
Project Description: The CWMNW facility is located at 17629 Cedar Springs Lane, Arlington, Oregon. It is permitted as a hazardous waste treatment, storage, and disposal facility under State of Oregon's authorized RCRA program. This project is a TSCA approval administered by EPA Region 10, for storage and disposal of PCBs at the CWMNW facility.

Project Location:

Approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@45.627814099999995,-120.2520581114625,14z

Counties: Gilliam County, Oregon

Endangered Species Act Species

There is a total of 1 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Insects

NAME	STATUS
Monarch Butterfly *Danaus plexippus* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the National Wildlife Refuge system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act[1] and the Bald and Golden Eagle Protection Act[2].

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

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1. The Migratory Birds Treaty Act of 1918.
2. The Bald and Golden Eagle Protection Act of 1940.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

THERE ARE NO FWS MIGRATORY BIRDS OF CONCERN WITHIN THE VICINITY OF YOUR PROJECT AREA.

Migratory Birds FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

Nationwide Conservation Measures describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. Additional measures or permits may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS Birds of Conservation Concern (BCC) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle (Eagle Act requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the AKN Phenology Tool.

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?
The probability of presence graphs associated with your migratory bird list are based on data provided by the Avian Knowledge Network (AKN). This data is derived from a growing collection of survey, banding, and citizen science datasets .

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?
To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: The Cornell Lab of Ornithology All About Birds Bird Guide, or (if you are unsuccessful in locating the bird of interest there), the Cornell Lab of Ornithology Neotropical Birds guide. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?
Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are Birds of Conservation Concern (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the Eagle Act requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects
For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the Northeast Ocean Data Portal. The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the NOAA NCCOS Integrative Statistical

Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the Diving Bird Study and the nanotag studies or contact Caleb Spiegel or Pam Loring.

What if I have eagles on my list?
If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report
The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Wetlands

Impacts to NWI wetlands and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local U.S. Army Corps of Engineers District.

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

WETLAND INFORMATION WAS NOT AVAILABLE WHEN THIS SPECIES LIST WAS GENERATED. PLEASE VISIT HTTPS://WWW.FWS.GOV/WETLANDS/DATA/MAPPER.HTML OR CONTACT THE FIELD OFFICE FOR FURTHER INFORMATION.

IPaC User Contact Information

Agency:	Environmental Protection Agency
Name:	Janette Knittel
Address:	1200 6th Ave, Suite 155
Address Line 2:	15-H04
City:	Seattle
State:	WA
Zip:	98101
Email	knittel.janette@epa.gov
Phone:	2065530483

Statement of Basis Exhibit F

Compliance History Documentation

Table 1: Compliance History as reported by Chemical Waste Management of the Northwest.

AGENCY	ACTION	DATE	DOCKET NUMBER	ALLEGATION	RESPONSE/DISPOSITION	DATE
DEQ	Failure to label a tank with the correct capacity	10/16/18	2018-WL-3979	CWM did not label a container with the correct capacity used for accumulation or storage of hazardous waste.	Corrected during the audit	
DHS	Failure to submit ISF information 24 hour prior to shipping to a foreign port	09/29/2019	2019411120309801	Failure to preform notification per the requirements of 49 CFR 149.2	Payment of Penalty for $4500.00	10/29/2019
EPA	Failure to establish adequate Financial Responsibility	09/25/2020	Docket RCRA 10-2020-0111	CWM failed provide adequate financial responsibility for sudden and non sudden accidental occurrences	Current insurance policy Effective 07/01/2020 thru 07/01/2021 EPA confirmed that insurance coverage was adequate	08/28/2020
ODOE	**Violation of OAR 345**-050-0006.	02/13/2020	OAR 345-050-0006	Disposal of potentially radioactive waste	Corrective Action developed with ODEOE	6/30/15
DEQ	Failure to conform to Standalone #1 WAP.	505/08/2020	PEN ERB 2020-0010	CWM reported the manifest discrepancy approximately 10 months from receipt of the waste shipment.	CWMNW implemented the use of a handheld instrument for screening potential radioactive waste	06/09/2020

Detailed Facility Report

Detailed Facility Report

Facility Summary

CHEMICAL WASTE MANAGEMENT OF THE NW

17629 CEDAR SPRINGS LN, ARLINGTON, OR 97812

FRS (Facility Registry Service) ID: 110002059904
EPA Region: 10
Latitude: 45.61513
Longitude: -120.23382
Locational Data Source: FRS
Industries: Waste Management and Remediation Services
Indian Country: N

Enforcement and Compliance Summary

Statute	CAA
Compliance Monitoring Activities (5 years)	1
Date of Last Compliance Monitoring Activity	08/27/2019
Compliance Status	No Violation Identified
Qtrs in Noncompliance (of 12)	0
Qtrs with Significant Violation	0
Informal Enforcement Actions (5 years)	--
Formal Enforcement Actions (5 years)	--
Penalties from Formal Enforcement Actions (5 years)	--
EPA Cases (5 years)	--
Penalties from EPA Cases (5 years)	--
Statute	**RCRA**
Compliance Monitoring Activities (5 years)	7
Date of Last Compliance Monitoring Activity	03/15/2023
Compliance Status	Violation
Qtrs in Noncompliance (of 12)	12
Qtrs with Significant Violation	1
Informal Enforcement Actions (5 years)	4
Formal Enforcement Actions (5 years)	2
Penalties from Formal Enforcement Actions (5 years)	$25,000
EPA Cases (5 years)	1
Penalties from EPA Cases (5 years)	$25,000

Statute	SDWA
Compliance Monitoring Activities (5 years)	--
Date of Last Compliance Monitoring Activity	--
Compliance Status	No Violation Identified
Qtrs in Noncompliance (of 12)	0
Qtrs with Significant Violation	0
Informal Enforcement Actions (5 years)	--
Formal Enforcement Actions (5 years)	--
Penalties from Formal Enforcement Actions (5 years)	--
EPA Cases (5 years)	--
Penalties from EPA Cases (5 years)	--

Regulatory Information

Clean Air Act (CAA): No Status in ICIS No Classification in ICIS (100000000000000039)

Clean Water Act (CWA): No Information

Resource Conservation and Recovery Act (RCRA): Inactive Other, (OR3680000079), Active LQG, Operating TSDF, Transporter, (ORD089452353)

Safe Drinking Water Act (SDWA): OWNER: Private, SOURCE: Ground water, TYPE: Non-Transient non-community system Permit Active (OR4194718)

Go To Enforcement/Compliance Details
Known Data Problems

Other Regulatory Reports

Air Emissions Inventory (EIS): No Information

Greenhouse Gas Emissions (eGGRT): No Information

Toxic Releases (TRI): 97812CHMCL17629

Compliance and Emissions Data Reporting Interface (CEDRI): No Information

Facility/System Characteristics

Facility/System Characteristics

System	Statute	Identifier	Universe	Status	Areas	Permit Expiration Date	Indian Country	Latitude	Longitude
FRS		110002059904					N	45.61513	-120.23382
ICIS		6683894					N	45.615426	-120.236054
ICIS-Air	CAA	100000000000000039	No Classification in ICIS	No Status in ICIS			N	45.61513	-120.23382
TRI	EP313	97812CHMCL17629	Toxics Release Inventory	Last Reported for 2021			N	45.615912	-120.248237
RCRAInfo	RCRA	OR3680000079	Other	Inactive ( )			N		
RCRAInfo	RCRA	ORD089452353	LQG, Operating TSDF, Transporter	Active (HPA)			N	45.60361	-120.289556
SDWIS	SDWA	OR4194718	OWNER: Private, SOURCE: Ground water, TYPE: Non-Transient non-community system	Active	Population Served: 40		N		

Facility Address

System	Statute	Identifier	Facility Name	Facility Address	Facility County
FRS		110002059904	CHEMICAL WASTE MANAGEMENT OF THE NW	17629 CEDAR SPRINGS LN, ARLINGTON, OR 97812	Gilliam County
ICIS		6683894	CHEMICAL WASTE MANAGEMENT OF THE NORTHWEST INCORPORATED	17629 CEDAR SPRINGS LANE, ARLINGTON, OR 97812	Gilliam County
ICIS-Air	CAA	100000000000000039	CHEMICAL WASTE MANAGEMENT OF THE NW	17629 CEDAR SPRINGS LN, ARLINGTON, OR 97812	Gilliam County
TRI	EP313	97812CHMCL17629	CHEMICAL WASTE MANAGEMENT OF THE NORTHWEST INC.	17629 CEDAR SPRINGS LN, ARLINGTON, OR 97812	Gilliam County
RCRAInfo	RCRA	OR3680000079	USEPA KLICKITAT & MOLALLA DRUM SITE EVID	17629 CEDAR SPRINGS LN, ARLINGTON, OR 97812	Gilliam County
RCRAInfo	RCRA	ORD089452353	CHEMICAL WASTE MANAGEMENT OF THE NW	17629 CEDAR SPRINGS LN, ARLINGTON, OR 97812	Gilliam County
SDWIS	SDWA	OR4194718	CHEMICAL WASTE MGT OF NW INC	OR	

Facility SIC (Standard Industrial Classification) Codes

System	Identifier	SIC Code	SIC Description

No data records returned

Facility NAICS (North American Industry Classification System) Codes

System	Identifier	NAICS Code	NAICS Description
ICIS-Air	100000000000000039	562211	Hazardous Waste Treatment and Disposal
TRI	97812CHMCL17629	562211	Hazardous Waste Treatment and Disposal
TRI	97812CHMCL17629	562212	Solid Waste Landfill
RCRAInfo	OR3680000079	562910	Remediation Services
RCRAInfo	ORD089452353	562211	Hazardous Waste Treatment and Disposal

Facility Tribe Information

Reservation Name	Tribe Name	EPA Tribal ID	Distance to Tribe (miles)
Yakama Nation Reservation	Confederated Tribes and Bands of the Yakama Nation	100000062	12.05
Yakama Nation Reservation	Confederated Tribes and Bands of the Yakama Nation	100000062	14.44
Warm Springs Reservation	Confederated Tribes of the Warm Springs Reservation of Oregon	100000061	11.04

Enforcement and Compliance

Compliance Monitoring History

Last 5 Years

Statute	Source ID	System	Activity Type	Compliance Monitoring Type	Lead Agency	Date	Finding (if applicable)
CAA	100000000000000039	ICIS-Air	Inspection/Evaluation	FCE On-Site	EPA	08/27/2019	
RCRA	*ORD089452353*	*ICIS*	*Information Request*	*Formal*	*EPA*	*03/04/2019*	
RCRA	*ORD089452353*	*ICIS*	*Offsite Record Review*	*Financial Record Review*	*EPA*	*11/06/2018*	
RCRA	*ORD089452353*	*ICIS*	*Inspection/Evaluation*	*Focused*	*EPA*	*09/20/2018*	
RCRA	ORD089452353	RCRAInfo		COMPLIANCE EVALUATION INSPECTION ON-SITE	State	03/15/2023	Undetermined, Agency May Still be Determining

Statute	Source ID	System	Activity Type	Compliance Monitoring Type	Lead Agency	Date	Finding (if applicable)
RCRA	ORD089452353	RCRAInfo		COMPLIANCE EVALUATION INSPECTION ON-SITE	State	03/14/2023	Undetermined, Agency May Still be Determining
RCRA	ORD089452353	RCRAInfo		COMPLIANCE EVALUATION INSPECTION ON-SITE	State	12/14/2022	No Violations Or Compliance Issues Were Found
RCRA	ORD089452353	RCRAInfo		COMPLIANCE EVALUATION INSPECTION ON-SITE	State	08/30/2022	Undetermined, Agency May Still be Determining
RCRA	*ORD089452353*	*RCRAInfo*		*FACILITY SELF DISCLOSURE*	*State*	*09/03/2021*	*Violations Or Compliance Issues Were Found*
RCRA	*ORD089452353*	*RCRAInfo*		*NON-FINANCIAL RECORD REVIEW*	*EPA*	*08/26/2020*	*Undetermined, Agency May Still be Determining*
RCRA	*ORD089452353*	*RCRAInfo*		*NOT A SIGNIFICANT NON-COMPLIER*	*EPA*	*08/06/2020*	*No Violations Or Compliance Issues Were Found*
RCRA	ORD089452353	RCRAInfo		COMPLIANCE EVALUATION INSPECTION ON-SITE	State	03/10/2020	No Violations Or Compliance Issues Were Found
RCRA	*ORD089452353*	*RCRAInfo*		*NON-FINANCIAL RECORD REVIEW*	*State*	*02/18/2020*	*Violations Or Compliance Issues Were Found*
RCRA	ORD089452353	RCRAInfo		COMPLIANCE EVALUATION INSPECTION ON-SITE	State	12/17/2019	No Violations Or Compliance Issues Were Found
RCRA	*ORD089452353*	*RCRAInfo*		*SIGNIFICANT NON-COMPLIER*	*EPA*	*07/03/2019*	*Undetermined, Agency May Still be Determining*
RCRA	*ORD089452353*	*RCRAInfo*		*FOCUSED COMPLIANCE INSPECTION*	*State*	*11/28/2018*	*No Violations Or Compliance Issues Were Found*
RCRA	*ORD089452353*	*RCRAInfo*		*FINANCIAL RECORD REVIEW*	*EPA*	*10/02/2018*	*Undetermined, Agency May Still be Determining*
RCRA	*ORD089452353*	*RCRAInfo*		*FOCUSED COMPLIANCE INSPECTION*	*EPA*	*09/18/2018*	*Violations Or Compliance Issues Were Found*
RCRA	ORD089452353	RCRAInfo		COMPLIANCE EVALUATION INSPECTION ON-SITE	State	09/18/2018	Violations Or Compliance Issues Were Found
SDWA	*OR4194718*	*SDWIS*		*Sanitary Survey, Complete*	*State*	*11/13/2018*	

Entries in italics are not counted as EPA official inspections.

SDWA (Safe Drinking Water Act) Sanitary Survey Results (5 Years)

Source ID	Date	Type	Agency	Data Verification	Distribution	Management Operation	Finished Water Storage	Operator Compliance	Other Evaluation	Pumps	Security	Source	Financial	Treatment
OR4194718	11/13/2018	Sanitary Survey, Complete	County	N (No deficiencies or recommendations.)	N (No deficiencies or recommendations.)	N (No deficiencies or recommendations.)	N (No deficiencies or recommendations.)	N (No deficiencies or recommendations.)	N (No deficiencies or recommendations.)	N (No deficiencies or recommendations.)	Z (Not Applicable)	S (Significant deficiencies.)	Z (Not Applicable)	N (No deficiencies or recommendations.)

Sanitary survey result codes:

S = Significant Deficiencies
M = Minor Deficiencies
R = Recommendations Made
N = No Deficiencies or Recommendations
X = Not Evaluated
Z = Not Applicable
D = Sanitary Defect
-- = Not Reported to EPA

Compliance Summary Data

Statute	Source ID	Current SNC (Significant Noncompliance)/HPV (High Priority Violation)	Current As Of	Qtrs with NC (Noncompliance) (of 12)	Data Last Refreshed
CAA	100000000000000039	No	06/10/2023	0	06/09/2023
RCRA	OR3680000079	No	06/10/2023	0	06/09/2023
RCRA	ORD089452353	No	06/10/2023	12	06/09/2023
SDWA	OR4194718	No	12/31/2022	0	04/05/2023

Three-Year Compliance History by Quarter

Statute	Program/Pollutant/Violation Type	QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8	QTR 9	QTR 10	QTR 11	QTR 12+
CAA (Source ID: 100000000000000039)		07/01-09/30/20	10/01-12/31/20	01/01-03/31/21	04/01-06/30/21	07/01-09/30/21	10/01-12/31/21	01/01-03/31/22	04/01-06/30/22	07/01-09/30/22	10/01-12/31/22	01/01-03/31/23	04/01-06/30/23
	Facility-Level Status	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified
	HPV History												
	Violation Type / Agency / Programs / Pollutants												

Statute	Program/Pollutant/Violation Type		QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8	QTR 9	QTR 10	QTR 11	QTR 12+
RCRA (Source ID: OR3680000079)			07/01-09/30/20	10/01-12/31/20	01/01-03/31/21	04/01-06/30/21	07/01-09/30/21	10/01-12/31/21	01/01-03/31/22	04/01-06/30/22	07/01-09/30/22	10/01-12/31/22	01/01-03/31/23	04/01-06/30/23
	Facility-Level Status		No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified	No Violation Identified
	Violation	Agency												
RCRA (Source ID: ORD089452353)			07/01-09/30/20	10/01-12/31/20	01/01-03/31/21	04/01-06/30/21	07/01-09/30/21	10/01-12/31/21	01/01-03/31/22	04/01-06/30/22	07/01-09/30/22	10/01-12/31/22	01/01-03/31/23	04/01-06/30/23
	Facility-Level Status		Significant Noncomplier	Violation	Violation	Violation	Violation Identified	Violation	Violation	Violation	Violation	Violation	Violation	Violation
	Evaluation	Agency												
RCRA	Significant Noncomplier	EPA	07/03/2019-08/06/2020											
	Violation	Agency												
RCRA	264.H: TSD - Financial Requirements	EPA	09/25/2020	→	→	→	→	→	→	→	→	→	→	→
RCRA	268.A: LDR - General	OR					09/03/2021-09/03/2021							

Statute	Violation Type/Category		QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8	QTR 9	QTR 10	QTR 11	QTR 12	QTR 13*
SDWA (Source ID: OR4194718)			01/01-03/31/20	04/01-06/30/20	07/01-09/30/20	10/01-12/31/20	01/01-03/31/21	04/01-06/30/21	07/01-09/30/21	10/01-12/31/21	01/01-03/31/22	04/01-06/30/22	07/01-09/30/22	10/01-12/31/22	01/01-03/31/23
	Facility-Level Status		No Violation	No Violation	No Violation	No Violation	No Violation	No Violation	No Violation	No Violation	No Violation	No Violation	No Violation	No Violation	In Progress
	Category	Violation Type													

*Quarter 13 data is voluntarily entered and/or incomplete, and may not form a complete picture for that quarter. Read more

SDWA Compliance Data Last Reported: 12/31/2022

Informal Enforcement Actions

Last 5 Years

Statute	System	Source ID	Type of Action	Lead Agency	Date
RCRA	RCRAInfo	ORD089452353	PRE-ENFORCEMENT NOTICE	State	10/21/2021
RCRA	RCRAInfo	ORD089452353	PRE-ENFORCEMENT NOTICE	State	05/08/2020
RCRA	RCRAInfo	ORD089452353	LETTER OF INTENT TO INITIATE ENFORCEMENT ACTION	EPA	10/16/2019
RCRA	RCRAInfo	ORD089452353	WRITTEN INFORMAL	State	10/15/2018

Entries in italics are not counted as "informal enforcement actions" in EPA policies pertaining to enforcement response tools.

Formal Enforcement Actions Last 5 Years

Statute	System	Law/Section	Source ID	Type of Action	Case No.	Lead Agency	Case Name	Issued/Filed Date	Settlements/Actions	Settlement/Action Date	Federal Penalty Assessed	State/Local Penalty Assessed	Penalty Amount Collected	SEP Value	Comp Action Cost
RCRA	ICIS	3008A	RCRAINFO/ORD089452353	Administrative - Formal	10-2020-0111	EPA	CHEMICAL WASTE MANAGEMENT OF THE NW (RCRA HW)	09/25/2020	1	09/25/2020	$25,000	$0	$25,000	$0	$0
RCRA	RCRAInfo	--	RCRAINFO/ORD089452353	FINAL 3008(A) COMPLIANCE ORDER	--	EPA	--	--	1	09/25/2020	$25,000	$0	--	--	--
RCRA	RCRAInfo	--	RCRAINFO/ORD089452353	INITIAL 3008(A) COMPLIANCE	--	EPA	--	--	1	09/25/2020	--	$0	--	--	--

SDWA (Safe Drinking Water Act) Violations and Enforcement Actions (5 Years)

Violations											Enforcement Actions			
Source ID	Noncompliance Period	Violation ID	Federal Rule	Contaminant	Category	Description	Measured Value	State MCL (Maximum Contaminant Level)	Federal MCL (Maximum Contaminant Level)	Status	Date	Category	Description	Agency

No data records returned

Environmental Conditions

Watersheds

12-Digit WBD (Watershed Boundary Dataset) HUC (RAD (Reach Address Database))	WBD (Watershed Boundary Dataset) Subwatershed Name (RAD (Reach Address Database))	State Water Body Name (ICIS (Integrated Compliance Information System))	Beach Closures Within Last Year	Beach Closures Within Last Two Years	Pollutants Potentially Related to Impairment	Watershed with ESA (Endangered Species Act)-listed Aquatic Species?

No data records returned

Assessed Waters From Latest State Submission (ATTAINS)

State	Report Cycle	Assessment Unit ID	Assessment Unit Name	Water Condition	Cause Groups Impaired	Drinking Water Use	Aquatic Life	Fish Consumption Use	Recreation Use	Other Use

No data records returned

Air Quality Nonattainment Areas

Pollutant	Within Nonattainment Status Area?	Nonattainment Status Applicable Standard(s)	Within Maintenance Status Area?	Maintenance Status Applicable Standard(s)

No data records returned

Pollutants

Toxics Release Inventory History of Reported Chemicals Released in Pounds per Year at Site

Air Pollutant Report TRI Pollution Prevention Report

TRI Facility ID	Year	Total Air Emissions	Surface Water Discharges	Off-Site Transfers to POTWs (Publicly Owned Treatment Works)	Underground Injections	Releases to Land	Total On-Site Releases	Total Off-Site Transfers
97812CHMCL17629	2021	9,020	--	0	--	2,256,144	2,265,164	352,449
97812CHMCL17629	2020	35,131	--	0	--	2,006,003	2,041,134	545,573
97812CHMCL17629	2019	9,487	--	0	--	2,138,160	2,147,647	2,361,857
97812CHMCL17629	2018	10,290	--	0	--	5,990,736	6,001,026	930,098
97812CHMCL17629	2017	9,145	--	0	--	9,541,375	9,550,520	364,967
97812CHMCL17629	2016	9,633	--	0	--	8,001,777	8,011,410	240,407
97812CHMCL17629	2015	11,355	--	0	--	6,448,003	6,459,358	158,288
97812CHMCL17629	2014	10,670	--	0	--	6,798,387	6,809,057	68,750
97812CHMCL17629	2013	3,576	--	0	--	7,971,454	7,975,030	56,954
97812CHMCL17629	2012	1,058	--	0	--	13,960,721	13,961,779	7,191

Toxics Release Inventory Total Releases and Transfers in Pounds by Chemical and Year

Chemical Name	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012
1,1,1-Trichloroethane	--	--	--	38,179	23,077	30,471	48,544	16,370	16,236	--
1,1,2-Trichloroethane	--	--	--	18,411	--	14,889	17,266	--	--	--
1,2,4-Trimethylbenzene	33,118	30,686	30,042	--	--	--	--	--	--	--
1,2-Dichlorobenzene	--	--	--	18,413	--	14,897	17,277	--	--	--
1,2-Dichloroethane	--	--	--	9,424	17,289	15,839	14,423	--	--	--
1,4-Dichlorobenzene	--	--	--	28,451	22,201	29,799	22,627	--	--	--
1,4-Dioxane	55,800	221,344	--	--	--	--	13,368	16,108	15,400	--
2,4-Dimethylphenol	--	--	--	18,416	10,043	14,733	21,212	--	--	--
2-Ethoxyethanol	--	--	--	19,846	--	15,930	21,363	11,454	--	589
2-Nitropropane	--	--	--	19,846	--	15,930	21,363	11,454	--	22,488
Acetonitrile	--	--	21,105	18,437	16,801	11,222	--	--	--	--
Acrylonitrile	--	--	--	--	--	--	13,374	16,198	15,398	--
Aldrin	195	57	26	7,453	13,011	14,895	11,792	222	546	2,275
Aluminum (fume or dust)	--	--	--	--	--	--	--	--	1,999,834	5,478,283
Ammonia	68,485	--	--	--	--	--	--	--	--	128,447
Anthracene	--	--	--	27,592	--	15,310	23,618	--	--	75,110
Antimony	--	--	--	--	--	--	15,141	20,200	16,202	--
Arsenic	--	--	--	33,073	25,098	27,717	33,415	--	--	28,755
Asbestos (friable)	--	--	--	2,191,691	5,352,735	3,727,595	1,447,837	1,789,399	2,340,221	2,014,580
Barium	257,758	225,772	305,640	176,236	247,285	238,459	355,051	211,122	256,339	291,192
Benzene	--	--	--	31,771	23,664	42,818	53,121	25,318	16,567	17,192
Benzo[g,h,i]perylene	986	10,315	656	18,537	9,770	15,446	22,943	11,530	1,256	6,050
Beryllium	--	--	--	--	--	--	13,426	17,497	16,571	--
Cadmium	--	--	--	12,548	59,497	--	--	12,454	17,069	24,706
Carbon disulfide	--	--	--	18,475	--	14,940	23,429	--	--	--
Carbon tetrachloride	--	--	--	28,941	17,915	22,587	26,129	--	--	--

Chemical Name	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012
Chlordane	195	58	30	21,320	17,851	22,308	24,875	424	549	2,278
Chloroform	--	--	--	16,699	13,074	15,969	11,873	--	--	--
Chlorothalonil	--	--	--	--	--	--	--	--	26,597	16,313
Chromium	91,863	80,956	49,303	43,709	65,373	22,203	57,444	40,127	54,660	99,374
Cobalt	24,593	12,701	--	--	--	29,447	--	13,657	39,073	101,081
Copper	82,653	80,629	67,128	42,411	50,394	48,947	75,305	63,228	115,860	79,407
Creosote	--	323,861	1,923,771	695,394	--	15,384	248,204	25,136	--	--
Cresol (mixed isomers)	--	--	10,220	10,211	--	--	--	--	--	--
Cumene	--	--	--	--	--	--	--	--	--	18,571
Cyclohexane	--	--	--	22,881	--	21,148	26,582	--	--	--
Di(2-ethylhexyl) phthalate	--	--	12,997	20,161	13,610	17,932	55,707	17,099	16,847	--
Dibenzofuran	--	--	--	--	--	--	--	--	--	120,100
Dibutyl phthalate	--	--	--	36,924	19,384	29,961	57,146	16,282	15,427	--
Dichloromethane	--	--	--	21,588	14,793	26,497	33,063	16,655	17,002	--
Diethanolamine	28,936	21,637	24,144	26,077	38,839	84,702	35,588	80,504	70,176	89,949
Diisocyanates	13,312	--	--	26,572	--	--	--	--	--	--
Dinitrobutyl phenol	--	--	--	--	--	14,766	11,476	--	--	--
Ethylbenzene	--	11,017	22,947	25,655	16,631	22,103	40,528	20,363	16,880	27,497
Ethylene glycol	42,865	11,883	53,475	648,454	1,603,574	1,620,903	1,367,625	1,244,614	29,088	--
Freon 113 (CFC-113)	--	--	--	18,462	--	15,045	30,652	16,144	15,341	--
Heptachlor	195	58	26	28,002	22,686	29,617	31,712	222	546	2,275
Hexachlorobenzene	195	58	17	1,269	3,323	180	312	219	542	2,274
Hydrogen fluoride	--	--	19,939	--	--	--	--	17,095	--	12,537
Lead	1,153,803	627,918	1,140,833	1,489,752	1,372,935	881,734	1,087,372	--	--	--
Lead compounds	--	--	--	--	--	--	--	1,806,748	2,273,645	2,040,202
Lithium carbonate	33,060	--	--	--	--	--	--	--	--	--

Chemical Name	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012
Manganese	124,404	75,878	37,021	17,635	34,045	--	33,631	92,344	177,305	200,169
Mercury	1,106	735	836	944	4,858	464	2,154	--	--	--
Mercury compounds	--	--	--	--	--	--	--	563	4,616	4,273
Methanol	52,693	63,756	46,419	45,162	42,752	53,579	48,056	23,785	17,612	--
Methoxychlor	194	626	693	1,268	3,319	179	314	219	542	2,271
Methyl isobutyl ketone	16,199	--	--	20,365	14,306	19,098	34,316	21,455	17,226	--
Methyl methacrylate	--	--	--	--	--	--	13,771	16,108	15,395	--
Molybdenum trioxide	--	--	31,916	--	--	18,877	--	12,153	--	--
Naphthalene	10,868	207,224	14,068	26,608	22,524	46,699	53,415	8,967	--	1,647,418
Nickel	85,233	150,139	70,803	101,415	64,663	100,027	123,327	--	--	--
Nickel compounds	--	--	--	--	--	--	--	107,659	150,459	199,015
Nitrate compounds (water dissociable; reportable only when in aqueous solution)	18,129	46,075	33,792	--	25,928	--	--	--	--	--
Nitric acid	37,417	--	57,941	--	2,613	--	--	--	--	18,027
Pentachlorophenol	--	--	--	15,350	13,137	15,730	23,769	--	--	228,586
Phenanthrene	--	29,741	--	43,239	--	32,278	53,368	--	--	313,875
Phenol	--	--	--	41,096	30,210	38,284	60,506	17,284	22,173	10,358
Phenolphthalein	10,528	--	--	--	--	--	--	--	--	--
Phosphorus (yellow or white)	--	63,773	63,570	56,627	48,035	57,474	54,285	32,641	--	--
Polychlorinated biphenyls	18,305	28,242	73,564	26,287	15,687	22,966	29,136	778,415	29,898	102,112
Polycyclic aromatic compounds	6,561	60,050	46,844	160,316	81,086	112,433	167,559	9,952	30,472	248,428
Pyridine	--	--	--	38,767	22,873	30,120	34,456	--	--	--
Selenium	--	--	--	--	--	9,357	11,837	--	--	--
Sodium nitrite	--	--	--	--	30,004	34,112	--	13,729	--	146,966
Styrene	--	--	22,220	20,898	77,277	27,028	29,618	19,868	--	--
Tetrabromobisphenol A	--	--	--	--	--	--	--	--	303	656
Tetrachloroethylene	--	--	--	43,193	51,956	46,923	99,436	43,237	33,743	17,894
Toluene	87,850	33,869	95,511	79,238	58,298	50,314	75,399	41,070	37,706	--
Toxaphene	393	58	29	7,455	12,596	14,692	11,815	224	548	2,280
Trichloroethylene	--	--	--	39,455	24,576	32,192	49,389	16,824	15,996	17,636
Trichlorofluoromethane (CFC-11)	--	--	--	18,747	10,038	15,270	17,569	--	--	--
Trifluralin	4	130	--	--	--	--	--	--	--	--
Vanadium (except when contained in an alloy)	--	--	20,245	--	--	--	--	--	--	--
Vinyl chloride	--	--	--	13,690	21,655	29,172	14,256	--	--	--
Xylene (mixed isomers)	63,666	68,948	117,305	62,222	45,775	48,850	45,451	17,379	8,357	--
Zinc compounds	196,055	98,515	94,430	85,515	66,426	173,697	64,839	49,950	50,347	107,482
n-Butyl alcohol	--	--	--	34,355	--	19,687	33,789	16,141	15,415	--

SDWA (Safe Drinking Water Act) Lead and Copper (Last 5 Years)

Source ID	Contaminant	Sample Dates	90th Percentile Sample Concentrations	Action Level	Health-Based Violations
OR4194718	Lead	2020-01-01 - 2022-12-31	0 mg/L	0.015 mg/L	--
OR4194718	Lead	2017-01-01 - 2019-12-31	.006 mg/L		
OR4194718	Copper	--	No data records returned.	1.3 mg/L	

Community

Environmental Justice

This section shows indexes from EJScreen, EPA's screening tool for environmental justice (EJ) concerns. EPA uses these indexes to identify geographic areas that may warrant further consideration or analysis for potential EJ concerns. Use of these indexes does not designate an area as an "EJ community" or "EJ facility." EJScreen provides screening level indicators, not a determination of the existence or absence of EJ concerns. For more information, see the EJScreen home page.

EJScreen Indexes Shown

Compare to ◉ US ○ State

Index Type ○ Environmental Justice ◉ Supplemental

Related Reports

EJScreen Report

Download Data

○ Facility 1-mile Radius ☐ Facility Census Block Group

Census Block Group ID: 410219601001	US (Percentile)	
Supplemental Indexes	Facility Census Block Group	1-mile Max
Count of Indexes At or Above 80th Percentile	**0**	**0**
Particulate Matter 2.5	28	28
Ozone	48	48
Diesel Particulate Matter	2	2
Air Toxics Cancer Risk	24	24
Air Toxics Respiratory Hazard Index	42	42
Traffic Proximity	18	18
Lead Paint	64	64
Risk Management Plan (RMP) Facility Proximity	4	4
Hazardous Waste Proximity	22	22
Superfund Proximity	15	15
Underground Storage Tanks (UST)	32	32
Wastewater Discharge	35	35

Demographic Profile of Surrounding Area (1 mile)

This section provides demographic information regarding the community surrounding the facility. ECHO compliance data alone are not sufficient to determine whether violations at a particular facility had negative impacts on public health or the environment. Statistics are based upon the 2010 U.S. Census and 2016 - 2020 American Community Survey (ACS) 5-year Summary and are accurate to the extent that thefacility latitude and longitude listed below are correct. EPA's spatial processing methodology considers the overlap between the selected radii and the census blocks (for U.S. Census demographics) and census block groups (for ACS demographics) in determining the demographics surrounding the facility. For more detail about this methodology, see the DFR Data Dictionary.

No demographic profile information available for this facility.

LAST UPDATED ON SEPTEMBER 21, 2022

DATA REFRESH INFORMATION