Message

From: Pratt, Stacie [Pratt.Stacie@epa.gov]
Sent: 6/5/2018 8:51:02 PM
To: Jamieson, Cheryl [Jamieson.Cheryl@epa.gov]; Bunker, Kelly [Bunker.Kelly@epa.gov]
Subject: FW: PCB TSCA Rules

FYI

From: Rich Parrish [mailto:rich@impactenvironmental.com]
Sent: Tuesday, June 05, 2018 4:42 PM
To: Rice, Scott <Rice.Scott@epa.gov>
Cc: Pratt, Stacie <Pratt.Stacie@epa.gov>; Mcgurk, Tracey <tmcgurk@pa.gov>
Subject: RE: PCB TSCA Rules

We have reviewed the PCB regulations in 40 CFR 760 and the "PCB Q and A Manual" (link below) published by the USEPA in 2014 (see pages 47-49, 53, 71-73, 75). Both documents strongly indicate that the regulation that applies to waste concrete and soil disposal is 40 CFR 761.61 for "PCB remediation waste" as defined in 761.3 definitions. If the regulations contained in 761.20 which are clearly stated to be applied only to "*PCB oils*" "*PCB Articles*", "PCB Bulk product waste" and "*PCB Items*" were to be applied to waste soil and concrete with ubiquitous, "*as found*" concentrations of PCBs, then they would, in fact, negate ALL applications of parts 761.3 and 761.61. We also believe that the issue is addressed in the One Cleanup Program Memorandum of Understanding of 2004 (section iv(D)) that makes no reference to 761.20. As stated in 761.61(a)(5)(v)(A)(2) disposal must be at, "A facility permitted, licensed, or registered by a State to **manage** non-municipal non-hazardous waste subject to 257.5 through 257.30 of this chapter, as applicable". I believe the word "manage" dove-tails to the concept of beneficial use as a surrogate term for disposal.

With respect to the differences in disposal versus beneficial use, *Disposal* is defined in 761.3 to mean intentionally or accidentally to discard, throw away, or otherwise complete or terminate the **useful life of PCBs** and PCB Items. Disposal includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or **confining** PCBs and PCB Items. I would point out that the Northface authorization to accept these materials is under both a General Permit for Regulated Fill 096 permit and through the Act 2 Brownfield Program for RCRA Closure. In both cases, the permits involve receiving the PCB remediation waste to terminate its useful life (PCBs are not a primary aspect of the reuse of the fill) by "**confining**" these materials for use in a cap. The cap cannot be truncated in that the property is covered with a deed restriction under Uniform Environmental Covenants Act to breach the cap. As such, it is Northface's position that our redundant state permits, as well as our groundwater monitoring network, satisfy the requirements in 40 CFR 257.2 subpart B for Wastes at Non-Municipal Non Hazardous Waste Disposal Units. Finally, I would argue that treatment wouldn't be covered under a strict interpretation of disposal either, yet this is a recognized surrogate for disposal. Treated materials are often "cleaned enough" for post processing beneficial use.

Further, that if the standard the Agency supposes to apply was "Quantifiable Level/Levels of Detection" then the limit for any wastes, nationwide, must be lowered to 0.05 PPM (USEPA Test Method 8081/82). That is how the regulation reads. This would greatly impact all beneficial use operations including but not limited to state Mine Reclamation Programs, Land Recycling Programs and Site Remediation Programs, Federal RCRA Closures, Army Corp. Dredge and Upland Disposal Permits, to name a few.

It seems that I think it of interest to note that ALL of the landfills that currently accept this waste in the State accept it specifically for beneficial use. That means that they accept it for daily cover and do not calculate it into their daily disposal volumes; it is a skirt of TSCA in the landfill operators' system.

We again respectfully request that we be allowed to address the USEPA directly within a forum that includes the PADEP to seek an accord on the matter.

The PCB QA Manual is available at the following webpage: https://www.epa.gov/pcbs/polychlorinated-biphenyl-pcb-question-and-answer-manual-and-response-comment-documents

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From: Rice, Scott <Rice.Scott@epa.gov>
Sent: Tuesday, May 22, 2018 12:14 PM
To: Rich Parrish <rich@impactenvironmental.com>
Cc: Pratt, Stacie <Pratt.Stacie@epa.gov>; Mcgurk, Tracey <tmcgurk@pa.gov>
Subject: Re: PCB TSCA Rules

Hey Rich. I understand your concerns regarding the vetting of the material. I'm not exactly sure of the logistics in terms of when EPA and PADEP will discussing the issue, and I'm not sure who will be invited to attend the calls/conversations. My guess is that upper management from EPA and PADEP will discuss the issue and find a direction forward that everyone will be amenable to. Then we will disseminate that info to the regulated community. In regards to your question about the 2 ppm level:

Section 761.20(a) of the PCB regulations prohibit the use of PCBs at any concentration, other than in a totally enclosed manner, without an exemption.

Any concentration is defined in the PCB regulations as the "quantifiable level/level of detection" which specifies 2 ppm.

The distribution in commerce of PCBs at any concentration is only authorized for the purposes of disposal.

This is where the 2 ppm level comes from. Talk to you next week or soon thereafter. Best regards

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From: Rich Parrish <rich@impactenvironmental.com>
Sent: Tuesday, May 22, 2018 11:41:38 AM
To: Rice, Scott
Cc: Pratt, Stacie; Mcgurk, Tracey
Subject: RE: PCB TSCA Rules

OK, my main question is from where is the 2 PPM limit derived? I have spent a lot of time researching the TSCA regulations – I just cant find the reference as its being applied. We go through extensive research to make sure that we don't have TSCA waste being accepted for BUD – we vet the material by not only the concentration (we use 50PPM always as an upper limit regardless of the Management of Fill Policy in PA) but also by the way in which it was liberated. We do not accept Point Source discharge material or material from PCB remediation sites. I always try to remember that there are high levels of PCBs in the polar ice -caps – they are everywhere as a non-point source pollutant. I hope that we can be party to any discussions with the State of PA .

From: Rice, Scott <Rice.Scott@epa.gov>
Sent: Tuesday, May 22, 2018 11:32 AM
To: Rich Parrish <rich@impactenvironmental.com>
Cc: Pratt, Stacie <Pratt.Stacie@epa.gov>; Mcgurk, Tracey <tmcgurk@pa.gov>
Subject: Re: PCB TSCA Rules

Hey Rich. I am leaving on travel in a half hour and need to prepare for a project later this week. I know there will be some discussions going on this week or next with management. I don't think anything constructive will come of discussions between us prior to the management discussions. I got your message regarding other state regulations and how they might play into this. Rest assured we are looking into those aspects as well. Regardless of when management has these discussions, I will contact you next week to let you know the results and/or impacts of management's decisions. Best regards

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From: Rich Parrish <rich@impactenvironmental.com>
Sent: Tuesday, May 22, 2018 11:23:35 AM
To: Rice, Scott
Cc: Pratt, Stacie; Mcgurk, Tracey
Subject: Re: PCB TSCA Rules

Can you and i talk today?

Richard Parrish, P.G.
IMPACT ENVIRONMENTAL
President

On May 22, 2018, at 11:16 AM, Rice, Scott <Rice.Scott@epa.gov> wrote:

> Hey Rich, upper management will be discussing this later this week or next, and have plans to coordinate with PADEP to clarify the issue hopefully. They have to hash things out before I can start discussing and/or advising. I'll let you know what is going on as things happen and decisions get made. best regards
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> **From:** Rich Parrish <rich@impactenvironmental.com>
> **Sent:** Monday, May 21, 2018 3:45:04 PM
> **To:** Rice, Scott
> **Cc:** Pratt, Stacie; Mcgurk, Tracey
> **Subject:** Re: PCB TSCA Rules
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> Thank you so much - I didn't want to bother you on the day you got back - let me know a good time.
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> Richard Parrish, P.G.
> IMPACT ENVIRONMENTAL
> President
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> On May 21, 2018, at 3:39 PM, Rice, Scott <Rice.Scott@epa.gov> wrote:
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>> Hey Rich. Thank you for the info. I have been out of the office for a while for various reasons. I will be speaking with my management this week about our current status on this issue, and will get back to you tomorrow to touch base

regarding the TSCA regulations and how they mesh with beneficial use/clean fill. Best regards

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From: Rich Parrish <rich@impactenvironmental.com>
Sent: Tuesday, May 15, 2018 10:37:10 AM
To: Rice, Scott
Cc: Mcgurk, Tracey
Subject: PCB TSCA Rules

I left you a message this afternoon with respect to a beneficial use project that I am working to remediate in Palmerton, PA. The site is using Regulated Fill that is being placed by Phase III Environmental, LLC. The owner of Phase III has asked me to contact you to begin a dialogue to bridge the Agency's application of the TSCA rules with New York and New Jersey cleanup and remediation standards. It is my hope to get representatives together into a meeting or teleconference to confer on PCB-impacted waste and how we may consider management options.

Rich Parrish
CEO/President

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