UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OCT 30 1998

Ms. Kathleen L. Bishop
Environmental Engineer
Reynolds Metals Company
P.O. Box 27003
Richmond, VA 23261-7003

Dear Ms. Bishop:

Thank you for your letter of August 28, 1998, to Julie Simpson of my staff asking for clarification of certain provisions of the PCB Disposal Amendments (63 FR 35384, June 29, 1998). I hope the following information is helpful to you.

Contaminated porous surfaces

Your letter asks, first, whether the phrase "PCBs regulated for disposal" in the paragraph header for §761.30(p) refers to PCBs with a source concentration of ≥50 ppm. Your question has brought to our attention that the introductory language in §761.30(p)(1) contains an incorrect unit of measurement. EPA plans to promulgate a technical correction to this section to change ">10 μg/100 cm^2" to read "≥50 ppm". This should clarify our intent that the use conditions of §761.30(p) apply to porous surfaces contaminated with spills of liquid PCBs at concentrations ≥50 ppm.

Your letter also asks whether the definition of the word "spill" as used in §761.30(p) is the same as in §761.123. The definitions in §761.123 apply only to the Spill Cleanup Policy in 40 CFR Part 761, Subpart G. The definitions applicable to §761.30(p) are found at §761.3. That section does not define "spill", but the definition of "disposal" sheds some light on the meaning of "spill":

> *Disposal* means 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 and confining PCBs and PCB Items.

CONCURRENCES

SYMBOL	7404	7404						
SURNAME	Simpson	Boyd						
DATE	10/28/98							

Section 761.50(a)(4) states, "Spills and other uncontrolled discharges of PCBs at concentrations of ≥50 ppm constitute the disposal of PCBs."

If the conditions of §761.30(p) are met, you may continue to use a porous surface contaminated by a spill ≥50 ppm that occurred any time after April 18, 1978. Under §761.50(b)(3)(i), spills that occurred prior to that date are presumed not to present an unreasonable risk of injury to health or the environment from exposure to PCBs at the site. The PCB disposal rules, including §761.30(p), do not require you to clean up these spills unless the EPA Regional Administrator directs you to do so based on a site-specific unreasonable risk finding.

Section 761.50(b)(3)(iii) places the burden on the owner or operator of the waste to prove the date that the waste was spilled and the concentration of the original spill. There is no separate, enforceable requirement to sample. If in doubt about the date of the spill or its concentration, we recommend that you comply with the use conditions of §761.30(p).

Section 761.30(p) requires porous surfaces to be cleaned and covered only if they are accessible. Examples of areas that are not accessible are the floor underneath a floor-mounted transformer or an impassible space between a transformer and a wall. Since a restricted access area is accessible to people authorized to enter it, porous surfaces in the area that are contaminated with PCBs ≥50 ppm must be cleaned and covered in accordance with §761.30(p).

Dermal protection

In considering your question on the applicability of the dermal protection requirements found in §761.60(b)(6)(iv), we discovered an editing error. This section should read, "Persons disposing of PCB articles must wear or use protective clothing or equipment to protect against dermal contact or inhalation of PCBs or materials containing PCBs." EPA plans to promulgate a technical correction to effect this change.

Disposers of PCB waste and Decontamination

Your letter refers to language on page 35424 of the preamble to the Disposal Amendments clarifying that all disposers of PCB waste, even those that dispose of their own waste only (such as high efficiency boilers and facilities conducting decontamination under §761.79), must submit their annual records to the appropriate EPA Regional Administrator by July 15 of each year. You ask whether this requirement applies to facilities which decontaminate PCB waste which was generated off-site as well as

to users of PCBs and generators of PCB wastes that engage in decontamination activities.

The preamble language you reference describes an amendment to the recordkeeping requirements of §761.180(b). These requirements apply to commercial storers and disposers of PCB waste. A facility that decontaminates or otherwise disposes of its own waste does not meet the definition of "commercial storer of PCB waste" under §761.3, and need not comply with §761.180(b). In addition, most decontamination activities under §761.79 do not require a PCB approval. Therefore, a facility engaging in such activities would not meet the definition of "disposer of PCB waste" under §761.3, and would not need to comply with this recordkeeping requirement.

However, §761.180(a) requires a facility that uses or stores at any one time at least 45 kilograms (99.4 pounds) of PCBs contained in PCB Containers to maintain annual records and an annual document log. A facility that decontaminates its own waste, but collects or stores that waste on-site prior to off-site disposal, would be subject to the requirements of §761.180(a) if it exceeded the 45 kilogram threshold.

Your letter asks whether users of PCBs and generators of PCB wastes that conduct decontamination activities are considered disposers of PCBs, and whether they must submit or re-submit a Notification of PCB Activity form to indicate that they dispose of PCBs. The fact that a facility generates PCB waste while conducting decontamination activities does not make the facility a disposer of PCB waste. If the facility is not a disposer, transporter, or commercial storer of PCB waste, it does not have to file a notification of PCB activity under §761.205.

Finally, when conducting decontamination activities under an EPA consent order, you must comply with all applicable PCB regulations unless the consent order specifies otherwise.

If you would like to discuss any of these matters further, you may reach Ms. Simpson at (202) 260-7873.

Sincerely,

John W. Melone, Director
National Program Chemicals Division

cc: Regions 1 - 10

REYNOLDS METALS COMPANY

P.O. Box 27003 • Richmond, Virginia 23261-7003

August 28, 1998

U.S. Environmental Protection Agency
Fibers and Organics Branch (7404)
Attn: Ms. Julie Simpson
401 M Street, SW
Washington, DC 20460

Dear Ms. Simpson:

Reynolds Metals Company has reviewed the final PCB rule published in the Federal Register on June 29, 1998, and requests interpretive guidance regarding the following questions about the rule:

Contaminated porous surfaces

Does the phrase "PCBs regulated for disposal" as included in the paragraph header for §761.30(p) indicate that the source PCB concentration is ≥50 ppm? If not, what does it indicate?

Does the term "liquid PCBs" as used in §761.30(p) include liquids with <50 ppm PCBs?

What is the definition of "spill" as used in §761.30(p)? Is it the same definition as used in §761.123? (If so, the term "spill," by definition, excludes liquids with <50 ppm PCBs.)

Does 761.30(p) apply when the source of the PCBs is a liquid with a concentration of <50 ppm PCBs?

Does §761.30(p) apply to spills of liquid PCBs that occurred prior to August 28, 1998?

Does §761.30(p) apply to spills that occurred prior to April 18, 1978? If so, at what concentration?

If §761.30(p) applies to pre-August 28, 1998 spills, what strategy should be used to comply with these requirements? Are facilities required to conduct surface sampling of stained areas of concrete?

Are porous surfaces in areas which are difficult to access (e.g., at the base of a piece of equipment) or in restricted access areas (e.g., inside locked transformer enclosures) subject to the use conditions of §761.30(p)?

Dermal protection

Do the dermal protection requirements found in §761.60(b)(6)(iv) apply to disposal facilities only?

Do dermal protection requirements apply to users of PCBs or generators of PCB waste who may come into contact with PCB-Contaminated surfaces? If so, please explain.

Disposers of PCB waste

On page 35424 of the preamble to the June 29, 1998, final rule, EPA clarifies that all disposers of PCB waste, even those that dispose of their own waste only, must submit their annual records to the appropriate EPA Regional Administrator by July 15 of each year. In the preamble, EPA provides the following examples of facilities which may only dispose of their own waste: "high efficiency boilers ...; and facilities conducting decontamination under §761.79." Does the latter example only refer to facilities which decontaminate PCB waste which was generated off-site, or does it also apply to users of PCBs and generators of PCB wastes that engage in decontamination activities?

If the requirement to submit an annual report applies to users of PCBs and/or generators of PCB wastes that conduct decontamination activities, are those facilities considered disposers of PCBs? Must they submit or re-submit a Notification of PCB Activity form to indicate that they dispose of PCBs? If so, how should they designate this activity on the notification form? What records must they keep to document their decontamination activities?

If decontamination activities are done under an EPA consent order, do the same recordkeeping and/or notification requirements apply?

Decontamination

In general, what records must facilities which conduct decontamination activities maintain? The preamble to the final rule states on page 35419 that facilities conducting decontamination comply with the recordkeeping requirements of subparts J and K of the regulations. What specific recordkeeping requirements apply to decontamination activities? Is it necessary for a facility that decontaminates a PCB Container, such as a drum that once contained PCB liquids, in accordance with §761.79(c) to record this activity in its annual records? If decontamination activities are done under a consent order, do the same recordkeeping requirements apply?

2. We request that you provide a written response to each of the above-listed questions.

3. If you have any questions about this or require clarifying information, please contact me at (804) 281-3132.

Sincerely,

Kathleen L. Bishop

Kathleen L. Bishop
Environmental Engineer

cc: Bill Boak - St. Lawrence Reduction
Pat Grover
Bob Lenney

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

OCT 30 1998

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

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National Program Chemicals Division

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