UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DEC 3 1998

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File:FOB;CHRON-READING;AUTHOR:/Ltr. to John Taylor, SafetyKleen (Laidlaw), Columbia, SC
/RE: Storage, RCRA facilities, financial assurance, commercial storage approval, storage capacity

Mr. John J. Taylor, CHMM
Corporate Compliance Auditor
Safety-Kleen
1301 Gervais Street, Suite 300
Columbia, SC 29201

Dear Mr. Taylor:

This responds to your letter of September 30, 1998, to Tom Simons of my staff requesting clarification of the storage and reporting requirements for PCBs under the PCB Disposal Amendments promulgated on June 29, 1998 (63 FR 35383).

You are correct that the regulations at §761.65(b)(2)(i) through (iii) allow the storage for disposal of PCBs and PCB Items at facilities permitted under RCRA sections 3004 and 3006, or those that qualify for interim status under RCRA section 3005 under conditions specified in §761.65(b). These RCRA facilities need not meet the storage and design requirements described in §761.65(b), nor be approved as commercial storage facilities under §761.65(d). However, while approval as a commercial storer is not required, if the owner or operator meets the definition of "commercial storer of PCB waste" at §761.3, the owner or operator must comply with all other requirements pertaining to commercial storers, including closure under §761.65(e), closure cost estimate under §761.65(f), and financial assurance for closure under §761.65(g).

You are also correct that the waste storage capacity at a RCRA facility can be used for PCB wastes. Since no TSCA commercial storage approval is required, no capacity limit specific to PCBs is established. Therefore, the maximum storage capacity for combined PCB and RCRA waste is that specified in the RCRA permit or closure plan (40 CFR 265.112).

You also ask whether a RCRA storage facility that obtained or applied for an approval as a PCB commercial storer prior to the effective date of the Disposal Amendments still needs to comply with the requirements of its TSCA PCB commercial storage approval. The new provisions at §761.65(b)(2) only relieve the RCRA facility from the requirement to apply for and obtain a TSCA commercial storage approval. However, there are TSCA requirements that apply to commercial storers of PCB waste independent of the approval itself, such as closure, closure cost estimate, and financial assurance for closure under §761.65(e) through (g), and notification of PCB activity under §761.205. You should check with your EPA regional office about the status of existing applications and approvals for commercial storage.

CONCURRENCES

SYMBOL	7404	7404						
SURNAME	Hammemann	[illegible]						
DATE	24 Nov 98	12/3/98						

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Finally, you point out that the TSCA closure, closure cost estimate, and financial assurance for closure requirements under §761.65(e) through (g) may be duplicative of RCRA requirements. This would be the case only where the RCRA facility's closure plan, closure cost estimate and financial assurance specifically covered PCBs and PCB Items stored at the facility. Where that was the case, the requirements of §761.65(e) through (g) would be met by the RCRA documents and separate TSCA closure and financial assurance documents would not be needed. However, PCBs and PCB Items are not normally listed as RCRA hazardous waste and the PCB wastes may not be included in the closure plan, closure cost estimate and financial assurance for the facility. For such facilities, a combined financial assurance mechanism covering the closure costs for both TSCA and RCRA portions of the storage facility, with the State and the EPA Regional Administrator as co-beneficiaries, will satisfy the TSCA requirements. Please check with your EPA regional office for guidance on specific facilities.

If you have further questions or need additional clarification please contact David Hannemann of my staff at (202) 260-3961.

Sincerely,

John W. Melone, Director
National Program Chemicals Division

safety-kleen®

September 30, 1998

Tom Simons (7404)
Fibers and Organics Branch
National Program Chemicals Division
Office of Pollution Prevention and Toxics
U.S. EPA
401 M Street, S.W.
Washington, D.C. 20460

REF: 40 CFR Parts 750 and 761; Disposal of Polychlorinated Biphenyls (PCBs); Final Rule; (Federal Register/ Vol. 63, No. 124/ Monday, June 29, 1998/ Rules and Regulations)

Dear Mr. Simons:

This letter seeks clarification of regulatory requirements for the lawful storage of PCBs and PCB reporting requirements. Four issues which arise from the Final Rule for the Disposal of PCBs, Federal Register/ Vol. 63, No. 124 / Monday, June 29, 1998/ Rules and Regulations are of concern to me and I have outlined below interpretations which I believe are correct. Please advise me if the agency concurs with the interpretations.

Issue I. Storage of PCBs at RCRA permitted facilities

Section 761.65(b)(2) states that facilities that meet the requirements of Section 761.65(b)(2)(i), (ii) or (iii) are not required to meet the storage and design requirements of paragraph (b) or meet the approval requirements pursuant to paragraph (d). Therefore, a RCRA TSDF permitted by the USEPA under Section 3004 of RCRA to manage hazardous waste in containers; or which qualifies for interim status by the USEPA under Section 3005 of RCRA to manage hazardous waste in containers and meets the requirements for containment at 40 CFR 264.175 of this chapter; or which is permitted by a State authorized under Section 3006 of RCRA to manage hazardous waste in containers may store PCBs and PCB Items without obtaining approval as a "Commercial Storer of PCB waste" under Section 761.65(d). The RCRA permitted storage facility is required to meet RCRA storage requirements and is not required to meet the PCB storage design requirements under Section 761.65(b) for the storage of PCBs and PCB Items designated for disposal. RCRA facilities which handle PCBs and PCB Items under Section 761.65(b)(2) must clean up PCB spills in accordance with Section 761, Subpart G of this Section.

1301 GERVAIS STREET, SUITE 300, POST OFFICE BOX 11393 (29211), COLUMBIA, SC 29201
803/933-4200 FAX 803/933-4340

Issue II. PCB storage capacity at RCRA permitted facilities

The total PCB storage capacity at a RCRA authorized facility can be the permitted RCRA capacity of the facility. The RCRA waste storage capacity can be used for up to but not to exceed the RCRA permitted or interim status capacity.

Issue III. Commercial Storer Approval at RCRA permitted facilities

RCRA storage facilities authorized for storing PCBs and PCB Items for disposal under Section 761.65 (b)(2) and which have previously obtained an Approval as a Commercial Storer of PCBs or have previously submitted an application for Approval as a Commercial Storer of PCBs will no longer be required to comply with these Approvals. Therefore, present Commercial Storage Approvals for RCRA permitted facilities do not apply and will not be enforceable by USEPA offices. The RCRA permitted storage facility which stores PCBs and PCB Items must submit under Section 761.205 Notification of PCB waste activity (EPA Form 7710-53) to the EPA prior to engaging in PCB waste handling activities.

Issue IV. Closure and Financial Assurance Requirements at RCRA permitted facilities

Duplication of Section 761.65(e) Closure, (f) Closure cost estimate and (g) Financial assurance for the same storage area within the permitted or interim status RCRA facility's Closure, Closure Cost Estimate and Financial Assurance requirements does not appear necessary. Therefore, the requirements of Section 761.65(e), (f), and (g) do not apply to permitted or interim status RCRA facilities which store PCBs and PCB Items under Section 761.65(b)(2)(i-iii) authorization.

If these interpretations are correct please so advise me. Of course if there are qualifications that must be taken into consideration to make the conclusions then please feel free to so advise me. On the whole, I think the regulations are straight forward and I would appreciate hearing from you soon. If you would like to discuss the issues further, please contact me at (803) 781-5608.

Sincerely,

John J. Taylor, CHMM
Corporate Compliance Auditor

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

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OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

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