



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 29 2019

Mr. Barnes Johnson
Director
Office of Resource Conservation and Recovery
United States Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W., 5301P
Washington, DC 20460

Re: EPA Region 4 Issuance of PCB Disaster Waste Guidance

Dear Mr. Johnson:

Due to the imminent landfall of Hurricane Dorian and anticipated effects, Region 4 is providing notice to your office of our intent to issue the enclosed guidance concerning the cleanup of polychlorinated biphenyl (PCB)-containing disaster waste.

If you have any questions, please contact me at 404-562-9700 or Ken Feely at 404-562-8512.

Sincerely,

A handwritten signature in blue ink, reading "Carol J. Monell", is positioned above the printed name.

Carol J. Monell
Director
Land, Chemicals and Redevelopment Division

Enclosure

cc: Amanda Kohler, EPA HQ/OLEM/ORCR
Karen Swetland-Johnson, EPA HQ/OLEM
Tony Baney, EPA HQ/OECA/OCE
Robert Caplan, EPAR4/ORC/AELO

**EPA REGION 4
HURRICANE DORIAN
PCB DISASTER WASTE CLEANUP GUIDANCE**

On August 29, 2019, Governor Ron DeSantis declared a state of emergency in the State of Florida due to the imminent landfall of Hurricane Dorian. Considering the anticipated life-threatening storm surge and hurricane-force winds expected to occur during landfall, EPA Region 4 is providing this guidance on the cleanup and disposal of PCB-containing waste generated during Hurricane Dorian through October 31, 2019.

This guidance applies to PCB remediation wastes, which are wastes containing PCBs as a result of spills, releases, or other unauthorized disposals, with specified limitations on PCB concentrations and disposal dates. PCB remediation wastes include, but are not limited to, contaminated environmental media, such as soil and gravel, and buildings and other man-made structures, such as concrete floors, wood floors, and walls contaminated from leaking transformers containing PCBs at or over 50 ppm (40 CFR § 761.3). Responsible parties have the option of using either the Spill Cleanup Policy (an enforcement policy under 40 CFR Part 761, Subpart G, or the PCB remediation waste cleanup and disposal regulations under 40 CFR § 761.61 to clean up and dispose of PCB remediation waste, as applicable.

This guidance also addresses PCB bulk product wastes, defined as wastes derived from manufactured products containing PCBs in a non-liquid state, including non-liquid bulk wastes or debris from the demolition of buildings and other man-made structures manufactured, coated, or serviced with PCBs (with certain exceptions) and PCB-containing construction materials such as caulking, dried coatings, adhesives, and insulation, among other materials (40 CFR § 761.3).

Cleanup under the Spill Cleanup Policy

The PCB Spill Cleanup Policy (Policy) is intended for recent spills of liquid PCBs of 50 ppm or greater. Under the Policy, the concentration of PCBs used for determining cleanup and disposal obligations is the PCB concentration in the material spilled, as opposed to the concentration of PCBs in the material onto which the PCBs were spilled (i.e., the as-found concentration). However, EPA Region 4 has found that 40 CFR § 761.120(a)(4) provides flexibility to modify this provision of the Policy based on the exceptional spill situations that may be caused by Hurricane Dorian, namely, the impracticability of cleanup based on source concentration when it is not possible to locate the source of the spill at a site or otherwise readily determine the source's PCB concentration.

Region 4 also believes that it will be important for responders to be able to rapidly mitigate exposures and potential risks from PCB spills, and the Region has found that, given the likely need for responders to quickly address a large number of emergency-related situations in a compressed timeframe, exposure and risk could be increased if cleanup is delayed in attempting to identify the concentration of the source of the spill. Therefore, cleanup and disposal of PCB wastes based on the as-found concentrations in the spill materials is permissible for actions taken directly in response to conditions caused by Hurricane Dorian when it is not possible to readily determine the spill source concentration at a site. This Guidance allowing for temporary modification to the Spill Cleanup Policy may only be used on spills caused by the conditions resulting from Hurricane Dorian.

In addition to other applicable limitations, the Policy generally requires that specific actions be taken within 24-48 hours after the responsible party was notified or became aware of the spill. However,

when the Policy is used for cleanup activities in response to Hurricane Dorian, cleanups may occur beyond the specified time period as circumstances require for the duration of the adverse conditions (see 40 CFR § 761.125(b)(2) and § 761.125(c)(1)).

The Policy requires the boundaries of a spill to be determined using a statistically based sampling scheme when there are insufficient visible traces of the spill but there is evidence that a spill or leak has occurred. Responsible parties should consult the existing guidance "Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup," which is available online at <https://www.epa.gov/pcbs/policy-guidance-manuals-cleanups-polychlorinated-biphenyls-pcbs-spills>.

The Policy specifies spill cleanup levels and requires that "all concentrated soils, solvents, rags, and other materials resulting from the cleanup of PCBs under this policy shall be properly stored, labeled, and disposed of in accordance with the provisions of subpart D of this part," including 40 CFR § 761.61. See 40 CFR § 761.125(a)(2).

Cleanup under 40 CFR § 761.61

The cleanup and disposal options for PCB remediation waste listed under 40 CFR § 761.61 are also available to responsible parties cleaning up after Hurricane Dorian. Per the regulations, responsible parties conducting cleanups under 40 CFR § 761.61 are allowed to implement temporary emergency measures to prevent, treat, or contain further releases or mitigate migration to the environment of PCBs or PCB remediation waste. Thus, a responder may lawfully take emergency measures in the context of a cleanup that would otherwise not be in full compliance with generally applicable PCB remediation waste requirements, such as the 30-day advance requirement for notifications under 40 CFR § 761.61(a).

PCB remediation wastes must be cleaned up and disposed of in accordance with self-implementing, performance-based, or risk-based requirements in 40 CFR § 761.61 and must be cleaned up and disposed of based on the as-found concentration of the waste. For example, when cleaning up a spill of PCB-contaminated electrical equipment, the responsible party must clean up and dispose of soil and debris contaminated with PCB-containing oil based on the as-found concentration of PCBs. The concentration of bulk PCB remediation waste (such as soil) that is stockpiled while implementing temporary emergency measures to prevent, treat, or contain further releases or mitigate migration to the environment prior to characterization may be calculated based on a representative sample of excavated wastes (e.g., waste placed in a roll-off container or pile), as opposed to in-situ sampling.

If the responsible party has bulk PCB remediation waste to dispose of, but does not wish to sample it, the responsible party must assume it contains ≥ 50 ppm PCBs (§ 761.61(a)(5)(i)(B)(2)(i)) and send it to a hazardous waste landfill permitted under RCRA or a PCB disposal facility approved under 40 CFR part 761, such as a TSCA chemical waste landfill (§ 761.61(a)(5)(i)(B)(2)(iii)).

PCB Bulk Product Waste Reinterpretation

In October 2012, EPA issued the PCB bulk product waste reinterpretation,¹ which provides for building materials coated or serviced with PCB bulk product waste (e.g., caulk, paint, mastics, sealants) at the time of designation for disposal to be managed as PCB bulk product waste, even if the PCBs have migrated from the overlying bulk product waste into the substrate, provided there is no other source of PCB contamination on or in the substrate. The time of designation for disposal is the time the material is considered to be a waste, before it is mixed with other materials (e.g., prior to building demolition).² Thus, the PCB bulk product waste reinterpretation may provide for disposal of building materials coated or serviced with PCB bulk product waste in buildings that sustain storm damage to be managed as PCB bulk product waste. The reinterpretation accounts for the possibility that, during a cleanup or demolition, PCB bulk product waste could separate from the contaminated building material before all the waste is physically placed in the final disposal facility. However, if the PCB material has already been removed or flaked off at the time of designation for disposal, the building material will be deemed a PCB remediation waste.

Please contact Ken Feely, Region 4 PCB Coordinator, with any questions at feely.ken@epa.gov or (404) 562-8512.

¹ October 24, 2012 memorandum entitled “PCB Bulk Product Waste Reinterpretation” sent from Suzanne Rudzinski, Director, Office of Resource Consideration and Recovery, to Regional TSCA and RCRA Division Directors, EPA Regions 1-10, available at <https://www.epa.gov/pcbs/polychlorinated-biphenyl-pcb-guidance-reinterpretation>

² See, e.g., June 2014 Version of Revisions to the PCB Q and A Manual, p. 93, available at <https://www.epa.gov/pcbs/polychlorinated-biphenyl-pcb-question-and-answer-manual-and-response-comment-documents>