

Remediation and Redevelopment Program

Issues & Trends 2017

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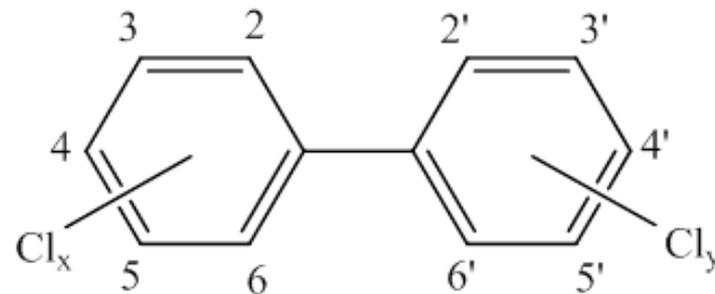
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(This presentation updated on January 10, 2017)



PCB Remediation in Wisconsin: How PCB Sample Results are Used, Cleanup Options, and Steps

(Guidance Document RR 786)



PCBs

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Today's Presentation

- The basics
- The One Cleanup MOA
- How TSCA applies to cleanups
- MOA Site Classification
- DNR notifications to EPA - How sample results are used
- Managing Cleanups - coordinated and separate approvals
- Soil cleanup requirements
- Select Q&As from the guidance

Basic Regulatory Applicability Information

Toxic Substances Control Act (TSCA) statute and related EPA regulations regulate the use, management and disposal of PCB materials and the cleanup of sites contaminated with PCBs. EPA regulates PCB materials still in use, such as transformers still in electrical systems.



The RR Program oversees the cleanup of PCB contaminated environmental media under the spill law and NR 700, but not contaminated building surfaces.

Basic Regulatory Applicability Information

The WM Program has some regulatory involvement in the management of PCB wastes, including contaminated environmental media and other materials that are disposed of or managed at a regulated SW facility, such as a licensed landfill. List of WI facilities that can take non-TSCA PCB waste:

<http://dnr.wi.gov/topic/Demo/documents/PCBDisposal.pdf>



DNR & EPA: One Cleanup Program MOA

Recognizes cleanup under the NR 700 rule series as being equivalent to TSCA cleanups for PCB sites.

Created a MOA classification system for PCB contaminated sites.

The guidance provides information for cleanups under the MOA; mainly applying to long-term soil and groundwater cleanups of PCB contaminated environmental media. For additional information on the DNR/EPA MOA, visit:

<http://dnr.wi.gov/topic/Brownfields/Professionals.html>

(the MOUs tab)

TSCA Applicability to Cleanups: Understanding MOA Site Classifications

1. TSCA applies to the following PCB remediation cases:
 - a. If the release took place after April 18, 1978 and the PCB concentration in the material released was 500 ppm or greater.



TSCA Applicability to Cleanups (cont.)

b. If the release took place after July 2, 1979 and the PCB concentration in the material released was 50 ppm or greater.

c. If either the date or concentration of the PCB at the time of the release is unknown, TSCA regulations assume the PCB release is regulated.

TSCA Applicability to Cleanups (cont.)

2. However, if a release took place before one of the first 2 criteria under 1. above and EPA Region 5 in consultation with WDNR make a finding that an unreasonable risk of injury to health or the environment exists, then TSCA cleanup requirements apply.
3. The RP should make a thorough and good faith inquiry into the nature and origin of the PCB contamination.
4. Where a definitive determination can't be made, then EPA may presume that PCBs are illegally disposed of and regulate the cleanup. DNR can review the RP determination upon a request and payment of the appropriate fee.

MOA Site Classification

Type A – Cleanup sites that remain separately regulated by DNR and EPA.

Type B – Cleanup sites where TSCA isn't legally applicable to the cleanup and only the NR 700 process applies.

Type C – All sites that aren't type A or B. These are eligible for the coordinated approval process under the MOA where DNR takes the lead.

PCB Cleanup Site Notification to EPA

When we first learn of a site with any PCB contamination via discharge report, Phase I or other means, the Attachment 4 form in the guidance is completed by the DNR PM and sent electronically to the EPA Region 5 PCB coordinator.

Many sites where PCB concentrations in soil are generally below 50 ppm and there are no special environmental conditions are likely Type B.

Coordinated Approval Process

RPs have the option to use the coordinated approval process at a type C site.

The RP must submit a letter to EPA to participate as a Type C case in the coordinated approval process. An outline for such a letter is in attachment 4 of the guidance.

Site is actively managed, all NR 700 reports submitted and reviewed with review letters and review fees paid, including the SI, RAOR and closure request.

Coordinated Approval Process (cont.)

DNR PM provides submittals to EPA for the site for their review. EPA is generally expected to complete report reviews in 30 days under the MOA.

EPA will issue submittal approvals at the same time DNR does.

DNR has lead. EPA has accepted that our cleanups that meet NR 700 are generally equivalent to a TSCA cleanup for the environmental pathways addressed under NR 700.

Separate Approvals

For sites not using the coordinated approval process, DNR PMs are not expected to review the cleanup for TSCA compliance. The RP will have to work with EPA.

Closure letters may include language in the guidance reminding the RP to contact and work with EPA to meet TSCA requirements.

Soil Cleanup Requirements to Meet NR 700 and TSCA

NR 720 soil cleanup requirements apply for all exposure pathways:

- Industrial or non-industrial or site-specific soil RCLs based on land use classification; or
- Performance standard.

Soil Cleanup Requirements to Meet NR 700 and TSCA (cont.)

TSCA self-implementing cleanups. Many sites (upland, non-complex soil contamination) may use the TSCA self-implementing regulations where cleanup requirements are specified by rule based on these exposure definitions.

- **High occupancy** area means any area where occupancy for any individual not wearing dermal and respiratory protection for a calendar year is 840 hours or more.
- **Low occupancy** area means any area where occupancy for any individual for a calendar year is less than 840 hours.

Soil Cleanup Requirements to Meet NR 700 and TSCA (cont.)

High occupancy: No further action if PCBs $<$ or $=$ 1 ppm.

High occupancy: Cover and a deed notice if PCBs between 1 and 10 ppm. Normally, EPA will not accept a cleanup even with a cover if over 10 ppm. However, if the site is going through the coordinated approval process, DNR and EPA may allow closure with concentrations $>$ 10 ppm with an appropriate cover and meeting all NR 700 requirements, including appropriate continuing obligations, in addition to meeting TSCA cover, fencing, signage and deed restriction requirements.

Soil Cleanup Requirements to Meet NR 700 and TSCA (cont.)

Low occupancy: No further action if PCBs $<$ or $=$ 25 ppm.

Low occupancy: Site must be secured by a fence, marked with a sign and have a deed restriction if PCBs between 25 and 50 ppm or use a cover in the next bullet.

Low occupancy: Site must have a cover and have a deed restriction if PCBs between 25 and 100 ppm. This means a cover is required if PCBs are between 50 and 100 ppm. Normally, EPA will not accept a cleanup even with a cover if over 100 ppm.

Soil Cleanup Requirements to Meet NR 700 and TSCA (cont.)



At a site undergoing a coordinated approval, where the RP is unable to obtain a required deed restriction, and there is a good reason why they can't, the Department is willing to discuss with EPA using closure letter continuing obligations and entry on the DNR Database entry as a substitute, provided all other requirements are met.

Soil Cleanup Requirements to Meet NR 700 and TSCA (cont.)

TSCA risk based approval.

- Case-by-case risk based process for sites not eligible for the self-implementing cleanup or where an RP chooses not to use self-implementing.
- The coordinated approval process may be used, where the RP submits their risk-based proposal to both agencies.
- NR 700 requirements must be met at all sites.

Soil Cleanup Requirements to Meet NR 700 and TSCA (cont.)

Covers. Cover systems that meet DNR guidance have been acceptable to EPA even though EPA has a specific thickness requirement for concrete that isn't in DNR guidance.



Soil Cleanup Requirements to Meet NR 700 and TSCA (cont.)

Closure Letters. As is done for all sites where closure conditions warrant, the site should be placed on the DNR Database. Closure letters should:

- Describe and attach any deed instruments, which should be finalized and submitted with the closure request.
- Restrict land uses to those that meet EPA's definitions for low or high occupancy as appropriate for the site if the self-implementing rules are used.
- For all sites closed with covers, describe any performance standard cover requirements and attach the cover maintenance plan.
- For all sites closed where contaminated soil remains, include any continuing obligation language for future contaminated soil excavation and management.

Soil Cleanup Requirements to Meet NR 700 and TSCA (cont.)

General Liability Clarification (GLC) letters. GLC letters for PCB sites should include language in the guidance notifying the RP about TSCA cleanup requirements and the MOA coordinated approval process.



Selected Attachment 3

Q&As

TSCA applicability example. An example of a site where TSCA may not be applicable is one where a good faith effort is made to determine the date(s) of the discharge, but the date(s) can't be determined and the as found concentrations in soil are in the 5-10 ppm range.

Selected Attachment 3

Q&As (cont.)

When a site can enter the coordinated approval process. RPs should submit a written request to both agencies as early in the cleanup process as possible, preferably after it is known PCB contamination due to discharge is present at the site and the site investigation is being scoped. However, it may be possible to enter the process after the investigation is complete and a draft remedial action options report is prepared.

Selected Attachment 3

Q&As (cont.)

Off site contaminated soil management at sites using the self-implementing cleanup rule.

- Source areas found to have PCB concentrations of less than 50 ppm where the source of the discharge is unknown or the source of the discharge is known to be below 50 ppm may have excavated soil managed at an approved solid waste facility in Wisconsin.

Selected Attachment 3

Q&As (cont.)

- Source areas where the source of the discharge is unknown or the concentrations of the discharged material are unknown must have the soil managed according to the concentrations as found;
- Soils as found having 50 ppm or greater concentrations may be separated and must be managed as a TSCA waste and the remaining separated soils with a concentration less than 50 ppm may be managed at an approved solid waste facility in Wisconsin.

Selected Attachment 3

Q&As (cont.)

- The soil separation process during excavation and staging may not allow any mixing of higher concentration soil with lower concentration soil to cause dilution of the concentrations so as to lower the 50 ppm or greater PCB contaminated soil concentrations to below 50 ppm unless it will all be managed as TSCA waste regardless of concentration.
- A source area of contamination where the known source of the discharge had concentrations greater than or equal to 50 ppm must be all be managed as TSCA waste, even if some portion of the individually excavated soil has a concentration of less than 50 ppm.

Questions?

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Additional resource: [US EPA's "PCBs 101" webinar](#)

Issues & Trends 2017

February 8, 2017
12:00 p.m.

Environmental Issues for Demolition

Audio and information from today's presentation and future Issues & Trends events can be found on the RR Program Training webpage at <http://dnr.wi.gov/topic/Brownfields/Training.html>

Questions or comments regarding the Issues & Trends series can be submitted to DNRRRComments@wisconsin.gov