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

OFFICE OF
RESOURCE CONSERVATION
AND RECOVERY

OCT 24 2012

MEMORANDUM

SUBJECT: PCB Bulk Product Waste Reinterpretation

TO: Regional TSCA and RCRA Division Directors, EPA Regions 1-10

FROM: Suzanne Rudzinski, Director
Office of Resource Conservation and Recovery

On February 29, 2012, EPA published in the *Federal Register* a draft reinterpretation of our position regarding PCB-contaminated building materials, specifically addressing the definition of PCB bulk product waste and PCB remediation waste. Based on comments received, we have modified the proposed reinterpretation to improve the ability to implement the reinterpretation. Today, we are announcing that we are finalizing the reinterpretation, which allows building material "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 a PCB bulk product waste.

Background

EPA has received several questions from the regulated community regarding the disposal and cleanup requirements for PCB-contaminated building materials. The Toxic Substances Control Act (TSCA) regulations at 40 CFR 761 provide disposal and cleanup requirements for PCBs. The disposal and cleanup requirements for PCB-contaminated building material depend on whether the material is classified as a PCB bulk product waste or PCB remediation waste. Waste derived from caulk or paint containing PCBs at $\geq$ 50 parts per million (ppm) is defined as PCB bulk product waste in 40 CFR 761.3. The definition of PCB bulk product waste includes "non-liquid bulk wastes or debris from the demolition of buildings and other man-made structures manufactured, coated, or serviced with PCBs." Other PCB bulk product wastes may include, but are not limited to, mastics, sealants, or adhesives containing PCBs at $\geq$ 50 ppm. PCB remediation waste is defined as "waste containing PCBs as a result of a spill, release, or other unauthorized disposal…", and leaching may be considered a release of PCBs.

Summary

In February 2012, the Agency solicited comment on a draft reinterpretation of its position regarding the status of PCB-contaminated building materials under the definition of PCB bulk product waste. In association with the proposed reinterpretation, EPA identified several guidance documents that would be changed to reflect this reinterpretation.
Current EPA guidance states that building material contaminated by the migration of PCBs from PCB bulk product waste, such as caulk or paint, is considered a PCB remediation waste. The proposed reinterpretation would have modified this guidance to specify that only PCB-

contaminated building material from which the PCB bulk product has been removed is a PCB remediation waste. That is, under the proposed reinterpretation, the distinction was in whether or not the PCB bulk product is still attached to the building materials.
The reinterpretation finalized today allows building material (i.e., substrate) "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 a 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. However, if the substrate is not "coated or serviced" (i.e., the PCB bulk product waste, such as caulk or paint has been removed from the building material) at the time of designation for disposal, and the substrate is contaminated with PCBs that have migrated from the bulk product waste (or from another unauthorized disposal), the substrate would be considered a PCB remediation waste. This final reinterpretation is being modified from the proposal as described below.

In response to comments, we are modifying the proposed reinterpretation to allow for the possibility that, during a cleanup or demolition process, PCB bulk product waste (e.g., caulk, paint, mastics, and sealants) could separate from the contaminated building material before all of the waste is physically placed in the final disposal facility. At the time of designation for disposal, the contaminated building material would be deemed a PCB bulk product waste if the PCB material (e.g., caulk, paint, mastic or sealant) is still attached. This label as PCB bulk product waste would stay with the contaminated building materials. EPA recommends developing an abatement plan to document the decision to designate building materials as bulk product waste at the time of designation for disposal. If the PCB material has already been removed or flaked off at the time of designation for disposal, the building material would be deemed a PCB remediation waste, as established under the existing interpretations.

Rationale

I believe this reinterpretation will allow for accelerated cleanups of PCB-contaminated building material by providing a more straightforward path for disposal pursuant to the 40 CFR part 761 PCB regulations. Speeding up removal and disposal of the PCB-contaminated material is critical for reducing exposure potential, such as in schools or other locations where such PCB-contaminated building materials are currently in place. The previous interpretation applied different requirements to PCB-contaminated building materials than to the products that were originally manufactured with PCBs (e.g., paint or caulk). Labeling the building materials a different type of PCB waste than PCB bulk product waste (e.g., paint or caulk) can result in slower and more costly removal and disposal. This reinterpretation maintains existing environmental and human health protections, while it removes unnecessary burdens to allow for more expedient cleanups, thus reducing potential exposures, for example, in schools and commercial buildings.

In particular, protecting children's health from environmental risks is fundamental to EPA's mission. Caulks and paints containing PCBs were used in building some schools from 1950 to 1978. The reinterpretation will help to promote healthy school environments by reducing exposure to PCBs in schools.

The overwhelming majority of comments received supported the reinterpretation, with no comments in direct opposition. The reinterpretation provides the ability to dispose of any building material, contaminated by adjacent PCB bulk product waste (e.g., caulk, paint, mastics, and sealants), in accordance with the PCB bulk product waste regulations. Contaminated building materials that remain in place, after the PCB bulk product waste (e.g., caulk, paint,

mastics, and sealants) has been removed, should continue to be considered and managed as PCB remediation waste.

If you have any questions regarding the reinterpretation please contact ORCR's Program Implementation and Information Division at 703-308-8404.