

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

**CERTIFIED MAIL: 7008 2780 0000 8388 9423**  
**RETURN RECEIPT REQUESTED**

September 22, 2011

Mr. Bob Henry  
Senior District Manager  
Chemical Waste Management, Inc.  
35251 Old Skyline Road  
Kettleman City, California 93239

RE: Notice of Deficiency ("NOD") for Toxic Substances Control Act ("TSCA") Permit  
Renewal and Modification Applications dated April 1, 1997, as revised, and May 10,  
2010; Chemical Waste Management Kettleman Hills Facility (CAT 000646117)

Dear Mr. Henry:

Chemical Waste Management, Inc. ("CWM"), through submittals dated April 1, 1997, October 20, 2003, and June 26, 2009, has applied to the U.S. Environmental Protection Agency Region IX ("EPA") for the renewal and modification of its Polychlorinated Biphenyl ("PCB") TSCA approval related to PCB activities at its storage and landfill facility located at 35251 Old Skyline Road, Kettleman City, California (the "Facility").

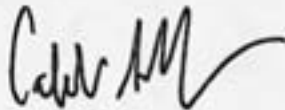
Furthermore, CWM's October 20, 2003 submittal requested that EPA issue a Coordinated Approval pursuant to 40 C.F.R. § 761.77 rather than a standard TSCA Disposal and Storage Approval issued pursuant to 40 C.F.R. §§ 761.65 and 761.75 in order to streamline the provisions of its Department of Toxic Substance Control hazardous waste permit with the TSCA PCB requirements, both of which cover PCB activities. EPA believes that a standard TSCA Disposal and Storage Approval is preferable to a Coordinated Approval, therefore we are denying CWM's request for a Coordinated Approval. Once we complete our review of the application, as resubmitted to address the items enumerated in the attached Notice of Deficiency ("NOD"), we intend to process the application as a TSCA Storage and Disposal Approval responsive to both the renewal and modification application, and any future proposed action would supersede our February 20, 2007 proposed decision.

In regard to the NOD items, other than resubmitting the applications as a request for a straight TSCA Storage and Disposal Approval, the single greatest deficiency is the complex permitting record created by the numerous different updates and amendments submitted as part of the applications. Therefore, to consolidate and clarify the permitting record, CWM should combine

the various applications into a single streamlined renewal and modification application that is responsive to the deficiencies noted in the attached NOD.

Please provide us the updated and combined application, with all corrections, within 60 calendar days of your receipt of this letter. If you have any questions regarding this enclosed NOD, please contact Chip Poalinelli at (415) 972-3390.

Sincerely



Caleb Shaffer, Manager  
RCRA Facilities Management Office

Enclosure: Notice of Deficiency Chemical Waste Management, Inc., Kettleman Hills, California  
- April 1, 1997/June 26, 2009 (Request for a Coordinated PCB Approval) Toxic Substances  
Control Act Permit Application ("TSCA Application")

cc: w/enclosures:

Wayne Lorentzen, DTSC (via email)  
Paul Turek, CWM (via email)



**Notice of Deficiency – Attachment A**  
**Chemical Waste Management (“CWM”), Inc., Kettleman Hills, California -**  
**July 1, 1997/May 10, 2010 (Request for a Coordinated Polychlorinated**  
**Biphenyl (“PCB”) Approval) Toxic Substances Control Act Permit**  
**Application (“TSCA Applications”)**  
**Kettleman Hills Facility, 35251 Old Skyline Road, Kettleman City, California**  
**(the “Facility”)**

This Attachment describes deficiencies identified by the U.S. Environmental Protection Agency Region IX (“EPA”) in the TSCA Applications submitted by CWM to EPA. CWM must update the Applications to correct these deficiencies before any action can be taken by EPA on the Applications. For purposes of the described deficiencies, below, the TSCA Applications includes the original applications as well any and all attachments or amendments to those applications, such as the numerous operational plans.

**General Comments:**

**1. Request for a Coordinated PCB Approval.**

Based on a CWM letter dated October 20, 2003 , CWM is requesting a TSCA PCB Coordinated Approval. Pursuant to 40 C.F.R. § 761.77, EPA hereby denies the request for a TSCA PCB Coordination Approval for the CWM Kettleman Hills Facility and requests that CWM resubmit the TSCA Applications as a single application for a TSCA Disposal Approval, which addresses the other deficiencies identified below.

**2. Summary Table for Regulatory Submittals.**

CWM must submit various reports to regulatory agencies as part of its ongoing operations. However, the TSCA Applications do not concisely identify them in a table format. Therefore, please include a table that summarizes the regulatory agency reporting requirements pertaining to operations related to the Facility covered under the TSCA Applications (i.e., PCB Annual Report, Monthly PCB Report, Groundwater Monitoring Report....). The table should include, at a minimum, the name of the report, purpose of the report, when it is to be submitted, and which agency will receive a copy. Please also revise the Recordkeeping and Reporting Plan included as part of the TSCA Applications to include this summary table and update all individual reporting requirements in the Recordkeeping and Reporting Plan to include EPA as a recipient of all required reports and notifications related to those units listed in the TSCA Applications.

**3. Approval of Chemical Waste Landfills (Other Information) – Congener Study - 40 C.F.R. § 761.75(c)(2)(ii).**

Pursuant to 40 C.F.R. § 761.75(c)(2)(ii), the Regional Administrator, or his or her delegate, may require “the owner or operator [seeking an Approval] to submit any other



information that the Regional Administrator finds to be reasonable to determine whether a chemical waste landfill should be approved.” Relying upon this authority, in a letter from EPA “Request for Additional Sampling of Air, Soil, and Biota/Vegetation and Analysis for PCB Congeners” dated December 2, 2008 , EPA requested that CWM sample for PCBs and conduct a Human Health and Ecological Risk Assessment (“Congener Study”) to determine if landfill operations related to its PCB operations pose an unacceptable risk to human health and the environment. The results of this Congener Study, which CWM has completed and already submitted to EPA, will be evaluated as a part of the unit B-18 modification and renewal application. No further action is necessary on the part of CWM pertaining to the Congener Study at this point.

#### **4. TSCA Approval for PCB activities at Final Stabilization Unit.**

Based upon a CWM letter dated January 13, 2005 and the revised B-18 Operation Plan (June 26, 2009), CWM is seeking approval to allow the final stabilization unit (“FSU”) located at the Kettleman Hills Facility to be used to solidify liquids from PCB loads that fit the criteria of 40 C.F.R. § 761.60(a)(3) and to serve as a transfer station for PCB loads.

Solidification alters the physical state of waste. Thus, solidification constitutes treatment under the definition referenced under 40 C.F.R. § 761.20(c)(2)(ii) and, with a few exceptions, a TSCA Disposal Approval is required to perform such treatment. If you seek to solidify TSCA waste in the FSU, please submit the results of a treatability study as defined under 40 C.F.R. § 761.3. As part of the treatability study, also explain how and when the Waste Analysis Plan will be modified to determine that the liquids to be treated at the FSU do not exceed 500 ppm PCBs and procedures comply with the standards of 40 C.F.R. § 761.75(b)(8)(ii). Without this information, EPA will be unable to determine whether it is appropriate to incorporate this treatment process into any TSCA approval that may be issued by EPA.

In regard to the transfer station request, CWM is correct that transfer facilities units do not require a specific TSCA approval. However, we have determined that the FSU does not qualify as a transfer facility under the definition at 40 C.F.R. § 761.3. However, the FSU might qualify as a storage area ancillary to a TSCA-approved disposal facility. As a result, if you seek to store TSCA waste in the FSU, this requires a specific TSCA approval, and therefore CWM would need to include in the revised application the request that the FSU be included as one of the storage units and describe how the FSU meets the storage requirements of 40 C.F.R. § 761.65.

#### **5. TSCA Approval for change in bench slope design for Landfill Unit B-18.**

Based on a CWM letter dated October 10, 2008 , CWM is seeking approval to change the Landfill Unit B-18 drainage benches on the final cover specified in the *Engineering and Design Report, Landfill Unit B-18, Phase I and II and Final Closure, Kettleman Hills Facility, Kings County, California (Environmental Solutions, Inc., August 1990)*. The proposed change in run-off control bench and slope design results in the following differences:

- 28-foot wide bench, instead of the approximately 23-foot wide bench (at the waste grade);
- Approximately 3:5:1 slopes, instead of the approximately 3:6:1 slopes between individual benches;
- Bench sloped longitudinally at 2 percent, instead of 3 percent for surface water drainage of the cover; and
- The plans for the asphalt-lined V-ditch channel and gravel in the original design are no longer required with the above modifications of the bench channel to accommodate the increased flow from the Probable Maximum Precipitation.

The proposed change must be included in the revised application. In addition, the Engineering Design Report and the Construction Quality Control Plan must be revised and submitted for review.

**6. TSCA Approval for Landfill Unit B-18 Phase III Construction Sequencing.**

Based on a CWM email dated March 7, 2011, a conference call held on March 11, 2011, and the *Supporting Documents for the B-18 Class I/Class II Landfill Expansion Project, Kettleman Hills Facility, Chemical Waste Management, Inc. (May 2011)* received via letter dated June 10, 2011, CWM is seeking approval to construct the proposed expansion of Landfill Unit B-18 (Phase III) in two phases. The proposed construction approach must be included in the revised application. In addition, the Engineering Design Report and the Construction Quality Control Plan must be revised and submitted for review addressing the following:

- Provide 100-year storm capacity (with freeboard) and design calculations for the proposed "temporary stormwater containment berm" that will be constructed during Phase IIIA and maintained throughout the construction of Phase IIIB.
- Provide a geotechnical design demonstrating that the "temporary stormwater containment berm" would be able to withstand the pressure of the retained water from a 100-year storm.
- Provide management procedures for water that accumulates behind and in front of the "temporary stormwater containment berm" (i.e., removal, storage, disposal...).
- Provide operational procedures for B-18 leachate management and collection during the removal and replacement construction of three existing riser pads (pads for areas IA, IB, and IIB) proposed for the expansion.



**Specific Comments:**

- 1. PCB Manifest Requirements - Landfill Unit B-18 (Phase I, II, and III) Operations Plan, Recordkeeping and Reporting Plan, Section 2 of the June 16, 2003 Operation Plan or Section 2 of the June 26, 2009 B-18 Operation Plan.**

The TSCA Applications do not adequately identify the various TSCA manifest requirements that would apply to the Facility's operations. For instance, manifests for incoming and/or outgoing shipments of PCB wastes must meet the requirements of TSCA at 40 C.F.R. §§ 761.180(b)(4), 761.207, 761.208, 761.209 and 761.210. Please revise the Recordkeeping and Reporting Plan to insure compliance by the Facility with these various TSCA manifest requirements.

- 2. Unmanifested Waste Resolution - Landfill Unit B-18 (Phase I, II, and III) Operations Plan, Recordkeeping and Reporting Plan, Section 2, page 2 and Section 4 of the June 16, 2003 Operation Plan or Section 2 of the June 26, 2009 B-18 Operation Plan.**

The TSCA Applications do not require compliance by the Facility with the procedures for the reception, resolution, and reporting of unmanifested shipments of PCB waste. Please revise the Recordkeeping and Reporting Plan such that the facility procedures for the reception, resolution, and reporting of unmanifested shipments of PCB waste meet the requirements of 40 C.F.R. § 761.211 or include a reference to the location of the operational procedures meeting these requirements.

- 3. Exception Reports - Landfill Unit B-18 (Phase I, II, and III) Operations Plan, Recordkeeping and Reporting Plan, Section 2, page 2 and Section 4 of the June 16, 2003 Operation Plan or Section 2 of the June 26, 2009 B-18 Operation Plan.**

The TSCA Applications do not require compliance by the Facility with the procedures regarding Exception Reports for shipments of PCB waste. Please revise the Recordkeeping and Reporting Plan such that the facility procedures regarding Exception Reports for shipments of PCB waste meet the requirements of 40 C.F.R. § 761.215 or include a reference to the location of the operational procedures meeting these requirements.

- 4. Certificate of Disposal - Landfill Unit B-18 (Phase I, II, and III) Operations Plan, Recordkeeping and Reporting Plan, Section 2, page 2 or Section 2 of the June 26, 2009 B-18 Operation Plan.**

The TSCA Applications do not require compliance by the Facility with the procedures regarding Certificates of Disposal for shipments of PCB waste. Please revise the Recordkeeping and Reporting Plan such that the facility procedures regarding Certificates of Disposal for shipments of PCB waste meet the requirements of 40 C.F.R. § 761.218 or include a reference to the location of the operational procedures meeting these requirements.

**5. Monitoring Systems/Water Sampling 40 C.F.R. § 761.75(b)(6)(i).**

We could not find a reference in the TSCA Applications to PCB concentration baseline data for sites receiving PCBs. Therefore, for all sites receiving PCBs, the ground and surface water from the disposal site area shall be sampled prior to commencing operations under any approval issued pursuant to 40 C.F.R. § 761.75(c) for use as PCB concentration baseline data. To the extent such sampling has not occurred, please perform this required sampling. If sampling was performed, provide a reference in the Initial Report (Rev. 2 February 17, 2010) to the location of the baseline data for that sampling or include a data table containing the results of the sampling.

**6. Storage Areas 40 C.F.R. § 761.65 - Operation Plan (June 16, 2003) Section 9.1(a).**

Section 9.1(a) of the Operation Plan states:

“The Contingency Plan is designed to effect safe and appropriate responses to reasonably foreseeable fire, explosion and unplanned hazardous waste release events which may occur as a result of activities and operations routinely conducted at the KHF. This plan has also been prepared to allow the KHF to accumulate containerized waste outside of permitted storage areas on-site for 90 days or less, and to allow the KHF to treat site-generated wastes on-site for periods of 90 days or less [40 CFR 262 Subpart C and 40 CFR 265 Subpart D; 22 CCR 66262.34; 29 CFR 1910.38; and 8 CCR 3220].”

761.65(c) states (emphasis added):

“(1) The following PCB Items may be stored temporarily in an area that does not comply with the requirements of paragraph (b) of this section for up to thirty days from the date of their removal from service, provided that a notation is attached to the PCB Item or a PCB Container (containing the item) indicating the date the item was removed from service:

- (i) Non-leaking PCB Articles and PCB Equipment;
- (ii) Leaking PCB Articles and PCB Equipment if the PCB Items are placed in a non-leaking PCB Container that contains sufficient sorbent materials to absorb any liquid PCBs remaining in the PCB Items;
- (iii) PCB Containers containing non-liquid PCBs such as contaminated soil, rags, and debris; and
- (iv) PCB containers containing liquid PCBs at concentrations of 50 ppm, provided a Spill Prevention, Control and Countermeasure Plan has been prepared for the temporary storage area in accordance with part 112 of this chapter and the liquid PCB waste is in packaging authorized in the DOT Hazardous Materials Regulations at 49 CFR parts 171 through 180 or stationary bulk storage tanks



(including rolling stock such as, but not limited to, tanker trucks, as specified by DOT).”

As a result, in contravention of the 30-day requirement in the regulations, the Operation Plan currently allows for storage of PCBs up to 90 days. Please revise the Operation Plan, Section 9.1(a), such that the maximum storage time complies with the 30-day limitation set forth in 40 C.F.R. § 761.65.

**7. Facility Description, Personnel Qualifications – Operation Plan (June 16, 2003 or the June 26, 2009 B-18 Operation Plan.**

40 C.F.R. §§ 761.65(d)(3)(i) and 761.65(d)(3)(ii) require that the written application include information on the owner and operator of the facility as well as persons responsible for managing operations. This information is not included in the TSCA Applications. Please included in the revised application the necessary information on any corporate parent companies that own CWM and the management structure at the Facility such that the requirements of 40 C.F.R. §§ 761.65(d)(3)(i) and 761.65(d)(3)(ii) are satisfied. The information should include organization charts of the corporate structure as well as management structure at the Facility.

**8. Facility Description, Personnel Qualifications, Resumes – Operation Plan (June 16, 2003) or the June 26, 2009 B-18 Operation Plan.**

40 C.F.R. § 761.65(d)(2)(i) requires that “[t]he applicant, its principals, and its key employees responsible for the establishment or operation of the commercial storage facility are qualified to engage in the business of commercial storage of PCB waste.” As the TSCA Applications did not contain information allowing for this determination, please include as part of the revised application the resumes of facility management personnel.

**9. History of Ownership – Operation Plan (June 16, 2003) or the June 26, 2009 B-18 Operation Plan.**

40 C.F.R. § 761.65(d)(3)(v) requires that the TSCA Applications include “[a] list of all companies currently owned or operated in the past by the principals or key employees identified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section that are or were directly or indirectly involved with waste handling activities.” As this information was not contained in the TSCA Applications, please revise Section 3.1 to include the information required by 40 C.F.R. § 761.65(d)(3)(v).

**10. Federal, State and Local Permits and Approval – Initial Report, page 9, (February 17, 2010) [40 C.F.R. § 761.75(c)(1)(viii)].**

CWM is required to submit an Initial Report as part of its application for an approval that includes, among other things, identification of “any local, State, or Federal permits or approvals.” While CWM has provided a list of these other permits and approvals in the

TSCA Applications, that list does not provide all of the necessary details of each of the permits or approvals. Therefore, please include in the revised permit application the following additional information in the table listed on page 9 of the Initial Report:

- Specific identification of the permit
- Units/areas included in the permit
- Date permit was issued
- Date of expiration
- Date and description of any renewals and/or modifications to the permit
- Identification of any pending permit applications
- Identification of the issuing agency or authority for the permit

**11. Commercial Storage Facilities, Marking Requirements (PCB Flushing/Storage Area) - Operation Plan (June 16, 2003) or the June 26, 2009 B-18 Operation Plan.**

40 C.F.R. § 761.65(c)(3) requires that “[a]ny storage area subject to the requirements of paragraph (b) or paragraph (c)(1) of this section shall be marked as required in subpart C 40 C.F.R. §§ 761.40(a)(10).” The TSCA Applications do not indicate how this requirement is being met. Therefore, please describe in the revised application how this requirement is being met or, alternatively, provide a reference in the Operation Plan demonstrating that this requirement is being met.

**12. Certification of Storage Facility Standards (PCB Flushing/Storage Area) – Operation Plan (June 16, 2003).**

40 C.F.R. § 761.65(d)(2)(iii) requires that “[t]he owner or operator of the [PCB storage] unit has certified compliance with the storage facility standards in paragraphs (b) and (c)(7) of this section.” CWM has not provided this certification. Please include in the revised application the required certification. Consistent with 40 C.F.R. § 761.3, the following certification language would meet this regulatory requirement:

“Pursuant to 40 C.F.R. §§ 761.65(d)(2)(iii) and under the possibility of civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (18 U.S.C. §§ 1001 and 15 U.S.C. §§ 2615), I hereby certify, as the owner or operator of the unit at issue, that the Chemical Waste Kettleman Hills facility located near Kettleman City, CA is in compliance with the storage facility standards for PCBs specified at 40 C.F.R. §§ 761.65(b) and 761.65(c)(7).”

**13. Closure and Post-Closure Plans/Other Waste Storage/Treatment Units - Operation Plan, Sections 15 & 15.5, June 16, 2003. 40 C.F.R. § 761.65(e)(1-8).**

The TSCA Applications fail to demonstrate how the TSCA Closure and Post-Closure requirements will be met, specifically for Unit B-18. Therefore, please revise the B-18 Operation Plan to describe how the facility meets the requirements of 40 C.F.R. § 761.65(e)(1)-(8) or reference the location of this information.



**14. Record Keeping (Annual Record) – B-18 Operation Plan, Section 2 (page 2), June 26, 2009.**

Pursuant to 40 C.F.R. § 761.180(b), annual records must be maintained by owners and operators of facilities used for commercial storage or disposal of PCBs.

40 C.F.R. § 761.180(b)(1) states, among other things, that “[t]he annual records shall include the following:

(iii) Records of inspections and cleanups performed in accordance with 40 C.F.R. § 761.65(c)(5).”

The TSCA Applications do not specify how this requirement will be met. Please revise the B-18 Operation Plan to specify that the annual records should also include records of inspections and cleanups performed in accordance with 40 C.F.R. § 761.65(c)(5).

**15. Manifest Discrepancies – Operation Plan, Section 4.3, June 16, 2003 - Incoming Waste Shipment Procedures.**

40 C.F.R. § 761.210 states:

“(a) Manifest discrepancies are differences between the quantity or type of PCB waste designated on the manifest or shipping paper and the quantity or type of PCB waste actually delivered to and received by a designated facility.

(1) Significant discrepancies in quantity are:

(i) Variations greater than 10 percent in weight of PCB waste in containers.

(ii) Any variation in piece count, such as a discrepancy of one PCB Transformer or PCB Container or PCB Article Container in a truckload.

(2) Significant discrepancies in type of PCB waste are obvious differences which may be discovered by inspection or waste analysis, such as the substitution of solids for liquids or the substitution of high concentration PCBs (above 500 ppm) with lower concentration materials.”

The TSCA Applications do not include in the significant discrepancy definition the “substitution of solids for liquids or the substitution of high concentration PCBs (above 500 ppm) with lower concentration materials.” Please revise the Operation Plan to specify that the “substitution of high concentration PCBs (above 500 ppm) with lower concentration materials” is also considered a significant discrepancy and/or add 40 C.F.R. § 761.210(a)(2) as a requirement in the Operation Plan.

**16. Closure Complete within 180 days – Operation Plan, Section 15.2(c)/Table 15-1, June 6, 2003 – Schedule.**

40 C.F.R. § 761.65(e)(6)(iv) states:

“A commercial storer of PCB waste shall complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final quantity of PCB waste for storage at the facility. For good cause shown, [the Regional Administrator or Director of National Programs Chemical Division (if he or she approved the closure plan)] may approve a reasonable extension to the closure period.”

The current closure schedule located in Section 15, Table 15-1 of the Operation Plan TSCA Applications indicates a closure duration greater than 180 days for the FSU (closure duration of 240 days listed in Table 15-1) and the PCB Flushing/Storage Area (closure duration of 194 days listed in Table 15-1). Please amend the closure schedule to ensure that all units meet the 180-day closure schedule set forth in 40 C.F.R. § 761.65(e)(6)(iv). While this provision does allow for EPA to grant a “reasonable extension” to the closure period, this request would have to be submitted once the units are undergoing closure.

**17. Annual Document Log – B-18 Operation Plan - Recordkeeping Procedures, page 2, June 26, 2009.**

40 C.F.R. § 761.180(b) states:

“(2) The written annual document log shall include the following:

(i) The name, address, and EPA identification number of the storage or disposal facility covered by the annual document log and the calendar year covered by the annual document log.

(ii) For each manifest generated or received by the facility during the calendar year, the unique manifest number and the name and address of the facility that generated the manifest and the following information:

(A) For bulk PCB waste (e.g., in a tanker or truck), its weight in kilograms, the first date PCB waste placed in the tanker or truck was removed from service for disposal, the date it was received at the facility, the date it was placed in transport for off-site disposal (if applicable), and the date of disposal, (if known).

(B) The serial number or other means of identifying each PCB Article, not in a PCB Container or PCB Article Container, the weight in kilograms of the PCB waste in the PCB Article, the date it was removed from service for disposal, the date it was received at the facility, the date it was placed



in transport for off-site disposal (if applicable), and the date of disposal (if known).

(C) The unique number assigned by the generator identifying each PCB Container, a description of the contents of each PCB Container, such as liquid, soil, cleanup debris, etc., including the total weight of the PCB waste in kilograms in each PCB Container, the first date PCB waste placed in each PCB Container was removed from service for disposal, the date it was received at the facility, the date each PCB Container was placed in transport for off-site storage or disposal (as applicable), and the date the PCB Container was disposed of (if known).

(D) The unique number assigned by the generator identifying each PCB Article Container, a description of the contents of each PCB Article Container, such as pipes, capacitors, electric motors, pumps, etc., including the total weight in kilograms of the PCB waste in each PCB Article Container, the first date a PCB Article placed in each PCB Article Container was removed from service for disposal, the date it was received at the facility, the date each PCB Article Container was placed in transport for off-site storage or disposal (as applicable), and the date the PCB Article Container was disposed of (if known).

(E) Disposers of PCB waste shall include the confirmed date of disposal for items in paragraphs (b)(2)(ii)(A) through (b)(2)(ii)(D) of this section.

(iii) For any PCB waste disposed at a facility that generated the PCB waste or any PCB waste that was not manifested to the facility, the information required under paragraph (b)(2)(ii)(A) through (b)(2)(ii)(E) of this section."

The TSCA Applications do not contain all of these requirements. Please revise the B-18 Operation Plan to include that the annual document log should include the information cited in 40 C.F.R. § 761.180(b) above and be completed by July 1 as required by 40 C.F.R. § 761.180(b). Alternately, add 40 C.F.R. § 761.180(b) as a requirement of the Operation Plan.

**18. Future Recirculation Tank - Operation Plan, Section 35.2(f), June 16, 2003 (page 2).**

Section 35.2 of the Operation Plan states that "CWM proposes to install a 1,000-gallon, aboveground, leg-mounted tank at the PCB Flushing/Storage building. This tank will be used for the temporary storage of recycled flushing solution prior to its eventual discharge into the 10,000-gallon tank. The same pneumatic pumping system would be used. The future recirculation tank is shown in the piping and instrumentation diagram in Exhibit 34-2.2. The KHF will provide specific details of this tank (e.g., dimensions and shell thickness) to DTSC prior to its installation." If this is a request by CWM, as it appears to be, to modify its PCB Flushing/Storage building and its associated PCB

storage area along with the procedures pertaining to the area to include the 1,000-gallon aboveground tank, CWM should explicitly include such a request in the revised application, and demonstrate how it would meet the storage requirements of 40 C.F.R. § 761.65. We also recommend a modification to the Operation Plan (June 2003) covering the storage area to incorporate the new tank and its operational procedures.

**19. Final Stabilization Unit - Operation Plan, Section 35.3(b), June 16, 2003**  
(page 2).

Section 35.3 of the Operation Plan states that “the FSU is an existing unit for which future expansion has been approved under the existing (expiring) permit. The existing facility is described in Section 35.3(a). Planned expansion is described in Section 35.3(b). It is intended that the current approvals for expansion of the FSU be carried forward in the renewed permit for which this application is submitted.” It is unclear if CWM is requesting TSCA approval for expansion of the FSU. If approval for the expansion of the FSU is being requested, CWM must include in the revised application and the Operation Plan (June 2003) a description of how it will ensure that the expanded unit will meet the storage requirements of 40 C.F.R. § 761.65. As discussed in Comment #3, a PCB treatability study would also be required.

**20. Exception Reports – B-18 Operation Plan, Recordkeeping Procedures, June 26, 2009.**

40 C.F.R. § 761.215 requires an Exception Report for the following wastes: waste not being sent for disposal within 9 months of being taken out of service, waste not undergoing disposal within 12 months of being taken out of service, and waste generating a Certificate of Disposal within 13 months of being taken out of service. The TSCA Applications do not include these requirements. Therefore, please revise the Recordkeeping Procedures to incorporate by reference or otherwise ensure compliance with the Exception Reporting requirements of 40 C.F.R. § 761.215.

**21. Unmanifested Waste Notice – B-18 Operation Plan, Recordkeeping Procedures, June 26, 2009 and Operation Plan, June 16, 2003, Section 5.**

40 C.F.R. § 761.211(b) requires that if the owner or operator of a commercial storage or disposal facility cannot contact the generator of the PCB waste, he/she shall notify the Regional Administrator of the EPA region in which his/her facility is located of the unmanifested PCB waste so that the Regional Administrator can determine whether further actions are required before the owner or operator stores or disposes of the unmanifested PCB waste. The TSCA Applications did not contain this requirement. Please revise the Operational Plans to incorporate by reference or otherwise ensure compliance with 40 C.F.R. § 761.211(b).

**22. Storage for Disposal – Operation Plan, June 16, 2003, Section 34.**



40 C.F.R. § 761.65(c) requires that PCB Items shall be dated on the item when they are removed from service for disposal. The storage shall be managed so that the PCB Items can be located by this date. Storage containers provided in paragraph (c)(7) of this section shall have a record that includes for each batch of PCBs the quantity of the batch and date the batch was added to the container. The record shall also include the date, quantity, and disposition of any batch of PCBs removed from the container. These requirements are not contained in the TSCA Applications. Please revise the Operational Plan to incorporate by reference or otherwise ensure compliance with 40 C.F.R. § 761.65(c).

**23. Adequacy of Secondary Containment PCB Flushing/Storage Building - Operational Plan, June 16, 2003, Section 35.2(a) & Exhibit 35.2.**

The Operation Plan states: "The PCB Processing Facility consists of a building and outdoor storage area. After PCB containing liquids are removed from transformers in the building, the liquids are transferred to the 10,082 gallon tank for temporary storage until they are ultimately shipped off-site in tanker trucks for incineration. Tanker trucks park adjacent to the building where hoses are attached to the storage tanks for transfer of the PCB containing liquids into the trucks. The trucks are parked on soil. There is no secondary containment or pad for the tanker trucks or connecting hoses."

CWM's June 16, 2003 Department of Toxic and Substance Control ("DTSC") permit limits storage of 55-gallon drums in the PCB Processing Facility to 300, for a total volume of 16,500 gallons. The 10,082 gallon tank is the largest single PCB storage container in this area. 40 CFR § 761.65(b)(1)(ii) requires that floor and curbing must provide a containment volume equal to at least two times the internal volume of the largest PCB Article or Container, or 25 percent of the total volume of all PCB Articles or Containers, whichever is greater. Since 25% of the total volume is less than double the capacity of the 10,082 gallon tank, that latter quantity, or 20,164 gallons, is the minimum amount of secondary containment that the Facility must maintain in the PCB Processing Facility. As the PCB Processing Facility has 20,857 gallons of secondary containment capacity, it meets this minimum secondary containment requirement. However, any container (i.e., drums, pallets, transformers...) also stored within the confines of the secondary containment area will effectively reduce that capacity due to displacement of volume, and could result in the Facility not meeting the minimum requirement. Therefore, please include in the revised application specifications as to how to perform the volume calculations in Exhibit 35.2 and Section 35.2(a) to account for this displacement and limitations on the storage in this secondary containment area to ensure compliance with 40 C.F.R. §761.65(b)(1)(ii).

In addition, please revise the Operations Plan to reflect the construction changes to the outside flushing area adjacent to the PCB Flushing/Storage Building.

**24. Operation Plan - Contingency Plan (June 16, 2003) Exhibit 9A.3., PCB Flushing/Storage Unit**



Exhibit 9A.3 states: "The PCB Flushing/Storage Unit includes a PCB liquids storage tank, air compression systems, a container storage area and a flushing reagent storage tank. A future tank may be constructed for recirculating flushing reagent prior to pumping it to the PCB liquids storage tank. Transformers are drained and flushed with diesel fuel or other suitable solvent; containers are pumped out. Liquid PCBs or liquids contaminated with PCBs are transferred into the storage tank or containers. Contaminated solids are removed for burial on-site. The storage tank, container storage area, and appurtenant structures are located in a building enclosure on a concrete pad with a continuous perimeter curb (coated with an epoxy resin) that provides secondary containment. Handling of large PCB articles also occurs outdoors on an adjacent concrete slab."

40 C.F.R. § 761.65(c)(1)(iv) states that PCB containers containing liquid PCBs at concentrations of  $\geq 50$  ppm may be stored temporarily in an area that does not comply with the requirements of paragraph (b) of this section for up to thirty days from the date of their removal from service, provided that a notation is attached to the PCB Item or a PCB Container (containing the item) indicating the date the item was removed from service and a Spill Prevention, Control and Countermeasure Plan has been prepared for the temporary storage area in accordance with part 112 of this chapter and the liquid PCB waste is in packaging authorized in the DOT Hazardous Materials Regulations at 49 CFR parts 171 through 180 or stationary bulk storage tanks (including rolling stock such as, but not limited to, tanker trucks, as specified by DOT).

If CWM meets the 40 C.F.R. § 761.65(c)(1)(iv) criteria, it can store PCB containers for up to 30 days in the "adjacent concrete slab." However, the TSCA Applications do not describe how the regulatory criteria are met for the area. Therefore, please revise the Operation Plan, Section 9 (Contingency Plan) such that it ensures compliance by the facility with the requirements of 40 C.F.R. § 761.65(c)(1)(iv) for this temporary storage area adjacent to the PCB Flushing/Storage Area, including a reference to an approved Spill Prevention, Control, and Countermeasures Plan for that area.

**25. Groundwater Monitoring Program, Groundwater Monitoring Plan – Operation Plan (June 16, 2003) Section 27.0.**

40 C.F.R. § 761.77(b)(6) sets forth certain groundwater monitoring requirements for PCB landfills. Section 27 of the Operation Plan indicates that the detailed descriptions of sampling methods, analytical procedures and data reporting requirements are described in the Site-Specific Groundwater Monitoring Plan, Kettleman Hills Facility, Kings County, California. However, this most recently updated plan was not included with any of the TSCA Applications. Please include in the revised application an updated groundwater monitoring plan that contains: (1) descriptions and maps of the monitoring network, (2) detailed protocols for sampling, analysis and reporting, and (3) a sampling schedule required for the Unit B-18 expansion.



**26. Leachate Collection System - B-18 Operation Plan – Page 5, Part a & b (June 26, 2009).**

40 C.F.R. § 761.75(b)(7) requires leachate analysis to include the following parameters: a) PCBs, b) pH, c) specific conductance, and d) chlorinated organics. As it currently does not do so, the B-18 Operation Plan (June 26, 2009) and the Initial Report in the February 17, 2010 TSCA Application must be updated to ensure that the leachate analysis includes these parameters.

**27. Inspection Program Plan – Operation Plan (June 16, 2003), Section 7, Table 7-2.**

While Table 7-2 states that the 10,082 gallon tank (located in the PCB Flushing/Storage Building) is inspected annually, this does not provide enough detail to ensure the adequacy of the inspections. Therefore, please revise Section 7 to include inspection procedures, qualifications/certifications of inspector, and inspection criteria.

**28. Specific Information for Equipment – Operation Plan (June 16, 2003), Section 44, Table 44-1.**

40 C.F.R. § 761.65(c)(5) requires that PCB Items and Containers are routinely inspected for leaks. Table 44-1 states that equipment (pumps & valves) located in the PCB Building and PCB Storage Tank are inspected monthly<sup>(1)</sup>.

*“(1) Monthly leak detection occurs during periods when RCRA-hazardous waste is processed.”*

As this is only a reference to RCRA-hazardous waste, the reference should be updated to clarify that it also includes TSCA waste.

**29. Storage Unit Equipment Decontamination – Operation Plan (June 16, 2003).**

40 C.F.R. § 761.65(c)(4) requires that any item of movable equipment used for handling PCBs and PCB Items in the storage units and that comes in direct contact with PCBs shall not be removed from the storage unit area unless it has been decontaminated as specified in 40 C.F.R. §761.79. This requirement is not addressed in the TSCA Applications. Therefore, please revise the Operation Plan to include a discussion of how this requirement is to be met and/or incorporate by reference the above requirement.

**30. Storage Unit Stationary Container Design – Operation Plan (June 16, 2003).**

40 C.F.R. § 761.65(c)(7) states that stationary storage containers for liquid PCBs can be larger than the containers specified in paragraph (c)(6) of this section provided that: The containers are designed, constructed, and operated in compliance with Occupational Safety and Health Standards, 29 CFR 1910.106, Flammable and combustible liquids. Before using these containers for storing PCBs, the design of the containers must be reviewed to determine the effect on the structural safety of the containers that will result

from placing liquids with the specific gravity of PCBs into the containers [see 29 CFR 1910.106(b)(1)(i)(f)].

If containers larger than those allowed by 40 C.F.R. § 761.65(c)(6) are being used by CWM at the Facility, please revise the Operation Plan to include a discussion of how the 40 C.F.R. § 761.65(c)(7) exemption is being met.

**31. Facility Capacity – Operation Plan (June 16, 2003).**

40 C.F.R. § 761.65(d)(2)(ii) requires that “[t]he facility possesses the capacity to handle the quantity of PCB waste which the owner or operator of the facility has estimated will be the maximum quantity of PCB waste that will be handled at any one time at the facility.” The TSCA Applications do not describe how this requirement is being met. Please revise the Operation Plan to include a discussion on how this capacity requirement will be met. Please provide the calculations used to determine the quantity of waste that has been placed in landfill unit B-18, as well as the calculations used to estimate the remaining capacity in landfill unit B-18. Also, specify the amount of remaining capacity that is currently planned to be used for waste versus the capacity that is planned for the final cap in the landfill unit.

**32. Closure Storage Operations – Operation Plan (June 16, 2003).**

40 C.F.R. § 761.65(e)(1)(ii) requires “[a]n identification of the maximum extent of storage operations that will be open during the active life of the facility, including an identification of the extent of PCB storage operations at the facility relative to other wastes that will be handled at the facility.” The TSCA Applications do not include this discussion. Therefore, please revise the Operation Plan to include a discussion on the extent of PCB storage operations at the Facility relative to other wastes that will be handled there.

**33. Storage and Transport Containers – Operation Plan (June 16, 2003).**

40 C.F.R. § 761.65(c)(6) states that, except as provided in paragraphs (c)(6)(i) and (c)(6)(ii) of this section, any container used for the storage of liquid or non-liquid PCB waste shall be in accordance with the requirements set forth in the DOT Hazardous Materials Regulations (HMR) at 49 C.F.R. parts 171 through 180. PCB waste not subject to the HMR (i.e., PCB wastes at concentrations of <20 ppm or <1 pound of PCBs regardless of concentration) must be packaged in accordance with Packaging Group III, unless other hazards associated with the PCB waste cause it to require packaging in accordance with Packaging Groups I or II. For purposes of describing PCB waste not subject to DOT's HMR on a manifest, one may use the term “Non-DOT Regulated PCBs.” These requirements are not discussed in the TSCA Applications. Please revise the Operation Plan to include a discussion of how the container requirements will be met or incorporate by reference these requirements.