

## **No Unreasonable Risk**

- 1. Comment:** Several commenters stated that 761.61(c) requires a risk determination that is “site specific” while the approval was not.

**Response:** Approvals under section 761.61(c) must be issued to “persons” but are not limited to individual sites. EPA has stated that such approvals are considered on a “case-by-case” basis. To the extent the commenter is suggesting that an approval cannot cover more than one site, EPA does not agree. Specifically, the TSCA PCB regulations under 761.61(c) allow applications to be submitted to the “Regional Administrator in the Region where the sampling, cleanup, disposal, or storage site is located for sampling, cleanup, disposal, or storage occurring in a single EPA Region; or to the Director, Office of Resource Conservation and Recovery, for sampling, cleanup, disposal, or storage occurring in more than one EPA Region.” By including the latter, the regulations make clear that approvals could address more than one site.

In any event, these approvals are, in fact, specific to sites belonging to and controlled by the USWAG Members listed in Appendix II of the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014 (also referred to as approvals in this Response to Comments document) where an as-found concentration of less than 50 ppm PCB remediation waste is being removed and disposed of. These sites are all secure utility assets where PCB response actions are conducted by, or under the supervision of, persons with experience in responding to and remediating PCB releases. In addition, these approvals are conditioned upon the use of specified characterization and analysis procedures to ensure that waste managed under the approvals does, in fact, contain PCBs at an as-found concentration of < 50 ppm.

A brief general summary of the most relevant PCB remediation waste regulations will help explain the nature of EPA’s determination. Under the self-implementing cleanup and disposal provisions of section 761.61(a), non-liquid PCB remediation waste containing PCBs < 50 ppm – the kind of remediation waste addressed in the Risk-Based Approvals of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014 – can be disposed of in the same types of non-TSCA disposal facilities approved today. Section 761.61(a)(5)(i)(B)(2)(iii). In contrast, the performance-based provisions of section 761.61(b) allow the disposal of non-liquid PCB remediation waste containing PCBs < 50 ppm only in TSCA-approved facilities, but no notice to EPA is required. Section 761.61(b)(2). The additional disposal flexibility for this waste is allowed under 761.61(a) because, through the notification and review provisions of that section, EPA is informed of and can review the activity to be confident that the waste characterized by the site owner/operator as having an as-found concentration of < 50 ppm PCBs is, in fact, < 50 ppm PCBs. In the 1998 rule establishing the self-implementing approach and allowing disposal of remediation waste < 50 ppm in non-TSCA disposal facilities, EPA retained the options under section 761.61(b) in order to preserve the “traditional” TSCA-approved disposal options previously available. 59 Fed Reg 62798 (Dec 6, 1994). In essence, EPA concluded that non-liquid PCB remediation waste with PCBs < 50 ppm could be disposed of in the specified non-TSCA

landfills without unreasonable risk, but EPA was uncomfortable allowing unknown site owners/operators to characterize the waste using unspecified procedures with no opportunity for government oversight, and indeed no notice.

Today's approvals under 761.61(c) are specific to a class of facilities that have experience in dealing with PCB remediation waste and who, in EPA's judgment, are capable of accurately determining that a given quantity of waste contains an as-found concentration of < 50 ppm PCBs. In addition, as stated above, the approvals specify the procedures for waste characterization and analysis to further ensure accurate waste characterization.

Finally, the conditions in the approvals require the submission of additional site-specific information every time a USWAG Member intends to utilize the approval to dispose of an as-found concentration of less than 50 ppm PCB remediation waste, which will enable EPA to verify, if necessary, that the facility is operating consistently with the terms of the approval and sending only waste containing an as-found concentration of < 50 ppm PCBs to non-TSCA disposal. These notices will be published on EPA's website, as well as on the USWAG Member's website so that the public will also be informed. (Under the existing 761.61 regulations, there is no public notice requirement.) In addition to the general informational value of knowing when waste is being managed under these approvals and knowing both the origination and disposal sites, this notification will enable members of the public to notify EPA if they have any reason to believe an approval is not being complied with.

2. **Comment:** Several commenters stated that the finding of no unreasonable risk was not supported in the decision to grant the approval.

**Response:** As stated above, section 761.61(a) already allows PCB remediation waste with an as-found concentration of < 50 ppm PCBs to be disposed of at the same types of disposal facilities listed in the approvals. In the 1998 rule that, among other things, allowed for this disposal, EPA found it would "protect [] against unreasonable risk of injury to health and the environment from exposure to PCBs." 63 Fed. Reg. 35384 (June 29, 1998).

Moreover, PCB waste with concentrations < 50 ppm is generally not subject to EPA's TSCA disposal requirements and can be disposed of in non-TSCA facilities. See section 761.50(a)(4) ("Spills and other uncontrolled discharges of PCBs at concentrations of  $\geq$  50 ppm constitute the disposal of PCBs"); section 761.60(a) (prescribing disposal requirements for PCB liquids at concentrations  $\geq$  50 ppm); section 761.3 (defining PCB bulk product waste, which is subject to regulatory disposal requirements, as certain non-liquid PCB waste with a PCB concentration  $\geq$  50 ppm); 761.50(b)(3)(ii) (providing generally that PCB remediation waste with concentrations  $\geq$  50 ppm must be disposed of pursuant to section 761.61). As discussed above, the unusual requirement to dispose of non-liquid remediation waste with as-found concentrations < 50 ppm PCBs in TSCA facilities under section 761.61(b) reflects concern about proper characterization of the waste at unknown facilities, not concern about the protectiveness of non-TSCA disposal for such waste.

Some commenters expressed concern about the volume of waste that might be disposed of under these approvals. But, in promulgating section 761.61(a), EPA pointed out that large quantities of remediation waste containing PCBs < 50 ppm would be disposed of in non-TSCA landfills, and found that such disposal would be protective of human health and the

environment. “Final Report: Costs of Compliance with the Proposed Amendments to the PCB Regulations,” at 4-104 (December 6, 1994). Thus, EPA’s finding was not based on an assumption that the volume would be low. In the unlikely event EPA concludes in the future that disposal at a particular facility or by a particular entity would present unreasonable risk, EPA will modify the approvals to ensure there is no unreasonable risk.

- 3. Comment:** Two commenters stated that disposal facilities in the approval are not well defined. One commenter stated that the disposal facilities may include “unlined and unmonitored dumps with a history of serious environmental problems” and the other commenter asked whether EPA meant to allow disposal in “pits, ponds, lagoons, and waste piles” and that these facilities do not routinely accept PCB contaminated wastes.

**Response:** The approvals provide disposal options that are already allowable under 761.61(a) for PCB remediation waste < 50 ppm, which includes certain RCRA disposal facilities. See section 761.61(a)(5)(v)(A). Disposal of PCBs in concentrations less than 50 ppm in these types of disposal units is already allowed under 761.61(a)(5)(v)(A)(2). EPA previously concluded that disposal of PCB remediation waste < 50ppm in these types of facilities does not present unreasonable risk. See section 761.61(a). EPA interprets the comments as referring to the RCRA regulations at 40 C.F.R. § 258 and 40 C.F.R. §§ 257.5 through 257.30 (257, Subpart B). Section 258 describes the requirements for the management of municipal solid waste, while sections 257.5 through 257.30 describe the requirements for the management of non-municipal non-hazardous waste that is generated by Conditionally Exempt Small Quantity Generators (CESQGs). Disposal units that do not comply with those requirements cannot accept waste being disposed of under these approvals.

EPA disagrees with the commenters’ description of the disposal facilities that fall under those regulatory provisions. The part 257 Subpart B and 258 RCRA regulations establish minimum national performance standards for protection of human health and the environment. Both parts 258 and 257 Subpart B facilities are subject to various requirements, including requirements for groundwater monitoring and corrective action. See 257.21-.28; 258.50-.58. The TSCA regulatory provisions allowing disposal in these RCRA facilities, and the inclusion of these facilities in today’s approval, are consistent with TSCA § 9(b), which requires EPA to coordinate actions taken under TSCA with actions under other Federal environmental laws. In addition, EPA notes that any facility receiving waste under this approval must be authorized to do so under all state and local laws. 40 CFR § 761.50(a)(6); Condition 2 of approvals.

That being said, PCB remediation waste is not typically managed in disposal units that accept liquid wastes, and in response to the commenter’s concern that this PCB remediation waste could be disposed in pits, ponds, and lagoons that do not routinely accept PCB contaminated wastes, EPA has modified the draft approval to not allow disposal in any unit that manages liquid wastes, including pits, ponds, or lagoons, even if they meet the requirements found in 40 C.F.R. §§ 257.5 through 257.30. EPA continues to believe that Part 258 and 257 Subpart B units can safely manage PCB remediation waste without further restrictions. However, a unit that accepts liquids might be expected to have a somewhat increased likelihood of release. Under 761.61(a) EPA has the opportunity to assess the cleanup plan, including the intended disposal units, and to impose additional conditions where warranted by case-specific circumstances. In contrast, these approvals do not require further review and approval of individual disposal actions, in view of the very limited scope of the approval. Although EPA is not aware of

circumstances under which it would restrict the scope of Part 258 or 257 Subpart B disposal options, EPA has conservatively chosen to impose this additional condition.

On a related note: under Condition 9, EPA is removing Option d “Landfill facilities permitted or licensed by a state or otherwise authorized by a state to manage waste with as-found concentrations of < 50 ppm PCBs.” EPA intended for the disposal options under these approvals to mirror the options for PCB remediation waste under 761.61(a). Option d was ambiguous as to whether or not it included disposal units outside of the scope found in 761.61(a). To prevent confusion, EPA deleted Option d.

## Site Considerations

4. **Comment:** Two commenters felt the approval should not apply to sites of unlimited size.

**Response:** EPA has determined the conditions of the approvals are protective regardless of the size of the site, since site size is not relevant to the protectiveness of disposal of waste at < 50 ppm PCBs. The approvals include significant sampling requirements that would be adequate for any sized site. However, the sampling requirements for these approvals would be arduous for a site larger than one acre. While the approvals do not restrict the size of the site, EPA does not believe entities would undertake the required sampling for those sites.

5. **Comment:** One commenter requested the definition of “secure utility asset” be expanded to include sites that are not owned or operated by a USWAG Member, but have been secured by the utility (or authorized and properly-trained representative), to prevent unauthorized entry or public access to the area.

**Response:** The commenter pointed out that many USWAG Members are responsible for historic contamination that is no longer on property owned or operated by the member. The scope of these approvals is narrow to ensure clear boundaries of sites and the contamination being disposed of. Therefore, EPA is not amending the definition of secure utility assets at this time.

6. **Comment:** One commenter requested that the approvals not be limited solely to PCB Remediation Waste from USWAG Members, but should include PCB Remediation Waste from other utilities that have secure facilities that unknowingly receive PCB wastes that then must be remediated.

**Response:** The applicants for today’s approvals are USWAG Members listed in the application that USWAG submitted on their behalf. Those Members were listed in the draft approval posted for comment in September 2013. For that reason, only Members of USWAG are being granted these approvals at this time. If utilities that are not USWAG Members would like a similar approval, those utilities may submit an application to their EPA Region for their own risk-based approval under 40 CFR 761.61(c), which will be evaluated on a case by case basis.

## Laboratory Methods

7. **Comment:** Several commenters requested that EPA provide for the use of automated soxhlet extraction (Method 3541) in the approval.

**Response:** The PCB regulations currently allow for manual soxhlet extraction (Method 3540C) and provide Subpart Q as a means to allow the use of alternative extraction methods, such as automated soxhlet extraction. Subpart Q requires a comparison study that demonstrates that the effectiveness of a method such as automated soxhlet extraction is comparable to manual soxhlet extraction for a particular matrix. The effectiveness of extraction methods depends on the physical and chemical properties of the media being extracted. Because USWAG Members may use these approvals for different types of matrices and media, EPA believes it is appropriate to require the Subpart Q comparison study to ensure the alternative method is sufficiently effective. Thus, as stated in Condition 8 of the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014, the USWAG Member may use the automated soxhlet extraction method after the USWAG Member meets the requirements of Subpart Q.

## Sampling

8. **Comment:** Several commenters requested that EPA allow for Regions to modify sampling requirements for individual sites upon request from USWAG Member companies.

**Response:** Allowing the sampling requirements to be modified on a site specific basis would introduce too much variability into the approved process, taking it outside the scope of the approvals. If a USWAG Member does not wish to use the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014 for a particular site, that Member may submit an application to the Region for a different risk-based approval under 40 CFR 761.61(c), which will be evaluated on a case by case basis.

9. **Comment:** Several commenters requested the ability to use characterization methods other than Subpart N. The comments indicated the characterization requirements, particularly the 3-meter sampling grid required under 761.265, would be impractical at larger sites. The commenters requested the approval be amended to allow EPA's regional PCB Coordinators the discretion to authorize alternative characterization methods to be used in connection with this approval on a site-by-site basis.

**Response:** For the reasons noted in our response to the previous comment, we will not modify the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014, to allow EPA's regional PCB Coordinators the discretion to authorize alternative characterization methods. However, if a USWAG Member does not wish to use its approval for a particular site, they can apply to their EPA Region for a different risk-based approval under 40 CFR 761.61(c).

10. **Comment:** One commenter requested that Condition 7 of the approval also include the option of using Subpart R.

**Response:** Subpart R's applicability is specific to certain PCB bulk product waste and non-liquid PCB remediation waste from processes that continuously generate new waste. The types of waste for which Subpart R is applicable are not the same types of waste that may be disposed of using these approvals. Subpart R sampling applies to waste in piles or constantly generated waste streams, which, due to the nature of their physical characteristics, require a different sampling scheme than waste covered by the approvals (e.g., soil or concrete in place, soil contaminated by spills). The sampling requirements in Condition 7 are more appropriate for the PCB remediation waste that may be disposed of under the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014. If a USWAG Member does not wish to use the sampling provisions in Condition 7 for a particular site, they can apply to their EPA Region for a different risk-based approval under 40 CFR 761.61(c).

- 11. Comment:** Two commenters felt the Approval should require more extensive pre-cleanup sampling, with one commenter indicating the 3 meter grid system for sampling in Subpart N's 761.265(a), may, or may not, be sufficient to ensure that only < 50 ppm PCB wastes are removed.

**Response:** The characterization requirements in the approvals were included to ensure only as-found concentrations of < 50 ppm PCB remediation waste is disposed of under the approvals. Subpart N is the characterization method used in the self-implementing provision of 761.61(a). This includes the sampling grid requirements in 761.265(a), which were specifically designed to characterize bulk PCB remediation waste and porous surfaces. 761.265(a) requires the 3 meter grid to be used in conjunction with the procedures in §§ 761.283 and 761.286, which are used to determine the number of samples to collect and sample collection locations, as well as sample size and procedure for collecting samples. Since the approvals include the same sampling requirements already authorized under 761.61(a) for the purpose of characterizing remediation waste, and since the commenter provided no basis to question the soundness of these requirements, EPA has determined that they are sufficient and additional or more extensive sampling would not be necessary to ensure the disposal of as-found concentration of < 50 ppm of PCB remediation waste only.

The approvals do not apply to any PCB waste not being disposed of. Any PCB remediation waste that is not removed and disposed of under these approvals is subject to the cleanup and disposal requirements in 40 CFR 761.61.

- 12. Comment:** Two commenters requested confirmation that by following the conditions of the approval, even if it was later found that some as-found concentration was > 50 ppm PCB waste was disposed of under the approval, they would not be in violation of the approval or the PCB regulations.

**Response:** The approvals only apply to as-found concentration of less than 50 ppm PCB remediation waste. The characterization requirements in Condition 7 are designed to ensure that waste being disposed of is less than an as-found concentration of 50 ppm PCBs. If it is later discovered that some waste already disposed under one of the approvals contained PCBs at an as-found concentration of  $\geq$  50 ppm, that would not be covered by the approval, and would be addressed under Condition 11 of the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014.

**13. Comment:** One Commenter noted that the characterization requirements in the proposed approval contain no measures for sampling liquid waste.

**Response:** These approvals do not apply to liquid PCB Remediation Waste. Condition 1 states that the approvals only apply to non-liquid PCB Remediation Waste.

## Public Notice

**14. Comment:** Two commenters stated that two day notice is not enough time for the public to meaningfully participate.

**Response:** EPA conducted a public notice and comment period for these approvals, inviting comments on the conditions of the approvals—such notice and comment is not currently required under the existing rules for risk based approvals. Thus, the public has already had an opportunity to comment on whether the approval, with the draft terms, should be issued to each of the identified USWAG Members – e.g., to object to the sufficiency of the conditions or to identify concerns with the operating histories of those Members. Condition 4 requires the USWAG Member to provide contact information for anyone who may have questions about specific disposal activities conducted under the approvals. EPA did not intend for the notice requirement in Condition 4 to be additional time for public comment on the Approvals, but rather a requirement for the USWAG Member to provide information on their utilization of their approval to the public. To eliminate this confusion, the language in Condition 4 of the approvals has been modified to clarify that the Public Notice requirements are for public information, not additional public comment.

**15. Comment:** Several commenters requested that the approval should allow USWAG Member companies that use the approval to remove their web notification when they are no longer using the approval (i.e., when the disposal activities are complete).

**Response:** EPA is requiring web notification so that local communities may have an opportunity to find out and research the disposal activities conducted under these approvals. Once a USWAG Member posts a notification due to using the approval, EPA is requiring that the web notification remain on the website until the time the approval is terminated so that communities can find information on the disposal even after the disposal is complete.

**16. Comment:** Several commenters requested that EPA clarify whether or not a web notification would be considered sufficiently “prominent” if posted on a page such as the Environmental Services or equivalent webpage, rather than on the corporate homepage for the USWAG Member.

**Response:** The notice must be prominently placed on a part of the company’s website that a visitor to the website would reasonably expect to see announcements of environmental projects or community outreach activities. An environmental section of a website may be appropriate.

The web notification required in the approvals do not require that the web notification be on the corporate homepage unless this is where visitors would reasonably expect to see announcements on environmental projects, such as the remediation and disposal of PCB waste.

- 17. Comment:** One commenter requested that EPA allow Regions to modify the notification requirements of the approval on a site specific basis.

**Response:** Allowing the notification requirements to be modified on a site specific basis by the Regions would introduce too much variability into the approved process, taking it outside the scope of the approvals. If a USWAG Member does not wish to use its approval for a particular site, they can apply to their EPA Region for a different risk-based approval under 40 CFR 761.61(c).

- 18. Comment:** Several commenters wanted clarification that the notification requirement in Condition 5 applied to each time they used the approval, not for each shipment of waste.

**Response:** We agree with the commenters that the notification requirements established in Condition 5 of the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014, require notification to be submitted for each disposal conducted under the approvals. The USWAG Member is not required to submit the notification for each individual shipment of waste throughout a removal project. EPA is changing Condition 5 to specify that the notification is required for each removal project.

## Other

- 19. Comment:** Two commenters stated that EPA should have followed notice and comment rulemaking to issue this approval.

**Response:** EPA's PCB disposal rules, including section 761.61(c), were issued through notice and comment rulemaking. EPA does not issue 761.61(c) approvals by notice and comment rulemaking. It is EPA's policy is to provide notice on the draft approval and invite public comment; however the full rulemaking process is not required and is not used for issuing PCB approvals.

- 20. Comment:** One commenter was opposed to the approval, in part, because it undercuts the value of the investments companies have made in obtaining TSCA landfill approvals.

**Response:** Because these disposal options are already allowable under 40 CFR 761.61(a) for PCB remediation waste that contains an as-found concentration of less than 50 ppm of PCB, we do not agree that the PCB remediation waste addressed in the approvals would undercut or undermine TSCA approved landfills, which serve an important role in the safe disposal of higher-risk PCB wastes and some < 50ppm PCB remediation waste that is not covered by the approvals.



**21. Comment:** Several commenters asked if other industry associations could apply for similar “generic” approvals.

**Response:** This is not a generic approval, but a set of bundled individual approvals. Any person can apply for a 40 CFR 761.61(c) approval for the Agency’s consideration. “Person” is defined in section 761.3 as “any natural or judicial person including any individual, corporation, partnership, or association...” EPA will evaluate each application on a case by case basis.

**22. Comment:** One commenter questioned how this draft approval differs from the special approval granted to a trade association by the Pipeline and Hazardous Materials Safety Administration (PHMSA) under the Department of Transportation (DOT) hazardous materials regulations. PHMSA’s actions were criticized for not reviewing the safety history of each of the member companies that might take advantage of the special permit. As a result, PHMSA revised its procedures to preclude issuance to entities such as trade associations.

**Response:** The approvals are being granted to individual companies, not the trade association itself. EPA has modified the language of the approval document to be clearer about this. This is why Condition 12 of the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014 requires notification to EPA of any membership changes and EPA will provide public notice and comment similar to that of the original approvals before new members are issued approvals.

**23. Comment:** One commenter stated that two days’ notice is not enough time for municipal landfills to be noticed before receiving waste under this approval.

**Response:** We believe the commenter misunderstood this provision. Specifically, there is not a defined minimum timeframe for notification to the disposal facility in the approvals. It is the responsibility of the USWAG Member to ensure the disposal facility is willing and able to accept the waste and follow any notification requirements established by the disposal facility. In fact, it would be a violation of state or local law, EPA regulations, and of Condition 2 of the Risk-Based Approvals, to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014 for a USWAG Member to send waste subject to this approval to a facility that is not authorized to accept it under state or local law.

**24. Comment:** Two commenters indicated that the approval should require submission of all of the information that is required in 761.61(a)(3).

**Response:** EPA disagrees. The application did contain information from 761.61(a)(3) that EPA considers relevant to the limited scope of the request, which is the disposal of as-found low-level PCB remediation waste in units already authorized by EPA for disposal of this type of waste. For example, the application described the nature of the contamination subject to the request, including kinds of materials contaminated (PCB remediation waste with as-found concentrations < 50 ppm PCBs, including non-porous surfaces with as-found surface concentrations  $\leq 10 \mu\text{g}/100 \text{ cm}^2$ ), and it identified the procedures that would be used to sample contaminated areas to verify PCBs concentrations < 50 ppm. Other information elements of 761.61(a)(3) are not relevant to these approvals. Section 761.61(a) addresses two different

issues: site cleanup, and disposal of remediation waste. Most of the section addresses the former issue: it establishes site cleanup levels (see 761.61(a)(4)), identifies types of sites for which the self-implementing approach is not available due to localized risk concerns (761.61(a)(a)), requires extensive site characterization (761.61(a)(2)), requires submission of information on the extent of site contamination (761.61(a)(3)(C)), and requires submission of a cleanup plan (761.61(a)(3)(D)). In contrast, the approvals address only one issue: the disposal options for remediation waste containing as-found concentrations of < 50 ppm PCBs. As explained above, the conditions of these approvals are sufficient to ensure that waste characterized as containing as-found concentrations of < 50 ppm PCBs does, in fact, contain < 50 ppm PCBs. As with 761.61(b), today's approvals do not address site cleanup levels, and disposal of waste under these approvals does not in any way affect potential liability or cleanup obligations for waste remaining at the sites.

Furthermore, EPA disagrees with the commenters' position that section 761.61(c) requires the submission of all of the information required under 761.61(a)(3); EPA does not interpret the regulation in this fashion. In particular, section 761.61(c) broadly allows EPA to grant approvals for sampling, cleanup, disposal or storage of PCB remediation waste in ways other than those prescribed in sections 761.61(a) or 761.65. It would make no sense to require submission of information elements that are not pertinent to the requested approval and that EPA does not consider relevant to the no-unreasonable-risk finding.

In response to the commenters' concern about a lack of notice to state, tribal and local authorities, we agree with the commenter and have amended Condition 5 to include notification to appropriate State, Tribal, and Local government officials where the USWAG Member's secure utility asset is located.

**25. Comment:** Two commenters criticized the lack of an of environmental justice analysis on the impact of the approval.

**Response:** An environmental justice analysis is not a requirement for these 61(c) approvals. The disposal facilities identified in the approvals are limited to those already permitted, licensed, or registered by a State to receive this kind of waste, the same types of facilities that < 50 ppm PCB remediation waste may be disposed of in 61(a). EPA notes that these approvals will accelerate the removal and disposal of low-level (< 50 ppm) PCB remediation waste from communities where the waste is currently located. We believe this will result in overall benefits for communities across the country, including minority and low-income communities. These approvals will also provide USWAG Members the ability to send this low level waste to a greater number of qualified disposal facilities, which we believe will reduce the distance that this waste will have to be transported, therefore overall reducing any potential adverse transportation-related impacts to all communities.

**26. Comment:** One commenter requested that a member remain on the approval, even if ceasing to remain a USWAG Member, until the approval expires.

**Response:** The approvals are issued to USWAG Members, who have been identified as companies that maintain secure utility assets where PCB remediation waste is generated and

respond to PCB related disposal with professionals and/or consultants with experience in responding to and remediating PCB releases. EPA believes a current or former USWAG Member would still have the experience responding to and remediating PCB releases, and as long as the conditions of this approval can be met, continued membership in USWAG is not required. The approvals have been adjusted to include current and former USWAG Members in Appendix II. This will allow a company to continue to utilize its approval until the approval expires, regardless of future USWAG membership status.

**27. Comment:** One commenter requested confirmation that USWAG Members who no longer intend to use the approval are not bound to the conditions of the approval.

**Response:** These approvals are issued to the entities identified in Appendix II of the Risk-Based Approvals to Dispose of Polychlorinated Biphenyl (PCB) Remediation Waste, dated June 10, 2014. Just because a member is approved under these approvals, they may still opt to dispose of waste using a different regulatory option under 40 C.F.R. 761 or under a different disposal approval. If a USWAG Member decides at some point that it no longer wants or needs that approval issued to it today, that Member should notify EPA, and EPA will amend Appendix II accordingly.