



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

RE: Issuance of Final Federal TSCA Approval Modification and Renewal, Wayne Disposal, Inc., Belleville, Michigan, MID048090633

Dear Sir/Madam:

This letter serves as notice that the U.S. Environmental Protection Agency, Region 5, has issued the final approval modification and renewal for the federal Toxic Substances Control Act (TSCA) polychlorinated biphenyl (PCB) chemical waste landfill approval for the above-referenced facility. The final approval may be found at:

<https://www.epa.gov/pcbs/forms/public-notice-wayne-disposal-inc-us-ecology>.

Enclosed with this letter is a copy of the Response to Comments generated as a result of the public notice and meeting for the Michigan Department of Environmental Quality (MDEQ) permit modification and the EPA approval modification and renewal. This Response to Comments was prepared jointly by EPA and MDEQ. In December 2018, MDEQ sent this same Response to Comments to interested parties.

On behalf of EPA, I thank you for your interest in the final TSCA PCB chemical waste landfill approval modification and renewal for the Wayne Disposal, Inc., facility. If you have any questions regarding this matter, please contact Ms. Lisa Graczyk at (312) 353-3219 or graczyk.lisa@epa.gov, for assistance.

Sincerely yours,

A handwritten signature in black ink that reads "Tinka G. Hyde".

Tinka G. Hyde
Division Director
Land and Chemicals Division

Enclosure

Enclosure

**Response to Comments For
Wayne Disposal, Inc.
Hazardous Waste Management Facility Operating License Major Modification
And
Toxic Substance Control Act Polychlorinated Biphenyl Approval**

Response to Comments

For

Wayne Disposal, Inc.

Hazardous Waste Management Facility Operating License Major
Modification

And

Toxic Substance Control Act Polychlorinated Biphenyl (PCB) Approval

December 2018

MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY



U.S. ENVIRONMENTAL
PROTECTION AGENCY
REGION 5



FOR MORE INFORMATION

You are encouraged to review the *Response to Comments*, and the additional information about WDI facility, at the information repository at:

Van Buren Township Hall
46425 Tyler Road
Belleville, Michigan 48111

If you have any questions, please feel free to contact either of the individuals listed below:

Ms. Christine Matlock
Permit Engineer
Waste Management and Radiological
Protection Division
Michigan Department of Environmental
Quality
525 West Allegan Street
P.O. Box 30241
Lansing, MI 48909-7741
517-284-6577
Matlockc2@michigan.gov

Ms. Lisa Graczyk
Toxic Substance Control Act Project
Manager
RCRA/TSCA Programs Section
U.S. EPA Region 5 (LR-17J)
77 West Jackson Boulevard
Chicago, IL 60604
312-353-3219
Graczyk.Lisa@epa.gov

OVERVIEW

This *Response to Comments* for Wayne Disposal, Inc. (WDI) is organized to summarize the comments received by the United States Environmental Protection Agency (EPA) and the Michigan Department of Environmental Quality (MDEQ) regarding the renewal and modification of the polychlorinated biphenyl (PCB) chemical waste landfill approval and the major modification to the hazardous waste landfill operating license for WDI, respectively. The modification consists of a revision to the engineering design for Master Cell VI Subcell G Phase 2 at WDI's landfill in Belleville, Michigan. The comments were received as a result of an EPA comment period from June 28, 2018 through July 31, 2018; an MDEQ comment period from June 14, 2018 through August 13, 2018; and a public hearing held on July 19, 2018. The public hearing was conducted jointly by EPA and MDEQ to solicit public comment regarding the EPA's intent to modify and renew the existing PCB landfill approval and the MDEQ's intent to modify the existing hazardous waste operating license for WDI's hazardous waste landfill.

WDI operates a hazardous waste and PCB landfill located at 49350 North I-94 Service Drive in Belleville, Michigan. The facility is bounded by Willow Run Airport to the North and I-94 Service Drive to the South. The WDI site #2 hazardous waste landfill consists of 120 acres divided into three Master Cells (MC-V, MC-VI, and MC-VII). MC-V and MC-VII have already been filled, closed, and are currently in post-closure care. MC-VI is divided into seven subcells (A, B, C, D, E, F, and G). MC-VI subcells A, B, C, D, and E have been filled and have an interim final cover. Since 1997, WDI has had approvals from the EPA to dispose of PCB waste in MC-VI. Since March 30, 1990, WDI has had operating licenses from the MDEQ to dispose of hazardous waste in the landfill.

Below are joint responses, from the EPA and the MDEQ, to comments received during the public comment periods and the public hearing. The comments are organized by the following topics: permitting process and public participation; landfill design and operations; and risk issues. The comments were carefully reviewed by the EPA and the MDEQ, and responses to these comments are provided in this document. The comments did not result in changes to the PCB landfill approval or to the proposed major modification to the hazardous waste landfill operating license. However, in some cases, the comments prompted additional investigations, review, and changes to the MDEQ public participation process, as described below.

PERMITTING PROCESS AND PUBLIC PARTICIPATION

COMMENT 1:

Several commenters expressed concern that the press release, with 24-hours' notice, regarding the public hearing was inadequate notification to the community. Several commenters also expressed concerns that using a standard mailer to notify the affected community resulted in not enough residents around WDI, including those in Ypsilanti Township, being notified.

RESPONSE:

The EPA and the MDEQ followed all state and federal public participation procedures for this decision-making process.

During the week of June 25, 2018, the EPA mailed 80 fact sheets about the public comment period and the public hearing to the facility mailing list which included residents, individuals representing community groups, and state legislators representing the Belleville and Ypsilanti areas. On June 28, 2018, the EPA advertised the public comment period and the public hearing in a local newspaper, the *Belleville-Area Independent*. The notifications included a link to an EPA website from which individuals could download the renewal application and design drawings for review.

During the week of June 11, 2018, the MDEQ mailed the public notice and fact sheets directly to state legislators representing the Belleville area and persons on the facility mailing list. On June 14, 2018, the MDEQ published the public notice that advertised the public comment period and the public hearing on the MDEQ Calendar; in the local newspaper, the *Belleville-Area Independent*; and advertised via radio announcement. The relevant materials were available at the MDEQ Southeast Michigan District Office, MDEQ Constitution Hall, and online.

Both the EPA and the MDEQ made available all published materials, relevant to their respective proposals, at the Van Buren Charter Township Hall.

The press release was an additional mechanism that was used to inform the public about the hearing. The MDEQ agrees that it would have been more effective to issue the press release several days before the hearing date to provide additional planning time for concerned citizens and we are modifying our procedures to address this issue.

COMMENT 2:

One commenter expressed concern over the timing of the public hearing and felt that the EPA and the MDEQ had already made the final decisions by the time the public hearing was held. The commenter suggested having the public hearing at the front end of the application.

RESPONSE:

The public participation process often has a significant impact on draft decision documents and final decisions. A final decision on the approval is not made until after all public comments received throughout the public comment period are reviewed. The EPA and the MDEQ reviewed and considered all comments received during the public participation process prior to making a final decision on the issuance of the proposed renewal and modification of the PCB landfill approval and the major modification of the hazardous waste landfill operating license.

Based on this comment, and others like it, the MDEQ is modifying its public participation process to add an additional public meeting once we have received an administratively complete application. This, where appropriate, is an additional public meeting beyond that required by state or federal law. In future licensing and/or permit modification decisions, this will allow the public additional time to review and understand the proposed action in advance of the statutory-required public hearing.

COMMENT 3:

A commenter stated displeasure at giving comments at the public hearing but not being able to get answers until the end of the public comment period.

RESPONSE:

The first part of the meeting included time for questions and answers before the official public hearing began. After the official hearing, EPA staff and MDEQ staff stayed to speak with meeting attendees, and answer any questions they might have had regarding the proposals. In addition, people had until the end of the public comment period to ask questions and submit additional comments to the EPA and the MDEQ. During the official public hearing part of the meeting, the EPA and MDEQ record the official public comments but do not provide the formal agency response. The formal agency responses to comments received during the public comment period and the public hearing are provided, in writing, in a Response to Comments document (this document) after the end of the public comment period and any necessary modifications are made to the license in response to the comments.

As noted previously, the MDEQ is adding an additional public meeting earlier in the decision-making process.

COMMENT 4:

Two commenters indicated that they had sent comments to the EPA and did not receive responses or acknowledgement that the comments were received.

RESPONSE:

The EPA's policy is to respond to comments on permits and approvals after the public comment period has ended. The EPA did respond to these commenters within a week of the public hearing. The EPA will clarify the process in future notices.

COMMENT 5:

One commenter expressed concern about being able to give technical comments in a room full of experts who could “easily persuade any sort of innocent bystanders.”

RESPONSE:

While these are highly technical engineering and regulatory issues that require expert review, the EPA and MDEQ experts attempted to present technical issues in a way that would be understood by the community at large. A repository consisting of technical documents and the application was established online and at the Van Buren Charter Township Hall to allow residents time to review them. It is the EPA’s and the MDEQ’s responsibility to review the proposals and approve them only if the relevant technical and performance standards are met.

COMMENT 6:

A commenter questioned financial assurance. The commenter was concerned that if WDI should collapse, the taxpayers would end up having to pay for any mess created by the company for accepting toxins.

RESPONSE:

In accordance with the hazardous waste regulations in Title 40 Code of Federal Regulations (CFR) Part 264 Subpart H, WDI is required to maintain financial assurance for closure and post-closure care of its facility. Prior to WDI getting approval to operate its landfill, it submitted a cost estimate for closure and post-closure care. This cost estimate was reviewed for accuracy prior to being approved. WDI was then required to submit documentation demonstrating that it had financial assurance in place for the amounts in the cost estimate, and that these funds are payable to the EPA and the MDEQ. Further, on an annual basis, WDI is required to adjust the amount of the financial assurance for inflation. WDI must also submit proof, to the EPA and the MDEQ, that they are maintaining the financial assurance for closure and post-closure care. WDI does maintain financial assurance, as required, for operation of their landfill.

LANDFILL DESIGN AND OPERATIONS

COMMENT 7:

Commenters expressed their opposition to PCBs coming into the Belleville area and the proposed 2018 PCB Chemical Waste Landfill Approval Renewal and Modification.

RESPONSE:

WDI is currently approved under 40 CFR § 761.75 to operate its landfill to accept PCBs. Geotechnical engineers reviewed the landfill design, and a thorough review was performed of the renewal application. In addition, past operation of the landfill was considered. For the past 20 years, WDI has operated the landfill in accordance with the regulations and approval conditions, including required monitoring. The monitoring data to date indicates that PCBs are being effectively contained and managed in the hazardous waste landfill. Based on its review of the design and application, and past

operation of the landfill, the EPA does not believe that there is sufficient cause to revoke the existing approval or deny the renewal application.

COMMENT 8:

A commenter asked if the 80 mil, high density polyethylene (HDPE) geomembrane would also be on the bottom, sides, and top of the landfill. Further, the commenter wanted to know what was going to be done with the PCBs that are already in the landfill. The commenter wanted to know if a liner would be put on top or how PCBs would be prevented from escaping.

RESPONSE:

The liner system is on the bottom and along the sides of the landfill cell. When the landfill is filled to capacity, it is capped in the following order, from bottom to top: a geosynthetic clay liner; 40-mil textured HDPE geomembrane; 2.5 feet of compacted soil; and finally, 0.5 foot of topsoil which is seeded to provide a vegetative cover. The PCBs that are currently in the landfill are contained by this system. Following the capping of the landfill cell, post-closure care is conducted which includes monitoring the leachate collection systems, removing and testing leachate, surface water monitoring, and groundwater monitoring.

COMMENT 9:

A commenter stated that he was "concerned about the top, how are you going to control that when you have more trucks coming in, and you're loading up that area you had in red."

RESPONSE:

Trucks never drive over the top of a landfill when it has been capped or closed. When a landfill is active (accepting new waste), dedicated off-road trucks will drive to specific spots along pre-arranged routes to dump their loads. Trucks that are used to haul waste within WDI must be decontaminated before leaving the waste management areas.

COMMENT 10:

Commenters expressed concern that the landfill might eventually leak. A commenter asked how long the technology can possibly last and hold the immense volume that will be placed there. Further, a commenter stated that "with the modification of the inferior subflooring of the current landfill, and this dramatic expansion of the new technologically savvy landfill, it doesn't, it was not addressed how long this is likely to hold all of these contaminants before it gets into our water and into the soils."

RESPONSE:

WDI has demonstrated that the geosynthetic clay liner system is superior to the existing, and already approved, compacted clay liner system. Properly maintained and managed, this facility will contain the PCBs and hazardous waste into the foreseeable future. Under state and federal law, WDI will remain responsible for any corrective action that may be necessary.

Regarding the "inferior subflooring," which in this case is existing waste and capping materials, WDI has demonstrated that this would not adversely affect the geosynthetic clay liner that is being placed on top.

COMMENT 11:

Commenters asked if quarterly monitoring was enough. A commenter further stated that increasing monitoring frequency when there is a problem is too late, especially with the types of chemicals coming into the facility, and that the MDEQ needs to monitor much more often.

RESPONSE:

Quarterly detection monitoring of groundwater surrounding the active and closed hazardous waste landfill cells is required by Michigan Administrative Code (MAC) Rule (R) 299.9612, which incorporates the requirements of 40 CFR § 264.98. Quarterly monitoring for the surface water is required per MAC R 299.9611. Quarterly monitoring for both programs has been determined by the MDEQ to be an adequate frequency to detect potential releases and/or housekeeping issues, and to address seasonal and/or other variability issues, and is consistent with monitoring frequency at other hazardous waste landfills.

Other types of monitoring are performed on a more frequent basis including: weekly leachate level checks; monthly analysis of leachate; and air monitoring every 12 days.

COMMENT 12:

A commenter expressed concern with filtering wastewater and then sending it to a "regular" wastewater treatment facility that is not equipped to process PCBs and hazardous waste. Commenters were concerned that the water treatment systems do not remove PCBs, toxic hazardous substances, or radioactive wastes from the water and that these wastes ultimately end up in the drinking water. A commenter further indicated that treating effluent to take PCBs out will likely go into the same landfill.

RESPONSE:

WDI has two wastewater discharge permits, both of which require that no PCB detections are present in the discharged wastewater. Collected leachate and storm water that falls on paved areas is treated in the treatment plant that includes a membrane-bioreactor, metals precipitation, ultrafiltration, and activated carbon. The storm water that falls on unpaved areas is treated by sedimentation, then bag filtration, followed by activated carbon prior to discharge.

Filtration, followed by activated carbon, is very effective at removing PCBs from water. The filtration removes PCBs that adhere to particulates in the water, and activated carbon removes any dissolved PCBs in the water.

Due to the variety of hazardous waste components that are in the leachate, it needs to be run through the membrane-bioreactor, metal precipitation, ultrafiltration, and

activated carbon for the treated water to be within the standards of the discharge permits.

The effluent (treated water) is discharged off-site, via sewer, to the local wastewater treatment plant (South Huron Valley Water Authority) after being treated in accordance with the permits. The used filters and carbon are disposed in the WDI landfill.

COMMENT 13:

A commenter wanted to know the capacity of the wastewater treatment plant at the WDI facility as it relates to the leachate, and stated this should be considered.

RESPONSE:

The ability of WDI's wastewater treatment plant to treat leachate generated by the landfill is verified quarterly when the effluent (treated water) is sampled by the South Huron Valley Water Authority.

RISK ISSUE

COMMENT 14: Several commenters stated that the EPA and the MDEQ should have the primary goal of protecting public health and the environment over bringing business to Michigan.

RESPONSE:

The EPA and the MDEQ's core missions are the protection of human health and the environment. After completing a detailed technical review and requiring WDI to make any necessary changes, the EPA and the MDEQ solicited, collected, and carefully reviewed all comments received during the public participation process prior to making a final decision on the proposed major modification and the Toxic Substance Control Act (TSCA) PCB approval. The EPA and the MDEQ are required by law and regulation to base their decisions on the technical suitability and operation of the facility.

COMMENT 15:

Some commenters wanted to know why Michigan is a repository for toxic waste, including radioactive and fracking waste, and why Michigan is accepting waste from Canada and other states. A commenter further wanted to know who is getting paid for this waste coming into Michigan.

RESPONSE:

Regarding PCBs, there are only 11 landfills in the United States that are permitted to accept PCB waste. Of these 11 landfills, WDI is the only one located in the Midwest. The EPA places no restrictions on which states can send PCB wastes to approved PCB landfills. 40 CFR Part 761 Subpart F regulates transboundary (international) shipments of PCBs for disposal. In general, PCBs and PCB items cannot be imported for disposal unless they are exempted.

The State of Michigan is not able to regulate international or interstate commerce due to the Commerce Clause in the United States Constitution. Therefore, the MDEQ is not able to dictate what waste is transported from Canada or other states to WDI. However, the State of Michigan assesses a fee for the disposal of hazardous waste according to MAC R 324.11108. These fees are used to provide regulatory oversight of hazardous waste management in Michigan.

COMMENT 16:

Commenters questioned the location of the landfill due to nearby local lakes, the Great Lakes, and population center.

RESPONSE:

Since the WDI landfill already existed in its current location before hazardous waste landfills were regulated under the Resource Conservation and Recovery Act enacted in 1976, it was not subject to the same regulations regarding location. Currently, the WDI landfill meets the siting requirements for a PCB landfill as stated in 40 CFR § 761.75.

COMMENT 17:

A commenter stated that there is no safe level of radioactivity, and probably not PCBs, and that none of it should be going into the environment.

RESPONSE:

The EPA and the MDEQ agree that no PCBs should be going into the environment. WDI's hazardous waste landfill is an engineered disposal unit that is designed to keep PCBs, hazardous materials, and low-level radioactive materials from entering the environment. Much of the waste that is disposed of at WDI is generated from the clean up of sites of environmental contamination.

Radiation safety practices in the United States adhere to the principle that doses to workers and the public should be kept "As Low As Reasonably Achievable" (often referred to as the "ALARA Principle"). This concept recognizes that the benefits of using radioactive materials should be balanced with the associated risks. The landfill design and operating procedures are put in place to minimize the potential for exposure to ionizing radiation from waste that is disposed of in the landfill.

COMMENT 18:

One commenter wanted to know why we are continuing to manufacture these types of products.

RESPONSE:

In 1979, the TSCA regulations made it illegal to "manufacture, process, or distribute in commerce or use any polychlorinated biphenyl in any manner other than in a totally enclosed manner." PCBs are no longer manufactured but are still allowed to be used in a totally enclosed manner. In accordance with 40 CFR § 761.20, the following activities are considered totally enclosed: "distribution in commerce of intact, nonleaking electrical equipment such as transformers (including transformers used in railway locomotives

and self-propelled cars), capacitors, electromagnets, voltage regulators, switches (including sectionalizers and motor starters), circuit breakers, reclosers, and cable that contain PCBs at any concentration and processing and distribution in commerce of PCB Equipment containing an intact, nonleaking PCB Capacitor.”

COMMENT 19:

Several commenters expressed concern that hazardous waste trucks are leaking on the roads while traveling to and from WDI.

RESPONSE:

Based on this comment, the MDEQ implemented truck inspections by the MDEQ on-site personnel. During the surprise truck inspections, no truck was found to be leaking any hazardous waste materials. The inspections will be repeated periodically to verify that leaking trucks are not entering or leaving the WDI facility. If leaking trucks are identified, appropriate enforcement action will be taken promptly and WDI and/or the waste hauler will be required to clean up any leaked materials.

If anyone identifies a leaking truck entering or leaving the WDI facility, please contact the Michigan Pollution Emergency Alerting System (PEAS) Hotline at 1-800-292-4706.