



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

SEP 29 1998

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Ms. Lindsay L. Wood
Stinson, Mag & Fizzell
1201 Walnut Street
Kansas City, Missouri 64106-2150

Dear Ms. Wood:

This is in response to your September 3, 1998 letter to Susan Hazen of the Environmental Assistance Division in which you request an interpretation of the PCB Disposal Amendments. Following is our response to your question.

"Does the volume of PCB-Contaminated Electrical Equipment which contain no free-flowing liquid count toward the 500 gallon/70 cubic foot threshold for being a commercial storer of PCB waste?"

No, the volume of drained PCB-Contaminated Electrical Equipment does not count toward the threshold of 500 liquid gallons/70 cubic feet for being a commercial storer of PCB waste.

I hope we have cleared up any uncertainty which you might have had concerning the PCB Disposal Amendments. If you have any other concerns, please call David Hannemann of my staff at (202) 260-3961.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Melone".

John W. Melone, Director
National Program Chemical Division

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September 3, 1998

via FEDERAL EXPRESS

Ms. Susan B. Hazen
Director, Environmental Assistance Division (7408)
Office of Pollution Prevention and Toxics, Rm. 543B
Environmental Protection Agency
401 M Street, SW
Washington, D.C. 20460

Re: Request for Interpretation of PCB Rule

Dear Sir or Madam:

I am in need of a prompt interpretation of the newly effective amendments to the PCB Rule, 40 CFR Part 761. On behalf of a client, I have received conflicting answers to the precise question presented below, which question has an immense impact on operations of my client.

My client is in the business of rebuilding and repairing heavy duty electrical equipment. In addition, my client also accepts, for disposal, PCB-Contaminated Transformers that have been drained of all free-flowing liquid. The client does not have approval from EPA to act as a "commercial storer of PCB waste", as that term is defined in 40 CFR § 761.3. To the extent it stores PCB waste generated by others or PCB waste that was removed while servicing the equipment owned by others and brokered for disposal, the client limits its storage of PCB waste to no more than 500 liquid gallons of PCB liquid and/or non-liquid material containing PCBs at regulated levels. It is our understanding that 500 liquid gallons translates into approximately 70 cubic feet.

Under the recent amendments to the PCB Rule, it is clear that drained PCB Contaminated Transformers are regulated for disposal. Under the amended 40 CFR § 761.60(b)(4)(iii), "the storage for disposal of PCB-Contaminated Equipment containing no free-flowing liquid is not regulated under subpart D of this part."

Ms. Susan B. Hazen
September 3, 1998
Page 2

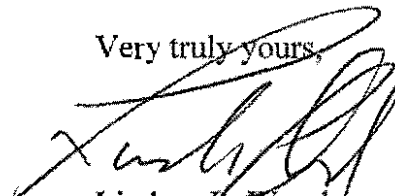
The question that needs to be answered is this: does the volume of PCB-Contaminated Electrical Equipment which contain no free-flowing liquid count toward the 500 gallon/70 cubic foot threshold for being a commercial storer of PCB waste?

Based on my analysis of the PCB rule, the answer would be "no" based on the definition of "commercial storer of PCB waste." A "commercial storer of PCB waste" is defined, in part, as the owner or operator of a facility "that is subject to the PCB storage unit standards of Sec. 761.65(b)(1) or (c)(7) or meets the alternate storage criteria of Sec. 761.65(b)(2)." Pursuant to 40 CFR § 761.60(b)(4)(iii), however, "the storage for disposal of PCB-Contaminated Electrical Equipment containing no free-flowing liquid is not regulated under subpart D of this part." As such, it would appear that PCB-Contaminated Electrical Equipment that contains no free-flowing liquid would not be counted toward the 500 gallon limit, under which the owner or operator need not obtain approval as a commercial storer of PCB waste.

I would appreciate a prompt response to this question. As noted above, I have received conflicting answers to this question. The TSCA hotline operator with whom I spoke agreed with my analysis, while a regional inspector for EPA did not agree. Based on my analysis of the rule, I believe that the drained PCB Contaminated Electrical Equipment does not count toward the 500 gallon threshold for commercial storer status and have so advised my client. It is my client's intention to act accordingly unless and until it receives a contrary interpretation from EPA. Given the extreme consequences to my client, clarification from the national level is required.

If you have any questions or need additional information for any reason, please do not hesitate to give me a call. I thank you in advance for your prompt attention to this pressing matter.

Very truly yours,



Lindsay L. Wood