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

WASTE MANAGEMENT DIVISION
RCRA ENFORCEMENT OFFICE
TSCA COMPLIANCE EVALUATION INSPECTION REPORT

Purpose:	TSCA Compliance Evaluation Inspection
Facility:	Chemical Waste Management, Inc. 35251 Old Skyline Road P.O. Box 471 Kettleman City, CA 93239
EPA ID Number:	CAT 000 646 117
Date of Inspection:	June 2, 2010
EPA Representatives:	Christopher Rollins Enforcement Officer (415) 947-4166 rollins.christopher@epa.gov Jennifer Downey Enforcement Officer (415) 972-3342 downey.jennifer@epa.gov
Facility Representatives:	Bob Henry Senior District Manager (559) 386-6195 Mitchell Hahn Environmental Compliance Specialists III (559) 386-6140 Sam Cerveny District Manager (559) 386-9711 or 6119
Report Prepared By:	Jennifer Downey Christopher Rollins
Report Date:	July 27, 2010

Investigation

On June 2, 2010, the U.S. Environmental Protection Agency ("EPA") conducted a Toxic Substances Control Act ("TSCA") Compliance Evaluation Inspection ("CEI") at the Chemical Waste Management, Inc.("CWM") Kettleman Hills Facility (herein "KHF" or "the Facility"). The inspection was a follow-up to a February 8 – 12, 2010 inspection from which EPA identified potential violations of the TSCA Polychlorinated Biphenyls ("PCB") regulations under 40 Code of Federal Regulations ("40 C.F.R.") part 761, in a March 12, 2010, TSCA Compliance Evaluation Inspection Report [Attachment IV(A)].

EPA inspectors arrived at KHF around 9:00 am. Upon arrival at the Facility, the inspectors announced their visit at the front gate. The security guard granted EPA access and the inspectors proceeded to the main building. The inspectors met with CWM representatives for an EPA inspection in-brief.

During the in-brief, the EPA inspectors presented their credentials. EPA inspector Mr. Christopher Rollins then presented and explained the Notice of Inspection Form [Attachment I(A)] and a TSCA Inspection Confidentiality Notice [Attachment I(B)] to CWM representatives.

Under TSCA, the Notice of Inspection is required to be signed prior to entry and the TSCA Confidentiality Notice outlines CWM's right to claim PCB materials collected during or after the inspection as TSCA Confidential Business Information ("CBI").

Both EPA and CWM signed the Notice of Inspection form. Mr. Sam Cerveny, the District Manager for CWM, signed on behalf of CWM and Mr. Rollins signed on behalf of EPA. EPA provided a copy of the document to CWM for their records [Attachment I(A)].

However, Mr. Cerveny did not sign the TSCA Confidentiality Notice form. According to Mr. Cerveny, CWM did not declare any documents as TSCA CBI so there was no reason to sign the document [Attachment I(B)].

After EPA's in-brief, CWM gave an overview of recent activities, changes in operations regarding the management of PCBs on-site, and remediation efforts in and around the PCB Storage and Flushing Building. The recent operational changes were a result of EPA's April 8, 2010 Notice of Toxic Substances Control Act Violations letter [Attachment IV(B)] outlining alleged PCB violations.

Around 10:03 am, Mr. Cerveny and Mr. Mitch Hahn, the Environmental Compliance Specialists III for CWM, escorted EPA to the PCB Storage and Flushing Building to inspect the area. Mr. Rollins lead the PCB inspection and collected samples while Ms. Jennifer Downey took photographs and assisted. Ms. Downey also recorded the photos in EPA's TSCA Photograph Log for CWM [Attachment V(A)] and collected GPS coordinates [Attachment V(B)].

Background

CWM is a privately owned company and a subsidiary of Waste Management, located in Houston, TX. Employing approximately 80 people, the Facility operates a hazardous waste

treatment, storage and disposal facility, a PCB chemical waste landfill and a PCB commercial storage facility. Waste management activities at the Facility are regulated under the Resource Conservation and Recovery Act ("RCRA") and TSCA.

Companies that generate, dispose of or manage PCB items, PCB-contaminated equipment, or other PCB waste are required to report to EPA their PCB-related activities under a variety of reporting and recordkeeping requirements including the Notification of PCB Activity Form. The Facility first submitted its Notification of PCB Activity Form on February 22, 1990. Currently, CWM is authorized to dispose of PCBs in unit B-18. Previously, the Facility had EPA approval to accept and dispose of PCB waste in landfill units B-14, B-16, B-18, and B-19. The Facility's PCB Approval for B-18 was granted in 1992 and expired on May 19, 1997. Although CWM's TSCA Approval has expired, CWM timely submitted a renewal application and is allowed to operate under their current TSCA Approval until EPA takes final action on their renewal application.

Today, the Facility's PCB operations consist of an active PCB chemical waste landfill, a PCB Storage and Flushing Building and an on-site Laboratory. All PCB wastes ($\geq$ 50 ppm) are stored and or drained in or adjacent to the PCB Storage and Flushing Building which is located on the northwest side of the facility.

On February 8 – 12, 2010, EPA conducted a RCRA and TSCA compliance investigation at the Facility. As part of the investigation, EPA collected soil and surface wipe samples for PCBs in and around the PCB Storage and Flushing Building. On April 8, 2010, EPA issued a TSCA Notice of Violation letter which identified five areas of noncompliance and set a schedule for CWM to demonstrate current compliance with the TSCA PCB requirements [Attachment IV(B)].

On May 10, 2010, CWM submitted a response to EPA's Notice of Violation letter [Attachment IV(C)]. The response included a certification of correction with respect to the violations and areas of concern noted in the inspection report. Remediation activities included (i) cleaning and re-sealing the surfaces within the PCB Flushing and Storage Building, (ii) taking additional wipe samples to confirm that surfaces were decontaminated to meet the regulatory standards, and (iii) excavating and disposing of soils from areas where EPA detected PCB concentrations above 1 ppm (part per million). CWM undertook further characterization of the soils around the PCB Storage and Flushing Building to determine whether any PCB contamination had migrated beyond the areas identified by EPA. Where CWM sampling detected PCBs above 1 ppm, the Facility excavated in the PCB containing areas to a depth of 4 ½ feet. Post excavation, CWM also collected verification samples in the excavated areas. If verification sample results detected PCBs above 1 ppm, CWM excavated further down to a depth of 6 feet and retested for the presence of PCBs.

Site Inspection

On June 2, 2010, EPA conducted a walkthrough of CWM's PCB Storage and Flushing Building. The building is used to store liquids, containers and electrical equipment contaminated with TSCA regulated PCBs ($\geq$ 50 ppm). It is also used for the draining and flushing of PCB electrical equipment. During the walkthrough, CWM representatives pointed out modifications

that had been made since the previous TSCA inspection [Attachment IV(C) and Photographs P6010008 – P6010012].

Specifically, CWM pointed out that the previous epoxy floor had been sandblasted, cleaned and recoated, and the facility also recoated the 10,082 gallon PCB tank with a new epoxy material. In addition, CWM placed new gravel under the PCB tank, purchased new cabinets for storing flammable liquids, rebuilt the pump used to drain equipment, purchased new hoses for the pump, disposed of the old metal equipment drain pans, and purchased additional wooden pallets for storage. According to CWM, the Facility now stores PCB equipment received, on two pallets in order to minimize PCB contamination to the floor.

CWM also pointed out that the Facility detected PCBs on the concrete slab on the northeast side of the building. This is the same area where PCBs at 15 and 22 ppm were detected in the soil during EPA's February 2010 inspection. In response to the PCBs detected in soil, the facility cut a portion of the contaminated concrete slab back one foot, removed any contaminated soil present and back filled the area with clean soil. CWM disposed of the TSCA regulated waste in the facility's Landfill B-18.

After walking in and around the PCB Storage and Flushing Building, EPA identified areas from which to collect soil and wipe samples to evaluate whether CWM's recent remediation activities brought the PCB contamination levels below 1 ppm or 10 $\mu g/100\ cm^2$, as applicable.

EPA collected a total of ten soil samples (nine samples plus one duplicate sample) on-site [Attachment II(C)]. Splits of the nine soil samples were requested and given to the Facility for their own analysis [Photographs P6010013 – P6020022].

EPA and CWM Facility representatives reconvened in the afternoon to collect PCB wipe samples. A total of twelve PCB wipe samples were collected on-site during the inspection (eleven wipes plus one field blank). Six of the wipe samples were collected inside the PCB Storage and Flushing Building and six wipe samples were collected outside the PCB Storage and Flushing Building [Attachment II(E)]. Due to the type of samples collected, no split samples were provided to the facility. However, CWM did collect PCB wipe samples adjacent to EPA's wipe sample locations [Photographs P6020023 – P6020035], and agreed to provide the analytical results and pictures to EPA [Attachment III(C) and III(D)] once completed.

Closing Conference

EPA held a closing conference with CWM representatives. During the closing conference, EPA inspectors briefed CWM on the expected timing of the PCB sample results. The inspectors also informed the Facility that additional violations may be identified based on the results of the PCB sampling and further review of TSCA related information and records.

One Receipt for Samples and Document form [Attachment I(C)] was presented and signed by both EPA and CWM. Mr. Bob Henry, the Senior District Manager, signed the form on behalf of CWM. A list of documents EPA requested during the inspection and all wipe and soil samples EPA collected were recorded on the document. A copy of the form was given to the facility representative. EPA concluded its inspection visit around 4:00 pm.

Records Review

During the inspection, EPA inspectors requested that CWM provide EPA with a copy of three PCB Spill/Release Reports and all related documents from recent spill/release incidents reported on CWM's Monthly TSCA Monitoring Report dated May 12, 2010 [see Attachment IV(D)]. The inspectors also requested survey results for the PCB Storage and Flushing Building and analytical results from CWM's PCB soil and wipe samples. CWM hand delivered some of the requested documents and records on June 8, 2010. The facility submitted additional documents on July 12, 2010 via e-mail.

PCB Sampling Results

PCB Soil Samples

During EPA's inspection, a total of ten PCB soil samples were collected around the exterior of the PCB Storage and Flushing Building [Attachments II(C and D) and III(A)]. Based on the analytical data, PCBs were detected above 1 ppm outside the PCB Storage and Flushing Building. Specifically, EPA documented PCBs in soil at 1.9 ppm (CWMS-3) on the east side of the building near an excavation site and the area where asphalt was cut and removed. EPA also documented PCBs in soil at 1.6 ppm (CWMS-4) at another area on the east side of the building and at 3.4 ppm (CWMS-5) on the north side of the building (Table 1 and Attachment III(A)].

Table 1: CWM PCB Soil Sample Results (In ppm)

Sample Numbers	Aroclor 1016	Aroclor 1221	Aroclor 1232	Aroclor 1242	Aroclor 1248	Aroclor 1254	Aroclor 1260	Aroclor 1262
CWMS -1	ND	ND	ND	ND	ND	ND	0.32	ND
CWMS -2	ND	ND	ND	ND	ND	ND	0.37	ND
CWMS -3	ND	ND	ND	ND	ND	ND	**1.9**	ND
CWMS -4	ND	ND	ND	ND	ND	ND	**1.6**	ND
CWMS -5	ND	ND	ND	ND	ND	ND	**3.4**	ND
CWMS -6	ND	ND	ND	ND	ND	ND	0.028	ND
CWMS-7	ND	ND	ND	ND	ND	ND	0.11	ND
CWMS-8	ND	ND	ND	ND	ND	ND	0.032	ND
CWMS-9	ND	ND	ND	ND	ND	ND	ND	ND
CWMS-10	ND	ND	ND	ND	ND	ND	0.096	ND

* PCBs < 1 ppm are not regulated under TSCA

PCB Wipe Samples

During EPA's inspection, a total of twelve PCB wipe samples were collected on-site [Attachments II(E) and III(B)]. Six of the wipe samples were collected inside the PCB Storage and Flushing Building and six wipes samples were collected outside the PCB Storage and Flushing Building.

EPA collected wipe samples near CWM's 10,082-gallon PCB tank drain valve caps, closed-system sump, ramp and at other locations on-site [Photographs P6020023 – P6020035]. EPA documented PCBs exceeding 50 ppm (equivalent to 10 $\mu g/100\ cm^2$), the TSCA regulatory threshold for continued use of structures contaminated with PCBs (See Table 2 Below).

Specifically, EPA documented PCBs at 11 μg/100 cm^2 (CWMW-1) below the first drain valve cap for the facility's 10,082-gallon PCB tank. EPA also documented PCBs at 24 μg/100 cm^2 (CWMW-7) on the concrete slab just outside the PCB Storage and Flushing Building between the stacked wooden pallets and the east side wall of the building (Table 2 and Attachment III(B)]. The Facility's analytical data shows that PCBs at 20 μg/100 cm^2 were present on the concrete slab.

In addition, PCBs were detected at low levels at various locations on the surface floor inside the building.

Table 2: CWM PCB Wipe Sample Results (In μg/100 cm^2)

Sample Numbers	Aroclor 1016	Aroclor 1221	Aroclor 1232	Aroclor 1242	Aroclor 1248	Aroclor 1254	Aroclor 1260	Aroclor 1262
CWMW-1	ND	ND	ND	ND	ND	ND	**11**	ND
CWMW -2	ND	ND	ND	ND	ND	ND	3.2	ND
CWMW -3	ND	ND	ND	ND	ND	ND	1.2	ND
CWMW -4	ND	ND	ND	ND	ND	ND	1.0	ND
CWMW -5	ND	ND	ND	ND	ND	ND	2.5	ND
CWMW -6	ND	ND	ND	ND	ND	ND	1.3	ND
CWMW -7	ND	ND	ND	ND	ND	ND	**24**	ND
CWMW -8	ND	ND	ND	ND	ND	ND	ND	ND
CWMW -9	ND	ND	ND	ND	ND	ND	0.9	ND
CWMW -10	ND	ND	ND	ND	ND	ND	0.6	ND
CWMW -11	ND	ND	ND	ND	ND	ND	0.6	ND
CWMW -12	ND	ND	ND	ND	ND	ND	0.6	ND

* PCBs in use $\geq$ 10 μg/100 cm^2 violate TSCA's PCB use provisions.

Additional Samples

On June 22, 2010, CWM received a final analytical report regarding soil samples collected beneath the Facility's PCB contaminated concrete pad [Attachment III(D)]. CWM collected the additional soil samples, after EPA recommended that the facility determine the extent of contamination under the pad.

According to CWM's analytical data, CWM detected PCBs at 440, 74 and 64 ppm [Attachment III(D)] in the soil beneath the pad. All three samples exceed the threshold for TSCA regulated waste ($\geq$ 50 ppm).

Potential Violations of the TSCA PCB Requirements

1. Continued Use Violation [40 C.F.R. § 761.30(u)(1)].

Requirements:

TSCA requirement 40 C.F.R. § 761.30(u)(1), states that any person may use equipment, structures, other non-liquid or liquid materials that were contaminated with PCBs during manufacture, use, servicing, or because of spills from, or proximity to, PCBs ≥ 50 ppm, including those not otherwise authorized for use under this part provided:

i) The materials were decontaminated in accordance with:
   A) A TSCA PCB disposal approval issued under subpart D of this part;
   B) Section §761.79; or
   C) Applicable EPA PCB spill cleanup policies (e.g., TSCA, RCRA, CERCLA, EPA regional) in effect at the time of the decontamination; or

ii) If not previously decontaminated, the materials now meet an applicable decontamination standard in §761.79(b).

Findings:

EPA documented the release of PCBs below the drain valve cap of CWM's 10,082-gallon PCB tank. Analytical results for the PCB wipe sample collected directly below the drain valve cap show PCBs on-site in excess of the 10 μg/100 cm^2 threshold (equivalent to 50 ppm).

In addition, EPA also detected PCBs above the TSCA regulated threshold outside on CWM's concrete pad. On the day of EPA's June 2, 2010 inspection, PCB surface wipes were collected outside on the concrete pad adjacent to the PCB Storage and Flushing Building. Analytical results for one surface wipe sample detected PCBs at 24 μg/100 cm^2 (CWMW-7). This PCB concentration is above the TSCA regulated threshold (10 μg/100 cm^2) and operations in this area violates TSCA's continued use requirements for structures contaminated with PCBs.

Generally, compliance requires proper decontamination or disposal. Around mid June, CWM removed a section of the concrete pad identified above and disposed of the PCB contaminated pad in Landfill B18. The Facility notified EPA of this activity in July of 2010 and submitted copies of the analytical data. In order to return to compliance with TSCA regarding the inside of the building, CWM also needs to properly decontaminate the area below the drain valve cap of the PCB tank inside the PCB Storage and Flushing Building.

2. Improper Disposal of PCBs [40 C.F.R. §§ 761.50(a)(4), 761.50(b)(1) and 761.60(a)].

Requirements:

TSCA requirement 40 C.F.R. § 761.50(b)(1), states that any person removing PCB liquids from use (i.e., not PCB remediation waste) must dispose of them in accordance with § 761.60(a), or decontaminate them in accordance with § 761.79. 40 C.F.R. § 761.50(a)(4) states that spills of PCBs at concentrations of 50 ppm or above constitute disposal of PCBs.

Findings:

CWM improperly disposed of liquid PCBs when it released PCBs into the environment.

On June 2, 2010, EPA collected surface wipe samples outside on the concrete pad adjacent to CWM's PCB Storage and Flushing Building. Analytical results for one surface wipe sample detected PCBs at 24 $\mu g/100\ cm^2$. This PCB concentration is above the TSCA regulated threshold (10 $\mu g/100\ cm^2$). The detection of PCBs above the TSCA regulated level from one surface wipe (CWMW-7), led to the discovery of PCB contamination in the soil directly below the contaminated pad. According to CWM's analytical reports, PCBs at 64, 74 and 440 ppm were detected in the soil. Releases of PCBs above 10 $\mu g/100\ cm^2$ and 50 ppm are improper disposal of PCBs in violation of TSCA's disposal requirements.

In order to return to compliance with TSCA, CWM needs to further characterize the extent of contamination outside the PCB Storage and Flushing Building and develop and implement a plan to remediate the remaining PCBs in accordance with TSCA.