

APR 29 2020

DSHW-2020-007043

April 29, 2020

CD20-0077

Mr. Ty Howard
Director
Division of Waste Management and Radiation Control
195 North 1950 West
Salt Lake City, UT 84114-4880

Subject: EPA ID Number UTD982598898
Request for a Site-Specific Treatment Variance for Mixed Waste
Requiring Treatment with a PCB Underlying Hazardous Constituent

Dear Mr. Howard:

EnergySolutions herein requests an exemption from Utah Administrative Code (UAC) R315-268-40(a)(3) for waste that has been treated for hazardous waste characteristic codes, but still contains Polychlorinated Biphenyls (PCBs) above the Universal Treatment Standard (UTS) described in R315-268-48. This request is submitted in accordance with the requirements of UAC R315-260-19.

The regulatory requirement authorizing this request is found in UAC R315-268-44 which allows a site-specific variance from an applicable treatment standard provided that the following condition is met:

UAC R315-268-44(h)(2) It is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though such treatment is technically possible.

EnergySolutions requests approval to dispose of waste that has been chemically treated to meet regulatory treatment standards for all contaminants except PCBs. This request is for approximately 1,000 cubic feet from EnergySolutions generator 9105, waste streams 9105-08 and 9105-09. The waste consists of non-liquid characteristically hazardous soils and sludges that are also contaminated with PCB remediation waste at concentrations exceeding the UTS for PCBs.

Treatment standards in R315-268-40 (40 CFR 268.40, 2015 Edition, incorporated by reference) require waste containing characteristic codes be treated to applicable UTS for their specific constituents and for all Underlying Hazardous Constituents (UHCs) listed in R315-268-48. The UTS for the PCBs UHC is 10 mg/kg. Therefore, these regulations require PCBs within waste that is characteristically hazardous be treated to less than 10 mg/kg prior to disposal.

Further, the Environmental Protection Agency (EPA) has clarified the disposal of PCB remediation waste in the Toxic Substance Control Act (TSCA) regulations at 40 CFR 761. Disposal criteria for PCB remediation waste is specifically described in 40 CFR 761.61(a)(5)(i)(B)(2)(iii) as follows:



Mr. Ty Howard
April 29, 2020
CD20-0077
Page 2 of 2

“Bulk PCB remediation wastes with a PCB concentration ≥ 50 ppm shall be disposed of in a hazardous waste landfill permitted by EPA under section 3004 of RCRA, or by a State authorized under section 3006 of RCRA, or a PCB disposal facility approved under this part.”

The Mixed Waste Landfill Cell is a regulated hazardous waste landfill permitted by the State of Utah. Consequently, if the PCB remediation waste did not previously contain RCRA characteristic hazardous waste codes, but contained the same PCB concentrations, it could be disposed directly in the MWLC without treatment. The two regulations are contradictory and EPA has given authority over PCBs to the TSCA regulations. Therefore, treatment of the PCBs within this waste stream under the hazardous waste regulations is technically inappropriate and not required for final disposal of the waste.


EnergySolutions requests that a variance be granted to allow the land disposal of waste streams 9105-08 and 9105-09 that will meet all treatment standards except the treatment standard for PCBs.

The name, phone number, and address of the person who should be contacted to notify EnergySolutions of decisions by the Director is

Mr. Vern Rogers
Director of Regulatory Affairs
EnergySolutions LLC
299 South Main Street, Suite 1700
Salt Lake City, UT 84111
(801) 649-2000

Should there be any questions to this request, please contact me at (801) 649-2144.

Sincerely,

 Tim Orton
Apr 29 2020 3:52 PM
cosign

Timothy L. Orton, P.E.
Environmental Engineer

cc: Otis Willoughby, DWMRC
Rusty Lundberg, DWMRC
Jaylynn Knudsen, DWMRC

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.