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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPPTS-66009E; FRL-6072-4]
RIN 2070-AC01

Technical and Procedural Amendments to TSCA **Regulations**--Disposal
of Polychlorinated Biphenyls (**PCBs**)

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule; technical and procedural amendments.

SUMMARY: The Environmental Protection Agency published in the Federal Register of June 29, 1998 a document amending the **regulations** affecting disposal of polychlorinated biphenyls (**PCBs**). EPA has identified several technical errors in that document. This rule corrects those errors. In addition, this rule establishes procedures for requesting an approval for risk-based sampling, cleanup, storage, or disposal of PCB remediation waste, and for risk-based decontamination or sampling of decontaminated material, where those activities occur in more than one EPA Region.

DATES: This rule is effective June 24, 1999. In accordance with 40 CFR 23.5, this rule is promulgated for purposes of judicial review at 1 p.m. eastern standard time on July 8, 1999.

FOR FURTHER INFORMATION CONTACT: Christine Augustiniak, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E-543B, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, (202) 554-1404, TDD (202) 544-0551, e-mail: TSCA-Hotline@epa.gov.

For technical information contact: Julie Simpson, Attorney Advisor, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington DC 20460; telephone number: 202-260-7873; fax number: 202-260-1724; e-mail address: simpson.julie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Important Information

A. Does this Notice Apply to You?

You may be affected by this notice if you manufacture, process, distribute in commerce, use, or dispose of **PCBs** or materials containing **PCBs**. Regulated categories and entities may include, but are not limited to:

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Examples of Regulated



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Category	Entities
Industry.....	Chemical manufacturers Electro-industry manufacturers End-users of electricity PCB waste handlers (such as storage facilities, landfills, and incinerators) Waste transporters General contractors
Utilities and rural electric cooperatives.	Electric power and light companies
Individuals, Federal, State, and municipal governments.	Individuals or agencies which own, manufacture, process, distribute in commerce, use, or dispose of PCBs

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether you or your business is regulated by this action, you should carefully examine the applicability criteria in 40 CFR Part 761. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ``FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information or Copies of Support Documents?

1. Electronically. You may obtain electronic copies of this document and various support documents from the EPA Home page at the Federal Register - Environmental Documents entry for this document under ``Laws and **Regulations**'' (<http://www.epa.gov/fedrgstr/>).

2. In person. The official record for this notice, as well as the public version, has been established under docket control number [OPPTS-66009], (including any comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in Rm. G-099, Waterside Mall, 401 M St., SW., Washington, DC.

C. How and to Whom Do I Submit Comments?

This rule promulgates technical and procedural amendments to the PCB Disposal Amendments. EPA is not soliciting comments.

II. Authority

This action is issued under the authority of sections 6(e)(1) and 6(e)(2)(B) of TSCA. Section 6(e)(1)(A) gives EPA the authority to promulgate rules regarding the disposal of **PCBs** (15 U.S.C. 2605(e)(1)(A)). TSCA section 6(e)(1)(B) provides broad authority for EPA to promulgate rules that would require **PCBs** to be marked with clear and adequate warnings (15 U.S.C. 2605(e)(1)(B)). TSCA section 6(e)(2)(B) gives EPA the authority to authorize the use of **PCBs** in other than a totally enclosed manner based on a finding of no unreasonable risk of injury to health or the environment (15 U.S.C. 2605(e)(2)(B)).

III. Background

The PCB Disposal Amendments published on June 29, 1998 (63 FR 35384) (FRL-5726-1), promulgated significant amendments to 40 CFR part 761 affecting the use, manufacture, processing, distribution in commerce, and disposal of **PCBs**. Among other things, the Disposal Amendments authorized additional uses of **PCBs**, provided new alternatives for the cleanup and disposal of **PCBs**, established standards and procedures for decontaminating materials contaminated with **PCBs**, and created a mechanism for recognizing, under TSCA, other Federal or State waste management permits or approvals for **PCBs**.

A number of technical errors occurred in publishing the Disposal Amendments. These errors included typographical errors resulting in incorrect characters, numbers, and units of measurement; incorrect cross-references to the codified text; editing errors resulting in differences between the preamble provisions and the codified text of the rule; and errors in transcribing the final version of the rule for publication. This rule corrects those errors.

This rule also corrects several instances of incorrect use of the term ``industrial furnace''. The **proposed** Disposal Amendments, 59 FR 62788 (December 6, 1994), included provisions for disposal of certain types of PCB waste in combustion facilities, termed ``industrial furnaces'', that complied with specified operating parameters and conditions. (See 59 FR 62803.) Commenters expressed confusion over EPA's use of the term ``industrial furnace'', since the **proposed** operating conditions and parameters were not identical to those applicable to an ``industrial furnace'' as defined in the **regulations** at 40 CFR 260.10 that implement the Resource Conservation and Recovery Act (40 U.S.C. 6901 et seq.). In Sec. 761.72 of the final rule, EPA changed the term ``industrial furnace'' to ``scrap metal recovery oven'' or ``smelter''. (See 63 FR 35402.) Both the preamble and the codified text, however, incorrectly retain several references to the term ``industrial furnace''.

In addition, this rule establishes a procedure for requesting an approval for risk-based sampling, cleanup, storage, or disposal of PCB remediation waste under Sec. 761.61(c), and for risk-based decontamination or sampling of decontaminated material under Sec. 761.79(h), where those activities occur in more than one EPA Region. Those sections of the Disposal Amendments now require a person wishing to engage in those activities to apply for and receive an approval from the EPA Regional Administrator. This rule amends those sections to provide that requests for approval of these activities should be submitted to the EPA Regional Administrator for activity occurring in a single EPA Region, and to the Director, National Program Chemicals Division, for activities occurring in more than one EPA Region.

Under section 553(b) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b), the requirements to publish a notice of **proposed** rulemaking and to offer an opportunity for public comment do not apply to rules of agency organization, procedure, or practice, or to rules as to which the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. EPA finds that the technical **corrections** and amendments included in this rule are minor, routine clarifications that will not have a significant effect on industry or the public, and that prior notice and opportunity for public comment are therefore unnecessary. Similarly, EPA is promulgating the procedural changes in this rule without notice or opportunity for public comment as provided for in section 553(b) of the APA.

A. Technical **Corrections** to the Preamble

Below are listed errors in the preamble to the Disposal Amendments, with reference to the page and column of the Federal Register in which they occurred, and the correct text.

1. On page 35388, a word was inadvertently omitted. In the fourth sentence of the first full paragraph of the first column, the phrase ``and a non-aqueous phase containing 60 ppm''

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should read, ``and a non-aqueous liquid phase containing 60 ppm''.

2. Page 35390 contains an incorrect character. In the first sentence of the third full paragraph of the second column, the phrase, ``for non-porous surfaces in contact with liquid PCBs destined for smelting, <ls-thn-eq> 100 <greek-m>g PCBs/100 cm²''', should read, ``for non-porous surfaces in contact with liquid PCBs destined for smelting, <100 <greek-m>g PCBs/100 cm²''.

3. Page 35390 refers to different units of measurement than are used in the corresponding regulatory text at Sec. 761.79(b)(2). In the first partial paragraph of the third column, the phrase, ``for organic and non-aqueous inorganic liquids, <ls-thn-eq> 2 mg PCBs/L''', should read, ``for organic and non-aqueous inorganic liquids, <ls-thn-eq> 2 mg PCBs/kg''; the phrase, ``The codified text uses ppm or milligrams per liter (mg/L) for concentration measurements of non-aqueous liquids''', should read, ``The codified text uses ppm or milligrams per kilogram (mg/kg) for concentration measurements of non-aqueous liquids''.

4. Page 35390 contains an incorrect citation. In the fifth sentence of the first full paragraph of the third column, ``Sec. 761.79(g)(2)'' should read ``Sec. 761.79(g)(3)''.

5. EPA has been informed of a new address for the American Society for Testing and Materials. On page 35391, in the second sentence of the third full paragraph of the third column, ``Philadelphia, PA'' should read ``West Conshohocken, PA''.

6. Page 35392 contains an incorrect citation. In the last paragraph of the first column, ``40 CFR 261.10'' should read ``40 CFR 260.10''.

7. Page 35392 contains an incorrect reference to industrial furnaces. In the last paragraph of the first column, ``industrial furnace'' should read ``scrap metal recovery oven or smelter''.

8. Page 35396 contains an incorrect citation. In the last sentence of the second full paragraph of the first column, ``Sec. 761.30(t)'' should read ``Sec. 761.30(s)''.

9. Page 35396 contains an editing error. The last sentence of the first full paragraph of the second column incorrectly states that the definition of ``natural gas pipeline system'' in Sec. 761.3 excludes end users. This sentence should read, ``As noted above, because end users are not sellers or distributors of natural gas, they are not subject to the requirements of Sec. 761.30(i).''

10. Page 35403 contains incorrect references to industrial furnaces. In the third sentence of the first partial paragraph of the first column, and in the first sentence of the first full paragraph of the second column, ``an industrial furnace'' should read ``a scrap metal recovery oven or smelter''.

11. Page 35404 contains an editing error. The sixth sentence of the second full paragraph of the third column should read, ``Collect condensate within 72 hours of the final transmission of natural gas through the part of the system to be abandoned or removed. Collect wipe samples after the last transmission of gas through the pipe or during removal from the location it was used to transport natural gas.''

12. Page 35405 contains an incorrect reference to industrial furnaces. In the second sentence of the fourth full paragraph of the first column, ``an industrial furnace'' should read ``a smelter''.

13. Page 35405 contains an incorrect citation. In the last sentence of the last partial paragraph of the second column, ``Sec. 761.60(b)(6)(iv)'' should read ``Sec. 761.60(b)(8)''.

14. Page 35409 contains an editing error. In the first sentence of the first full paragraph in the first column, delete the word ``in-situ''.

15. Page 35409 contains an incorrect citation. In the second paragraph of the second column, `` (see Sec. 761.61(a)(5)(i)(B)(3)(iv) of the regulatory text)'' should read ``(see Sec. 761.61(a)(5)(i)(B)(2)(iv) of the regulatory text)''.

16. On page 35409, a citation was inadvertently omitted. In the second paragraph of the second column, the last sentence should read, ``In addition, the subpart J recordkeeping requirements and the subpart K notification and manifesting requirements do not apply to off-site disposal of PCB remediation waste at < 50 ppm.''

17. Page 35410 contains an incorrect citation. In the fourth sentence of the third full paragraph of the third column, ``Sec. 761.65(c)(10)'' should read ``Sec. 761.65(c)(9)''.

18. Page 35411 contains an incorrect citation. In the last partial paragraph of the first column, ``(see Sec. 761.62(b)(1)(iii))'' should read ``(see Sec. 761.62(b)(1)(ii))''.

19. On page 35411 a citation was inadvertently omitted. The second full paragraph of the third column should read, ``Also, part 761, subparts C, J and K, do not apply to PCB bulk product waste disposed of under Sec. 761.62(b).''

20. Page 35412 contains incorrect references. In the second and third full paragraphs of the first column, ``subpart O'' should read ``subpart R''.

21. On page 35413, a spelling error occurs. In the second sentence of the second full paragraph of the first column, ``(e.g., chopping, stripping insulation, and scrapping)'' should read ``(e.g., chopping, stripping insulation, and scraping)''.

22. As a technical clarification, on page 35413, after the third sentence in the first full paragraph of the third column, add, ``EPA also changed the term `industrial furnaces', used in the **proposed** rule, to `scrap metal recovery ovens and smelters'.''

23. On page 35414, the preamble makes a statement that is inconsistent with the corresponding regulatory text. In the last partial paragraph of the second column, the last three sentences should be replaced with the following: ``Since RCRA interim status facilities have financial assurance and are subject to corrective action, Sec. 761.65(b)(2) allows alternate storage of **PCBs** at these facilities as long as the containment requirements of 40 CFR 264.175 are met and spills of **PCBs** are cleaned up in accordance with the PCB Spill Cleanup Policy.''

24. Page 35418 contains an incorrect number. In the second sentence of the second full paragraph of the second column, the phrase ``concentrations 500 ppm'' should read concentrations 50 ppm''.

25. Page 35418 contains incorrect references to industrial furnaces. In the second sentence of the second full paragraph of the second column, and in the fifth sentence of the second full paragraph of the second column, ``an industrial furnace'' should read ``a smelter''.

26. Page 35420 contains an editing error. The last sentence of the second full paragraph of the third column should read, ``Today's rule implements the Sierra Club decision by amending Sec. 761.93 to prohibit import of any **PCBs** or PCB Items.''

B. Technical Amendments to the Codified Text

This rule also amends specified provisions of the codified text of the Disposal Amendments. Most of these amendments correct typographical errors and errors in citations, change incorrect references to industrial furnaces, and effect minor punctuation changes that make the rule easier to read. Changes that are not self-explanatory are described in this section.

This rule removes the definition of ``emergency situation'' from Sec. 761.3. This definition supported portions of Sec. 761.30(a)(1)(iii), which authorized, until 1990, the otherwise-prohibited installation of a PCB Transformer in or near a commercial

building in an ``emergency situation''. The Disposal Amendments removed the portions of

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Sec. 761.30(a)(1)(iii) that authorized these emergency installations because they expired in 1990. However, the agency neglected to remove the supporting definition of ``emergency situation''.

This rule removes and reserves Sec. 761.30(j)(3). That section prescribes manifesting requirements for certain research and disposal wastes. Those requirements conflict with the generally-applicable requirements for manifesting and disposing of research and development waste at Sec. Sec. 761.65(i) and 761.64(b)(2).

EPA included Sec. 761.50(b)(3) in the Disposal Amendments to clarify the status of PCB waste that was placed in a land disposal facility, spilled, or otherwise released into the environment prior to the effective date of the **regulations** implementing TSCA section 6(e). The Disposal Amendments state that sites containing PCB waste at concentrations <gr-thn-eq> 50 ppm that was placed in a land disposal facility, spilled, or otherwise released into the environment prior to April 18, 1978 (the effective date of the first PCB disposal rules), are presumed not to present an unreasonable risk of injury to health or the environment from exposure to **PCBs** at the site. This rule extends the presumption to include PCB waste at as-found concentrations <gr-thn-eq> 50 ppm that was placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was <gr-thn-eq> 50 ppm but < 500 ppm. Between these two dates, disposal of **PCBs** was regulated, but only if the **PCBs** were at concentrations <gr-thn-eq> 500 ppm.

This rule removes and reserves Sec. 761.60(a)(3)(i) because the regulatory provisions it cites in 40 CFR part 268, specifying requirements for disposal of PCB liquids under RCRA, have been removed (see 62 FR 26022, May 12, 1997 (FRL-5816-5), and 63 FR 28556, see page 28622, May 26, 1998) (FRL-6010-5).

This rule removes the cross-reference in Sec. 761.60(b)(1)(i)(B) to Sec. 761.60(a)(1). At the time of the **proposed** rule, Sec. 761.60(a)(1) required disposal of certain PCB liquids in an incinerator. The final rule revised Sec. 761.60, changing the content of paragraph (a)(1), but did not include the necessary conforming change to Sec. 761.60(b)(1)(i)(B). This rule corrects that error by replacing the reference to paragraph (a)(1) in Sec. 761.60(b)(1)(i)(B) with a specific reference to incineration.

Section 761.60(b)(4), pertaining to PCB-Contaminated Electrical Equipment, and Sec. 761.60(b)(6)(ii), pertaining to PCB-Contaminated Articles, specify slightly different disposal requirements for what are essentially the same materials. This rule amends Sec. 761.60(b)(4) by providing that, with the exception of PCB-Contaminated Large Capacitors, PCB-Contaminated Electrical Equipment must be disposed of in the same manner as a PCB-Contaminated Article under Sec. 761.60(b)(6)(ii). The requirements for this equipment have been consolidated at Sec. 761.60(b)(6)(ii).

Section 761.60(b)(6)(ii), as amended by this rule, includes a provision to exclude this equipment from the manifesting requirements of subpart K. This provision was inadvertently omitted from the final rule. Prior to promulgation of the Disposal Amendments, PCB-Contaminated Electrical Equipment was not regulated for disposal and thus was not subject to manifesting. While the Disposal Amendments imposed certain requirements on disposal of this equipment, it was EPA's intent that the manifesting requirements not apply. This intent was stated at the public meeting on the **proposed** rule held June 6-7, 1995. (See transcript, Informal Public Hearing, Disposal of Polychlorinated Biphenyls, Part One, June 6, 1995, p. 219.) In addition, this intent is reflected in the Response to Comments Document

on the **proposed** rule, which states that the manifesting requirement for drained PCB-Contaminated Electrical Equipment was deleted from the final rule. (See Response to Comments Document on the **Proposed** Rule -- Disposal of Polychlorinated Biphenyls, OPPTS Docket #66009A, May 1998, p. 58). Section 761.60(b)(6)(ii)(C) corrects the inadvertent omission of the manifesting exclusion.

C. Procedural Amendments

As noted above, this rule contains procedural amendments to Sec. 761.61(c) and Sec. 761.79(h) to allow the Director of the National Program Chemicals Division to issue risk-based approvals for activities occurring in more than one EPA Region. Those sections of the Disposal Amendments now require a person wishing to sample, clean up, store, or dispose of PCB remediation waste, or to decontaminate PCBs or sample decontaminated material, in a manner not specifically provided for in the Disposal Amendments, to apply for a risk-based approval from the EPA Regional Administrator. This rule amends those sections to provide that requests for approval of these activities should be submitted to the EPA Regional Administrator for activities occurring in a single EPA Region, and to the Director, National Program Chemicals Division, for activities occurring in more than one EPA Region.

IV. What Actions Were Required by The Various Regulatory Assessment Mandates?

This rule implements technical and procedural amendments to 40 CFR part 761. Under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a ``significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub.L. 104-4). This rule does not involve special consideration of environmental justice-related issues as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule also is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish any environmental standards intended to mitigate health or safety risks. This rule does not involve technical standards and therefore is not subject to section 12(d) of the National Technology Transfer and Advancement Act of 1995, 15 U.S.C. 272 note. Finally, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., because it does not impose any monitoring, reporting, or recordkeeping requirements. EPA's compliance with the statutes and Executive Orders for the underlying Disposal Amendments rule is discussed in the June 29, 1998, Federal Register notice.

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V. Are There Any Impacts on Tribal, State and Local Governments?

A. Executive Order 12875

Under Executive Order 12875, entitled Enhancing Intergovernmental

Partnerships (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ``to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a Federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

B. Executive Order 13084

Under Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ``to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VI. Submission to Congress and the General Accounting Office

The Congressional Review Act (CRA), 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of June 24, 1999. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of

this rule in the Federal Register. This rule effects technical and procedural amendments to 40 CFR part 761 and is not a ``major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls (PCBs), Reporting and recordkeeping requirements

Dated: June 15, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR Part 761 is amended as follows:

PART 761--[AMENDED]

1. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

Sec. 761.1 [Amended]

2. In Sec. 761.1(b)(3), revise ``$10/100$ cm²' to read ``10 $g/100$ cm²'.

3. Amend Sec. 761.2(a)(3) by revising the last sentence to read as follows:

Sec. 761.2 PCB concentration assumptions for use.

(a) * * *

(3) * * * If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.

* * * * *

4. Amend Sec. 761.3 as follows:

a. Remove the definition of ``emergency situation'.

b. Revise the definition of ``ASTM'' and in the definition of ``PCB remediation waste'' revise the first sentence of the introductory text and revise paragraph (3) to read as follows:

Sec. 761.3 Definitions.

* * * * *

ASTM means American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

* * * * *

PCB remediation waste means waste containing PCBs as a result of a spill, release, or other unauthorized disposal, at the following concentrations: Materials disposed of prior to April 18, 1978, that are currently at concentrations 50 ppm PCBs, regardless of the concentration of the original spill; materials which are currently at any volume or concentration where the original source was 500 ppm PCBs beginning on April 18, 1978, or 50 ppm PCBs beginning on July 2, 1979; and materials which are currently at any concentration if the PCBs are spilled or released from a source not authorized for use under this part. ***

* * * * *

(3) Buildings and other man-made structures (such as concrete floors, wood floors, or walls contaminated from a leaking PCB or PCB-Contaminated Transformer), porous surfaces, and non-porous surfaces.

* * * * *

5. Amend Sec. 761.19(b) by revising the last sentence to read as follows:

Sec. 761.19 References.

* * * * *

(b) * * * Copies of the incorporated material may be obtained from the American Society for Testing and Materials (ASTM), 100 Barr Harbor

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Drive, West Conshohocken, PA 19428-2959.

* * * * *

Sec. 761.20 [Amended]

6. In Sec. 761.20(c)(2)(ii), correct the reference to ``Sec. 261.10 of this chapter'' to read ``Sec. 260.10 of this chapter''.

7. Amend Sec. 761.30 as follows:

a. Revise paragraph (a)(1)(xii)(J) and the first sentence of paragraph (i)(4).

b. In the last sentence of paragraph (i)(1)(iii)(D), revise ``delegate'' to read ``defer''.

c. In the first sentence of paragraph (i)(5), revise the reference ``Sec. 761.60(a)'' to read ``Sec. 761.61(a)(5)(iv)''.

d. Remove and reserve paragraph (j)(3).

e. In the introductory language to paragraph (p)(1), revise ``> 10 <greek-m>g/100 cm²'' to read ``<gr-thn-eq> 50 ppm''.

The revised portions read as follows:

Sec. 761.30 Authorizations.

(a) * * *

(1) * * *

(xii) * * *

(J) Records of transfer of ownership in compliance with

Sec. 761.180(a)(2)(ix).

* * * * *

(i) * * *

(4) Any person characterizing PCB contamination in natural gas pipe or natural gas pipeline systems must do so by analyzing organic liquids collected at existing condensate collection points in the pipe or pipeline system. The level of PCB contamination found at a collection point is assumed to extend to the next collection point downstream. Any person characterizing multi-phasic liquids must do so in accordance with Sec. 761.1(b)(4).

* * * * *

8. Section 761.40 is amended in paragraph (b), by revising ``1979'' to read ``1978'', and by revising paragraph (1) to read as follows:

Sec. 761.40 Marking requirements.

* * * * *

(1)(1) All voltage regulators which contain 1.36 kilograms (3 lbs.) or more of dielectric fluid with a PCB concentration of <gr-thn-eq> 500 ppm must be marked individually with the M<INF>L</INF>

mark as described in Sec. 761.45(a).

(2) Locations of voltage regulators which contain 1.36 kilograms (3 lbs.) or more of dielectric fluid with a PCB concentration of <gr-thn-eq> 500 ppm shall be marked as follows: The vault door, machinery room door, fence, hallway, or means of access, other than grates or manhole covers, must be marked with the M<INF>L</INF> mark as described in Sec. 761.45(a).

9. Amend Sec. 761.50 by revising the introductory text of paragraph (b)(3)(i), the first sentence of paragraph (b)(3)(i)(B), paragraph (b)(3)(ii) introductory text, and in paragraph (b)(8) by revising the reference ``Sec. 761.61(a)(5)(iii)'' to read ``Sec. 761.61''.

The revised portions read as follows:

Sec. 761.50 Applicability.

* * * * *

(b) * * *

(3) * * *

(i) Any person responsible for PCB waste at as-found concentrations <gr-thn-eq> 50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment prior to April 18, 1978, regardless of the concentration of the spill or release; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was <gr-thn-eq> 50 ppm but < 500 ppm, must dispose of the waste as follows:

* * * * *

(B) Unless directed by the EPA Regional Administrator to dispose of PCB waste in accordance with paragraph (b)(3)(i)(A) of this section, any person responsible for PCB waste at as-found concentrations <gr-thn-eq> 50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment prior to April 18, 1978, regardless of the concentration of the spill or release; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was <gr-thn-eq> 50 ppm but < 500 ppm, who unilaterally decides to dispose of that waste (for example, to obtain insurance or to sell the property), is not required to clean up in accordance with Sec. 761.61. * * *

(ii) Any person responsible for PCB waste at as-found concentrations <gr-thn-eq> 50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was <gr-thn-eq> 500 ppm; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after July 2, 1979, where the concentration of the spill or release was <gr-thn-eq> 50 ppm, must dispose of it in accordance with either of the following:

* * * * *

Sec. 761.60 [Amended]

10. Amend Sec. 761.60 as follows:

a. Remove and reserve paragraph (a)(3)(i).

b. Revise the second sentence of paragraph (b)(1)(i)(B).

c. In paragraph (b)(3)(i)(C), revise the phrase ``an industrial furnace'' to read ``a scrap metal recovery oven or smelter''.

d. Revise paragraph (b)(4).

e. Amend paragraphs (b)(5)(i)(B) and (b)(5)(ii)(A)(1) by removing the phrase ``in accordance with subpart M of this part''.

f. Amend paragraph (b)(5)(i)(C)(2) by adding ``or more'' after, ``The pipe is filled to 50 percent''.

g. In paragraph (b)(5)(i)(D), revise ``Sec. 761.62(c)'' to read ``Sec. 761.61(c)''.

h. Revise the last sentence of paragraph (b)(5)(iii)(A).

i. In paragraph (b)(5)(ii)(A), revise the phrase, ``scrap metal recovery oven and smelter'', to read, ``a scrap metal recovery oven or smelter''.

j. Redesignate paragraphs (b)(6)(ii) introductory text, (b)(6)(ii)(A), (b)(6)(ii)(B), (b)(6)(ii)(C), and (b)(6)(ii)(D) as paragraphs (b)(6)(ii)(A) introductory text, and paragraphs (b)(6)(ii)(A)(1) through (b)(6)(ii)(A)(4), respectively.

k. In redesignated paragraph (b)(6)(ii)(A)(3), revise the phrase ``an industrial furnace'' to read ``a scrap metal recovery oven or smelter''.

l. Revise redesignated paragraph (b)(6)(ii)(A) introductory text, add paragraphs (b)(6)(ii)(B) and (b)(6)(ii)(C), remove paragraph (b)(6)(iv) and add paragraph (b)(8), to read as follows:

Sec. 761.60 Disposal requirements.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) * * * Any person disposing of PCB liquids that are removed from the transformer (including the dielectric fluid and all solvents used as a flush), shall do so in an incinerator that complies with Sec. 761.70 of this part, or shall decontaminate them in accordance with Sec. 761.79. * * *

* * * * *

(4) PCB-Contaminated Electrical Equipment. Any person disposing of PCB-Contaminated Electrical Equipment, except capacitors, shall do so in accordance with paragraph (b)(6)(ii)(A) of this section. Any person disposing of Large Capacitors that contain <gr-thn-eq> 50 ppm but < 500 ppm PCBs shall do so in a disposal facility approved under this part.

(5) Natural gas pipeline systems containing PCBs. * * *

(iii) Characterization of natural gas pipeline systems by PCB concentration in condensate. * * *

(A) * * * Collect condensate within 72 hours of the final transmission of

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natural gas through the part of the system to be abandoned or removed. Collect wipe samples after the last transmission of gas through the pipe or during removal from the location it was used to transport natural gas.

* * * * *

(6) * * *

(ii) * * *

(A) Except as specifically provided in paragraphs (b)(1) through (b)(5) of this section, any person disposing of a PCB-Contaminated Article must do so by removing all free-flowing liquid from the article, disposing of the liquid in accordance with paragraph (a) of this section, and disposing of the PCB-Contaminated Article with no free-flowing liquid by one of the following methods:

* * * * *

(B) Storage for disposal of PCB-Contaminated Articles from which all free-flowing liquids have been removed is not regulated under subpart D of this part.

(C) Requirements in subparts J and K of this part do not apply to PCB-Contaminated Articles from which all free-flowing liquids have been removed.

* * * * *

(8) Persons disposing of PCB Articles must wear or use protective

clothing or equipment to protect against dermal contact with or inhalation of PCBs or materials containing PCBs.

11. Amend Sec. 761.61 as follows:

- a. In paragraph (a) (5) (ii) (B) (1), revise ``paragraph (a) (5) (i) (B) (3) (ii)'' to read ``paragraph (a) (5) (i) (B) (2) (ii)''.
- b. In paragraph (a) (5) (ii) (B) (2) revise ``paragraph (a) (5) (i) (B) (3) (iii)'' to read ``paragraph (a) (5) (i) (B) (2) (iii)''.
- c. Revise the second sentence of paragraph (a) (3) (ii), paragraphs (a) (5) (i) (A) introductory text, (a) (5) (i) (B) (2) (i), paragraph (a) (5) (v) (A), and the first sentence of paragraph (c) (1) to read as follows:

Sec. 761.61 PCB remediation waste.

* * * * *

(a) * * *

(3) * * *

(ii) *** If the EPA Regional Administrator does not respond within 30 calendar days of receiving the notice, the person submitting the notification may assume that it is complete and acceptable and proceed with the cleanup according to the information the person provided to the EPA Regional Administrator. ***

* * * * *

(5) * * *

(i) * * *

(A) Any person cleaning up bulk PCB remediation waste on-site using a soil washing process may do so without EPA approval, subject to all of the following:

* * * * *

(B) * * *

(2) * * *

(i) Unless sampled and analyzed for disposal according to the procedures set out in Sec. Sec. 761.283, 761.286, and 761.292, the bulk PCB remediation waste shall be assumed to contain <gr-thn-eq> 50 ppm PCBs.

* * * * *

(v) * * *

(A) Non-liquid cleaning materials and personal protective equipment waste at any concentration, including non-porous surfaces and other non-liquid materials such as rags, gloves, booties, other disposable personal protective equipment, and similar materials resulting from cleanup activities shall be either decontaminated in accordance with Sec. 761.79(b) or (c), or disposed of in one of the following facilities, without regard to the requirements of subparts J and K of this part:

- (1) A facility permitted, licensed, or registered by a State to manage municipal solid waste subject to part 258 of this chapter.
- (2) A facility permitted, licensed, or registered by a State to manage non-municipal non-hazardous waste subject to Sec. Sec. 257.5 through 257.30 of this chapter, as applicable.
- (3) A hazardous waste landfill permitted by EPA under section 3004 of RCRA, or by a State authorized under section 3006 of RCRA.
- (4) A PCB disposal facility approved under this part.

* * * * *

(c) * * * (1) Any person wishing to sample, cleanup, or dispose of PCB remediation waste in a manner other than prescribed in paragraphs (a) or (b) of this section, or store PCB remediation waste in a manner other than prescribed in Sec. 761.65, must apply in writing to the EPA 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 of the National Program Chemicals Division, for sampling, cleanup, disposal or storage occurring in more than one EPA Region. * * *

* * * * *

Sec. 761.62 [Amended]

12. Amend Sec. 761.62 as follows:

- a. In paragraph (b)(1)(ii), revise ``subpart O'', to read ``subpart R''.
- b. In paragraph (b)(4)(i), revise ``<gr-thn-eq> 50 ppm'' to read ``<gr-thn-eq> 50 ppm''.
- c. In paragraph (b)(6), revise ``subparts C and K'' to read ``subparts C, J, and K''.
- d. Revise the title of paragraph (c) to read, ``Risk-based disposal approval.''
- e. Paragraph (c) is further amended by removing the phrases ``disposal or storage'' and ``storage or disposal'' wherever they appear and adding in place thereof, the phrase ``sampling, disposal, or storage''.

Sec. 761.72 [Amended]

13. Amend Sec. 761.72 as follows:

- a. In paragraph (c)(3), in the first sentence, revise the phrase, ``In lieu of the requirements in paragraphs (a) and (b) of this section'', to read, ``In lieu of the requirements in paragraph (c)(1) of this section''; and revise the phrase, ``the parameters and conditions listed in paragraphs (a)(1) through (a)(8) and (b)(1) through (b)(9) of this section'', to read, ``the parameters and conditions listed in paragraph (a) or (b) of this section''.
- b. Revise paragraph (a)(7) to read as follows:

Sec. 761.72 Scrap metal recovery ovens and smelters.

* * * * *

(a) * * *

- (7) Emissions from the secondary chamber must be vented through an exhaust gas stack in accordance with either:
 - (i) State or local air **regulations** or permits, or
 - (ii) The standards in paragraph (a)(8) of this section.

* * * * *

Sec. 761.79 [Amended]

14. Amend Sec. 761.79 as follows:

- a. In paragraph (a)(5), amend ``(c)(8)'' to read ``(c)(6)''.
- b. Amend paragraph (c)(2) introductory text by removing the phrase, ``and used in storage areas''.
- c. In paragraph (c)(5)(i), revise ``paragraphs (b), (c)(1) through (c)(6), or (c)(8) of this section'' to read ``paragraphs (b), (c)(1) through (c)(4), or (c)(6) of this section''.
- d. In the last sentence of paragraph (c)(5)(iv), revise ``PODF'' to read ``solvent''.
- e. In paragraph (c)(6)(i), revise ``an industrial furnace'' to read ``a scrap metal recovery oven or smelter''.
- f. In paragraph (c)(6)(ii), revise ``an industrial furnace'' to read ``a smelter''.
- g. Revise the first sentences of paragraphs (h)(1), (h)(2), and (h)(3) to read as follows. The paragraph title is shown for the convenience of the reader.

Sec. 761.79 Decontamination standards and procedures.

* * * * *

(h) Alternative decontamination or sampling approval. (1) Any person wishing to decontaminate material described in paragraph (a) of this section in a manner other than prescribed in paragraph (b) of this section must apply in writing to the EPA Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or the Director of the National Program Chemicals Division, for decontamination activity occurring in more than one EPA Region. * * *

(2) Any person wishing to decontaminate material described in paragraph (a) of this section using a self-implementing procedure other than prescribed in paragraph (c) of this section must apply in writing to the EPA Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or the Director of the National Program Chemicals Division, for decontamination activity occurring in more than one EPA Region. * * *

(3) Any person wishing to sample decontaminated material in a manner other than prescribed in paragraph (f) of this section must apply in writing to the EPA Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or the Director of the National Program Chemicals Division, for decontamination activity occurring in more than one EPA Region. * * *

* * * * *

Sec. 761.247 [Amended]

15. Amend Sec. 761.247 as follows:

a. Amend the heading by removing ``or pipeline section abandonment''.

b. Amend paragraph (a) (3) by removing ``or pipeline section''.

c. In the fourth sentence of paragraph (b) (2) (ii) (B) (2), revise ``section'' to read ``length''.

d. Amend the introductory language to paragraph (c) by removing ``pipeline section or''.

e. Amend paragraph (c) (5) (iii) by removing ``pipeline section or''.

f. Amend the second sentence of paragraph (d) by removing ``pipeline section or'' each time it appears.

Sec. 761.250 [Amended]

16. In Sec. 761.250(a) (2), revise ``Sec. 761.247(d)'' to read ``Sec. 761.247(c) and (d)''.

Sec. 761.347 [Amended]

17. In Sec. 761.347(c) (3) (i) (C), revise ``paragraph (c) (3) (iii) of this section'' to read ``paragraph (c) (3) (i) (B) of this section''.

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