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Environmental Protection Agency

40 CFR Parts 750 and 761

Disposal of Polychlorinated Biphenyls (PCBs); Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 750 and 761

[OPPTS-66009C; FRL-5726-1]

RIN 2070-AC01

Disposal of Polychlorinated Biphenyls (PCBs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending its rules under the Toxic Substances Control Act (TSCA) which address the manufacture, processing, distribution in commerce, use, cleanup, storage and disposal of polychlorinated biphenyls (PCBs). This rule provides flexibility in selecting disposal technologies for PCB wastes and expands the list of available decontamination procedures; provides less burdensome mechanisms for obtaining EPA approval for a variety of activities; clarifies and/or modifies certain provisions where implementation questions have arisen; modifies the requirements regarding the use and disposal of PCB equipment; and addresses outstanding issues associated with the notification and manifesting of PCB wastes and changes in the operation of commercial storage facilities. This rule also codifies policies that EPA has developed and implemented over the past 19 years. This rule will streamline procedures and focuses on self-implementing requirements and the elimination of duplication. Some activities currently requiring PCB disposal approvals will no longer require those approvals. EPA believes that this rule will result in substantial cost savings to the regulated community while protecting against unreasonable risk of injury to health and the environment from exposure to PCBs.

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I. Regulated Entities

Entities potentially regulated by this action are those which manufacture, process, distribute in commerce, use, or dispose of PCBs. Regulated categories and entities include:

Category	Examples of Regulated Entities
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Industry	Chemical manufacturers, electroindustry manufacturers, end-users of electricity, PCB waste handlers (e.g., storage facilities, landfills and incinerators), waste transporters, general contractors
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Utilities and rural electric cooperatives
Electric power and light companies

Individuals, Federal, State, and Municipal Individuals and agencies
Governments which own, process, distribute in commerce,
use, and dispose of PCBs

This table is not exhaustive, but lists the types of entities that could potentially be regulated by this action. Other types of entities may also be regulated. To determine whether your entity is regulated by this action, carefully examine the applicability criteria in 40 CFR part 761. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding "FOR FURTHER INFORMATION CONTACT" unit.

II. Background

A. General Reaction to Proposed Rule

On June 10, 1991 (56 FR 26738), EPA issued an Advanced Notice of Proposed Rulemaking (ANPR) to solicit comments on possible changes to the PCB disposal regulations promulgated under the authority of TSCA section 6(e) and codified in 40 CFR part 761. On December 6, 1994 (59 FR 62788) (FRL-4167-1), EPA issued a Notice of Proposed Rulemaking (NPRM) after considering comments and supporting data on the issues outlined in the ANPR and other issues brought to EPA's attention during the course of implementing the TSCA PCB program. After publication of the NPRM, EPA conducted a series of briefings on the

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proposed amendments to better acquaint potential commenters with the potential impacts so that they could better formulate their comments. On June 6 and 7, 1995, EPA held a public hearing on the proposed amendments. A transcript of that hearing is in the public record.

Almost all commenters supported the objectives EPA proposed for the PCB program, but they also provided numerous comments on how to better achieve those objectives.

EPA has prepared a Response to Comments document which addresses comments not otherwise discussed in this preamble. You may review the Response to Comments document in the TSCA Public Docket (OPPTS docket control number 66009A), Rm. B607, Northeast Mall at the Environmental Protection Agency, 401 M St., SW., Washington, DC.

B. Overview of Final Rule

This rulemaking promulgates significant amendments affecting the use, manufacture, processing, distribution in commerce, and disposal of PCBs.

These amendments add regulatory provisions authorizing certain uses of PCBs; authorizing the manufacture, processing, and distribution in commerce of PCBs for use in research and development activities; specifying additional alternatives for the cleanup and disposal of PCBs; and clarifying the processing for disposal exemption.

These amendments also add sections establishing standards and procedures for disposing of PCB remediation waste and certain products manufactured with PCBs; establishing procedures for determining PCB concentration; establishing standards and procedures for decontamination; establishing controls over the storage of PCBs for reuse; and establishing a mechanism for coordinating TSCA disposal approvals for the management of PCB wastes among various Federal programs. These amendments also update several marking, recordkeeping, and reporting requirements.

The regulatory requirements that apply to materials containing PCBs depend in part on the PCB concentration. To ensure a consistent and reproducible basis for determining PCB concentrations, Sec. 761.1(b)(4) provides that the concentration of non-liquid PCBs must be determined on a dry weight basis; the concentration of liquid PCBs must be determined on a wet weight basis; and the concentration of multi-phasic (i.e., both non-liquid and liquid) PCBs must be determined by separating the phases and analyzing each phase.