RECEIVED
DEC 6 1976

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE DIRECTOR

POLYCHLORINATED BIPHENYLS

Filed with Secretary of State on
These rules take effect 15 days after filing with the Secretary of State.

(By authority conferred on the department of natural resources by section 2 of Act No. 60 of the Public Acts of 1976, being § 299.351 of the Michigan Compiled Laws).

R 299.3301. Definitions.

Rule 1. As used in these rules: (a) "Act" means Act No. 60 of the Public Acts of 1976, being § 299.351 et seq. of the Michigan Compiled Laws.

(b) "Closed system" means electrical capacitors and transformers.

(c) "Combustible material" means any substance for which there is an incineration method available which destroys the PCB.

(d) "Department" means the department of natural resources.

(e) "Director" means the director of the department of natural resources.

(f) "Disposal" means the abandoning, depositing, or otherwise discarding of PCB, a PCB-product or a PCB-contaminated material.

(g) "Drain" means to remove, rinse out, or otherwise separate liquids from the solid materials in which they are contained, encased or enclosed.

(h) "Incidental concentrations of PCB" means concentrations of PCB which are beyond the control of the person and which are not the result of the person: (i) Exposing an item, product, or material to concentrations of PCB, (ii) Failing to take reasonable measures to rid the item, product, or material of concentrations of PCB; (iii) Failing to use a reasonable substitute for the item, product, or material.

DSW 310551

STLCOPCB4070538

(i) "PCB" means the class of chlorinated biphenyl, terphenyl, higher polyphenyl, or mixtures of these compounds produced by replacing 2 or more hydrogen atoms on the biphenyl, terphenyl, or higher polyphenyl molecule with chlorine atoms. PCB shall not include chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures of these compounds that have functional groups attached other than chlorine, unless that functional group on the chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures thereof results in a compound which is determined to be dangerous to the public health, safety, and welfare under section 5 of the act.

(j) "PCB-contaminated material" means either (i) a PCB-product; or (ii) a material containing any concentration of PCB, if that PCB resulted from the disposal of PCB, or a PCB-product via any method other than those specifically approved in these rules.

(k) "PCB-product" means a product, item or material containing a concentration of PCB equal to or greater than 100 ppm or such lower concentration as may arise pursuant to section 3(4) (a) and (b) of the act.

(l) "Person" means an individual, firm, partnership, association, or corporation.

(m) "Ppm" means concentration in parts per million as milligrams per kilogram (mg/kg) and is calculated as follows: (i) If PCB is distributed throughout a product, item or material, the concentration of PCB is determined on the basis of mg of PCB per kg of the mass in which the PCB is distributed; (ii) If PCB is a constituent of only a portion of a product, item or material, the concentration of PCB is determined on the basis of mg of PCB per kg of only that portion of the product, item or material in which the PCB is a constituent. For example, if PCB is a constituent of a dielectric fluid which is in a capacitor in a locomotive engine, the concentration of PCB would be determined on the basis of mg of PCB per kg of dielectric fluid.

(n) "Sell for use" or "Sale for use" means the sale of PCB or a PCB-product to the ultimate buyer or consumer who will use the PCB or PCB-product for the purpose for which it was designed and manufactured. "Sell for use" does not include sales to intermediates or others who sell to persons who resell the PCB or PCB-product without using it for the purpose for which it was designed and manufactured.

(o) "Small capacitor" means any electrical capacitor containing less than three pounds of total PCB.

(p) "Small transformer" means any electrical transformer containing less than three pounds of total PCB.

(q) "Use" means: (i) to put into action or service; (ii) to avail oneself of; (iii) to carry out a purpose or action by means of, i.e. utilize; or (iv) to expend or consume by putting to use. PCB use includes both consumptive uses in the manufacturing or other processes as well as nonconsumptive uses adjunctive to the manufacturing or other processes; i.e. dielectric fluids in capacitors and transformers.

R 299.3302. Compliance with other acts, statutes and rules.

Rule 2. Compliance with these rules shall not relieve a person of that person's responsibility to conform to other Michigan and federal acts, statutes, and promulgated rules which may apply to PCB, including but not limited to:

(a) Act No. 87 of the Public Acts of 1965, as amended, being § 325.291 et seq. of the Michigan Compiled Laws.

(b) Act No. 348 of the Public Acts of 1965, as amended, being § 336.11 et seq. of the Michigan Compiled Laws.

(c) Act No. 136 of the Public Acts of 1969, being § 323.271 et seq. of the Michigan Compiled Laws.

(d) Act No. 245 of the Public Acts of 1929, as amended, being § 323.1 et seq. of the Michigan Compiled Laws.

(e) Act No. 154 of the Public Acts of 1974, as amended, being § 408.1001 et seq. of the Michigan Compiled Laws.

R 299.3303. Confidentiality of information.

Rule 3. If a record, exemption application, or other document furnished to the department under requirements of these rules is certified to contain information related to production, sales figures, or to processes which are unique to the person and which would adversely affect the competitive position of the person, then that information, under the authority of section 22 of Act No. 306 of the Public Acts of 1969, as amended, being § 24.222 of the Michigan Compiled Laws, shall be for the confidential use of the department only in administration of the act, unless the person expressly agrees to its publication or availability to the general public. Nothing in this rule renders data on the quantity or quality of emissions or discharges confidential.

R 299.3304. Small capacitor and transformer exemption.

Rule 4. The use or sale of small capacitors and small transformers or items and products containing small capacitors or transformers in the state of Michigan shall be exempt from the provisions of these rules. The director will issue voluntary guidelines for the handling and disposal of small capacitors and transformers.

DSW 310553

STLCOPCB4070540

R 299.3305. Research exclusion.

Rule 5. PCB or PCB-products may be used in scientific research, analytical testing or experimentation if approval for each such use is obtained in writing from the director of his designated representative. The director or his designated representative may waive specific portions of these rules for such uses and may require other provisions to protect the public health, safety and welfare.

R 299.3306. Electric capacitor and transformer exclusion.

Rule 6. (1) PCB or a PCB-product may be sold for use and used in the state of Michigan in a closed system as a dielectric fluid for an electric transformer or capacitor.

(2) A person using PCB or a PCB-product in an electric capacitor or transformer, except for small capacitors and transformers or items and products containing small capacitors and transformers exempted under rule 4, shall:

(a) Comply with all rules promulgated pursuant to the act.

(b) Prepare a Pollution Incident Prevention Plan (PIPP) (as required by part 5 of the general rules of the water resources commission pursuant to Act No. 245 of the Public Acts of 1929, as amended) detailing methods for the siting, handling and disposing of capacitors and transformers containing PCB dielectric fluid such that the public health, safety and welfare is insured. The plan shall also include a method of identifying PCB-containing capacitors and transformers so that they can be readily recognized and differentiated from capacitors and transformers which do not contain a PCB dielectric fluid.

R 299.3307. Exemption applications.

Rule 7. (1) A person may file an application for exemption under section 4 of the act to allow a PCB-product to be manufactured for sale, sold for use, or used by the person in that person's business in the state of Michigan if the PCB-product contains incidental concentrations of PCB. The application shall be on forms provided by the director and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) Name of the PCB-product.

(c) Concentration of PCB in the PCB-product.

(d) Proposed use and quantities of the PCB-product.

DSW 310554

STLCOPCB4070541

(e) Source of PCB contamination if known.

(f) Measures to rid the PCB-product of concentrations of PCB.

(g) List of available PCB-free substitutes for the PCB-product for which the exemption is being sought.

(2) A person may file an application for exemption under section 4 of the act for continued use of an electric transformer containing residual amounts of PCB if the transformer has had the PCB drained and if the transformer has been filled with a substitute material. The application shall be on forms provided by the director and shall set forth the following information:

(a) The number, size, and location of the transformer(s) for which an exemption is sought.

(b) Measures taken to rid the transformer of residual amounts of PCB prior to refilling.

(c) Method and location of disposal for the drained PCB and PCB-contaminated materials resulting from replacement.

(d) Name and manufacturer of substitute fluid used.

(e) Concentration (ppm) of PCB remaining in the substitute transformer fluid.

(3) Transformers or PCB-products exempted under this rule but still containing residual or incidental concentrations of PCB exceeding 100 ppm or such lower maximum concentrations as may arise pursuant to section 3 (4) (a) and (b) of the act shall be exempt from rules 8, 9, 11, and 12 but shall not be exempt from labeling requirements pursuant to rule 10 nor from disposal requirements pursuant to rules 13 to 17.

R 299.3308. Notice of intent to use.

Rule 8. (1) A notice of intent to use PCB or a PCB-product in a business in the state of Michigan shall be filed on forms provided by the director and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) Nature of the use of the PCB or PCB-product.

(c) Physical state, product name, and other characteristics of the PCB or PCB-product.

(d) Concentration of PCB in the PCB-product.

DSW 310555

STLCOPCB4070542

(e) Anticipated or known length of period of use of the PCB or PCB-product.

(f) Proposed final disposal methods for the PCB or PCB-product.

(g) Discharges to air, land or water containing PCB and quantities of PCB discharged.

(2) Notices of intent to use shall be filed (i) on or before April 1, 1977, for uses already implemented; (ii) before a new or modified application is implemented; or (iii) both. Only modified applications which increase the environmental risks attendant with the use of the PCB or PCB-product shall necessitate the filing of a new intent of use notice. A notice of intent to use need only be filed once for each general application or use category.

R 299.3309. Annual report of use.

Rule 9. (1) Annual reports of PCB or PCB-product use in a business in the state of Michigan shall be filed on forms provided by the director, shall include PCB in use, in inventory, and new purchases during the reporting period, and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) The amount and physical state of the PCB or PCB-product in use and in inventory.

(c) Nature of the use of the PCB or PCB-product.

(d) Concentration of PCB in the PCB-product.

(e) Disposal information; see rule 16.

(2) The annual report of PCB usage shall be filed on or before January 1, 1978, and on or before January 1 of each subsequent year.

(3) A person filing a report of sale for use or manufacture for sale for a general product line pursuant to rule 12, shall not file a report of use for that same product line.

R 299.3310. Labeling of items, products or materials; warning statement.

Rule 10. (1) PCB or a PCB-product which is manufactured for sale or sold in Michigan on or after April 1, 1977, shall be conspicuously labeled with the following statement:

DSW 310556

STLCOPCB4070543

"CAUTION" Contains PCB's (Polychlorinated Biphenyls) that are environmental contaminants. In case of leaks or spills, restrain discharge and consult manufacturer. In transportation emergencies, call National Response Center (800-424-8802) and Chemtrec (800-424-9300). Avoid prolonged breathing of vapors or mists, contact with eyes or skin. Disposal should be in accordance with ANSI C-107 Guidelines or applicable state and federal statutes.

(2) Warnings, hazard statements and statements of fact in addition to those mandated by subrule (1) may be included on the label if the manufacturer or seller so desires.

R 299.3311. Notice of intent to manufacture or sell.

Rule 11. (1) Notification of intent to sell for use or manufacture for sale PCB or a PCB-product in the state of Michigan shall be filed on forms provided by the director and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) Nature of manufacturing process for the PCB or PCB-product.

(c) Physical state, product name, and other characteristics of the PCB-product manufactured.

(d) Concentration of PCB in the PCB-product.

(e) Anticipated or known length of time that the PCB or PCB-product will be manufactured.

(f) PCB, PCB-product, and process waste disposal methods (Michigan manufacturers and sellers only).

(g) Discharges containing PCB to air, land or water and quantities of PCB discharged (Michigan manufacturers and sellers only).

(2) Notice of intent to sell or manufacture for sale shall be filed (i) on or before April 1, 1977; (ii) before a new or modified PCB or PCB-product is sold or manufactured for sale in the state; or (iii) both. A person need only file a new notice of intent to sell or manufacture for sale for a modified PCB or PCB-product if: (a) there is an increase in the amount or concentration of PCB contained in the PCB-product; (b) the manner in which the PCB is contained in the PCB-product is altered; or (c) the environmental risks attendant with the manufacture, sale or use of the PCB-product are increased. A notice of intent to sell for use or manufacture for sale need only be filed once for each general product line.

DSW 310557

STLCOPCB4070544

(3) A person having filed a form of intent to sell for use or manufacture for sale shall notify the director in writing when that person no longer intends to sell for use or manufacture for sale the product for which the person filed the intent form.

R 299.3312. Annual report of manufacture and sale.

Rule 12. (1) Annual reports of the sale for use or manufacture for sale in the state of Michigan of a PCB or PCB-product shall be filed on forms supplied by the director and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) The amount and types of PCB and PCB-products manufactured or sold for use in Michigan.

(c) Nature of the manufacturing process or operation involving PCB or PCB-products.

(d) Final PCB-products and their expected or known use.

(e) PCB concentrations in original material, final products, and wastes.

(f) Disposal information; see rule 16.

(2) Annual reports of the sale for use or manufacture for sale of PCB or a PCB-product shall be filed by January 1, 1978, and by January 1 of each subsequent year.

(3) A person filing a report of sale for use or manufacture for sale for a general product line shall not file a report of use, pursuant to rule 9, for that same product line.

R 299.3313. General disposal provisions.

Rule 13. (1) PCB and PCB-contaminated materials intended for disposal shall be labeled, packaged, handled, transported and disposed of in conformity with these rules unless approval for alternative disposal methods is obtained in writing from the director or the designated representative of the director.

(2) An introduction of PCB or PCB-contaminated materials into surface water, groundwater or air shall not be considered an approved method of disposal for that material. Introduction of PCB or PCB-contaminated materials into soil shall only be permitted if:

(a) Provisions are made in these rules for specific disposal methods.

STLCOPCB4070545

(b) Approval for specific disposal method is obtained in writing from the director or the designated representative of the director.

(3) Water, soil, or other materials which are secondarily contaminated with PCB from a transformer, or PCB-product exempted under rule 7 may be exempted from the provisions of rules 13 through 17. Application for this exemption shall be made on forms provided by the director and shall include:

(a) Physical state, description, and quantity of contaminated materials.

(b) Concentrations of PCB in the contaminated materials.

(c) Historical trend of PCB concentrations in the air, water, soil, or other materials.

(d) Measures taken to prevent entry of PCB into the air, water, soil or other materials.

(e) Measures taken to rid the air, water, soil, or other material of PCB.

(f) If water is secondarily contaminated, identification of the area to which it is to be discharged.

R 299.3314. Labeling for disposal.

Rule 14. All containers used to store PCB or PCB-contaminated materials prior to disposal or for transportation of PCB or PCB-contaminated materials to a disposal site shall be labeled in accordance with rule 10.

R 299.3315. Storage, handling, and transportation of PCB or PCB-contaminated materials intended for disposal.

Rule 15. (1) All containers used to store or transport PCB or PCB-contaminated materials which are awaiting disposal must be adequate to prevent PCB from leaving the container through spillage, leakage, or vaporization.

(2) PCB and PCB-contaminated materials shall be transported in either their original design housing or containers not exceeding 55 gallon capacity unless approval for an alternative method is obtained in writing from the director or the designated representative of the director.

DSW 310559

STLCOPCB4070546

(3) All trucks or other vehicles specifically approved by the director for use as designated bulk PCB-transporting vehicles shall be permanently labeled on both sides of the vehicle in letters not less than two inches high with the words "DESIGNATED PCB TRANSPORTING VEHICLE".

(4) Equipment, such as pumps, hoses, and associated equipment, used for handling PCB materials shall not be used for handling other non-PCB materials unless approval for alternative uses is obtained in writing from the director or the designated representative of the director.

R 299.3316. Reporting on disposal of PCB or PCB-contaminated materials.

Rule 16. (1) Information on disposal of PCB and PCB-contaminated materials shall be included in the annual reports required pursuant to sections 6 and 7 of the act. The annual reports shall include the quantities, physical state, composition, PCB concentration, carrier, method of transportation, final disposal site and disposal method for all PCB and PCB-contaminated materials disposed of during the reporting period in addition to other information required by sections 6 and 7 of the act.

(2) A manifest supplied by the department shall accompany all shipments of PCB or PCB-contaminated materials intended for disposal. The originator of the material shall supply descriptive information including quantity, physical state, composition, and PCB concentration in the material. The originator, carrier, and person ultimately responsible for disposal of the material shall sign the manifest, supply the company name and location, and retain a copy of the manifest. The original copy of the manifest shall be forwarded to the director within thirty (30) days after all the above parties have signed it.

R 299.3317. Disposal methods.

Rule 17. (1) PCB-contaminated materials which are combustible materials shall be incinerated at a department approved facility unless approval for an alternative method of disposal is obtained in writing from the director or the designated representative of the director. Approval of incineration facilities for disposal of PCB or combustible PCB-contaminated materials shall be based on criteria established by the director or the designated representative of the director.

(2) PCB-contaminated materials which are not combustible materials shall be disposed of at a licensed landfill approved for PCB disposal unless approval for an alternative method of disposal is obtained in writing from the director or the designated representative of the director.

(a) Approval of landfills for disposal of noncombustible PCB-contaminated materials shall be based on criteria established by the director or the designated representative of the director.

DSW 310560

STLCOPCB4070547

(b) Prior to disposal of noncombustible PCB-contaminated materials in an approved landfill, all liquid PCB which can reasonably be drained from the solids shall be so drained and disposed of in conformity with these rules unless approval of an alternative method of disposal is obtained in writing from the director or the designated representative of the director.

R 299.3318. Penalties.

Rule 18. A person who violates the act or these rules shall be subject to the provisions and penalties prescribed by section 9 of the act.

R 299.3319. Reports on cost of conversion.

Rule 19. (1) A person subject to regulation under the act and actually converting from PCB to substitute compounds shall file a report on the total cost to that person of the conversion from PCB to substitute compounds. The annual conversion costs to be reported are those incremental changes in costs resulting from the conversion of PCB or a PCB-product that does not satisfy the standards set forth in the act and these rules to a substitute product that does satisfy the standards set forth in the act and these rules. These costs, expressed to the nearest thousand of dollars, include:

(a) Recurring incremental material costs.

(b) Recurring incremental labor costs which arise from changes in manpower levels, man hours, or skill levels.

(c) Research and development costs necessary to redesign PCB-products or develop substitutes for PCB.

(d) Non-recurring costs of altering existing PCB or PCB-product production equipment.

(e) Non-recurring costs, including financing costs, for additional equipment, building, land, etc., necessary to convert existing PCB or PCB-product production facilities.

(f) All other significant conversion costs of a recurring or non-recurring nature.

(2) Reports on cost of conversion shall be filed on or before January 1 of each year subsequent to a year in which actual costs of conversion were incurred.

DSW 310561

RECEIVED
DEC 6 1976

STLCOPCB4070548