UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

December 24, 1980

MEMORANDUM

FROM: Ruth Greenspan Bell (A-132T)
Deputy Associate General Counsel
Toxic Substances Division

Ruth G. Bell

TO: Participants in EDF v. EPA Negotiations Relating to PCB Uses Formerly Designated as "Totally Enclosed"

Attached is EPA's revision of the proposed interim measures program. I had hoped to circulate this draft earlier. However, a number of interested persons were unable to submit their comments on the previous draft by last Tuesday. Thus, our work was delayed. The attached draft attempts to take into account all of the comments we received.

As you may be aware, EPA, EDF, EEI, and NEMA filed a joint petition for a short stay of mandate on December 19, 1980. This petition requested that the Court stay its mandate until January 21, 1981, by which time the petitioners hoped agreement would be reached on a proposed plan for further rulemaking that would form the basis of a joint petition for a stay of mandate of longer duration.*/

*/ At present, we are unsure whether the Court has acted on the petition. We are assuming that the Court will stay its mandate until January 21, 1981, if it has not done so already.

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The joint petition characterized the interim measures program as an "integral part" of the framework for further rulemaking. Accordingly, the program would have to be instituted by persons wishing to avoid the full impact of the statutory prohibition against continued use of PCBs that will become effective when the D.C. Circuit's mandate issues in EPA v. EDF (No. 79-1580). The Agency does not plan to seek further, short-term stays from the Court. Thus, it is urgent that we reach an agreement on a viable interim measures program as soon as possible. Since we have had a number of discussions and have received and analyzed numerous comments, I hope that we are well on the way to concluding this portion of our negotiations.

I see no need to schedule another meeting with respect to this program. Instead, I request that you submit any additional comments you may have on the attached proposal by no later than January 6, 1981. Since our timetable is short, I cannot promise that comments received after Januray 6, 1981 will be taken into account.

Feel free to call me (426-3246) or Ellen Siegler (755-0794) if you have any questions.

ATTACHMENT: 12/24/80 Proposed Interim Measures Program