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August 4, 1978

TO MEMBERS AD HOC COMMITTEE ON LIQUID DIELECTRICS
EIA PARTS DIVISION

Genelemen:

The enclosed notice was published in the Federal Register on August 2 and clarifys to some extent the final rule on PCBs.

Sincerely,

Herbert J. Rowe
Staff Vice President

[6560-01]

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

[FRL 937-2]

PART 761—POLYCHLORINATED BIPHENYLS (PCB'S)

Addendum to Preamble and Corrections to Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Addendum to preamble and corrections to final rule.

SUMMARY: The polychlorinated biphenyl (PCB) disposal and marking rule (43 FR 7150-7164, Feb. 17, 1978) contained several ambiguities and technical errors. This notice includes (1) an addendum to the preamble, which will clarify the ambiguities, and (2) corrections to the errors in the final rule. Since this notice is nonsubstantive, notice and public comment are unnecessary and it is effective August 2, 1978.

EFFECTIVE DATE: August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Wagner, Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Room 515ET, Washington, D.C. 20460, 202-426-9000.

ADDENDUM TO PREAMBLE

Section 761.10(b)(3) states: "Soil and debris which have been contaminated with PCB's as a result of a spill or as a

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result of placement of PCB's in a disposal site prior to the publication date of these regulations shall be disposed of (i) in an incinerator which complies with annex I, or (ii) In a chemical waste landfill." This requirement as others, is qualified by the general Note which appears at the beginning of § 761.10. This Note specifically states that these regulations do not require the removal of any PCB's from service earlier than would otherwise be the case. However, when they are removed from service and disposed of, disposal must be in accordance with the regulation.

PCB-containing soil and debris which have been placed in a disposal site are considered to be "in service" for purposes of the applicability of the Note discussed in the last paragraph. Therefore, § 761.10(b)(3) does not require PCB-contaminated soil or debris landfilled prior to February 17, 1978 to be removed for disposal. However, if such soil or debris is removed from the disposal site, it must be disposed of in accordance with the regulation.

Section 761.20(a)(3)(ii)(B) of Subpart C—Marking of PCB's contains the requirement that if one or more PCB large high voltage capacitors are installed in a protected location, a "record or procedure identifying the PCB capacitors is to be maintained by the owner or operator at the protected location." As EPA stated on page 29 of the Support Document accompanying the final rule, it will be sufficient for those subject to this provision to simply provide a telephone number at the protected location together with a sign indicating that the exact identity of the PCB capacitors at that location can be determined by calling the telephone number during normal business hours.

The definition of "Small Capacitor" [§ 761.2(c)(1)] is "a capacitor which contains less than 1.36 kg (3 lbs.) of dielectric fluid." EPA did not intend to include in this definition dry capacitors (i.e., those capacitors which have never contained any dielectric fluid). Also, the definition of "Fluorescent Light Ballast" [§ 761.2(i)] does not apply to those ballasts which do not contain a capacitor. Accordingly, the negative labeling requirements in § 761.20(a)(6) do not apply to those small capacitors which contain no detectable amounts of dielectric fluid nor do they apply to those fluorescent light ballasts which do not contain a capacitor.

Section 761.20(a)(4) states: "As of January 1, 1979, all PCB equipment containing a small PCB capacitor at the time of manufacture shall be marked. * * *" EPA wishes to clarify that only PCB equipment manufactured on or after January 1, 1979 is subject to the labeling requirements under this provision. The Agency did not mean to require the labeling under this provision of all existing PCB equipment which contained a PCB capacitor at the time the equipment was manufactured. This interpretation has been clarified by wording which is contained in the Correction to the Final Rule.

Section 761.2(l) states that "'Manufacture' means to produce, manufacture, or import. * * *" All small capacitors normally used in alternating current circuits, as defined by § 761.2(c)(1), all large low voltage capacitors, and all fluorescent light ballasts manufactured between July 1, 1978 and July 1, 1998, must be labeled pursuant to § 761.20(a)(6). However, EPA did not intend to apply this section differently to imported as opposed to domestic items. If § 761.20(a)(6) were applicable to the above items built prior to July 1, 1978, but imported after that date, the result would cause unequal treatment for such items which are imported as opposed to those which are built domestically. For example, imported small capacitors built prior to July 1, 1978, would be subjected to labeling (if imported after July 1, 1978), while small capacitors built domestically, prior to July 1, 1978, would never be subject to such a requirement.

In order to avoid causing unequal treatment for imports as opposed to items subject to § 761.20(a)(6) built domestically, § 761.20(a)(6) is clarified to indicate that the word "manufactured" (the 20th word in the section) means "built." Other references to "manufacturer" or "manufacture" in § 761.20(a)(6) will continue to include importation. Therefore, only those small capacitors normally used in alternating current circuits, large low voltage capacitors, and fluorescent light ballasts built domestically or abroad after July 1, 1978, are subject to labeling under § 761.20(a)(6). All other references to "manufacture" in the PCB Disposal and Marking Regulation will continue to refer to both manufacture and importation.

The Agency wishes to emphasize that the labeling requirement of § 761.20(a)(6) applies to items subject to that section, regardless of whether they are included within equipment. If, for example, small capacitors are included in a microwave oven, each small capacitor should be labeled in conformance with § 761.20(a)(6) rather than the microwave oven itself.

Section 761.41(b)(2) of annex II states in part: "There shall be no hydraulic connection between the site and standing or flowing surface water." The part of the site that is referred to is the surface, sides, and bottom of the landfill. Hydraulic connection between the site and surface water would mean any visible runoff from the surface of the landfill or any seepage from the sides or bottom of the landfill to surface water.

Section 761.42(c)(1) of annex III provides for temporary storage of non-leaking PCB articles and equipment in areas which do not comply with storage requirements. EPA wishes to clarify that this provision also permits the temporary storage of: (1) Non-leaking PCB articles and equipment in containers; and (2) leaking PCB articles and equipment which have been placed in a non-leaking container. The wording concerning this section in the February 17, 1978, preamble (43 FR 7153, 2d col., 3d par.) is technically incorrect in stating that only non-leaking PCB articles, PCB equipment, and PCB containers may be placed in a temporary storage area up to 30 days. As noted, temporary storage of leaking PCB articles and equipment which have been placed in a non-leaking container is permitted. EPA wishes to emphasize that § 761.42(c)(1) only applies to PCB containers which contain PCB articles and equipment but does not permit the temporary storage of either PCB chemical substances or PCB mixtures, even in a non-leaking container. This is clarified by wording contained in the Correction to the Final Rule.

Section 761.42(c)(6) states in part: "Any PCB container used for the storage of non-liquid PCB mixtures, PCB articles, or PCB equipment shall meet the requirements of the DOT Specifications 5, 5B, or 17C with a removable head." EPA wishes to clarify that this provision was not intended to limit the size of the containers used to store non-liquid mixtures or items to either the 55 or 110 gallon drums described in Specifications 5, 5B, 17C, or 17E, but rather its purpose was (i) to require that 55 and 110 gallon drums used for storing PCBs meet DOT specifications, and (ii) to require that other containers used for storing PCBs provide protection to the environment against exposure to PCB's which is equal to that provided by the DOT specification drums. Accordingly, § 761.42(c)(6) is corrected to indicate that any PCB container used for the storage of non-liquid PCB mixtures, PCB articles, or PCB equipment shall provide as much protection against leaking and exposure to the environment and be of the same relative strength and durability as the containers specified in DOT Specifications 5, 5B, 17C, or 17E.

Section 761.43(a) of Annex IV specifies procedures for decontaminating PCB containers. It requires that the internal surfaces of the container be flushed "three times with a solvent containing less than 0.05 percent PCB chemical substance* * *." However,

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the requirements of this section would appear to be contradictory since the "solvent may be reused for decontamination until it contains 0.5 percent PCB chemical substance." EPA wishes to clarify that this section requires use of a solvent for the first of three flushings which contains less than 0.05 percent PCB chemical substance. Thus, the solvent may be reused for the two subsequent flushings and may contain up to 0.5 percent PCB chemical substances. At the 0.5 percent concentration, the solvent can no longer be used for decontamination, and a new solvent (containing less than 0.05 percent PCB chemical substances) would have to be used for the next flushing.

Sections 761.45(a)(1)(i) and 761.45(a)(3)(i) of Annex VI, Records and Monitoring, state: "Total weight in kilograms of any PCB chemical substances and PCB mixtures in PCB containers, including the identification of container contents such as liquids and capacitors." EPA wishes to clarify that this provision requires that, where applicable, records be kept of the total weight of any PCB chemical substances, PCB mixtures, and/or PCB articles in containers (excluding the weight of the containers), plus an identification of the types of PCBs in containers.

The word "facility" in Annex VI (§ 761.45) refers to a physical location or locations containing PCB's. However, a facility may not be subdivided to avoid the reporting requirements of § 761.45. For example, a power pole in the field may not be designated as a "facility" for purposes of the section. EPA intends that the location where records required by Annex VI are maintained must be normally manned for 8 hours a day. This has been clarified by wording which is contained in the Correction to Final Rule.

Section 761.45(b)(3) is a listing of data of which owners or operators of PCB disposal and storage facilities must keep records. This listing is in somewhat confusing order. EPA, therefore, has reworded this section in order to clear up any confusion. The rewording is contained in the Correction to Final Rule section of this notice. No additional elements of recordkeeping have been added to § 761.45(b)(3).

Corrections to Final Rule

The following corrections to the final rule are primarily corrections to typographical errors contained in the Federal Register notice of the final rule, except that the correction to § 761.41(b)(6)(iii) on page 7161 is a correction of a technical error. In addition, six non-substantive corrections were made in order to clarify ambiguities in the regulatory language. This type of correction was made to § 761.20(a)(4) on page 7159, § 761.20(a)(6) on page 7159, § 761.42(c)(1) on page 7162, § 761.42(c)(6) on page 7163, § 761.45(a) on page 7163, and § 761.45(b)(3) on page 7164. The clarifications involved in these six corrections are discussed in the Addendum to Preamble.

Corrections are made as follows:

1. Page 7152, 2nd col., 3rd full par., the sentence beginning "A new § 761.10(b)(3) * * *" should read "A new § 761.10(b)(4) * * *."

2. Page 7157, the third line of § 761.2(d)(2)(v) should read "4181 of the Internal Revenue Code of".

3. Page 7159 the punctuation mark after "PCB containers" in § 761.20(a)(1)(i) should be changed from a colon to a semicolon.

4. Page 7159, § 761.20(a)(4) should read, "As of January 1, 1979, all PCB equipment containing a small PCB capacitor shall be marked at the time of manufacture with the statement, 'This equipment contains PCB capacitor(s)'. The mark shall be of the same size as the mark M_L."

5. Page 7159 in § 761.20(a)(6), insert "(which word, for purposes of this sentence, means built)" between "manufactured" and "between July 1, 1978".

6. Page 7161, § 761.41(b)(1)(ii) of Annex II, should read, "Permeability (cm/sec), equal to or less than 1×10^{-7}."

7. Page 7161, in the heading and the second sentence of § 761.41(b)(6)(iii) of Annex II, "suction manometers" should read "suction lysimeters."

8. Page 7161, in § 761.41(b)(6)(iii) of Annex II, "Porous 'stones'" should read "porous ceramic cups" in the first two sentences.

9. Page 7162, § 761.41(c)(3)(i) after the word "PCB's" should read "unless he finds that the landfill meets all of the requirements of paragraph (b) of this section."

10. Page 7162, the last part of § 761.42(b)(1)(ii) should read, "25 percent of the total internal volume of all PCB articles or containers * * *."

11. Page 7162, the first part of § 761.42(c)(1) should read "Non-leaking PCB articles and equipment, and leaking PCB articles and equipment if they are placed in non-leaking containers, may be stored temporarily * * *".

12. Page 7162, § 761.42(c)(3) of Annex III should read "Any storage area subject to the requirements of paragraph (b) or paragraph (c)(1) of this section shall be marked as required in Subpart C § 761.20(a)(1)."

13. Page 7163, the end of the first sentence in § 761.42(c)(6) of Annex III should read "the specifications of the Department of Transportation (DOT), 49 CFR 173.346, revised December 31, 1976."

14. Page 7163, the last sentence in § 761.42(c)(6) of Annex III should read, "Any PCB container used for the storage of non-liquid PCB mixtures, PCB articles, or PCB equipment shall provide as much protection against leaking and exposure to the environment, and shall be of the same relative strength and durability, depending on the container's size, as required by DOT Specifications 5, 5B, 17C, or 17E (49 CFR 178.80, 178.82, 178.115)."

15. Page 7163, the third sentence in § 761.45(a) should read "Owners or operators with one or more facilities which contain PCB's in the quantities described above may maintain the records and documents at one of the facilities which is normally manned for 8 hours a day, provided the identity of this facility is available at each facility containing PCB's that is normally manned for 8 hours a day."

16. Page 7164, § 761.45(b)(3) should read, "A summary of the total weight in kilograms of PCB chemical substances, PCB mixtures, and/or PCB articles which are in containers and the total weight of PCB chemical substances and/or mixtures contained in PCB transformers, which have been handled at the facility during the previous calendar year. This summary shall provide totals of the above PCB's which have been: (i) received during the year, and (ii) transferred to other facilities during the year, and (iii) retained at the facility at the end of the year. In addition, the contents of PCB containers shall be identified. When PCB containers and/or PCB chemical substances and/or PCB mixtures contained in a transformer are transferred to other storage or disposal facilities, the identification of the facility to which such PCB's were transferred shall be included in the document."

Dated: July 27, 1978.

Marilyn Bracken,
Acting Assistant Administrator for Toxic Substances.

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