

Environmental Protection Agency

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is such a change, a new exemption petition must be submitted to EPA and it will be addressed through an exemption rulemaking. In such a case, the activities granted under the existing exemption may continue until the new petition is addressed by rulemaking, but must conform to the terms of the existing exemption approved by EPA. The 1-year exemption granted to petitioners in paragraphs (c)(2), (h) and (m)(7) of this section may be extended pursuant to 40 CFR 750.11(e) or 750.31(e).

(o) The 1-year class exemption granted to all processors and distributors of PCBs in small quantities for research and development in paragraph (g) of this section shall be renewed automatically unless information is submitted affecting EPA's conclusion that the class exemption, or the activities of any individual or company included in the exemption, will not pose an unreasonable risk of injury to health or the environment. EPA will evaluate the information, issue a proposed rule for public comment, and issue a final rule affecting the class exemption or individuals or companies included in the class exemption. Until EPA issues a final rule, individuals and companies included in the class exemption will be allowed to continue processing and distributing PCBs in small quantities for research and development.

[55 FR 38999, Sept. 24, 1990, as amended at 59 FR 16998, Apr. 11, 1994; 63 FR 35460, June 29, 1998; 68 FR 4941, Jan. 31, 2003; 72 FR 53158, Sept. 18, 2007]

Subpart F—Transboundary Shipments of PCBs for Disposal

SOURCE: 61 FR 11107, Mar. 18, 1996, unless otherwise noted.

§ 761.91 Applicability.

This subpart establishes requirements under section 6 of TSCA applicable to the transboundary shipments of PCBs and PCB Items into and out of the United States for disposal. Nothing in this subpart is intended to obviate or otherwise alter obligations applicable to imported or exported PCBs and PCB Items under foreign laws, international agreements or arrangements, other United States statutes and regulations, other sections of TSCA (e.g.,

sections 13 and 14), or laws of the various States of the United States. No provision of this section shall be construed to affect or limit the applicability of any requirement applicable to transporters of PCB waste under regulations issued by the U.S. Department of Transportation (DOT) and set forth at 49 CFR parts 171-180.

§ 761.93 Import for disposal.

(a) *General provisions.* No person may import PCBs or PCB Items for disposal without an exemption issued under the authority of TSCA section 6(e)(3).

(b) [Reserved]

[63 FR 35460, June 29, 1998]

§ 761.97 Export for disposal.

(a) *General provisions.* No person may export PCBs or PCB Items for disposal without an exemption, except that:

(1) PCBs and PCB Items at concentrations <50 ppm (or <10 µg PCB/100 cm² if no free-flowing liquids are present) may be exported for disposal.

(2) For the purposes of this section, PCBs and PCB Items of unknown concentrations shall be treated as if they contain ≥50 ppm.

(b) [Reserved]

[61 FR 11107, Mar. 18, 1996, as amended at 63 FR 35460, June 29, 1998]

§ 761.99 Other transboundary shipments.

For purposes of this subpart, the following transboundary shipments are not considered exports or imports:

(a) PCB waste generated in the United States, transported outside the Customs Territory of the United States (including any residuals resulting from cleanup of spills of such wastes in transit) through another country or its territorial waters, or through international waters, and returned to the United States for disposal.

(b) PCB waste in transit, including any residuals resulting from cleanup of spills during transit, through the United States (e.g., from Mexico to Canada, from Canada to Mexico).

(c) PCB waste transported from any State to any other State for disposal, regardless of whether the waste enters or leaves the customs territory of the

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United States, provided that the PCB waste or the PCBs from which the waste was derived were present in the United States on January 1, 1979, and have remained within the United States since that date.

[63 FR 35461, June 29, 1998, as amended at 66 FR 17478, Mar. 30, 2001]

Subpart G—PCB Spill Cleanup Policy

SOURCE: 52 FR 10705, Apr. 2, 1987, unless otherwise noted.

§761.120 Scope.

(a) *General.* This policy establishes criteria EPA will use to determine the adequacy of the cleanup of spills resulting from the release of materials containing PCBs at concentrations of 50 ppm or greater. The policy applies to spills which occur after May 4, 1987.

(1) Existing spills (spills which occurred prior to May 4, 1987, are excluded from the scope of this policy for two reasons:

(i) For old spills which have already been discovered, this policy is not intended to require additional cleanup where a party has already cleaned a spill in accordance with requirements imposed by EPA through its regional offices, nor is this policy intended to interfere with ongoing litigation of enforcement actions which bring into issue PCB spills cleanup.

(ii) EPA recognizes that old spills which are discovered after the effective date of this policy will require site-by-site evaluation because of the likelihood that the site involves more pervasive PCB contamination than fresh spills and because old spills are generally more difficult to clean up than fresh spills (particularly on porous surfaces such as concrete). Therefore, spills which occurred before the effective date of this policy are to be decontaminated to requirements established at the discretion of EPA, usually through its regional offices.

(2) EPA expects most PCB spills subject to the TSCA PCB regulations to conform to the typical spill situations considered in developing this policy. This policy does, however, exclude from application of the final numerical

cleanup standards certain spill situations from its scope: Spills directly into surface waters, drinking water, sewers, grazing lands, and vegetable gardens. These types of spills are subject to final cleanup standards to be established at the discretion of the regional office. These spills are, however, subject to the immediate notification requirements and measures to minimize further environmental contamination.

(3) For all other spills, EPA generally expects the decontamination standards of this policy to apply. Occasionally, some small percentage of spills covered by this policy may warrant more stringent cleanup requirements because of additional routes of exposure or significantly greater exposures than those assumed in developing the final cleanup standards of this policy. While the EPA regional offices have the authority to require additional cleanup in these circumstances, the Regional Administrator must first make a finding based on the specific facts of a spill that additional cleanup must occur to prevent unreasonable risk. In addition, before a final decision is made to require additional cleanup, the Regional Administrator must notify the Director, Office of Resource Conservation and Recovery of his/her finding and the basis for the finding.

(4) There may also be exceptional spill situations that requires less stringent cleanup or a different approach to cleanup because of factors associated with the particular spill. These factors may mitigate expected exposures and risks or make cleanup to these requirements impracticable.

(b) *Spills that may require more stringent cleanup levels.* For spills within the scope of this policy, EPA generally retains, under §761.135, the authority to require additional cleanup upon finding that, despite good faith efforts by the responsible party, the numerical decontamination levels in the policy have not been met. In addition, EPA foresees the possibility of exceptional spill situations in which site-specific risk factors may warrant additional cleanup to more stringent numerical decontamination levels than are required by the policy. In these situations, the Regional Administrator has