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Highlights

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31159 **Motor Gasoline Allocation** Executive order delegating authorities

31442 **Nondiscrimination on Basis of Handicap** DOT issues rules requiring recipients of financial assistance to make existing and future facilities and programs accessible to handicapped persons, and prohibits employment discrimination; effective 7-2-79. (Part II of this issue)

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 761]

[FRL 1227-7; OTS-066001]

Polychlorinated Biphenyls (PCBs); Proposed Rulemaking for PCB Manufacturing Exemptions

AGENCY: Environmental Protection Agency.

ACTION: Proposed PCB exemption rule; notice of informal hearing.

SUMMARY: This notice lists the petitions received by EPA for exemption from the prohibition on PCB manufacturing and importation pursuant to section 6(e)(3) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e)(3). The notice also indicates, the most cases, which petitions for exemption EPA proposes to grant and which petitions the Agency proposes to deny.

DATES: Written comments, preferably in triplicate, must be received by the Hearing Clerk by July 2, 1979. Hearing Date and Time: July 9, 1979 at 10:00 a.m. in Washington, D.C. Requests to participate in the hearing must be received by the Hearing Clerk by July 2, 1979.

ADDRESSES: Send comments and requests to participate in the hearing to: Ms. Linda Thomson, Hearing Clerk, Office of Toxic Substances (TS-794), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket Number OTS/066001 (PCB/ME). The hearing will be held in Washington, D.C. The exact location of the hearing will be made available by calling the toll-free number 800-424-9065.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Director, Office of Industry Assistance (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (800)-424-9065, or in Washington, D.C. call 554-1404.

SUPPLEMENTARY INFORMATION: Section 6(e)(3)(A) of TSCA (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*) prohibits all manufacture (including importation) of PCBs as of January 1, 1979. EPA's regulation entitled PCB Manufacturing, Processing, Distribution in Commerce, and Use Prohibition Rule (PCB Prohibition Rule) which implements the prohibitions of section 6(e)(3) of TSCA, appears elsewhere in today's **Federal Register**. Section 6(e)(3)(B) of TSCA allows affected persons to petition EPA for exemptions from the section 6(e)(3)(A) PCB prohibitions. On November 1, 1978, EPA published Interim Procedural Rules (43 FR 50905) for the filing and processing of petitions for exemptions from the PCB manufacturing prohibition of section 6(e)(3) of TSCA. More than seventy petitions for exemption have been received. These petitions have been consolidated into one rulemaking in accordance with § 750.12 of the Interim Procedural Rules (43 FR at 50906).

On January 2, 1979, the Agency announced (44 FR 108) that persons who had filed petitions for exemptions from the PCB manufacturing ban under section 6(e)(3)(B) of TSCA could continue the manufacturing or importation activity for which the exemption is sought until EPA has acted on the applicable petition.

The Interim Procedural Rules for manufacturing exemptions (43 FR 50905) will be applicable to this rulemaking. The official record of rulemaking is located in Room 447, East Tower, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202)-755-6956. It will be available for viewing and copying from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Hearing transcripts, hearing materials and submissions received will be added to the record as they become available.

To facilitate informed comment, EPA is indicating its proposed action on most exemption petitions. For EPA to grant a requested exemption, the Agency must make the findings required by section 6(e)(B)(3) of TSCA. That section reads as follows:

> * * * the Administrator may grant by rule such an exemption if the Administrator finds that—
>
> (i) An unreasonable risk of injury to health or environment would not result, and
>
> (ii) Good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl.

EPA wishes to advise commentors that for each exemption petition the Agency may request by letter additional information from the petitioner concerning his petition. This information would be supplementary to information requested in this Notice. The Agency will make such requests if it determines that it requires the information in order to adequately assess the petition. Accordingly, persons may wish to file reply comments under § 750.15 of the Interim Procedural Rules (43 FR 50906) on any additional material filed by petitioners in response to information requests from EPA.

Section 750.11(b) of the Interim Procedural Rules established a filing date of December 1, 1978 for all petitions for exemption from the TSCA section 6(e)(3) PCB manufacturing (and important) prohibition. Subsequent to the filing date, additional petitions have been received by the Agency. Due to the shortness of the original filing period of thirty days, EPA has accepted all late petitions. The Agency will decide on a case-by-case whether petitions for exemptions for PCB manufacturing and importation activities filed subsequent to the date of this Notice should also be accepted. If a PCB manufacturer or importer subject to the final PCB regulation (1) now wishes to file a petition for exemption and (2) did not earlier file a petition because he had good cause to believe his PCB activity was not subject to the proposed regulation (43 FR 24802, June 7, 1978), he should indicate the basis for his prior failure to file a petition and should request EPA to accept his late petition. No late petition will be accepted unless good cause can be shown for the failure to file on time. Whether or not late petitions are accepted will be announced at the informal hearing for this rulemaking. A supplemental notice of proposed rulemaking probably will not be issued as to such petitions.

In the preamble to the final PCB Prohibition Rule (see preamble section VI.C.1.), EPA states: ". . . the prohibition applies to the manufacture of any substance or mixture that contains PCB at 50 ppm or greater, including PCB that is an intermediate or 'impurity' or 'byproduct'. . . . While the production of PCBs under such circumstances may not be intentional and may have no independent commercial value, section 6(e) of TSCA applies to *any* production of PCBs and, therefore, covers such activities." EPA is aware that although the proposed rule included such PCBs in its coverage, some manufacturers may not have interpreted the proposed rule to include such PCBs and, therefore, may not have submitted a petition for an exemption from the manufacturing prohibition. As discussed above, EPA will accept petitions from such persons during the comment period for this rule, if the required showing of good faith in not filing earlier is made.

Several persons requested that petitions be accepted on a class basis. They argued that PCB equipment manufacturers should be able to petition for exemptions on behalf of those customers who are also PCB equipment

manufacturers or distributors as defined in the proposed regulation.* In view of the change which has been made concerning restrictions on the manufacture of PCB equipment in the final PCB Prohibition Rule,** EPA will not accept exemption petitions on a class basis in this rulemaking. However, the Agency has addressed the question of class petitions in the Interim Procedural Rules which establish procedures for filing and processing exemption petitions from the July 1, 1979 PCB processing and distribution in commerce prohibitions. These Interim Procedural Rules are found elsewhere in today's **Federal Register**.

It is the intent of EPA to grant or deny the petitions for exemption from the prohibition of the manufacture (including importation) of PCBs subject to this rulemaking prior to August 1, 1979.

Below are listed the exemption petitions that EPA has received. These exemptions have been categorized according to the nature of the petition, and the categories are indicated by a numbered key. The Agency's proposed action on the petitions follows the listing.

Petitioner and Basis for Petition

Abalite Lighting, Inc., P.O. Box 237, West Lafayette, OH 43845.[1]
Advance Transformer Co., 2950 North Western Ave., Chicago, IL 60618.[2]
Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, PA 15219.[3]
American Hoechst Corp., Route 202-206 North, Somerville, NJ 08876.[4]
Binney and Smith, Inc., 1100 Church Lane, P.O. Box 431, Easton, PA 18042.[4]
Borden, Inc., Borden Chemical Division, 630 Glendale-Milford Rd., Cincinnati, OH 45215.[5]
Chemetron Pigments, Division of Chemetron Corp., 491 Columbia Ave., Holland, MI 49423.[4]
Chemical Waste Management Limited, 211 King Street, P.O. Box 1288, St. Catherines, Ontario, Canada L2R7A7.[6]
Ching Mei U.S.A. Ltd., 350 Fifth Ave., Rm. 1825, New York, NY 10001.[6]
Cincinnati Milacron Inc., 4701 Marburg Ave., Cincinnati, OH 45209.[6]
Colt Industries, Inc., Fairbanks Morse Pump Division, 3601 Fairbanks Ave., Kansas City, KS 66110.[7]
Columbia Lighting Inc., Terminal Annex, Box 2787, Spokane, WA.[1]
Control Data Corporation, Autocon Industries Inc., Subsidiary of Control Data Corp., 2300 Berkshire Lane, Minneapolis, MN 55441.[7]
Copeland Corp., Sidney, OH 45365.[8]
Crouse-Hinds Co., P.O. Box 4999, Wolf and Seventh North St., Syracuse, NY 13221.[1]
Dainichiseika Color & Chemicals, America, Inc., 20 Hook Mountain Rd., Pine Brook, NJ 07058.[8]
Dainippon Ink & Chemicals America, Inc., 200 Park Ave., New York, NY 10017.[4]
Day-Brite Lighting, 1015 South Green St., P.O. Drawer 1687, Tupelo, MS 38801.[1]
Dow Corning Corp., Midland, MI 48640.[9]
Dunham-Bush, Inc., 101 Burgess Road, Harrisonburg, VA 22801.[10]
Emerson Quiet Kool Corp., 400 Woodbine Ave., Woodbridge, NJ 07095.[8]
Emerson Electric Co., Industrial Control Division, 3300 S. Standard St., P.O. Box 1679, Santa Ana, CA 92702.[10]
Emerson Electric Company, Gearmaster Division, 1609 S. Route 31, McHenry, IL 60050.[10]
General Electric Company, 3135 Easton Turnpike, Fairfield, CT 06431.[1, 11, 12, 30]
Globe Illumination Company, 1515 W. 178th St., Gardena, CA 90248.[1]
Guardian Chemical Corp., Eastern Chemical Division, 230 Marcus Blvd., Hauppauge, NY 11787.[13]
Guardian Light Co., 5125 W. Lake St., Chicago, IL 60644.[1]
Halstead Industries, Inc., Halstead and Mitchell/Division, Highway 72 West, Scottsboro, AL 35768.[10]
Harmon Colors Corp., 550 Belmont Ave., Haledon, NJ 07508.[4]
Harvey Hubbell, Inc., (Lighting Division), 2000 Electric Way, Christianburg, VA 24073.[1]
Hercules, Inc., 910 Market St., Wilmington, DE 19889.[4]
Hills-McCanna Co., 400 Maple Ave., Carpentersville, IL 60110.[16]
Hilton-Davis Chemical Co., Division of Sterling Drug Inc., 2235 Langdon Farm Road, Cincinnati, OH 45237.[4]
Honeywell, Inc., 200 Smith St., Waltham, MA 02154.[11]
ICI Americas, Inc., Wilmington, DE 19897.[4]
International Telephone & Telegraph Corp., 260 Cochituate Road, Suite 109, Framington, MA 07101.[1]
Intsel Corp., 825 Third Ave., New York, NY 10022.[14]
Keene Corporation-Lighting Division, Industrial Way, Wilmington, MA 01887.[1]
Keystone Lighting Corp., Inc., U.S. 13 & Beaver Streets, Bristol, PA 19007.[1]
Kramer Trenton Co., Box 820, Trenton, NJ 08605.[19]
Lightolier, Inc., 346 Claremont Ave., Jersey City, NJ 07305.[1]
Litton Industrial Products, Inc., Louis Allis Division, 18555 West Ryerson Road, New Berlin, WI 53151.[18]
Litton Microwave Cooking, Litton Systems, Inc., P.O. Box 9461, Minneapolis, MN 55440.[16]
Litton Systems Inc., Jefferson Electric Division, 840 South 25th Ave., Bellwood, IL 60104.[1]
Marathon Electric Manufacturing Corp., P.O. Box 1407, Wausau, WI 54401.[10]
McGraw-Edison Co., Area Lighting Div., 7601 Durand Ave., Racine, WI 53405.[1]
McGraw-Edison Co., Kitchen Appliance Division, P.O. Box 1111, Chattanooga, TN 37401.[16]
Metalux Corp., P.O. Box 1207, Americus, GA 31709.[1]
The Miller Company, Lighting Division, 09 Center Street, Meridian, CT 06450.[1]
Montedison USA, Inc., 1114 Ave. of the Americas, New York City, NY 10036.[8]
Nagase America Corp., 500 Fifth Ave., New York, NY 10036.[4]
National Services Industries, Lithonia Lighting Div., 1335 Industrial Blvd. NW., Conyers, GA 30207.[1]
National Solid Waste Management Association, 1120 Connecticut Ave. NW., Washington, DC 20036.[9]
Phillips Petroleum Company, 19 C2 Phillips Bldg., Bartlesville, OK 74004.[17]
Phthalchem Inc., 6675 Beechlands Dr., Cincinnati, OH 45237.[4]
Pope Chemical Corp., 33 Sixth Ave., Paterson, NJ 07524.[4]
Prescolite, 1251 Doolittle Drive, San Leandro, CA 94557.[1]

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*See the definition of "PCB" in Section 761.2(q) of the proposed PCB Prohibition Rule (43 FR at 24813, June 7, 1978) and the definition of "PCB Equipment" in Section 761.2(v) of the final PCB Disposal and Marking Rule (44 FR at 7157, February 17, 1979).

This change classifies the manufacture of PCB equipment as "processing" subject to prohibition as of July 1, 1979 under Section 6(e)(3)(A)(ii) of TSCA. The proposed regulation classified such activity as "manufacture" subject to prohibition as of January 1, 1979 under Section 6(e)(3)(A)(i). For further discussion, see Section VI.D.1.a. of the preamble to the final PCB Prohibition Rule, which appears elsewhere in today's **Federal Register.

[1] Requests an exemption in order to manufacture either fluorescent or High Intensity Discharge (HID) lighting fixtures with a PCB capacitor or PCB ballast transformer.

[2] Requests an exemption in order to manufacture PCB ballast transformers which can be used by its customers in the manufacture of fluorescent and HID lighting fixtures.

[3] Requests an exemption in order to continue manufacturing aluminum chloride which is contaminated with PCBs.

[4] Requests an exemption to either manufacture or import diarylide yellow or phthalocyanine pigments.

[5] Requests an exemption in order to import into the United States PCB waste material for disposal.

[6] Requests an exemption in order to incorporate PCBs as an additive component in rigid PVC vibration damping devices used in large machine tools.

[7] Requests an exemption in order to use PCB capacitors in the manufacture of electric pumps and water and waste water control systems.

[8] Requests an exemption in order to use PCB capacitors in the manufacture of air conditioners or air conditioner sub-assemblies.

[9] Requests an exemption in order to continue manufacturing an unspecified chemical using a PCB contaminated intermediate.

[10] Requests an exemption in order to manufacture motors using a PCB capacitor or to manufacture another product or system using such a motor.

[11] Requests an exemption in order to continue manufacturing phenylchlorosilanes with unintentional PCB impurities.

[12] Requests an exemption in order to sell a small quantity of PCB.

[13] Requests an exemption in order to import PCB equipment and small PCB capacitors for purposes of repair, replacement and trade-in.

[14] Requests an exemption in order to import a dielectric called Electrophenyl T-60 which is contaminated with PCB.

[15] Requests an exemption in order to use PCB capacitors in the manufacture of power conversion equipment.

[16] Requests an exemption in order to use PCB capacitors in the manufacture of microwave ovens.

[17] Requests an exemption in order to import PCBs for use in research and development of an unspecified chemical intermediate.

Ridgeway Color & Chemical of Wheelabrator-Fry, Inc., 75 Front St., Ridgeway, PA 15853.[4]
Rollins Environmental Services, Inc., One Rollins Plaza, P.O. Box 2349, Wilmington, DE 19899.[5]
Sandoz, Inc., Sandoz Colors and Chemicals Division, 59 Route 10, East Hanover, NJ 07936.[4]
Sim-Kar Lighting Fixture Co., Inc., 601 East Cayuga Street, Philadelphia, PA 19120.[1]
Spero Electric Corp., 18222 Lanken Ave., Cleveland, OH 44119.[1]
Sta-Rite Industries Inc., Suite 3300, 977 East Wisconsin Ave., Milwaukee, WI 53202.[7]
Stauffer Chemical Company, on behalf of SWS Silicones Corp. Subsidiary, Westport, CT 06880.[18]
Steelcase Inc., 1120 36th Street, Grand Rapids, MI 49501.[1]
Sterner Lighting Systems, Inc., 351 Lewis Ave., NW., Winstead, MN 55395.[1]
Sun Chemical Corp., Pigments Division, Research & Operations Center, 4625 East Ave., Cincinnati, OH 45232.[4]
Sumitomo Corporation of America, 345 Park Ave., New York, NY 10022.[4]
Tappan Air Conditioning-Smith Jones, Inc., 206 Woodford Ave., Elyira, OH 44035.[8]
Tivian Chemical Associates, 720 Union Street, Manchester, NH 03104.[19]
Thomas Industries, Inc., Benjamin Division, P.O. Box 180, Sparta, TN 38583.[1]
Toyo Ink America, Inc., 560 Sylvan Ave., Englewood Cliffs, NJ 07632.[4]
Universal Manufacturing Corp., 29 E. 6th Street, Paterson, NJ 70509.[2]
Vivitar Corp., 1630 Stewart Street, Santa Monica, CA 90406.[20]
Weatherking, Inc., P.O. Box 20434, Orlando, FL 32814.[8]
Westinghouse Electric Corp., Lighting Business Unit, P.O. Box 624, Vicksburg, MS 39180.[1 19]
Whiteway Manufacturing Co., 1736 Dreman Avenue, Cincinnati, OH 45223.[1]
Wide-Lite Corp., P.O. Box 606, Redwood Rd. & H135, San Marcos, TX 78666.[1]
Wylain, Inc., Mold Cast Lighting Division, I-90 at Maple Avenue, Pine Brook, NJ 07058.[1]

EPA has completed a preliminary analysis of the above-listed petitions for exemption from the PCB Prohibition Rule which was promulgated elsewhere in today's **Federal Register**. The Agency has decided that it will not evaluate at this time any of the 49 requests for exemption from the prohibitions on manufacturing equipment which contains a PCB capacitor. (The requests which fall in this category are those footnoted with numbers 1, 2, 7, 8, 10, 13, 15, 16, 20.) EPA is not processing these requests in the present proceeding because, as previously noted, the Agency defines in the final PCB Prohibition Rule the activity of "manufacturing" equipment utilizing a PCB capacitor as "processing" of PCBs. Processing of PCBs is not subject to section 6(e)(3) until July 1, 1979.

EPA will consider petitions concerning PCB processing activities in a subsequent proceeding. Persons who filed requests for exemptions for this activity will not be required to refile. However, they will be required under Interim Procedural Rules, found elsewhere in today's **Federal Register**, to indicate to EPA in writing if they wish their petitions to be considered as requests for exemption from the July 1, 1979 prohibition on processing or distribution in commerce of PCBs.

Imports of PCB Wastes

Chemical Waste Management, Ltd., the National Solid Waste Management Association, and the Rollins Environmental Services, Inc., petitioned to continue importation of PCB waste material into the U.S. for purposes of disposal. These petitions have been mooted by the PCB Prohibition Rule published elsewhere in today's **Federal Register**. For the reasons explained in the preamble to that regulation, EPA has decided to allow imports and exports of PCB waste for disposal (so long as such disposal is in accordance with Subpart B of the regulation) until May 1, 1980. Accordingly, no petitions for importation of PCB wastes for disposal are required.

Manufacture and Import of Pigments

EPA proposes to grant all of the requests to either manufacture or import diarylide and phthalocyanine pigments containing more than 50 ppm PCB. (These petitions are identified in the above list with footnote number 4). Information submitted with the requests and testimony and written comments received during the rulemaking for the PCB Manufacturing, Processing, Distribution in Commerce and Use Prohibition Rule which EPA promulgated today indicates (1) granting these exemption requests would not result in an unreasonable risk of injury to health or the environment and (2) good faith efforts are being made by the pigment industry to develop alternative processes for manufacturing the diarylide and phthalocyanine pigments without PCB contamination. Most of these pigments have PCB concentrations in the range of several hundred parts per million. These PCBs cannot easily be separated from the pigments because of the structural similarity of the PCBs with the pigments. Once manufactured, the pigments are mixed with other substances to form paints, inks, and a variety of other products.

In deciding whether to permit continued pigment manufacture, EPA has considered the relatively limited human and environmental exposure to PCBs involved and the economic effects associated with prohibiting manufacture of these pigments. The greatest potential for exposure is in the application of the paints and inks using these pigments. These products contain far less than 50 ppm PCB because of the dilution that takes place when the pigment is mixed with the medium it is coloring. As a result, the health and environmental risks are relatively small. At the present time, these particular pigments account for most of the yellow and blue pigments in use and a significant portion of the total pigment market. If the manufacture of these pigments is not permitted until the conversion to alternative processes is complete, there will be a severe impact on the pigment industry as well as its customers in the paint and graphic arts industries.

The potential costs of compliance will be greatly reduced if an exemption is granted while process changes to reduce PCB contamination are made. It is anticipated that such changes can be made over a period of a year or two. The increased health and environmental risk will be relatively small as there will be limited exposure to PCBs as a result of the exemption.

Furthermore, the granting of these exemption requests will be consistent with the authorization for continued use of phthalocyanine and diarylide yellow pigments which is contained in the final PCB Prohibitions Rule.

EPA especially invites comment not only on the merits of granting the above described petitions, but also on the terms and conditions which the Agency should apply to such exemptions if granted.

Import of PCB Equipment

Honeywell Inc.'s request to be permitted to continue importing PCB equipment will not be evaluated in this proceeding but will be evaluated (if requested) in the future rulemaking dealing with exemptions from the prohibition on processing and distribution in commerce of PCBs. The PCB Prohibition Rule which EPA promulgated today treats importation of PCB equipment in the same manner as

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[18] Requests an exemption in order to continue importing a polysiloxane intermediate which is used in the manufacture of heat curable silicone rubber products and which is contaminated with 600 ppm PCBs. Chemical (polysiloxane intermediate) is described generically because petitioner has claimed confidential treatment for identity of chemical.

[19] Requests an exemption in order to continue unspecified activity which may be subject to either January 1, 1979 or July 1, 1979 prohibitions. See later discussion in this Notice.

[20] Requests an exemption in order to use PCB capacitors in the manufacture of photographic enlargers.

the domestic assembly of such equipment and, therefore, such activity is not prohibited until July 1, 1979.

Other Petitions

Guardian Chemical Corporation's request to be permitted to sell small quantities of 4,4'-Dichlorodiphenyl-sulfane as a laboratory reagent also will not be evaluated now but will be evaluated (if requested) in the processing and distribution in commerce exemption proceeding. Guardian did not indicate that they in any way manufacture PCBs. However, it does appear that the activity which is seeks to continue is the "distribution in commerce" of PCBs.

Similarly, the petition submitted by Cincinnati Milacron which, if granted, would permit the company to continue to use PCBs as an additive component in their manufacture of polyvinyl chloride vibration damping devices will not be considered now but will be considered in the future proceeding, if requested. The reason for delaying the processing of Cincinnati Milacron's petition is that EPA has determined that the company's use of PCBs is "processing" as that term is defined by the PCB Prohibition Rule and is therefore not subject to this proceeding.

Exemption Requests Proposed To Be Denied

EPA proposes to deny Intsel Corporation's request to import Electrophenyl T-60 and Phillips Petroleum Company's request to import significant quantities of PCBs for unspecified research and development purposes. Neither of the requestors have shown that they are making a good faith effort to develop substitutes which do not contain 50 ppm or greater PCBs, nor that the adverse economic or other consequences of EPA's denying the requests outweigh the potential harm to health and the environment of EPA's granting the requests.

Exemption Requests for Which a Determination Is Not Proposed

EPA has not proposed its disposition of the requests received from Alcoa which respect to its manufacture of aluminum chloride and the General Electric Co. with respect to its manufacture of phenylchlorosilanes due to the technical complexity of the activities for which exemptions are sought.

Before making a determination with respect to these exemption petitions, the Agency will seek, by means of written requests to the companies and by this notice, further comments and/or data. Additional information on these petitions is given below.

Alcoa requested a one-year exemption for the manufacture of approximately 132.77 million pounds of aluminum chloride at its facility in Anderson County, Texas. The process would result in the annual production of approximately 9,294 pounds of PCBs, 95% of which is concentrated and disposed of as a PCB mixture. The remaining 5% represents an impurity in the aluminum chloride which Alcoa sells for a variety of uses. Comments and data are requested on the health and environmental risks that would be posed by granting Alcoa's exemption and also on the risks associated with using the aluminum chloride for applications other than smelting aluminum. In particular, EPA is interested in information regarding processes for the production of aluminum chloride which do not produce PCBs. In addition, EPA invites comments on the economic or other adverse impacts that denial of the exemption would have on Alcoa's users of this product.

General Electric seeks an exemption to continue the manufacture of phenylchlorosilanes with unintentional PCB impurities. The manufacturing process results in approximately 50,000 pounds per year of PCBs which are removed and concentrated for disposal in an on-site incineration facility in Waterford, New York. The phenylchlorosilanes are used in the production of a number of high performance silicone products for various industrial, aerospace, and defense applications. Comments and data are requested on the health and environmental risk associated with granting or denying General Electric's exemption petition, on alternative methods of manufacturing phenylchlorosilanes without PCB contamination, and on the impact of denying this petition on the users of this chemical.

EPA has also not proposed its disposition of the petition of Tivian Chemical Associates. EPA is seeking to clarify whether Tivian's activity for which exemption is sought is subject to the January 1, 1979 prohibition on PCB manufacture and importation, or rather to the July 1, 1979 prohibition on PCB processing and distribution in commerce.

In addition, EPA has not proposed its disposition of the petitions of Dow Corning Corporation and Stauffer Chemical Company. EPA currently does not have sufficient information to determine whether exemptions should be proposed for these companies. Dow Corning has not identified the substance which it wishes to manufacture and the amount of PCB contamination in the chemical intermediate. Stauffer has not provided sufficient information concerning the identity of products which may be subject to PCB contamination. EPA will seek, by means of written requests to both companies, to clarify the identity of the products identified in the petitions of the companies, and the nature of the manufacturing processes, which includes determining whether intermediates are contaminated during the manufacturing process.

Section 750.13 of the Interim Procedural Rules does not require EPA to announce its proposed disposition of exemption petitions in a Notice of Proposed Rulemaking. Due to the need to expedite action on the exemption petitions, EPA will not publish a subsequent notice concerning the Alcoa, General Electric, Tivian, Dow Corning and Stauffer petitions.

Dated: May 11, 1979.

Marilyn C. Bracken,

Acting Assistant Administrator for Toxic Substances.

[FR Doc. 79-16901 Filed 5-30-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 761]

[FRL 1227-6]

Polychlorinated Biphenyls (PCBs); Amendment to Criteria for Chemical Waste Landfills

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to final rule; notice of informal hearing.

SUMMARY: This proposed rule would modify Annex II of Subpart E of the Polychlorinated Biphenyls regulation promulgated elsewhere in today's Federal Register under the authority of section 6(e) of the Toxic Substances Control Act. The proposed rule would amend the criteria for chemical waste landfills by reducing the required distance between the bottom of the chemical waste landfill liner system and the historical high water table from fifty feet to five feet.

DATES: Written comments, preferably in triplicate, must be received prior to the close of business July 16, 1979. Informal hearing date and time (if a hearing is requested): August 6, 1979, at 10:00 a.m. in Washington, DC. Requests to hold a hearing and to participate in the hearing must be received prior to the close of

business on July 16, 1979. See Supplementary Information below.

ADDRESSES: Send comments to: Document Control Officer (TS-793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20406, Attn: Docket Number OTS/066000(PCB/RR). The informal hearing (if a hearing is requested) will be held in Washington, DC. The exact location of the hearing will be made available by calling the toll-free number 800-424-9065. Address requests to participate to Ms. Linda Thomson, Hearing Clerk, Office of Toxic Substances (TS-794), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Attn: Docket Number OTS/066000(PCB/RR) The telephone number for Ms. Thomson is (202)-755-1188.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Office of Industry Assistance, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Call the toll free number (800)-424-9065, (in Washington, DC, 554-1404).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency proposes this rule pursuant to the authority of section 6(e) of the Toxic Substances Control Act (Pub. L. 94-469; 90 Stat. 2003; 15 U.S.C. 2601 et seq., hereinafter referred to as TSCA). The procedures for rulemaking under section 6 of TSCA (40 CFR Part 750), 42 FR 61269 (December 2, 1977), will be followed. The official record of rulemaking is located in Room 447, East Tower, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202)-755-6950. It will be available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Hearing transcripts and other hearing materials will be added to the record as they become available.

I. Chemical Waste Landfill Criteria

In Annex II of Subpart E of the PCB Rule (published elsewhere in today's **Federal Register**), the Agency specifies criteria for chemical waste landfills to be used for the disposal of PCBs. Section 761.41(b)(3), Hydrologic Conditions, states that the bottom of the landfill liner system or natural in-place soil barrier must be at least fifty feet from the historical high water table. This requirement is essentially the same as the provisions contained in § 761.41(b)(2), Hydrology, of the PCB Disposal and Marking Rule (43 FR 7150, 7161, February 17, 1978). The earlier version of the PCB Rules will be superseded in thirty days by the PCB Rule published in final form today.

Because the distance between the bottom of a chemical waste landfill and the historical high water table cannot be fifty feet or more in many areas east of the Mississippi River due to the closeness of the water table to the surface, EPA Regional Administrators have had to use the waiver provisions of § 761.41(c)(4) to waive this criterion in order to be able to approve PCB chemical waste landfills. The Regional Administrators have been able to grant these waivers because the shorter separation between the bottom of the landfill and the groundwater was found not to present an unreasonable risk of injury to health or the environment from PCBs. After examining the circumstances related to these waivers, EPA has concluded, for the reasons stated below, that the fifty foot criterion in the rule is too stringent, and that the rule should be modified accordingly.

The state of the art in the design and construction of chemical waste landfill liner systems and leachate detection and collection systems has advanced sufficiently so that the bottom of the liner system can be as close as five feet from the historical high water table. The liner systems are designed to be virtually impermeable, and the leachate collection systems are designed as a back-up measure to help insure that the liner system is not penetrated by liquids. This approach has also been included in the proposed EPA Hazardous Waste Guidelines and Regulations (40 CFR Part 250) [see 43 FR 58940-59028, December 18, 1978] in § 250.45-2(a)(2) proposed under the authority of the Resource Conservation and Recovery Act (RCRA).

This proposed change would modify § 761.41(b)(3), Hydrologic Conditions, of the PCB Rule, to change from fifty feet to five feet the required minimum distance between the bottom of the liner system and the historical high water table.

II. Effective Date

It is the intent of EPA to make the final version of this proposed amendment effective thirty days after the date of publication in the **Federal Register**. The final promulgation of this rule is expected in September 1979.

Dated: May 11, 1979.

Marilyn C. Bracken,

Acting Assistant Administrator for Toxic Substances.

Pursuant to the Toxic Substances Control Act, 15 U.S.C. 2605, and pursuant to authority delegated in the *Background* section of the Preamble to the Final PCB Regulation published elsewhere in today's **Federal Register**, the following amendment to 40 CFR Chapter I, Part 761 is proposed.

Subpart E—List of Annexes

Annex II

Section 761.41 is amended by revising subparagraph (b)(3) to read as follows:

§ 761.41 Chemical waste landfills.

* * * * *

(b) * * *

(3) *Hydrologic Conditions.* The bottom of the landfill liner system or natural in-place soil barrier shall be at least five feet above the historical high groundwater table. Floodplains, shorelands, and groundwater recharge areas shall be avoided. There shall be no hydraulic connection between the site and standing or flowing surface water. The site shall have monitoring wells and leachate collection.

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