

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601(a).)

Dated: July 27, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraphs (c)(35)(xiv) (C) and (D) are added as follows:

§ 52.220 Identification of plan.

- (c) ***
- (35) ***
- (xiv) ***

(C) New or amended Rules 100, 110, 120, 130, 150, 160 (except 160(a) and non-criteria pollutants), 190, 240(d) (except paragraph (3)), 300, 310, 320, 340, 400(b), 410(a), 410(c), 420, 430, 440, 470, 480, 482, 500, 510, 520, 600, 610, 620, 630, 640, and 650; and the following portions of Regulation 2: general prohibitions (all of page 1), Articles I and II, paragraphs A1, A2, A3, A4, 5, 7, and 8 of Article III, Articles IV to VII, and Appendix A.

(D) Previously approved and now deleted (without replacement) Rules 5, 6, 80, 87, and 95.

2. Section 52.224, paragraph (a)(2)(iii)(B) is added as follows:

§ 52.224 General requirements.

- (a) ***
- (2) ***
- (iii) ***

(B) Humboldt County APCD.

3. Section 52.234, paragraph (a)(1)(iv) is added as follows:

§ 52.234 Source surveillance.

- (a) ***
- (1) ***

(iv) Humboldt County APCD.

4. In Section 52.273, paragraphs (a)(4)(ii) and (b)(3)(ii) are added as follows:

§ 52.273 Open burning.

- (a) ***
- (4) ***

(ii) Humboldt County APCD.

(A) Rule 410(c)(2) and the following portions of Regulation 2: General prohibitions (all of page 1), paragraph (f) of Article I, paragraphs (f) and (g) of Article V, and paragraph (f) of Article VI, submitted on November 10, 1976.

- (b) ***
- (3) ***

(ii) Humboldt County APCD.

(A) Paragraph (e) of Article I of Regulation 2, submitted on November 10, 1976.

5. Section 52.275, paragraph (b)(3)(ii) is added as follows:

§ 52.275 Particulate matter control

- (b) ***
- (3) ***

(ii) Humboldt County APCD.

(A) Rules 410(c)(7) and 420(e), *Waste Incineration*, submitted on November 10, 1976.

[FR Doc. 78-21392 Filed 8-1-78; 8:45 am]

[6560-01]

[FRL 937-41]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Malfunction Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to disapprove the malfunction rules and regulations of 22 Air Pollution Control Districts (APCD's) in California. The disapproved rules include rules previously approved by EPA and rule revisions officially submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105. Attention: Wayne Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted for inclusion in the SIP. It is the purpose of this notice to take final disapproval action on the following APCD rules and regulations concerning malfunction:

1. Amador County APCD Rule 4F, *Exceptions*, submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

2. Bay Area APCD Regulation 2, section 3212, *Upset Conditions, Breakdown or Scheduled Maintenance*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

3. Calaveras County APCD Rules 110, *Equipment Shutdown, Startup and Breakdown*, and 402(f), *Exceptions*, submitted on July 25, 1973, and previously approved under 40 CFR 52.223 (42 FR 23803);

4. Colusa County APCD Rule 4.4g, *Exceptions*, submitted on July 25, 1973, and Rule 4.4g, *Exceptions*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

5. Del Norte County APCD Rule 45, *Report of Breakdown*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

6. Fresno County APCD Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on October 23, 1974;

7. Humboldt County APCD Rule 59, *Report of Breakdown*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

8. Madera County APCD Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on January 10, 1975;

9. Mendocino County APCD section 1, *Maintenance* and section 2, *Malfunction of Equipment*, of Part VI, *Maintenance, Malfunction, Evasion, Inspection*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

10. Merced County APCD Rule 109, *Equipment Shutdown, Startup and Breakdown*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

11. Nevada County APCD Rule 55(f), *Exceptions*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

12. Placer County APCD Rule 55(f), *Exceptions*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

13. San Joaquin County APCD Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on October

23, 1974, and Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

14. San Luis Obispo County APCD Rule 102, *Breakdown and Upset Conditions*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

15. Shasta County APCD Rule 3:10, *Breakdown or Upset Conditions*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

16. Sierra County APCD Rule 51, *Air Pollution Equipment-Scheduled Maintenance*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812) and Rule 203(j), *Exceptions*, submitted on January 10, 1975, and previously approved under 40 CFR 52.223 (42 FR 23805);

17. San Bernardino County APCD Rule 55, *Upset Conditions or Breakdowns*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

18. Stanislaus County APCD Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812), and Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on July 19, 1974, and previously approved under 40 CFR 52.223 (42 FR 25501);

19. Tehama County APCD Rule 4:1g, *Exceptions*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

20. Trinity County APCD Rule 44, *Report of Breakdown*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

21. Ventura County APCD Rule 32, *Upset Conditions, Breakdown or Scheduled Maintenance*, submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

22. Yuba County APCD Rule 4.5, *Air Pollution Equipment-Scheduled Maintenance*, submitted on July 25, 1973 and previously approved under 40 CFR 52.223 (42 FR 23803).

On December 30, 1977 (42 FR 65207) EPA proposed to disapprove these malfunction rules and regulations. The proposed rulemaking notice provided for a 30 day comment period. During the comment period, comments were received from the District Attorney for Trinity County, Diamond Shamrock Corp., Owens-Illinois Inc., Louisiana-Pacific Corporation, Mobile Oil Corp., Allied Chemical, and the Bay Area Air Pollution Control District.

Several of the commenters stated that the proposal does not take into account their need for regulations covering malfunction, and that sources should not be penalized for excessive

emissions which result from conditions beyond the control of the operator. Further, several of those commenting expressed the belief that certain existing rules adequately provide for the enforcement of applicable emission limitations.

EPA recognizes that the imposition of a penalty for sudden and unavoidable malfunctions caused by circumstances entirely beyond the control of the operator is not appropriate under certain circumstances. Many of the existing rules contain reporting provisions which the enforcing agency could appropriately use to determine whether enforcement action is needed. EPA does not take the position that all malfunction regulations are inappropriate; rather, what EPA finds unacceptable is the potential for permitting violations of the National Ambient Air Quality Standards (NAAQS) by automatically exempting malfunction episodes from applicable emission limitations. Each of the rules identified in the proposal notice has this potential for the interference with attainment of the national standards.

Several commenters stated that the proposed action is inconsistent with the Clean Air Act (section 120(a)(2)(B)). Section 120(a)(2)(B) of the Clean Air Act exempts a source from a non-compliance penalty when failure to comply with requirements is due to any of the following: (1) A conversion to coal; (2) coal burning sources granted an exemption under section 119(c)(1); (3) the use of innovative technology sanctioned by an enforcement order; (4) a source which receives a delayed compliance order under section 113(d) of the Act; or (5) a source which receives a temporary emergency suspension authorized under section 110 (f) or (g) of the Act. The provisions of section 120(a)(2)(B) do not directly address the problem of equipment malfunction. More specifically, they do not permit exemptions for violations of SIP emission limitations or NAAQS exceedances. Rather they provide procedures for possible exemption from subsequent enforcement/penalty provisions.

It was also argued that the proposed disapproval action is inconsistent with EPA's provision for malfunction under the New Source Performance Standards (NSPS) found in 40 CFR 60.11(d). While it is correct that under certain circumstances, a source may be exempted from applicable NSPS requirements during a period of malfunction, there is a critical difference between the requirements under NSPS and the requirements under the SIP. The standards promulgated under NSPS are technologically-based, and therefore technological factors including malfunction may be taken into account. However, the requirements

established pursuant to section 110 of the Clean Air Act are air quality based and must assure attainment and maintenance of the NAAQS at all times. Therefore, EPA cannot permit exemptions to emission limits in the SIP even during a period of malfunction.

In spite of this critical difference between NSPS and SIP standards, the criteria used to determine whether enforcement action will be taken against a source violating a SIP limitation are the same as those resulting in an exemption from applicable NSPS requirements. The use of these criteria will assure that a source is not penalized for malfunctions resulting from circumstances wholly beyond its control.

Two commenters suggested that EPA's proposed notice of disapproval does not sufficiently identify the individual deficiencies in each of the rules being acted on. Each of the rules identified in the proposed notice of disapproval permitted automatic exemptions from violations of applicable emission limitations, and were therefore unacceptable. Rather than discuss other individual deficiencies of each rule in the proposal notice, EPA is working with the California Air Resources Board to develop a model rule which would be consistent with both EPA and State requirements. The individual APCD's could then use this model rule to develop approvable malfunction regulations.

One commenter argued that the proposed action is inconsistent with actions taken by other EPA Regions and is also inconsistent with EPA Region IX actions with respect to other States. It is EPA's policy to eliminate all malfunction regulations which have the potential for interfering with the attainment and maintenance of the national standards. This policy is being carried out throughout the country by the disapproval of unacceptable malfunction regulations and/or by having the States submit approvable revisions to existing malfunction regulations.

It was also noted that we are taking action on certain "outdated" District rules. While it may be true that certain rules are "outdated" from the viewpoint of the Districts, the rules would remain part of the approved State Implementation Plan, unless disapproved in this notice.

Lastly, comments were received expressing the opinion that existing rules have promoted cooperation between government agencies and industry. It was expressed that the proposed disapproval would tend to penalize those sources with preventative or scheduled maintenance programs, and would discourage industry from installing alternate-fuel fired boilers. The intent of the proposed disapproval

al is not to discourage the use of alternate fuel sources or to penalize sources which practice good operating and maintenance procedures. Cooperation between Government agencies and industry should still be possible under approvable malfunction regulations which do not provide exemptions from emission limitation violations, but which instead provide for enforcement discretion.

EPA takes final action to disapprove the malfunction rules and regulations identified above because these rules do not satisfy the enforcement imperatives of section 110 of the Clean Air Act. These rules render emission limitations potentially unenforceable and, as such, could interfere with the attainment and maintenance of the national standards.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: July 26, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

I. Section 52.220 is amended by adding paragraphs (c)(21)(viii)(B), (c)(21)(x)(B), (c)(21)(xvii), (c)(24)(iv)(B), (c)(25)(i)(B), (c)(25)(ii)(B) and (c)(26)(xiii)(C) as follows:

§ 52.220 Identification of plan.

(c) ***

(21) ***

(viii) ***

(B) Rule 4.5.

(x) ***

(B) Rule 4.4g.

(xvii) Calaveras County APCD.

(A) Rules 110 and 402(f).

(24) ***

(iv) ***

(B) Rule 110.

(25) ***

(i) ***

(B) Rule 110.

(ii) ***

(B) Rule 110.

(26) ***

(xiii) ***

(C) Rule 110.

2. Section 52.271 is amended by adding paragraphs (a)(1)(i)(B), (a)(1)(ii)(B), (a)(1)(iv)(B), (a)(1)(v)(B), (a)(2)(iii)(B), (a)(2)(iv)(B), (a)(2)(v), (a)(2)(vi), (a)(2)(vii), (a)(2)(viii), (a)(2)(ix), (a)(3)(i)(B), (a)(4)(i)(B), (a)(4)(ii)(B), (a)(4)(v)(B), (a)(4)(vii)(B), (a)(4)(x), (a)(4)(xi), (a)(4)(xii), (a)(6)(i)(B), (a)(7)(ii)(B), (a)(7)(iii) and (a)(8)(i)(B) as follows:

§ 52.271 Malfunction regulations.

(a) ***

(1) ***

(i) ***

(B) Rule 45 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

(ii) ***

(B) Rule 59 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

(iv) ***

(B) Sections 1 and 2 of Part VI submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) are disapproved.

(v) ***

(B) Rule 44 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.

(2) ***

(iii) ***

(B) Rule 3:10 submitted on June 30, 1972 and previously approved under 40 CFR (37 FR 19812) is disapproved.

(iv) ***

(B) Rule 4:1g submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.

(v) Colusa County APCD.

(A) Rule 4.4g submitted on July 25, 1973 and Rule 4.4g submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) are disapproved.

(vi) Nevada County APCD.

(A) Rule 55(f) submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

(vii) Placer County APCD.

(A) Rule 55(f) submitted on February 21, 1972 and previously approved

under 40 CFR 52.223 (37 FR 10842) is disapproved.

(viii) Sierra County APCD.

(A) Rule 51 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812), and Rule 203(j) submitted on January 10, 1975 and previously approved under 40 CFR 52.223 (42 FR 23805) are disapproved.

(ix) Yuba County APCD.

(A) Rule 4.5 submitted on July 25, 1973 is disapproved.

(3) ***

(i) ***

(B) Regulation 2, section 3212 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

(4) ***

(i) ***

(B) Rule 4f submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.

(ii) ***

(B) Rule 110 submitted on October 23, 1974 is disapproved.

(v) ***

(B) Rule 110 submitted on January 10, 1975 is disapproved.

(vii) ***

(B) Rule 109 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.

(x) Calaveras County APCD.

(A) Rules 110 and 402(f) submitted on July 25, 1973 are disapproved.

(xi) San Joaquin County APCD.

(A) Rule 110 submitted on October 23, 1974 and Rule 110 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) are disapproved.

(xii) Stanislaus County APCD.

(A) Rule 110 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) and Rule 110 submitted on July 19, 1974 are disapproved.

(6) ***

(i) ***

(B) Rule 102 submitted on February 21, 1972 and previously approved

under 40 CFR 52.223 (37 FR 10842) is disapproved

(7) ***
(ii) ***

(B) Rule 32 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.

(iii) San Bernardino County APCD.

(A) Rule 55 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

(8) ***
(i) ***

(B) Rule 55 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

[FR Doc. 78-21375 Filed 8-1-78; 8:45 am]

[6560-01]

[FRL 928-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Vermont Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Vermont to clarify the interpretation of Regulation 5-231, "Prohibition of Particulate Matter." The revised regulation specifies that the emission limitation for the woodworking industry will be a concentration standard rather than a process weight standard, thereby eliminating the option of applying either a concentration or process weight standard as was provided in the original SIP.

EFFECTIVE DATE: August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On February 28, 1978, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (43 FR 8159), proposing approval of a revision to the Vermont State Implementation Plan (SIP). The revision, submitted on April 11, 1977 by the Secretary of En-

vironmental Conservation, changes Regulation 5-231, Prohibition of Particulate Matter, to specify the emission limitation applicable to the woodworking industry.

In the original SIP, subpart (a) of section 1 of the regulation established maximum allowable discharge rates according to process weight, and subpart (b) set a concentration standard for emissions from industrial processes where process weight is not applicable. The director of the State air agency was authorized to determine the applicability of the emission limitations.

Because of uncertainties encountered in enforcing Regulation 5-231 against wood processing plants, the Vermont Agency of Environmental Conservation (Vermont AEC) revised the regulation to specify that the concentration standard in subpart (b) would apply to wood processing operations. The standard established by the SIP revision is 0.06 grains per dry standard cubic foot of undiluted exhaust gas, which, at a pressure of 760 millimeters and a temperature of 0° C, is equivalent to the original concentration standard of 0.1 pounds of particulates per 1,000 pounds of undiluted exhaust gas.

The Vermont AEC evaluated emission limitations for the woodworking industry and concluded that the concentration standard is more appropriate for woodworking plants than a process weight standard. Technical support for the revision, consisting of dispersion modeling and ambient monitoring results, was submitted by the Vermont AEC and reviewed by EPA. Approval of the revision is not predicted to cause violations of the National Ambient Air Quality Standards (NAAQS) for Total Suspended Particulates (TSP).

During the 30-day public comment period, comments were received from the Vermont AEC. The comments raised two related issues: (1) The relationship between this SIP revision and the enforcement provisions of section 113(d)(1)(D) of the Clean Air Act as amended in 1977, and (2) whether the revision constitutes a new emission limitation. However, since neither of these issues is related to a final decision on the approvability of the revision, they are not addressed in this notice.

After evaluation of the State's submittal, the Administrator has determined that the Vermont revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Vermont Implementation Plan.

(Sec. 110(a), Clean Air Act, as amended (42 U.S.C. 7410).)

Dated: July 27, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart UU—Vermont

1. A new paragraph (7) is added in § 52.2370(c) to read as follows:

§ 52.2370 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(7) Revision to Regulation 5-231, Prohibition of Particulate Matter, section 1, Industrial Process Emissions, with respect to wood processing operations, submitted by the Vermont Secretary of Environmental Conservation on April 11, 1977.

[FR Doc. 78-21376 Filed 8-1-78; 8:45 am]

[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

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(1) 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,

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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