

major effort to stimulate the production and marketing of technologies, enhance rehabilitation technology service delivery networks, elevate the qualifications of technology service providers, and assist in making new research knowledge available for incorporation into existing technology databases used by consumers and professionals.

A critical element of any Center to be funded under this priority is the involvement of disabled individuals in planning, conducting, and reviewing all Center activities. The Center must become a national repository of information on techniques of technology transfer and training technologists.

This Center must coordinate with other NIDRR research endeavors in technology, and assist in the provision of knowledge derived from technology research to existing information systems used by consumers. This Center must work closely with private industry, and with the Regional Rehabilitation Continuing Education Program (RRCEP) and other training resources to promote the adoption of improved training for rehabilitation technologists. This Center must propose and develop productive

linkages with the proposed REC on Technology Evaluation and also with the two REC's that NIDRR is establishing pursuant to the Rehabilitation Act Amendments of 1986 to disseminate rehabilitation technology.

An absolute priority is proposed for an REC in this area to:

- Investigate the extent to which concerns about product safety and manufacturer liability are possible barriers to the development and production of rehabilitation technology;
- Conduct market studies to assess the needs and characteristics of potential user populations and identify resources to finance purchase of technological devices by individuals with disabilities, in order to stimulate production and distribution of products;
- Identify and disseminate exemplary models for providing expertise in rehabilitation technology in order to improve the delivery of rehabilitation engineering services;
- Develop and test training materials that are accessible to persons with a variety of disabilities, arrange for the adoption of new training programs, and develop criteria to assess qualifications of rehabilitation technologists, in order

to increase the number of qualified rehabilitation engineers and other technologists involved in the provision of services to individuals with handicaps; and

- Conduct at least one state-of-the-art study in the area of technology distribution and one on the training of technologists.

Invitation to Comment

Interested parties are invited to submit comments and recommendations regarding these priorities. All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period in Room 3070, Mary E. Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 761a, 762)

(Catalog of Federal Domestic Assistance No. 84.133E, National Institute on Disability and Rehabilitation Research)

Dated: July 23, 1987.

William J. Bennett,
Secretary of Education.

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Part VI

Environmental Protection Agency

40 CFR Part 761

**Polychlorinated Biphenyls in Electrical
Transformers; Proposed Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62035F; FRL 3217-1]

Polychlorinated Biphenyls in Electrical Transformers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA issued a Final Rule, published in the *Federal Register* of July 17, 1985 (50 FR 29170) (hereafter, PCB Transformer Fires Rule), which required measures to reduce and eliminate the fire-related risks posed by the use of electrical transformers containing 500 parts per million (ppm) or greater of polychlorinated biphenyls (PCBs) (electrical transformers containing 500 ppm PCBs are referred to as PCB Transformers). Mississippi Power Company filed a petition for review, in District Court, of the PCB Transformer Fires Rule and in the context of settlement negotiations with EPA, Mississippi Power Company raised certain issues for consideration by the Agency. EPA evaluated these issues and agreed to take further action as specified in a settlement agreement executed on October 30, 1986. EPA issued a notice published in the *Federal Register* of December 31, 1986 (51 FR 47241) containing responses to specific questions regarding the PCB Transformer Fires Rule. In addition, EPA proposes amendments to the final PCB Transformer Fires Rule relating to, among other things; (1) The installation of PCB Transformers; (2) the use of an alternative label on PCB Transformer locations; (3) the existing enhanced electrical protection requirement on low secondary voltage network transformers; and (4) the prohibition on the use of certain PCB Transformers located in sidewalk vaults.

DATES: An informal hearing, if requested, will be held in Washington, DC, October 20, 1987. For the exact time and location of the hearing, telephone EPA's TSCA Assistance Office listed under "**FOR FURTHER INFORMATION CONTACT.**" Comments on this proposed rule and requests to participate in an informal hearing must be submitted by October 5, 1987. All requests to participate must include an outline of the topics to be addressed, the amount of time requested for the opening statement, and the names of participants. The informal hearing is meant to provide an opportunity for interested persons to present additional

information or to discuss new issues, not to repeat information already presented in written comments. Reply comments made in response to issues raised at the hearing must be submitted no later than one week after the date of that hearing.

ADDRESS: Since some comments may contain confidential business information, all comments should be sent in triplicate to: Document Processing Center (TS-790), Rm. L-100, Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Comments should include the docket number OPTS-62035F. Any comments claimed to be confidential information must be marked "CONFIDENTIAL", be accompanied by a nonconfidential version of the confidential copy, and sent via certified mail. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. Information not marked "CONFIDENTIAL" will be placed in the public record and may be disclosed publicly by EPA without prior notice.

Non-confidential versions of comments received on this proposed rule will be available for reviewing and copying from 8 a.m. to 4 p.m. Monday through Friday, excluding holidays, in Rm. NE-G004 at the address given above.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street SW., Washington, DC 20460. (202-554-1404).

Copies of this proposed rule can be obtained from the TSCA Assistance Office. Copies of the support documents for this rule can be obtained through the OTS Document Control Officer listed above.

SUPPLEMENTARY INFORMATION: This document proposes to amend the PCB Transformer Fires Rule by:

a. Substituting the words "rupture" and "ruptures" for the words "failure" and "failures",

b. Allowing the installation of PCB Transformers beyond October 1, 1985, in emergency situations and in situations where the transformer has been retrofilled and is being placed into service for reclassification purposes,

c. Allowing the limited use of an alternative label on certain PCB Transformer locations,

d. Establishing an alternative to the existing electrical protection requirement for owners of lower secondary voltage network PCB Transformers in or near commercial buildings, and

e. Prohibiting the use, as of October 1, 1993, of all lower secondary voltage network PCB Transformers in sidewalk vaults near commercial buildings.

f. Requiring that, in the event a mineral oil transformer assumed to be PCB-contaminated is subsequently tested and found to contain 500 ppm or greater PCB, a specific schedule be followed to bring the transformer into compliance with all applicable regulations.

I. Background

Section 6(e) of the Toxic Substances Control Act (TSCA) generally prohibits the use of PCBs after January 1, 1978. The statute does, however, set forth two exceptions under which EPA may, by rule, allow a particular use of PCBs to continue. Under section 6(e)(2) of TSCA, EPA may allow PCBs to be used in a totally enclosed manner. TSCA also allows EPA to authorize the use of PCBs in a manner other than a totally enclosed manner if the Agency finds that the use "will not present an unreasonable risk of injury to health or the environment."

EPA promulgated a rule, which was published in the *Federal Register* of May 31, 1979 (44 FR 31514), to implement section 6(e)(2) and (3) of TSCA under 40 CFR Part 761. The rule, among other things, designated all intact, nonleaking capacitors, electromagnets, and transformers, other than railroad transformers, as "totally enclosed," thus permitting their use without specific authorizations or conditions. The Environmental Defense Fund (EDF) petitioned the U.S. Court of Appeals for the District of Columbia Circuit to review a number of provisions of the rule, including the portion of the rule that designated all intact and nonleaking capacitors, electromagnets, and transformers as "totally enclosed" (*Environmental Defense Fund, Inc. v. Environmental Protection Agency*, 636 F.2d 1267).

On October 30, 1980, the court, among other things, decided that there was insufficient evidence in the record to support the Agency's classification of transformers, capacitors, and electromagnets as totally enclosed. The court invalidated this portion of the rule and remanded the rule to EPA for further action.

As a consequence to the October 1980 decision, EPA undertook a number of rulemaking actions. One such rule was published in the *Federal Register* of August 25, 1982 (47 FR 37324) (hereafter, "PCB Electrical Use Rule"). This rule authorized, among other things, the continued use, until October 1, 1985, of

PCB Transformers (electrical transformers containing greater than 500 ppm PCBs) in facilities involved in the handling of food or feed items, and authorized for the remainder of their useful life, the use of all other categories of non-rail electrical transformers containing or contaminated with PCBs. In the PCB Electrical Use Rule, EPA made a determination that authorizing the use of these transformers for the remainder of their useful life (subject to certain conditions) did not present an unreasonable risk to public health or the environment. EPA's August 1982 decision to allow the continued use of electrical transformers containing PCBs was based on the reported low frequency of leaks and spills of PCBs from this equipment compared to the high costs associated with replacing this equipment with substitute transformers or requiring secondary containment to limit the spread of spilled materials. EPA determined that the most cost-effective means for reducing the risks posed by leaks and spills of PCBs from these transformers was to require routine inspections, repairs, and cleanup.

After promulgation of the PCB Electrical Use Rule, additional information came to EPA's attention that indicated that fires involving transformers that contain PCBs may occur more frequently than previously expected. Thus, EPA subsequently undertook an evaluation of the fire-related risks posed by the continued use of transformers that contain PCBs, and the costs and benefits of measures designed to reduce those risks. EPA issued a Proposed Rule, published in the *Federal Register* of October 11, 1984 (49 FR 39966), which contained EPA's determination that PCB Transformer fires (fires involving transformers containing greater than 500 ppm PCBs), particularly fires which occur in or near commercial buildings, do present risks to human health and the environment. EPA reached this determination after considering the toxicity of materials which can be formed and released during fires involving this equipment, as well as the potential for human environmental exposures to these compounds from a single incident, and the expected frequency of incidents over the remaining useful life of this equipment.

The Agency issued a final rule, published in the *Federal Register* of July 17, 1985 (50 FR 29170) (hereafter, the PCB Transformer Fires Rule) that amended the PCB Electrical Use Rule. The PCB Transformer Fires Rule placed additional restrictions and conditions on

the use of PCB Transformers, particularly PCB Transformers located in or near commercial buildings. Among other provisions, EPA banned the further installation of PCB Transformers in or near commercial buildings, required the removal of PCB Transformers that posed particularly high fire-related risks, and required the installation of enhanced electrical protection on all other PCB Transformers located in or near commercial buildings.

After the promulgation of the PCB Transformer Fires Rule, Mississippi Power Company (hereafter, "Mississippi Power") filed a petition for review of the rule. In the context of settlement negotiations, EPA agreed to publish a clarification notice and propose to amend portions of the PCB Transformer Fires Rule.

EPA issued a Notice of Interpretation of the PCB Transformer Fires Rule published in the *Federal Register* of December 31, 1986 (51 FR 47241) that clarified several provisions of the EPA's regulations governing the use of electrical transformers containing PCBs. The questions concerned: (1) The PCB Transformer registration requirements; (2) the requirement for the removal of stored combustibles near PCB Transformers; (3) the requirement for the reporting of fire-related incidents to the National Response Center; (4) the definition of commercial building; (5) the status of mineral oil transformers which are found to contain over 500 ppm PCBs; (6) the ban on the installation of PCB Transformers in or near commercial buildings; and (7) the requirement for the labeling of the exterior of PCB Transformer locations.

Mississippi Power also raised additional, more substantive issues regarding EPA's ban on the installation of PCB Transformers, the requirements for enhanced electrical protection of low secondary voltage network PCB Transformers, and the requirement for the labeling of the exterior of PCB Transformer locations. First, Mississippi Power questioned whether EPA had intended to ban the installation of PCB Transformers in emergency situations (where no other non-PCB substitute is available) and the installation of retrofilled PCB Transformers when installed for purposes of reclassification. Further, Mississippi Power asked EPA to reconsider the requirement for enhanced electrical protection of low secondary voltage network PCB Transformers because of space constraints in sidewalk vaults, lack of suitable (i.e., waterproof) fuse enclosures, and Mississippi Power's belief that the cost

of fuse installation is 2 to 4 times higher than EPA originally estimated. Finally, Mississippi Power asked that EPA allow the use of alternative labels on PCB Transformer locations, when such labeling occurred voluntarily prior to the effective date of the PCB Transformer Fires Rule.

EPA evaluated the additional information submitted by Mississippi Power in the context of settlement negotiations and decided that the new information warranted a reconsideration of certain of the Agency's previous determinations. This notice presents the results of the Agency's further evaluations and proposes some modification to the requirements of the PCB Transformer Fires Rule.

II. Summary of Proposed Rule

Under section 6(e)(2)(B) of TSCA, EPA can authorize a use of PCBs provided that the use "will not present an unreasonable risk of injury to health or the environment." Although the use of PCB Transformers were authorized until October 1, 1985 in facilities involved in the handling of food and feed items and the use of all other categories of non-railroad electrical transformers containing or contaminated with PCBs were authorized for the remainder of their useful lives, EPA later determined that PCB Transformer fires (fires involving transformers containing greater than 500 ppm PCB), particularly fires which occur in or near commercial buildings, do pose risks to humans and the environment. EPA determined that the continued use of PCB Transformers without additional regulatory control measures would present an unreasonable risk of injury to health and the environment and thus, in the PCB Transformer Fires Rule, imposed further restrictions and conditions on the use of PCB Transformers.

The final PCB Transformer Fires Rule required the marking of the exterior of PCB Transformer locations with the PCB identification label, and prohibited, among other things, the further installation of PCB Transformers (electrical transformers containing 500 ppm or greater PCBs) in or near commercial buildings. The PCB Transformer Fires Rule also placed conditions on the continued use of lower secondary voltage network PCB Transformers in or near commercial buildings by requiring that these transformers be equipped with enhanced electrical protection as of October 1, 1990. Enhanced electrical protection was required by EPA to avoid electrical failures leading to fire-related incidents.

Following promulgation of the final PCB Transformer Fires Rule, EPA received several comments from the regulated community concerning the above prohibition and the conditions EPA placed on the continued use of PCB Transformers. In comments submitted following the promulgation of the PCB Transformer Fires Rule, Mississippi Power asked EPA to consider: (1) Clarifying the current language of the requirements for enhanced electrical protection by substituting the word "rupture" for "failure"; (2) modifying the requirement for enhanced electrical protection of lower secondary voltage network transformers because of space constraints in existing sidewalk vault locations; (3) allowing the installation of PCB Transformers in certain circumstances, such as in emergency situations and for purposes of retrofit and reclassification; (4) allowing the use of alternative labels in situations where such labeling was voluntarily initiated prior to the effective date of the PCB Transformer Fires Rule; and (5) establishing a specific schedule for bringing mineral oil transformers, which are tested and found to contain 500 ppm or greater PCBs, into compliance with applicable requirements.

EPA reviewed the new information submitted by Mississippi Power, and others, and considered their requests for modifications to the PCB Transformer Fires Rule. EPA has determined that the issues raised by Mississippi Power, and others, warrant further Agency consideration and is, therefore, proposing certain amendments to the PCB Transformer Fires Rule. Thus, in this document, EPA is proposing to revise, among other things, the ban on the further installation of PCB Transformers in or near commercial buildings and the requirement of enhanced electrical protection, as of October 1, 1990, on lower secondary voltage network PCB Transformers.

EPA is proposing to allow: (a) The installation of PCB Transformers in emergency situations (when no other non-PCB substitute is available); (b) the installation of retrofilled PCB Transformers for purposes of reclassification; and (c) the use of an alternative label to mark the exterior of certain PCB Transformer locations provided the labeling program was initiated voluntarily prior to the effective date of the PCB Transformer Fires Rule. EPA is also proposing to offer owners of lower secondary voltage network PCB Transformers located in or near commercial buildings the option of enhanced electrical protection by October 1, 1990 (as is currently

required), or removal by October 1, 1993. Further, EPA is proposing to prohibit the use of low secondary voltage network PCB Transformers located in sidewalk vaults near commercial buildings as of October 1, 1993.

Finally, EPA is proposing to amend the language in 40 CFR 761.30(a)(1)(iv) and (v), respectively, by deleting the words "failure" and "failures" and substituting the words "rupture" and "ruptures" to avoid ambiguity in the language, and is proposing a specific schedule for bringing mineral oil transformers, found to contain 500 ppm or greater PCBs, into compliance with the applicable regulations.

III. Discussion of Proposed Amendments

A. Installation of PCB Transformers

The PCB Transformer Fires Rule banned the installation of PCB Transformers in or near commercial buildings after October 1, 1985. However, EPA is proposing to allow the installation of PCB Transformers in or near commercial buildings in two situations that EPA believes warrant special consideration. First, in emergency situations, where neither a non-PCB Transformer nor PCB-Contaminated transformer is currently available to replace a failed PCB Transformer and immediate replacement is necessary to continue electric service to the entity or entities served by the transformer. Second, for purposes of reclassification, so that a retrofilled transformer may accrue the necessary in-service time to allow reclassification of the unit. EPA, therefore, proposes to allow installation in emergency situations and in situations where installation of a retrofilled PCB Transformer is necessary for reclassification purposes.

1. *Emergency installation.* The PCB Transformer Fires Rule prohibited the further installation of PCB Transformers in or near commercial buildings. This meant that PCB Transformers which were placed into storage for reuse could not be taken out of storage for reuse and placed in use in or near a commercial building. EPA has received comments from utilities that are currently in a situation where the only spare transformers available for use in an emergency situation are PCB Transformers. EPA, in its original assessment of the impact of the prohibition on the installation of PCB Transformers in or near commercial buildings, assumed that non-PCB Transformers would be available for installation in such instances. EPA did not realize that one potential impact of the prohibition would be the denial of

electric service to utility customers following the failure of a transformer in the system.

EPA's decision to prohibit the further installation of PCB Transformers in or near commercial buildings was based on a determination that this activity would present an unreasonable risk. This determination was made after balancing the risks posed by installing PCB Transformers in or near commercial buildings against the benefits of further installation. EPA's analysis of the benefits of further installation included an assessment of the availability of substitutes and the economic impact of not allowing further installation of PCB Transformers in or near commercial buildings. In prohibiting the further installation of PCB Transformers in or near commercial buildings, EPA believed that: (1) The benefits of placing a PCB Transformer into a newly constructed building did not outweigh the risks posed; (2) the benefits of replacing a non-PCB Transformer or PCB-Contaminated transformer with a PCB Transformer did not outweigh the risks posed; and, (3) the benefits of installing a PCB Transformer in or near a commercial building to replace a removed PCB Transformer did not outweigh the risks posed. EPA determined that, for all of these cases, the economic impact of a ban on further installation would be negligible because EPA assumed that other adequate non-PCB substitute transformers were available for installation and use in or near commercial buildings.

After the promulgation of the final PCB Transformer Fires Rule, the Electric Power Board of Chattanooga (EPBC) and Kansas City Power and Light Company (KCPL) contacted EPA and supplied information that indicates that, for certain transformers currently in use, EPBC and KCPL currently have only PCB Transformers available for use as replacements in emergency situations. Both utilities have, however, initiated action either to obtain new non-PCB Transformers or to retrofit/reclassify their in-storage PCB Transformers.

This additional information has led EPA to question its belief about the availability of substitutes for this equipment in an emergency situation. The information shows that some transformer owners or users need additional time to acquire non-PCB or PCB-Contaminated transformers. EPA did not intend to prohibit the installation of PCB Transformers in emergency situations where neither a non-PCB Transformer nor a PCB-Contaminated transformer is available for installation and use. EPA is soliciting comments on

the availability of non-PCB Transformers for use in emergency situations. In addition, EPA is soliciting information on the ability to quickly purchase and receive non-PCB Transformers for use in emergency situations.

The impact of being unable to install a PCB Transformer in this type of situation could be large, because electric service could not be provided to certain utility customers. Business shutdowns and even more serious effects, such as loss of life, could result from the denial of electric service to facilities such as nursing homes and hospitals. Clearly, EPA did not consider that the ban on the further installation of PCB Transformers could potentially have such serious economic and human health impacts.

EPA did not foresee these impacts when the PCB Transformer Rule was promulgated. The Agency, in its determination of unreasonable risk, did not consider that its immediate ban on the further installation of PCB Transformers could cause serious human health impacts. Thus, EPA is reconsidering its determination to ban further installation as of October 1, 1985 and is proposing to extend the effective date to allow the emergency installation of PCB Transformers until October 1, 1990. However, EPA is proposing to restrict to 1 year the time that such a transformer may be used, once it has been installed on an emergency basis.

The highest frequency of fire-related incidents occur in high secondary voltage network PCB Transformers. EPA estimated that the fire-related incidence rate for these transformers was .03% per year. EPA expects that for the total transformer population, less than .012% of the transformers (less than 13) will have to be installed from 1987 through 1990. Thus, even if all were high risk, emergency replacement units, EPA would expect less than one fire-related incident involving a newly installed PCB Transformer during this period. Further, since EPA proposes to allow those transformers installed on an emergency basis to be used for only 1 year from the date of installation, the incremental risk of allowing a 1 year maximum use after installation would not create an unreasonable risk to public health and the environment. EPA considered the benefits of allowing the installation in an emergency situation compared to the frequency of incidents during the period of use and determined that this installation would not present an unreasonable risk.

Although EPA believes that the probability is low for a newly installed PCB Transformer failing and causing a fire-related incident, there are certain

risks posed by the installation of PCB Transformers, even in emergency situations. EPA knows of at least one documented instance where a PCB Transformer involved in a fire-related incident was replaced with a second PCB Transformer which then also failed. However, EPA believes that it has mitigated these risks by prohibiting further installation after October 1, 1990 (even in emergency situations), and by placing a time restriction on the continued use of these PCB Transformers after emergency installation. Finally, these transformers are required to be operated in accordance with all other restrictions and conditions of the PCB Transformer Fires Rule and the PCB Electrical Use Rule, including registration with Fire Departments and building owners, exterior labeling, and inspections for leaks and spills. EPA has concluded that the installation of PCB Transformers on an emergency basis until October 1, 1990 and compliance with these restrictions and conditions will not present an unreasonable risk of injury to public health or the environment.

2. Installation for reclassification purposes. In the final PCB Transformer Fires Rule, EPA prohibited the further installation of PCB Transformers in or near commercial buildings after October 1, 1985 to decrease the risk of commercial building contamination in the event of a PCB Transformer fire. However, since promulgation of the final rule, EPA has determined that there are instances that warrant special consideration where it may be necessary (see Unit III.A.1 above regarding emergency situations) and/or beneficial to allow limited installation of a PCB Transformer.

Based on comments received after promulgation of the final PCB Transformer Fires Rule, EPA was informed that in most instances the spare transformers in storage for reuse are specifically paired with transformers in use. Thus, in the event of a failed PCB Transformer in the system, the utility is placed in a position of replacing a failed PCB Transformer with another PCB Transformer because the only spares available for use are PCB Transformers. Although the regulation prohibits the replacement of failed PCB Transformers with non-PCB Transformers, EPA believes that retrofitting and reclassification should be available as a viable option for this equipment. EPA has typically encouraged retrofitting and reclassification and believes that the benefits of reclassification in certain situations approach the benefits of PCB Transformer replacement.

An amendment to the PCB regulation (40 CFR 761.30 (a)(2)(v)), published in the *Federal Register* of August 25, 1982 (47 FR 37358), declared that the PCB concentration in transformers may be reduced for purposes of reclassifying the transformer to a non-PCB Transformer or PCB-Contaminated transformer. PCB Transformers and PCB-Contaminated transformers may be reclassified by draining, refilling and/or otherwise servicing the transformers. In order to be reclassified after this servicing, the transformer's dielectric fluid must be tested and found to contain less than 500 ppm PCBs (for conversion to PCB-Contaminated transformer) or less than 50 ppm (for conversion to a non-PCB Transformer) after a minimum of 3 months in-service use subsequent to the last servicing conducted for the purpose of reducing the PCB concentration in the transformer. Three months is the minimum amount of time necessary to ensure that the PCBs trapped in the interior parts of the transformer leach out into the dielectric fluid. A transformer is treated as if it contained the original concentration of PCBs until it is reclassified; therefore, a PCB Transformer cannot be converted to a PCB-Contaminated transformer or non-PCB Transformer unless the transformer has been reclassified pursuant to 40 CFR 761.30(a)(2)(v). That is, a transformer cannot be reclassified after retrofitting until it has accrued a minimum of a 3 months of inservice use and been subsequently tested and found to contain less than 500 ppm PCB (for conversion to a PCB-Contaminated transformer) or less than 50 ppm PCB (for conversion to a non-PCB Transformer).

EPA wants to encourage the conversion of PCB Transformers that are currently in storage for reuse to PCB-Contaminated or non-PCB status. Allowing the installation of a retrofilled PCB Transformer for reclassification purposes would give utilities and others similarly situated an opportunity to convert their spare PCB Transformers to PCB-Contaminated or non-PCB status pursuant to § 761.30(a)(2)(v). Thus, EPA is reconsidering its determination to ban further installation of PCB Transformers as of October 1, 1985 and is proposing to extend the effective date to allow the installation until October 1, 1990 of retrofilled PCB Transformers so that these units may accrue the necessary inservice use time to allow for reclassification. However, once a retrofilled PCB Transformer is installed for reclassification purposes, it must be tested 3 months after installation to ascertain the concentration of PCBs. If

the PCB concentration is below 50 ppm, the transformer can be reclassified as a non-PCB Transformer. If the PCB concentration is between 50 and 500 ppm, the transformer can be reclassified to a PCB-Contaminated transformer. If the PCB concentration remains at 500 ppm or greater, the entire process must either be repeated until the transformer has been reclassified to a non-PCB or PCB-Contaminated transformer in accordance with § 761.30(a)(2)(v) or the transformer must be removed from service.

Comments received since promulgation of the rule suggest that if a PCB Transformer is installed for purposes of reclassification, there should be a limited time to achieve reclassification. EPA has received information that reclassification to a non-PCB or PCB-Contaminated transformer can take approximately 18 months; However, EPA solicits comments regarding the length of time needed to reclassify a PCB Transformer to a non-PCB Transformer or PCB-Contaminated transformer.

There are two categories of PCB Transformers that can be reclassified: (1) Transformers originally designed to contain PCB dielectric fluid ("askarel" transformers); and (2) mineral oil transformers that have become contaminated with 500 ppm or greater PCBs as a result of past servicing activities. Refilling and reclassification of "askarel" PCB Transformers to PCB-Contaminated or non-PCB status require more effort, as a single refill of an "askarel" PCB Transformer typically leaves 60,000 ppm PCBs still in the transformer. Thus, reclassification of an "askarel" PCB Transformer to PCB-Contaminated or non-PCB status typically requires several refills. Reclassifying mineral oil PCB Transformers to PCB-Contaminated or non-PCB status can be accomplished more easily, because the typical PCB concentration in these mineral oil transformers is less than 1,000 ppm. In many cases, a single refill will allow subsequent reclassification of mineral oil PCB Transformers to PCB-Contaminated status.

In recognition of this fundamental difference between the risks posed by the installation for reclassification purposes of an "askarel" PCB Transformer versus a mineral oil PCB Transformer, EPA is proposing to allow an indefinite installation period for refilled mineral oil PCB Transformers that will be installed for reclassification purposes. However, for "askarel" PCB Transformers, EPA is prohibiting

installation even for reclassification purposes after October 1, 1990.

EPA recognizes that the installation of refilled PCB Transformers for reclassification purposes presents some level of risk. Comments received suggest there are on the average 3,000 transformers in storage for reuse. Assuming that all of these transformers will be installed for reclassification purposes (comments suggest that, due to the age of some of these transformers in storage for reuse, it would not be economically justifiable to refill and reclassify all of these units), EPA believes the risks to human health and the environment from PCB exposure are substantially lower because refilled units will replace paired pure PCB units. However, EPA believes that it should make available refill and reclassification as an alternative to transformer replacement. Since most utilities, according to comments received after the rule was promulgated, maintain they have to replace all of their PCB Transformers that are in storage for reuse under the existing requirement that bans the installation of PCB Transformers, this would allow utilities that have PCB Transformers in storage for reuse (which are specially paired to transformers in use) to place these refilled transformers in service for reclassification purposes. Allowing installation of these refilled PCB Transformers for reclassification purposes allows the utility to continue service to their customers while accruing the in-service use time needed to reclassify the PCB Transformer to a PCB-Contaminated transformer or non-PCB Transformer.

B. Failure vs. Rupture

In this document, EPA proposes to amend the language in 40 CFR 761.30(a)(1)(iv) and (v), respectively, by deleting the words "failure" and "failures", and substituting the words "rupture" and "ruptures".

Questions and comments received by EPA necessitate a change in the language to avoid confusion and give a clear understanding of the Agency's intent in regulating PCBs, which is to reduce the release of PCBs and thereby reduce exposure to humans and the environment. Fires and fire-related incidents involving transformers containing PCBs have been found to be responsible for the release of PCBs (and other materials more toxic than PCBs). Thus, in the Federal Register of July 17, 1985 (50 FR 29170), EPA issued final amendments to the rule governing the use of PCBs by placing additional restrictions and conditions on the use of PCB Transformers. These amendments

include use authorizations for PCB Transformers with certain conditions to reduce risk of injury to health or the environment sometimes caused by transformer "ruptures". EPA, in this proposed amendment, takes notice that electrical "failure", when used to describe the actual electrical fault condition, cannot be prevented. The intent of the regulation to provide enhanced electrical protection is not to avoid failure (a condition that cannot be prevented), but to avoid the likelihood of rupture of a PCB Transformer from electrical failure. EPA believes that comments received after promulgation of the final PCB Transformer Fires Rule merit a change in the language; therefore, EPA is proposing an amendment to avoid ambiguity in the language of the regulation by substituting the word "rupture" or "ruptures" for "failure" or "failures" when they appear in § 761.30(a)(1)(iv) and (v).

C. Alternative Labeling

In this document EPA is also proposing to allow the use of an alternative label (other than that required under the current regulation). Under the existing regulations EPA requires that the vault door, machinery room door, fence, hallway, or means of access, other than grates and manhole covers, to a PCB Transformer be marked, as of December 1, 1985, with the mark M_L (the PCB label). EPA believed that a labeling requirement on transformer locations, in addition to the requirement for transformer registration, would provide increased assurance that emergency response personnel arriving at the scene of a fire would know that the fire involves a transformer that contains PCBs. Thus, in the final PCB Transformer Fires Rule, EPA instituted a labeling requirement, specifically requiring the mark M_L on the exterior of PCB Transformer locations.

EPA required the use of one type of label to provide consistency and to facilitate compliance monitoring efforts. The PCB identification label was required because EPA assumed that most PCB Transformer owners already had these labels in their possession since, prior to this labeling requirement, the mark M_L was already required on the PCB Transformers themselves. Therefore, owners of PCB Transformers would not have to make special purchases of a new type of label in order to be in compliance with this new labeling requirement. However, after promulgation of the final PCB Transformer Fires Rule, EPA received comments indicating that a few utilities

had already coordinated with fire departments and voluntarily labeled the exterior of PCB Transformer locations with a mark other than M_L. While EPA is interested in a consistent nationwide labeling system, EPA believes that those who voluntarily initiated labeling programs after consultation with local emergency response organizations should not be required to incur the additional expense associated with relabeling.

EPA sees little benefit in achieving the stated goal of labeling by requiring the re-marking of these locations. Allowing an alternative label satisfies the intent of the requirement, as stated in the PCB Transformer Fires Rule at 50 FR 29189, and avoids the additional economic burden of implementing new labeling programs. Thus, EPA is proposing to allow an alternative label, other than the mark M_L, when a label is already being used on the exterior of PCB Transformer locations to insure that emergency response personnel arriving at the scene of a fire will know that a fire involves a PCB Transformer, and the labeling program was initiated and coordinated between the emergency response personnel and the transformer owner, prior to August 15, 1985 (the effective date of the PCB Transformer Fires Rule). However, EPA would require those who voluntarily established a labeling program before August 15, 1985, to do the following: (1) Inform the Regional Administrator in the appropriate region of the use of the alternative label, (2) provide documentation that the program was initiated before August 15, 1985, and (3) provide documentation that the appropriate emergency response organizations know and recognize the meaning of the mark.

D. Electrical Protection

In the final PCB Transformer Fires Rule, EPA prohibited, as of October 1, 1990, the use of all network PCB Transformers with higher secondary voltages (secondary voltages at or above 480 volts) in or near commercial buildings and required the installation, by October 1, 1990, of enhanced electrical protection on the remaining commercial PCB Transformers, including all radial and lower secondary voltage network transformers (network transformers with secondary voltages below 480 volts).

In this document, EPA is proposing an amendment to the electrical protection requirements of the final PCB Transformer Fires Rule. Currently, the regulation has no provision for the phaseout of lower secondary voltage network PCB Transformers located in or

near commercial buildings. However, the PCB Transformer Fires Rule does require the installation of enhanced electrical protection on these transformers by October 1, 1990. EPA is proposing to amend the October 1, 1990 date for enhanced electrical protection of lower secondary voltage network PCB Transformers. For low secondary voltage network PCB Transformers located in sidewalk vaults near commercial buildings, EPA is proposing to require the removal of these transformers by October 1, 1993 (see Unit III.E.). For all other low secondary voltage network PCB Transformers in or near commercial buildings, EPA is offering owners of this equipment an alternative to the current requirement for enhanced electrical protection by October 1, 1990. This alternative is the removal of this equipment by October 1, 1993, provided that EPA is notified of the pending removal by no later than October 1, 1990. In short, EPA proposed to allow owners of lower secondary voltage network PCB Transformers located in commercial buildings or near commercial buildings (in other than sidewalk vault locations) the option of implementing risk reduction measures on a shorter schedule, by implementing the current requirement which requires installing enhanced electrical protection by October 1, 1990, or removing the PCB Transformers by October 1, 1993. EPA is also proposing that those owners who choose to remove this equipment, register those transformers with the EPA Regional Administrator in the appropriate region. This provides the Regional Administrator with information that would facilitate compliance monitoring efforts. Information to be provided to the Regional Administrator, when registering the transformer, includes the PCB Transformers location, including the address of the building and the physical location of the PCB Transformer on the building site, along with the identification number of the PCB Transformer.

EPA is proposing this alternative to the existing requirements in part because comments received following promulgation of the PCB Transformer Fires Rule indicated that EPA may have underestimated the costs associated with installation of enhanced electrical protection on these transformers. These comments suggest that many owners are in fact considering the removal/retrofill of these transformers. Commentors argue that EPA did not consider this potential result in its original assessment in support of the PCB Transformer Fires Rule.

According to available data, EPA expects that there are fewer than 3,000 low secondary voltage network PCB Transformers in or near commercial buildings (in other than sidewalk vault locations). Based on available information, the vast majority of low secondary voltage network PCB Transformers (over 10,000 units) appear to be located in sidewalk vaults.

EPA acknowledges that in July 1985 it did not expect owners of these transformers to remove/retrofill these transformers by October 1, 1990, rather than install enhanced electrical protection. Had EPA recognized this potential impact of requiring enhanced electrical protection of these transformers, EPA may have extended the date for compliance with the enhanced electrical protection requirements. An extension would have been a reasonable action in light of the Agency's determination that lower secondary voltage network PCB Transformers pose less of a fire-related risk than higher secondary voltage network PCB Transformers (which EPA required to be removed by October 1, 1990). That is, EPA did not intend to place these two types of transformers, which pose different levels of fire-related risks, on essentially the same schedule for removal.

EPA recognizes that modifying the PCB Transformer Fires Rule to provide owners the option of removal by October 1, 1993 or enhanced electrical protection by October 1, 1990 will most likely have the effect of allowing the continued use of many of these transformers for an additional 3 years (without enhanced electrical protection). However, EPA believes that it should encourage utilities and other owners of high secondary voltage network transformers located in or near commercial buildings to direct all available resources to the immediate removal of these higher fire risk units. EPA expects that staggering regulatory requirements for these different systems will, albeit indirectly, help achieve this goal.

Finally, while EPA continues to expect enhanced electrical protection to be an effective risk reduction mechanism for these transformers, EPA prefers the regulatory option of transformer removal because it completely eliminates PCB Transformer fire-related risks (as well as the risks posed by leaks and spills of PCBs from these transformers). EPA also recognizes, however, that PCB Transformer removal is costly. In providing transformer owners the option of risk reduction in the short term or removal on a slightly

longer schedule, EPA has attempted to create an incentive for removal.

E. Phaseout of Lower Secondary Voltage Network PCB Transformers in Sidewalk Vaults

In the final PCB Transformer Fires Rule, EPA prohibited, as of October 1, 1990, the use of all network PCB Transformers with higher secondary voltages, while requiring enhanced electrical protection on the remaining commercial PCB Transformers, including all radial and lower secondary voltage network PCB Transformers.

In this document, EPA is proposing to amend the current requirement that electrical protection be installed as of October 1, 1990, on all lower secondary voltage network PCB Transformers in or near commercial buildings. EPA is proposing to require that lower secondary voltage network PCB Transformers located in sidewalk vaults near commercial buildings be removed from service by October 1, 1993. Unlike owners of low secondary network PCB Transformers located outside of a sidewalk vault, who have an option of removing these transformers from service or installing enhanced electrical protection, owners of this equipment will not have the choice of electrical protection or removal. The Proposed Rule will require these transformers located in sidewalk vaults to be removed as of October 1, 1993.

In the PCB Transformer Fires Rule, EPA determined that requiring enhanced electrical protection of these transformers would significantly reduce the fire-related risks posed by the use of this equipment. However, after promulgation, EPA received comments that indicated that it was neither practical nor feasible to install additional protective devices on lower secondary network PCB Transformers in sidewalk vaults, citing cost and physical constraints as major factors. The most frequent explanation given by utilities, according to an inventory taken by the Resource Planning Corporation (RPC), as to why current-limiting fuses were neither practical nor feasible, was space limitations within sidewalk vaults and lack of suitable fuse enclosures (i.e., waterproof and with extended service life) for the underground environment.

As is the case for low secondary voltage network PCB Transformers located in other than sidewalk vaults (see Unit III.D.), comments received after the rule was promulgated indicate a strong desire to replace these transformers located in sidewalk vaults rather than install current-limiting fuses, resulting in many more transformers potentially being removed from service

than EPA originally expected. In contrast to the situation for low secondary voltage network transformers in other than sidewalk vaults (where enhanced electrical protection is still an option), according to comments, space constraints and lack of suitable fuse enclosures make enhanced electrical protection of those units in sidewalk vaults impractical. The most effective option for reducing fire-related risks is removal of these transformers. Thus, EPA is proposing to require owners of transformers located in sidewalk vaults to remove them from service as of October 1, 1993.

As previously noted, according to comments, owners of low secondary voltage network PCB Transformers located in sidewalk vaults would rather remove these transformers from service than install enhanced electrical protection due to, among other things, space constraints within these sidewalk vaults. Thus, economically, these owners have no choice and would have to remove these transformers from service, as of October 1, 1990, rather than install enhanced electrical protection. This would have the effect of EPA requiring the removal, as of October 1, 1990, of not only the high secondary voltage network PCB Transformers, but the lower secondary voltage network transformers as well. EPA did not intend to place two types of transformers, which pose different levels of risks, on essentially the same schedule for removal. Therefore, EPA believes that allowing owners to remove, as of October 1, 1993, the low secondary voltage network PCB Transformers located in sidewalk vaults, would allow the owners to first concentrate their resources on removal of the high fire-related risk transformers (which they are required to remove as of October 1, 1990), and then address the lower risk units.

Finally, since the promulgation of the final PCB Transformer Fires Rule, EPA has received comments suggesting that EPA's cost estimates of installing current-limiting fuses are understated. These comments indicate that the average cost estimates are 2 to 4 times higher than the EPA estimates. EPA estimated the cost of installing current-limiting fuses on lower secondary voltage network PCB Transformers to be about \$4,000 per transformer and, based on this estimate, EPA calculated that owners of 208/120 network equipment would spend approximately \$37 million to install current-limiting fuses by 1990. EPA received additional comments suggesting that EPA did not take into account sidewalk vault installations requiring substantial redesign or

rebuilding, thus raising the cost to \$12,000 to \$30,000 or more per transformer.

Therefore, EPA is proposing, based on comments received from the regulated community since promulgation of the final PCB Transformer Fires Rule, to require the removal of lower secondary voltage network PCB Transformers in sidewalk vaults by October 1, 1993, instead of requiring enhanced electrical protection on these transformers by October 1, 1990.

While EPA recognizes that allowing the use of this equipment until October 1, 1993 (an additional 3 years), without installing enhanced electrical protection poses some risk, EPA believes that phaseout of an additional class of transformers above those currently required to be phased out, further minimizes the risk of fire-related events involving PCB Transformers. EPA continues to prefer the regulatory option of transformer removal because it completely eliminates PCB Transformer fire-related risk, as well as the risks posed by leaks and spills of PCBs from these transformers. Thus, although there is some risk in allowing additional time to phase out this equipment, EPA believes the benefits of removing these PCB containing transformers from service, thus eliminating any potential risk of PCB exposure, outweighs the risks incurred by allowing the use of these transformers for an additional 3 years. Further, EPA has determined that requiring phaseout of those transformers in sidewalk vaults would be practical since owners of this equipment express an interest in removing rather than installing enhanced electrical protection and EPA has already determined that for this type of equipment some risk reduction measure must be implemented.

F. Discovery of PCB Transformer

In this document, EPA is proposing that in the event a mineral oil transformer assumed to contain less than 500 ppm of PCBs pursuant to § 761.3 is determined through testing to be contaminated at 500 ppm or greater, efforts must be initiated immediately to bring the transformer into compliance. Section 761.3 allows owners of untested mineral oil transformers (that in fact may contain 500 ppm or greater PCBs) to assume they are less than 500 ppm. EPA does not intend to penalize owners who, upon testing, later discover that the transformer actually contains 500 ppm or greater PCBs. However, when such a transformer is discovered to be a PCB Transformer, EPA believes that it should be brought into compliance as quickly

as possible. EPA proposes a schedule for achieving such compliance if a mineral oil transformer is discovered later to be a PCB Transformer. EPA proposes to require that after discovering that a mineral oil transformer is a PCB Transformer (any transformer that contains 500 ppm PCB or greater) the owner of the transformer comply with the following schedule:

1. Report any fire-related incidents.
2. Mark the transformer, the vault door, machinery room door, fence, hallway or other means of access to the PCB Transformer with the appropriate label, immediately after discovery. Comments received after the promulgation of the PCB Transformer Fires Rule state that owners should be given 48 hours to mark their transformers. EPA solicits comments regarding the length of time needed to comply with the marking requirements once a transformer is found to contain concentrations of 500 ppm or greater PCBs.

3. Register the PCB Transformer with fire response personnel and the building owner within 30 days of discovery.

Comments received after the rule was promulgated suggest that 48 hours (or probably 72 to 96 hours to account for weekends and/or holidays) would be more reasonable in this instance. However, EPA solicits comments regarding the length of time needed to comply with the registration requirement once a mineral oil transformer is found to contain 500 ppm PCB or greater.

4. Install electrical protective equipment on radial PCB Transformers and non-sidewalk vault, lower secondary voltage network PCB Transformers in commercial buildings within 18 months of discovery or by October 1, 1990, whichever is later.

5. Remove non-sidewalk vault, lower secondary voltage network PCB Transformers in commercial buildings if electrical protective equipment is not installed, within 18 months of discovery or by October 1, 1993, whichever is later.

6. Remove lower secondary voltage network PCB Transformers located in sidewalk vaults near commercial buildings, within 18 months of discovery or by October 1, 1993, whichever is later.

EPA proposes to provide options in lieu of the enhanced electrical protection and removal requirements for mineral oil transformers, upon discovering a mineral oil transformer (assumed to contain less than 500 ppm of PCBs) is later tested and found to have concentrations of PCBs at 500 ppm or greater. EPA proposes to allow:

1. Retrofill and reclassification of a radial PCB Transformer or a lower or

higher secondary voltage network PCB Transformer, located in other than sidewalk vaults, in or near a commercial building, within 18 months or by October 1, 1990, whichever is later.

2. Retrofill and reclassification of a lower secondary voltage network PCB Transformer located in sidewalk vaults near commercial buildings, within 18 months or by October 1, 1993, whichever is later.

3. Retrofill and reclassification of higher secondary voltage network PCB Transformers, located in sidewalk vaults near commercial buildings, within 18 months or by October 1, 1990, whichever is later.

IV. Previous Rulemaking Record

1. Official rulemaking record from "Polychlorinated Biphenyls in Electrical Transformers" Final Rule, published in the *Federal Register* of July 17, 1985, (50 FR 29170).

2. Official Record from "Notice of Interpretation of Transformer Fires Regulations", published in the *Federal Register* of December 31, 1986, (51 FR 47241).

V. Support Documents

1. USEPA, OPTS, EED, Putnam, Hayes and Bartlett, Inc. "Evaluation of the Sufficiency of Current and Projected PCB Disposal Capacity To Meet Demand Requirements", July 1986.

2. Letters received from:
a. Kansas City Power and Light dated September 11, 1985.

b. Electric Power Board of Chattanooga dated October 3, 1985.

3. Reports from Resource Planning Corporation submitted to Utility Solid Waste Activities Group, dated January 6, 8, and April 23, 1986.

VI. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a regulatory impact analysis be prepared. EPA has determined that this amendment to the PCB Rule would not be a "major rule" as that term is defined in section 1(b) of the Executive Order and therefore is not subject to the requirement that a regulatory impact analysis be prepared.

While the rule would place some additional restrictions and conditions on the use of PCB Transformers, it is worth noting that this regulation would allow the continued use of PCBs in electrical transformers that would otherwise be prohibited by section 6(e) of TSCA. This rule would avoid the severe disruption of electric service to the public and industry that would occur if the use of

this equipment were immediately prohibited. It also would avoid the economic impact that would result from a requirement to replace the equipment as soon as possible.

This rule was submitted to the Office of Management and Budget (OMB), as required by Executive Order 12291.

VII. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator may certify that a rule will not, if promulgated have a significant impact on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis.

In general, this rule will reduce the burden on small businesses that would otherwise be encountered if an immediate ban on PCB-containing transformers were to take effect. If an immediate ban on the use of PCBs in transformers were imposed, large costs would be incurred by all producers and users of electricity, including small businesses.

EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal agencies. EPA's original request to collect information for this rulemaking was approved under OMB Control Number 2070-0073. EPA has determined that the recordkeeping and reporting requirements of this proposed rule constitute a "collection of information" as defined in 44 U.S.C. 3502(4). Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked ATTENTION: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 761

Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements, Environmental protection.

Dated: August 13, 1987.

Lee M. Thomas,
Administrator.

Therefore it is proposed that 40 CFR Part 761 be amended as follows:

PART 761—[AMENDED]

1. The authority citation for Part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611.

2. In § 761.3 by adding the definitions of "emergency situation", "mineral oil PCB Transformer" and "non-PCB Transformer", alphabetically to read as follows:

§ 761.3 Definitions.

"Emergency Situation" for continuing use of "PCB Transformers" exists when:

(1) Neither a non-PCB Transformer or a PCB-Contaminated transformer is currently in storage for reuse or readily available (i.e., available within 24 hours) for installation; and

(2) Immediate replacement is necessary to continue service to utility customers; and

(3) Documentation to support paragraph (1) and (2) of this definition must include, but is not limited to:

(i) The type of transformer that requires replacement.

(ii) The type(s) of transformers that must be used for replacement.

(iii) The date of transformer failure.

(iv) The date of subsequent replacement.

(v) The type of transformer installed as a replacement.

(vi) A statement describing actions taken to locate a non-PCB or PCB-contaminated transformer replacement.

"Mineral oil PCB Transformer" means any transformer originally designed to contain mineral oil as the dielectric fluid and which has been tested and found to contain 500 ppm or greater PCBs.

"Non-PCB Transformer" means any transformer that contains less than 50 ppm PCB; except that any transformer that has been converted from a PCB Transformer or a PCB-Contaminated transformer cannot be classified as a non-PCB Transformer until reclassification has occurred, in accordance with the requirements of § 761.30(a)(2)(v).

3. In § 761.30 by revising paragraphs (a)(1)(iii), and (iv) and adding paragraph (a)(1)(xv) to read as follows:

§ 761.30 Authorizations.

(a) * * *

(1) * * *

(iii) Except as otherwise provided, as of October 1, 1985, the installation of PCB Transformers, which have been placed into storage for reuse or which

have been removed from another location, in or near commercial buildings is prohibited. The installation of PCB Transformers on or after the effective date of this regulation, however, and their use thereafter, is permitted either in "emergency situations", as defined in 40 CFR 761.3, or in situations where the transformer has been retrofilled and is being placed into service in order to qualify for reclassification under paragraph (a)(2)(v) of this section. Such emergency installation is permitted until October 1, 1990, and the use of any PCB Transformer installed on such an emergency basis is permitted for one year from the date of installation or until October 1, 1990, whichever is earlier. For purposes of this paragraph, the installation of retrofilled PCB Transformers for purposes of reclassification under paragraph (a)(2)(v) of this section is permitted until October 1, 1990. Retrofilled "mineral oil PCB Transformers" may be installed for reclassification purposes after October 1, 1990. However, once a retrofilled transformer has been installed for reclassification purposes, it must be tested three months after installation to ascertain the concentration of PCBs. If the PCB concentration is below 50 ppm, the transformer can be reclassified as a non-PCB Transformer. If the PCB concentration is between 50 and 500 ppm, the transformer can be reclassified as a PCB-Contaminated transformer. If the PCB concentration remains at 500 ppm or greater, the entire process must either be repeated until the transformer has been reclassified to a non-PCB or PCB-Contaminated transformer in accordance with paragraph (a)(2)(v) of this section or the transformer must be removed from service. All PCB Transformers installed in an emergency situation or installed for retrofit/reclassification purposes are subject to the requirements of Part 761.

(iv)(A) As of October 1, 1990, all radial PCB Transformers, in use in or near commercial buildings, and lower secondary voltage network PCB Transformers not located in sidewalk vaults (network transformers with secondary voltages below 480 volts) that have not been removed from service as provided in paragraph (a)(1)(v) of this section, must be equipped with electrical protection to avoid transformer ruptures caused by high current faults. Current-limiting fuses or other equivalent technology must be used to detect sustained high current faults and provide for complete deenergization of the transformer (within several hundredths of a second in the case of

radial PCB Transformers and within tenths of a second in the case of lower secondary voltage network PCB Transformers), before transformer rupture occurs. The installation, setting, and maintenance of current-limiting fuses or other equivalent technology to avoid PCB Transformers ruptures from sustained high current faults must be completed in accordance with good engineering practices.

(B) All lower secondary voltage network PCB Transformers not located in sidewalk vaults (network transformers with secondary voltages below 480 volts), in use in or near commercial buildings, which have not been protected as specified in paragraph (a)(1)(iv)(A) of this section by October 1, 1990, must be removed from service by October 1, 1993.

(C) As of October 1, 1990, owners of lower secondary voltage network PCB Transformers not located in sidewalk vaults which have not been protected as specified in paragraph (a)(1)(iv)(A) of this section must register those transformers with the EPA Regional Administrator in the appropriate region. Information required to be provided to the Regional Administrator in writing shall be:

(1) The specific location of the PCB Transformer(s).

(2) The address(es) of the building(s) and the physical location of the PCB Transformer(s) on the building site(s).

(3) The identification number(s) of the PCB Transformer(s).

(D) As of October 1, 1993, all lower secondary voltage network PCB Transformers located in sidewalk vaults (network transformers with secondary voltages below 480 volts) in use near commercial buildings must be removed from service.

(xv) In the event a mineral oil transformer assumed to contain less than 500 ppm of PCBs pursuant to § 761.3 is tested and found to be contaminated at 500 ppm or greater PCBs, efforts must be initiated immediately to bring the transformer into compliance in accordance with the following schedule:

(A) Reporting fire-related incident, effective immediately after discovery.

(B) Marking of the transformer, effective immediately after discovery.

(C) Marking the vault door, machinery room door, fence, hallway or other means of access to the PCB Transformer: effective immediately after discovery.

(D) Registering the PCB Transformer with fire response personnel with primary jurisdiction and with the

building owner, within 30 days of discovery.

(E) Installation of electrical protective equipment on radial PCB Transformers and non-sidewalk vault, lower secondary voltage network transformers in or near commercial buildings: within 18 months of discovery or by October 1, 1990, whichever is later.

(F) Removal of non-sidewalk vault, lower secondary voltage network transformers in or near commercial buildings if electrical protective equipment is not installed, within 18 months of discovery or by October 1, 1993, whichever is later.

(G) Removal of lower secondary voltage network PCB Transformers (located in sidewalk vaults) in or near commercial buildings, within 18 months of discovery or by October 1, 1993, whichever is later.

(H) Retrofill and reclassification of a radial PCB Transformer or a lower or higher secondary voltage network PCB Transformer, located in other than sidewalk vaults in or near a commercial building, within 18 months or by October 1, 1990, whichever is later (this is an option in lieu of installing electrical protective equipment on the radial or the lower secondary voltage network PCB Transformers located in other than sidewalk vaults or removing the higher

secondary voltage network PCB Transformers or the lower secondary voltage network PCB Transformers, located in sidewalk vaults, from service).

(I) Retrofill and reclassification of a lower secondary voltage network PCB Transformer, located in sidewalk vaults, in or near a commercial building: Within 18 months or by October 1, 1993, whichever is later (this is an option in lieu of installing electrical protective equipment or removing these transformers from service).

(J) Retrofill and reclassification of higher secondary voltage network PCB Transformers (located in sidewalk vaults) in or near a commercial building: within 18 months or by October 1, 1990, whichever is later (this is an option in lieu of other requirements).

* * * * *

§ 761.40 [Amended]

4. In § 761.40 by revising paragraph (j) to read as follows:

§ 761.40 Marking Requirements.

* * * * *

(j)(1) Except as provided in paragraph (j)(2) of this section, as of December 1, 1985, the vault door, machinery room door, fence, hallway, or means of access, other than grates and manhole

covers, to a PCB Transformer must be marked with the mark M_L .

(2) A mark other than M_L label can be used provided all of the following conditions are met:

(i) The program using such an alternative label was initiated prior to August 15, 1985, and can be substantiated.

(ii) Prior to August 15, 1985, coordination between the transformer owner and the emergency response personnel occurred and appropriate emergency response personnel know and recognize what the alternative mark means.

(iii) The EPA Regional Administrator in the appropriate region is informed of the use of the alternative label within 30 days of (insert the effective date of this amendment), and is provided with documentation that the program began before August 15, 1985, and that prior to that date the appropriate emergency response organizations knew and recognized the meaning of the mark.

(3) Any mark placed pursuant to this section must be placed so that it can be easily read by firemen fighting a fire involving this equipment.

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