

which entitles U to purchase 20 shares of S stock from P, at any time before August 31, 1993, at an exercise price of \$115 per share. The call option does not provide U with any voting rights, dividend rights, or any other managerial or economic rights ordinarily afforded to owners of the S stock. There is no intention on August 31, 1992, to alter the value of S to increase the likelihood of the exercise of the call option.

(ii) Because the exercise price of the call option is equal to or greater than 90 percent of the fair market value of the S stock on August 31, 1992, a measurement date, the option must be exercised, if at all, within 24 months of the measurement date, and none of the items described in paragraph (g)(2)(iv) of this section which preclude application of the safe harbor are present, the safe harbor of paragraph (g)(2)(i) of this section applies and the call option is treated as if it is not reasonably certain to be exercised. Therefore, regardless of whether the continued affiliation of P and S would result in the elimination of a substantial amount of federal income tax liability, the call option is disregarded in determining whether S remains a member of the P group.

Example 4. (i) The facts are the same as in *Example 3* except that the call option gives U the right to vote similar to that of a shareholder.

(ii) Under paragraph (g)(2)(iv) of this section, the safe harbor of paragraph (g)(2)(i) of this section does not apply because the call option entitles U to voting rights equivalent to that of a shareholder. Accordingly, all of the facts and circumstances surrounding the sale of the call option must be taken into consideration in determining whether it is reasonably certain that the call option will be exercised.

Example 5. (i) In 1992, two unrelated corporations, X and Y, decide to engage jointly in a new business venture. To accomplish this purpose, X organizes a new corporation, S, on September 30, 1992. X acquires 100 shares of the voting common stock of S, which are the only shares of S stock outstanding. Y acquires a debenture of S which is convertible, on September 30, 1995, into 100 shares of S common stock. If the conversion right is not exercised, X will have the right, on September 30, 1995, to put 50 shares of its S stock to Y in exchange for 50 percent of the debenture held by Y. The likelihood of the success of the venture is uncertain. It is anticipated that S will generate substantial losses in its early years of operation. X expects to have substantial taxable income during the three years following the organization of S.

(ii) Under the terms of this arrangement, it is reasonably certain, on September 30, 1992, a measurement date, that on September 30, 1995, either through Y's exercise of its conversion right or X's right to put S stock to Y, that Y will own 50 percent of the S stock. Additionally, it could reasonably be anticipated, on September 30, 1992, a measurement date, that the affiliation of X and S would result in the elimination of a substantial amount of federal income tax liability. Accordingly, for purposes of determining whether X and S are affiliated, X is treated as owning only 50 percent of the

value of the S stock as of September 30, 1992, a measurement date, and S is not a member of the X affiliated group.

Example 6. (i) The facts are the same as in *Example 5* except that rather than acquiring 100 percent of the S stock and the right to put S stock to Y, X acquires only 80 percent of the S stock, while S, rather than acquiring a convertible debenture, acquires 20 percent of the S stock, and an option to acquire an additional 30 percent of the S stock. The terms of the option are such that the option will only be exercised if the new business venture succeeds.

(ii) In contrast to *Example 5*, because of the true business risks involved in the start-up of S and whether the business venture will ultimately succeed, along with the fact that X does not have an option to put S stock to Y, it is not reasonably certain on September 30, 1992, a measurement date, that the option will be exercised and that X will only own 50 percent of the S stock on September 30, 1995. Accordingly, the option will be disregarded in determining whether S is a member of the X group.

(i) **Effective date.** This section applies, generally, to options with a measurement date on or after February 28, 1992. This section does not apply to options issued prior to February 28, 1992 which have a measurement date on or after February 28, 1992 if the measurement date for the option occurs solely because of a modification in the terms of the option pursuant to the terms of the option as it existed on February 28, 1992.

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 92-4378 Filed 2-28-92; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[CO-152-84]

RIN 1545-AH09

Definition of Affiliated Group; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed Income Tax Regulations that provide rules under section 1504(a) setting forth circumstances under which warrants, options, obligations convertible into stock, and other similar interests will be treated as exercised for purposes of determining whether a corporation is a member of an affiliated group.

DATES: The public hearing will be held on Tuesday, April 14, 1992, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Tuesday, March 24, 1992.

ADDRESSES: The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (CO-152-84), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9231, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is regulations proposing to add new regulations §§ 1.1504-0 and 1.1504-4 to 26 CFR part 1 under section 1504(a)(5) (A) and (B) of the Internal Revenue Code. The proposed regulations provide guidance regarding circumstances under which options will be treated as exercised for purposes of determining whether the 80 percent voting power and value tests for affiliation under section 1504(a) are satisfied. These regulations appear in the proposed rules section of this issue of the *Federal Register*.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Tuesday, March 24, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,
Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-4379 Filed 2-28-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 92-008]

Special Local Regulations: St. Johns River, Intracoastal Waterway—Pablo Creek, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to adopt special local regulations for the Greater Jacksonville Kingfish Tournament. The event will be held on the St. Johns River and on Pablo Creek, Florida, annually the second or third week in July on Thursday, Friday and Saturday. The regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before April 1, 1992.

ADDRESSES: Comments should be mailed to Commander, U.S. Coast Guard Group, 4200 Ocean Street, Mayport, FL 32267-0385. The comments and other material referenced in this notice will be available for inspection and copying at this same address. Normal office hours are between 7 a.m. and 3 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: CDR D.P. Rudolph, (904) 247-7318.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD7 91-008) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The drafters of this notice are QM1 Culver, Marine Event Petty Officer, Coast Guard Group Mayport and LT Jacqueline M. Losego, Project Attorney.

Seventh Coast Guard District Legal Office.

Discussion of Proposed Regulations:

The Greater Jacksonville Kingfish Tournament is held annually with approximately one thousand vessels participating. A check-out/check-in station will be established in the vicinity of St. Johns River Lighted Buoy 11 (LLNR 6720) position 30-24-05.61 N, 081-25-06.07 W. Participating vessels shall not check-out earlier than 6:30 a.m. EDT, and the fishing day will end at 4 p.m. EDT. In the past, the Coast Guard has established temporary special local regulations in order to provide for the safety of life on the navigable waters during the effective times. Due to the size and nature of this event, the Coast Guard now feels that a permanent description of this event and the establishment of permanent regulations in the Code of Federal Regulations (CFR) would better serve the boating public by creating a permanent reference. Notice of the specific dates and times for this event will be published annually in the Seventh Coast Guard District Local Notice to Mariners. This regulation is issued pursuant to 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this, because the regulated area encompasses approximately an 8 and 3/4 mile stretch of water on St. Johns River and Pablo Creek, from St. Johns River Lighted Buoy 7 (LLNR 6665) position 30-23-56 N, 081-23-04 W, west to Mile Point Lighted Buoy 24 (LLNR 6805) position 30-22-58 N, 081-27-21 W, then south on Pablo Creek to the Atlantic Beach Bridge, Jacksonville, Florida, and will impede the natural flow of traffic for only four hours each day. This event is not expected to affect commercial activities on the St. Johns River or Pablo Creek.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and

criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.08 of Commandant Instruction M16475.1B and Commandant Instruction 16751.3A, and this proposal has been determined to be categorically excluded. Specifically, the Coast Guard has consulted with the U.S. Fish and Wildlife Service regarding the environmental impact of this event, and it was determined that the event does not threaten protected species.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:
Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.
2. Section 100.35-07008 is added to read as follows:

§ 100.35-07008 Annual Greater Jacksonville Kingfish Tournament.

(a) *Regulated Area:* A regulated area is established for the waters of the St. Johns River lying between an eastern boundary formed by St. Johns River Lighted Buoy 7 (LLNR 6665) position 30-23-56 N, 081-23-04 W, and Lighted Buoy 8 (LLNR 6670) position 30-24-03 N, 081-23-01 W, and a western boundary formed by Mile Point Lighted Buoy 24 (LLNR 6805) position 30-22-58 N, 081-27-21 W, and Pablo Creek Daybeacon 2 (LLNR 32605) position 30-22-52 N, 081-27-31 W, with the northern and southern boundaries formed by the banks of the St. Johns River. Then, from the eastern boundary on the St. Johns River, the regulated area continues south on the waters of Pablo Creek to the Atlantic Beach Bridge, Jacksonville, Florida.

(b) *Special Local Regulations:* A No Wake Zone is established on the waters of the St. Johns River lying between the eastern boundary formed by St. Johns River Lighted Buoy 7 (LLNR 6665) position 30-23-56 N, 081-23-04 W, and Lighted Buoy 8 (LLNR 6670) position 30-24-03-N, 081-23-01 W, and the western

boundary formed by Mile Point Lighted Buoy 24 (LLNR 6905) position 30-22-58 N, 081-27-21 W, and Pablo Creek Daybeacon 2 (LLNR 32605) position 30-22-52 N, 081-27-31 W, with the northern and southern boundaries formed by the banks of the St. Johns River. A Minimum Wake Zone is established from the boundary formed by Mile Point Lighted Buoy 24 (LLNR 6905) position 30-22-58 N, 081-27-21 W, and Pablo Creek Daybeacon 2 (LLNR 32605) position 30-22-52 N, 081-27-31 W, south on Pablo Creek to the Atlantic Boulevard Bridge.

(c) *Effective Dates:* The Commander, Coast Guard Group Mayport will publish the effective times and dates during which these regulations will be in effect in the Seventh Coast District Local Notice to Mariners and the Federal Register.

Dated: February 3, 1992.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander,
Seventh Coast Guard District.

[FR Doc. 92-4369 Filed 2-28-92; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 750 and 761

[OPPTS-66011; FRL 3886-9]

RIN 2070-AB20

Polychlorinated Biphenyls; Manufacturing, Processing, and Distribution in Commerce Exemptions and Use Authorization

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Section 6(e) of the Toxic Substances Control Act (TSCA) bans the manufacture, processing, distribution in commerce, and the use of PCBs unless the PCBs are totally enclosed. Section 6(e) gives EPA authority, however, to authorize these PCB activities if the Administrator finds that they will not present an unreasonable risk of injury to human health or the environment. This proposed rule addresses six individual petitions under TSCA section 6(e)(3)(B) for exemption from the prohibition against the manufacture, processing and distribution in commerce of polychlorinated biphenyls (PCBs). This proposed rule identifies two petitions which EPA proposes to deny, three petitions which EPA proposes to grant, and one which has been withdrawn by the petitioner. EPA proposes one use authorization under TSCA section

6(e)(2)(B). In addition, EPA is amending the Interim Procedural Rules to require the submission of a certified letter at least 6 months prior to the expiration date of the exemption for any PCB activity that EPA has approved and for which the petitioner wishes EPA approval to continue. EPA hereby invites comments on these proposed actions.

DATES: Comments on this proposed rule must be submitted by April 16, 1992. If requested, an informal hearing, will be held in Washington, DC. For the exact time and location of the hearing, telephone EPA's Environmental Assistance Division listed under "FOR FURTHER INFORMATION CONTACT." Request to participate in the informal hearing must be received by April 16, 1992.

ADDRESSES: Three copies of comments identified with the docket number OPPTS-66011 must be submitted to: TSCA Public Docket Office (TS-793), Office of Pollution Prevention and Toxics, rm. NE-G004, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A public record has been established and is available in the TSCA Public Docket Office at the above address from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, rm. E-543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551, FAX: (202) 554-5603 (document requests only).
SUPPLEMENTARY INFORMATION: Section 6(e) of the Toxic Substances Control Act (TSCA) bans the manufacture, processing, distribution in commerce, and the use of PCBs unless the PCBs are totally enclosed. Section 6(e) gives EPA authority, however, to authorize these PCB activities if the Administrator finds that they will not present an unreasonable risk of injury to human health or the environment. TSCA provides that EPA may set terms and conditions including recordkeeping and reporting requirements for granting an exemption.

I. Background

A. Statutory Authority

Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e), generally prohibits the manufacture of PCBs after January 1, 1979, the processing and distribution in commerce of PCBs after July 1, 1979, and the use of PCBs after October 11, 1977, unless

otherwise authorized. While, section 6(e)(2)(A) of TSCA bans the use of PCBs in any manner other than a totally enclosed manner, section 6(e)(2)(B) provides that the Administrator may by rule authorize the use of PCBs if such use will not present an unreasonable risk of injury to health or the environment. Section 6(e)(3)(A) of TSCA prohibits the manufacture, processing, and distribution in commerce of PCBs in a manner other than totally enclosed. Section 6(e)(3)(B) provides that any person may petition the Administrator for an exemption from the prohibition on the manufacture, processing, and distribution in commerce of PCBs. The Administrator may by rule grant an exemption if the Administrator finds that "(i) an unreasonable risk of injury to health or the environment would not result, and (ii) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl." The Administrator may set terms and conditions for an exemption and may grant an exemption for not more than 1 year.

EPA's Interim Procedural Rules for Manufacturing, Processing and Distribution in Commerce Exemptions describe the required content of processing and distribution in commerce exemption petitions and the procedures EPA follows in rulemaking on exemption petitions. Those rules were published in the Federal Register of May 31, 1979 (44 FR 31514) and are codified at 40 CFR 750.10 through 750.41. EPA's Procedural Rule for rulemaking under section 6 of TSCA, which governs use authorizations for PCBs, is found at 40 CFR 750.1 through 750.9.

In this document, EPA is proposing to amend the Interim Procedural Rules for exemptions to address requests to continue the exempted activity beyond the 1-year period allowed for exemptions. For a petitioner who has been granted an exemption in this rule or in any rule hence and who wishes to renew that exemption petition, a certified letter must be submitted to the Agency stating that an extension is desired and that the specific type(s) of PCB activities, the PCB amounts, the PCB handling procedures and all other activities specified in the original exemption request have not been changed.

To provide the EPA with sufficient time to include the renewal submission into the next PCB exemption rulemaking, a certified letter must be submitted to the EPA at least 6 months

prior to the anniversary of the expiration date of the originally granted exemption.

If the extension submission is not received at least 6 months prior to the expiration date, or if there are any changes from the original petition which result in an increase in the amounts of PCBs or a change in the manner in which they are handled, EPA will consider the submission to be a petition for a new exemption. The original exemption activities must cease at the 1-year expiration date. Although this amendment does not affect exemption petitions granted by EPA prior to the publication of this proposed rule, any petitioner for an exemption who wishes to alter the activities as previously approved by the Agency in granting the exemption must refrain from any of the activities requested for by the change (i.e., the new petition) until EPA makes a determination by rulemaking. EPA will review the revised petition during the next rulemaking process and determine whether to grant or deny the new exemption.

B. History of this Rulemaking

EPA has received for consideration six new exemption petitions under TSCA section 6(e)(3)(B) which are the subject of this proposed rule. One petition requests approval to distribute in commerce for export small quantities of PCBs for the purpose of research and development. One petition requests approval to process and distribute in commerce for export small quantities of PCBs for the purpose of research and development. One petition requests to import from Canada, PCBs in oil and soil for laboratory analysis, and to export these samples following their analysis. One petition requested to import capacitors and voltage transformers, which were inadvertently shipped into Canada, back into the United States for the purpose of disposal. This petition has been withdrawn. One petition requests an exemption to distribute in commerce for export PCB-contaminated Transformers for salvage to the Far East. The final petition requests approval to process and distribute in commerce analytical reference samples derived from actual waste materials.

II. Unreasonable Risk Finding

Section 6(e)(3)(B)(i) of TSCA requires a petitioner to demonstrate that granting an exemption would not result in an unreasonable risk of injury to health or the environment.

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur to health or the environment against the

benefits to society from granting or denying each petition. Specifically, EPA considers the following factors:

A. Effects of PCBs on Human Health and the Environment

In deciding whether to grant an exemption, EPA considers the magnitude of exposure and the effects of PCBs on humans and the environment.

1. *Health effects.* EPA has determined that PCBs are toxic and persistent. PCBs can enter the body through the lungs, gastrointestinal tract, and skin, can circulate throughout the body, and can be stored in the fatty tissue.

2. *Environmental effects.* Certain PCB congeners are among the most stable chemicals known, which decompose very slowly once they are released in the environment. PCBs are absorbed and stored in the fatty tissue of higher organisms as they bioaccumulate up the food chain through invertebrates, fish, and mammals. This ultimately results in human exposure through consumption of PCB-containing food sources.

3. *Risks.* Toxicity and exposure are the two basic components of risk. Based on animal data, EPA concluded that in addition to chloracne, PCBs may cause developmental toxicity, reproductive effects, and oncogenicity in humans. EPA also concluded that PCBs present a hazard to the environment.

A lengthy discussion of these factors is provided in the preamble to the August 24, 1988 proposed exemption rule (53 FR 32327) (Docket number OPTS 66008F).

B. Benefits and Costs

The benefits to society of granting an exemption vary, depending on the activity for which the exemption is requested. The reasonably ascertainable costs of denying an exemption vary, depending on the individual petitioner. EPA has taken benefits and costs into consideration when evaluating each exemption petition.

III. Good Faith Efforts Finding

Section 6(e)(3)(B)(ii) of TSCA requires petitioners to demonstrate a good faith effort to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for PCBs. EPA considers several factors in determining whether a petitioner has demonstrated good faith efforts. For each petition, EPA considers the kind of exemption the petitioner is requesting and whether the petitioner expended time and effort to develop or search for a substitute. In each case, the burden is on the petitioner to show specifically what it did to substitute

non-PCB material for PCBs or to show why it was not feasible to substitute non-PCBs for PCBs. To satisfy this finding for requests for an exemption to import PCBs, a petitioner must show why such activity must occur in the United States and what steps will be taken to eliminate the need to import PCBs in the future.

IV. Explanation of Class Exemption for Research and Development

Distinct from its authority to exempt PCBs from the ban on manufacturing, processing, and distribution in commerce, EPA may also authorize the use of PCBs. EPA authorized, indefinitely, the use of PCBs in small quantities for research and development in the Use Authorization Rule, 40 CFR 761.30(j), published in the *Federal Register* of July 10, 1984 (Docket OPTS 66008B). "Small quantities for research and development" is defined at 40 CFR 761.3 as "any quantity of PCBs (1) that is originally packaged in one or more hermetically sealed containers of a volume of no more than five (5.0) milliliters, and (2) that is used only for purposes of scientific experimentation or analysis, or chemical research on, or analysis of PCBs, but not for research or analysis for the development of a PCB product." The distribution in commerce of PCBs in small quantities for use in research and development is allowed via a class exemption in the PCB Exemptions Rule, 40 CFR 761.80(g), published in the *Federal Register* of August 8, 1986 (51 FR 28556) (Docket number OPTS 66008E). This rule eliminated the need for each person who distributes in commerce PCBs to file an individual exemption petition. EPA placed the following terms and conditions on the class exemption: (a) That all processors and distributors maintain records of their PCB activities for a period of 5 years; and (b) that any person or company that expects to distribute in commerce 100 grams (0.22 lb.) or more PCBs for research and development in 1 year must report to EPA and identify the sites of PCB activities and the quantities of PCBs to be distributed in commerce.

In granting a class exemption, EPA retains the authority to terminate the class exemption, or to exclude any distributor from the class exemption, upon determining the activities allowed in the class exemption will pose an unreasonable risk of injury to health or the environment. Any changes in the disposition of the class exemption, or the status of individuals within the class exemption, will be published in a notice of proposed rulemaking and the

petitioners will be allowed to continue activities until a final rule is promulgated.

V. Disposition of Pending Exemption Petitions

A. Import

EPA received one exemption petition to import PCBs.

General Motors Corp (GMC). On August 31, 1987, GMC requested an exemption to import PCBs in indoor constant voltage transformers into the United States from Canada, solely for the purposes of disposal.

Decision on petition. On February 14, 1991, GMC withdrew this petition. As such, EPA takes no action on the submitted GMC exemption petition.

B. Import and Export

EPA received one exemption petition to import and export PCBs.

National Chem Lab. On December 3, 1987, EPA received a petition from National Chem Lab to import small test samples of oil and soil from Canadian Electric Utilities and to export these samples following their analysis.

a. *Current petition.* The sample sizes would be less than 6 milliliters per sample of oil and less than 4 ounces of soil. These samples would then be analyzed for PCB content. These small laboratory test samples would be exported back to the utility that submitted them following their analysis. National Chem Lab estimates that 5.072 ounces by volume of 0.283 pounds by weight would be used per year. These figures were based on a sample submittal rate of 10,000 per year with 15 percent of the submitted samples containing PCB concentrations over 50 ppm.

The residue that evolves from distillation of the solvent used in the extraction process would be included in a common Department of Transportation (DOT) approved container and sent to an incinerator for disposal as required by the PCB disposal rules of 40 CFR 761.60. The extremely small amounts of PCBs that would be retained by National Chem Lab in testing for a contamination level would be disposed of in the United States as required in the PCB disposal rules.

The economic consequences of denial would cost National Chem Lab an estimated income of \$150,000 per year and result in a staffing level of three fewer employees. National Chem Lab also maintains that this petition for exemption would enable it to expand its facilities and generate jobs in an area of Eastern Washington which badly needs jobs in non-agricultural enterprises.

b. *Decision on petition.* EPA has determined to deny this exemption petition. EPA has determined that the import (manufacture) of PCBs into the United States and the distribution in commerce of PCBs present an unreasonable risk of injury to human health and the environment (See 40 CFR 761.20 and 44 FR 31514, 31537, May 31, 1979). EPA has also stated that "[i]t is the clear intent of TSCA to minimize the addition of PCBs to the environment of the United States." Id. In 1980, EPA closed the border to encourage foreign countries to develop their own capacity for properly handling and disposing of hazardous waste. (See 45 FR 29115, May 1, 1980, filed at Docket number OPTS 66008). Also, National Chem Lab has failed to provide evidence that both Canadian and provincial border regulations will accept the PCBs returned to Canada after the PCB analysis. Further, EPA has determined that the petitioner has not met the good faith efforts criterion. Although no non-PCB substitutes for PCB analytical standards currently exist, the petitioner has not demonstrated or provided any convincing rationale as to why there is a necessity for the PCBs to be imported into the United States, solely for the purpose of analysis. According to the Canadian Association for Environmental Analytical Laboratories there are analytical laboratories within Canada for conducting PCB analysis. EPA does not want to encourage the expansion of PCB products or PCB services for companies when there are feasible alternatives already in place. Implied in the petitioner's exemption is a request to export the samples after analysis. Since EPA is proposing to deny the request to import, it is not addressing the request to export the samples back to their site of generation after analysis.

C. Export

EPA received two petitions relating to PCBs involved in research and development. Both petitioners are also requesting to export the PCBs and, therefore, the petitions are discussed in this section.

1. *NSI Technology Services Corp (NSIT).* On November 16, 1987, NSIT (formerly known as Northrop Services, Inc.) submitted an exemption petition to export small quantities of PCBs for research and development to the International Monitoring Community for use in the identification and quantification of environmental contaminants. The annual export amount is estimated to be less than 500 grams of PCBs. On February 12, 1991, NSIT amended its petition and notified

EPA that the company name had been changed to ManTech Environmental Technology, Inc. and Subsidiary (ManTech).

a. *Current petition.* ManTech obtains PCBs for environmental monitoring purposes and prepares analytical reference standards which are provided for a charge to laboratories engaged in monitoring activities.

The PCB standards would be available in solution (1.5 ml each) or in neat, essentially pure form in 50 to 100 mg aliquots. PCBs in the form of Aroclor mixtures as well as individual isomers, would be distributed in sealed 2-ml ampuls in accordance with requirements of the class exemption requirements. The total amount of PCBs to be exported in 1 year would not exceed 500 grams.

The standards would be packaged in sealed, glass primary ampules, labeled and placed in heat-seal bags with appropriate labelling. The neat standards would then be wrapped individually in several layers of absorbent packaging material, placed in a secondary heat-seal bag, and then in a standard corrugated cardboard container which would be filled with cushioning material and sealed with reinforced paper tape.

Solution standards would be placed in the first heat-seal bag, then placed in form-fitting styrofoam containers which are wrapped in cellucrepe material and placed in a secondary heat-seal bag. They would then be inserted into a padded mailer and sealed with fibreglass tape. Both of these packaging protocols conform to the requirements of DOT's regulation governing the packaging of small quantities of hazardous materials.

According to the letter submitted by ManTech on February 21, 1991, there is a charge for the standards which would accrue an estimated amount of \$60,000 per year in sales from the foreign distribution of the analytical samples.

ManTech also maintains that it makes an effort to support and encourage good quality assurance practices to several thousand laboratories in 93 foreign countries.

b. *Decision on petition.* EPA has determined to grant the ManTech petition. EPA believes that the export of PCBs in small quantities for research and development does not pose an unreasonable risk of injury to human health or the environment due to the quantity, viscosity, marking and packaging of the PCBs, as well as, the careful handling of the PCBs by trained personnel. Since there are no substitutes for PCB analytical samples, the good faith efforts finding has been met.

ManTech is prohibited from exporting PCBs in excess of the amounts and quantities specified in its petition and will be required to petition EPA to increase the quantity or change the manner of handling PCBs under the ManTech exemption. EPA will consider any such change as a new exemption petition and address the request by rulemaking. If ManTech wishes to continue its export activities beyond the 1-year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amendment for the Interim Procedural Rules addressed in this rule, must be submitted to EPA at least 6 months prior to the expiration of the exemption.

2. *Restek Corporation.* On June 8, 1990, Restek requested an exemption to process and distribute in commerce for export small quantities of PCBs for research and development to calibrate analytical instruments.

a. *Current petition.* Restek seeks to process and distribute small quantities (less than 100 grams/year) of PCBs for research and development under 40 CFR 761.80. The PCBs would be purchased from companies already exempted by EPA, then diluted to a concentration of 1000 µg/mL in solvent. The only processing would be to prepare gravimetric standards of the PCBs. The concentration of these standards would be verified by gas chromatography. Once verified, these solutions will be packaged in a flame sealed, amber, glass ampul in volumes of 1 milliliter. The sealed ampuls would be overwrapped in a plastic tube with adequate cushioning to prevent damage during shipment. These solutions would be shipped via common carrier domestically and exported to foreign customers. Restek would comply with all relevant DOT and overseas shipping regulations.

All processing and distribution would be performed at/from the Restek Corp. facility at 110 Benner Circle, Bellefonte, PA. The estimated amount of PCBs to be processed and distributed in commerce, both domestic and foreign, would not exceed 100 grams per year. Restek maintains that the small amounts of laboratory waste generated during the production procedures would be collected and disposed of in accordance with all Federal, State, and local regulations and the total amount of waste to be less than 1 gram per year. Restek maintains that all PCBs would be handled by qualified organic chemists.

There are no substitutes available which can be used to calibrate analytical instrumentation for PCBs. Restek estimates that the cost of denial of this petition could cause a loss of business amounting to \$280,000 per year.

b. *Decision on petition.* EPA has determined to grant the Restek petition. EPA believes that the export of PCBs in small quantities for research and development does not pose an unreasonable risk of injury to human health or the environment due to the quantity, viscosity, marking, and packaging of the PCBs, as well as, the careful handling of the PCBs by trained personnel. Further, since no PCB substitutes exist for analytical standards of PCBs, the good faith efforts criterion has been met.

Restek is prohibited from exporting PCBs in excess of the amounts and quantities specified in their exemption petition and will be required to petition EPA to increase the quantity or change the manner of handling PCBs under the Restek exemption. EPA will consider any such change as a new exemption petition and address the request by rulemaking. If Restek wishes to continue its export activities beyond the 1-year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amendment for the Interim Procedural Rules addressed in this rule, must be submitted at least 6 months prior to the expiration of the exemption.

3. *Joseph Simon Sons.* On April 9, 1987, Joseph Simon Sons, Inc. requested an exemption to distribute in commerce and export for disposal PCB-Contaminated Transformers that have been drained of all free-flowing liquids.

a. *Current petition.* The drained electrical transformers would be packaged in shipping containers at locations in the states of Utah, California, and Washington and then shipped to the Far East for salvage. To ensure that all electrical transformers being exported had contained fluid with a PCB concentration of less than 500 ppm, Joseph Simon Son would require its customers to provide analytical reports showing the serial number of each unit and the PCB concentration. The estimated pounds of drained electrical transformers to be processed from each of the states identified would be 1 million pounds.

b. *Decision on petition.* EPA proposes to deny the request for an exemption. EPA has determined, due to the large amounts of PCBs and the availability of an alternative option, namely reclassifying the transformers to non-PCB status, that this petition fails the unreasonable risk and good faith efforts criteria as required in TSCA section 6(e)(3)(B). EPA has found that the manufacturing, processing and distribution in commerce of PCBs and PCB items for export in concentrations of 50 ppm or greater present an

unreasonable risk of injury to health and the environment within the United States (40 CFR 761.20).

This petition requests to export a large amount, 3 million pounds, of drained PCB-Contaminated electric equipment to the Far East for salvage. EPA does not allow export of PCB-Contaminated equipment for disposal to countries that have failed to develop safe methods of PCB disposal and salvaging, and in cases where EPA has limited ability to ensure that such activities, including reuse of the salvaged material, do not present an unreasonable risk of injury to health and the environment in the United States.

The Agency has previously recognized that PCB contamination is a global problem, and that use and other activities connected with PCBs outside the United States can lead to additional PCB contamination of this country. EPA concluded in 1979 that the distribution in commerce of certain PCBs for export constitutes an unreasonable risk of injury to health and the environment in the United States (44 FR 31514; 31537, May 31, 1979) and maintains that the activities proposed by petitioner will present an unreasonable risk.

Further, in determining whether good faith efforts have been taken to develop a substitute for PCBs, EPA considers whether alternatives are available to the person requesting an exemption. In this case, there is a safer alternative available to petitioners, namely that the transformer be reclassified to non-PCB status through a drain, flush, and refill process according to 40 CFR 761.30(a)(2)(v). Such non-PCB transformers could then be exported for any purpose according to 40 CFR 761.20(b)(2). Because a readily available substitute for PCB-Contaminated equipment exists, namely decontaminated equipment, the good faith efforts criterion has not been met.

D. Processing and Distribution in Commerce

EPA received one petition requesting to process and/or distribute PCBs in commerce.

R.T. Corporation (RT Corp.). On March 31, 1989, RT Corp. requested an exemption to process and distribute in commerce analytical reference samples derived from actual waste materials. If RT Corp. obtains such an exemption, use of such samples is banned unless authorized by rule. EPA proposes such a use authorization in Unit VI. of this preamble.

a. *Current petition.* RT Corp. blends samples of pure PCBs in various matrices duplicating real world

laboratory situations. These samples provide EPA, contract labs, and other facilities with interlaboratory comparability and access to real world references. RT Corp. maintains that these procedures would be done under controlled conditions by trained and experienced personnel using practices that are designed to minimize human and environmental exposure to hazardous substances. An estimated annual amount of approximately .5 pound of PCB samples would be distributed in commerce to environmental analytical laboratories in small quantities for in-house Quality Assurance/Quality Control programs by Federal, State and municipal governments, and other clients wanting to ensure the accuracy of their analytical results.

These reference samples, which average 50 grams in weight, would be blended to homogeneity, packaged into 10 to 50 gram aliquots, and then marketed exclusively to laboratories. The total estimated annual amount of PCB-contaminated material at <500 ppm concentration levels to be allowed under the exemption would be between 500 to 1,000 pounds. This equates to approximately .5 pound of pure PCBs. The values of the analytes of interest are determined by a round robin analysis by as many laboratories as necessary to attain a 95 percent level of confidence.

RT Corp. maintains that these samples would be shipped in accordance with all DOT shipping requirements and that they would be packaged in hermetically sealed containers bearing the PCB warning label. Once the PCBs are distributed in commerce, the risk of exposure to humans and the environment would be minimized by the small quantities of PCBs used in most applications, by the matrix containing the PCBs, and by the careful handling procedures typical of laboratory work.

b. Decision on petition. EPA has determined to grant the RT Corp. petition. EPA believes that, due to the small quantities of PCBs for analysis in these reference samples as well as the careful handling of the PCBs by trained personnel, there is no unreasonable risk presented by granting this exemption petition request. The good faith efforts criterion has been met because there are no substitutes for the "real world" waste samples of PCB material associated with this activity. RT Corp. must comply with all TSCA, Federal, State, and local laws governing the handling of these samples. In addition, once the use of the samples is complete, all of the disposal

requirements contained in 40 CFR part 761 apply.

RT Corp. is prohibited from distributing in commerce PCBs in excess of the amounts and quantities specified in this petition and would be required to petition EPA to increase the quantity or change the manner of handling PCBs under the RT Corp. exemption. EPA would consider any such change a new exemption petition and address the request by rulemaking. If RT Corp. wishes to continue its process and distribution activities beyond the 1-year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amendment for the Interim Procedural Rules addressed in this rule, must be submitted at least 6 months prior to the expiration of the exemption.

VI. Use Authorization for Analytical Reference Samples Derived From Waste Materials

EPA proposes to grant a use authorization for analytical reference samples derived from waste materials when the samples have been processed and distributed in commerce pursuant to an exemption granted under TSCA section 6(e)(3)(B). As discussed above, EPA has already granted an authorization for the use of PCBs in small quantities for research and development (40 CFR 761.30(j)). Also discussed above are the reasons EPA is proposing to grant an exemption for analytical reference samples derived from waste materials. These samples do not fit the definition for the use authorization granted under 40 CFR 761.30(j), and therefore, use of these samples requires an authorization.

EPA has determined to authorize the use of PCB analytical reference samples derived from waste materials when the samples have been processed and distributed in commerce pursuant to an exemption granted under TSCA section 6(e)(3)(B). EPA has determined that the use of such samples will not present an unreasonable risk of injury to health or the environment because such samples will be handled by laboratories that have established procedures for handling hazardous materials. Further, EPA has determined that the use of such samples will further efforts to implement, comply with, and enforce the requirements for PCBs under TSCA. Once the use of such samples is over, persons who have used the samples are subject to any Federal, State, and local law governing the disposal of the PCBs, including the rules found in 40 CFR part 761.

VII. Informal Hearing

If requested, an informal hearing will be held in Washington, DC. All requests to participate in the hearing must include an outline of the topic(s) to be addressed, the amount of time requested for the opening statement, and a non-binding list 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.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, issued February 17, 1982, 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 proposed rule would not be a "major rule" as that term is defined in section 1(b) of the Executive Order because the annual effect of the rule on the economy will be considerably less than \$100 million; it will not cause any noticeable increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of U.S. enterprises to compete with foreign enterprises in domestic or foreign markets. This rule would allow the manufacture, processing and distribution in commerce, and export of PCBs that would otherwise be prohibited by section 6(e)(3)(A) of TSCA for the petitioners who met the requirements of section 6(e)(3)(B) of TSCA and the Interim Procedural Rules for PCB Exemptions.

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

B. Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act (the Act), 5 U.S.C. 603, requires EPA to prepare and make available for comment an initial regulatory flexibility analysis in connection with rulemaking. The initial regulatory flexibility analysis must describe the impact of the rule on small business entities. Section 605(b) of the Act, however, provides that section 603 of the Act "shall not apply to any proposed or final rule if the Agency certifies that the rule will not, if promulgated, have a significant

economic impact on a substantial number of small entities."

EPA has tried to estimate the cost of this proposed rule on the small businesses whose petitions EPA has denied. For purposes of this regulatory flexibility analysis, EPA considers a small business to be one whose annual sales revenues were less than \$40 million. This cutoff is in accordance with EPA's definition of a small business for purposes of reporting under section 8(a) of TSCA, which was published in the Federal Register of November 16, 1984 (49 FR 45430).

In accordance with section 605(b) of the Act, EPA certifies that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small business entities. In addition, EPA is sending a copy of this proposed rule to the Chief Counsel for Advocacy of the Small Business Administration.

EPA further notes that section 606 of the Act states that the requirements of section 603 do not alter in any manner standards otherwise applicable by law to Agency action. Current law, section 6(e)(3)(A) of TSCA and EPA's PCB Ban Rule, 40 CFR part 761, prohibits the manufacture, processing, and distribution in commerce of PCBs. This rule, under section 6(e)(3)(B) of TSCA, would exempt persons from these prohibitions where petitioners have demonstrated that granting an exemption would not result in an unreasonable risk of injury to health or the environment and that they have made good faith efforts to develop substitutes for PCBs. Both small and large businesses must meet the same statutory standard. Thus, even if EPA believed that it was an economically desirable policy to grant an exemption petition for a small business, it could do so only if the small business met the requirements set forth in TSCA. This rule would not add to the burden placed on small businesses, it would only relieve the burden placed on business through granting an exemption.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of OMB to review certain information collection requests by Federal Agencies. Under OMB Control Number 2070-0021, OMB has approved a general information collection request submitted by EPA for purposes of collecting information for rulemakings on PCB exemption petitions, and for any recordkeeping or reporting conditions to PCB exemption petitions granted by EPA.

Public reporting burden for this collection of information is estimated to average 5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Attention EPA Desk Officer, Office of Management and Budget, Washington, DC 20503.

IX. Official Rulemaking Record

For the convenience of the public and EPA, all of the information originally submitted and filed in dockets number OPTS-66001, 66002, 66008-66008K (manufacturing, processing, and distribution in commerce exemptions) is being consolidated into this docket number OPPTS-66011. This proposed rule is a continuation of that docket under OPTS-66008K.

Public comments, the transcript of the informal hearing, if conducted, and submissions made at the informal hearing or in connection with it, will not be listed because these documents are exempt from Federal Register listing under TSCA section 19(a)(3). A full list of these materials are cited in the Index to the Rulemaking Record for Polychlorinated Biphenyls, Manufacturing, Processing, and Distribution in Commerce; Exemptions, Docket Number OPPTS 66011 at A2-File (February 20, 1992), and will be available in the TSCA Public Docket Office. The location of the TSCA Public Docket Office is listed under the "ADDRESSES" section of this rule.

List of Subjects in 40 CFR Parts 750 and 761

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

Dated: February 20, 1992.

Mark A. Greenwood,
Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR chapter I, subchapter E is proposed to be amended as follows:

1. In part 750:

PART 750—[AMENDED]

a. The authority citation for part 750 continues to read as follows:

Authority: 15 U.S.C. 2605.

b. In § 750.11 by removing paragraph (b), by redesignating paragraphs (c) and (d) paragraphs (b) and (c), respectively, and by adding new paragraphs (d) and (e) to read as follows:

§ 750.11 Filing of petitions for exemption.

(d) *Further information.* EPA reserves the right to request further information as to each petition prior to or after publication of the notice of proposed rulemaking required by § 750.13.

(e) *Renewal requests.* (1) As of [the effective date of this final rule] any petitioner who has been granted an exemption, under section 6(e)(3)(B) of TSCA, in this rule or in any subsequent rule and who seeks to extend that exemption, must submit a certified letter to EPA requesting that the exemption be granted for the following year. This letter must verify that the type of activities, the procedures for handling the PCBs, or any other aspect of the exemption have not changed and that the amount of PCBs handled has not increased from the original exemption petition request. This letter must be sent to EPA at least 6 months prior to the anniversary of the expiration of the original exemption. If a petitioner fails to make a timely submission under these rules, the exemption will expire 1 year from the effective date of granting the exemption.

(2) Any petitioner who has been granted an exemption in a prior rule, in this current rule, or in a subsequent exemption rule, and who has increased the amount of PCBs handled or who has deviated in any manner from their original petition will be required to submit a new exemption petition to EPA. The activities granted by the original exemption must not exceed the limits originally approved by EPA until the new submission is addressed by rulemaking.

§§ 750.13 and 750.14 [Amended]

c. In §§ 750.13 and 750.14 change the reference "§ 750.11(d)" to read "§ 750.11(c)".

d. Section 750.31 is amended by removing paragraph (b), by redesignating paragraphs (c), (d) and (e) as paragraphs (b), (c) and (d), respectively, and by adding a new paragraph (e) to read as follows:

§ 750.31 Filing of petitions for exemption.

(e) *Renewal requests.* (1) As of [insert the effective date of this final rule] any petitioner who has been granted an exemption, under section 6(e)(3)(B) of TSCA, in this rule or in any subsequent rule and who seeks to extend that exemption, must submit a certified letter to EPA requesting that the exemption be granted for the following year. This letter must verify that the type of activities, the procedures for handling the PCBs, or any other aspect of the exemption have not changed and that the amount of PCBs handled has not increased from the original exemption petition request. This letter must be sent to EPA at least 6 months prior to the anniversary of the expiration of the original exemption. If a petitioner fails to make a timely submission under these rules, the exemption will expire 1 year from the effective date of granting the exemption.

(2) Any petitioner who has been granted an exemption in a prior rule, in this current rule, or in a subsequent exemption rule, and who has increased the amount of PCBs handled or who has deviated in any manner from their original petition will be required to submit a new exemption petition and will not be subject to extension through submission of a certified letter. The activities granted by the original exemption must not exceed the limits originally approved by EPA until the new submission is addressed by rulemaking.

§§ 750.33 and 750.34 [Amended]

e. In § 750.33(a) and 750.34(a)(1) change "§ 750.31(d)" to read "§ 750.31(c)."

2. In part 761:

PART 761—[AMENDED]

a. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614 and 2616.

b. In § 761.30 by adding paragraph (p) to read as follows:

§ 761.30 Authorizations.

(p) *Analytical reference samples.* PCBs in analytical reference samples derived from waste materials may be used only when the samples originated from a person who has been granted an exemption to process and distribute in commerce such samples under TSCA section 6(e)(3)(B). Once the use of such samples is completed, disposal of such samples is governed by all applicable

Federal, State, and local laws, including the rules contained in this part.

c. In § 761.80 by adding paragraphs (c)(2) and (m)(7) and by revising paragraphs (h) and (n) to read as follows:

§ 761.80 Manufacturing, processing and distribution in commerce exemptions.

(c) * * *
(2) ManTech, Research Triangle Park, NC 27709.

(h) The Administrator grants the following petitioner(s) an exemption for 1 year to process and distribute in commerce PCBs for analytical reference samples derived from actual waste materials:

(1) R.T. Corporation, Laramie, WY 82070.

(2) [Reserved]

(m) * * *
(7) Restek Corporation, Bellefonte, PA. 16823

(n) The 1-year exemption granted to petitioners in paragraphs (a) through (f), and (m)(1) through (m)(6) of this section shall be renewed automatically as long as there is no increase in the amount of PCBs to be processed and distributed, imported (manufactured), or exported, nor any change in the manner of processing and distributing, importing (manufacturing), or exporting of PCBs. If, however, there is such a change, a new exemption petition must be submitted to EPA and it will be addressed in the next exemption rulemaking. In such a case, the activities granted under the original exemption may continue only until the anniversary of the effective date of the original final exemption rule granting the petition. The 1-year exemption granted to petitioners in paragraphs (c)(2), (h) and (m)(7) of this section shall be extended only if a certified letter is submitted to EPA by the petitioner according to § 750.30(e) of this chapter and until EPA acts on the information by rulemaking. The petitioner will be allowed to continue the activities for which it requests the exemption, but is prohibited from exceeding the amounts or modifying the PCB process as described in the initial petition. If a petitioner submits a certified letter requesting to renew the exemption for another year and if there is any increase in the amount of PCBs to be processed and distributed, imported (manufactured), or exported, or if there is any change in the manner of processing and distributing, importing (manufacturing), or exporting of PCBs,

the certified letter shall be accompanied by a new exemption petition which will be addressed in the next exemption rulemaking. In such a case, the activities granted under the original exemption may continue only until the anniversary date of the original exemption petition being granted. Also, if the certified letter to extend the activities is not submitted in a timely fashion according to § 750.11(e) or § 750.31(e) of this chapter, as appropriate, all exempted activities shall cease on the expiration date and the letter will be considered a new petition which will be addressed during the next exemption rulemaking.

[FR Doc. 92-4780 Filed 2-28-92; 8:45 am]

BILLING CODE 6560-50-F

NATIONAL SCIENCE FOUNDATION**45 CFR Part 641****Environmental Assessment Procedures for Proposed National Science Foundation Actions in Antarctica**

AGENCY: National Science Foundation.

ACTION: Proposed rule.

SUMMARY: The National Science Foundation (NSF) proposes to issue regulations that provide procedures for implementing (i) Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (Executive Order) as it applies to NSF's activities in Antarctica, and (ii) the environmental assessment requirements of the Protocol on Environmental Protection to the Antarctic Treaty and its related annexes, adopted by the fourth session of the Eleventh Special Antarctic Treaty Consultative Meeting (SCM XI) on October 4, 1991, and signed by the United States on that date. The procedures require environmental assessment of proposed U.S. Antarctic Program (USAP) actions so that responsible agency officials may consider the potential environmental effects of those proposed actions.

DATES: Comments must be received on or before April 1, 1992.

ADDRESSES: Interested persons may submit written comments to Lawrence Rudolph, Deputy General Counsel, Office of the General Counsel, National Science Foundation, 1800 G Street, NW., room 501, Washington, DC 20550, or hand deliver comments to the same address between the hours of 9 a.m. and 5 p.m. Monday through Friday.