

DEPARTMENT OF ENVIRONMENTAL QUALITY

BUREAU OF ENVIRONMENTAL PROTECTION

POLYCHLORINATED BIPHENYLS

(By authority conferred on the director of the department of natural resources by section 2 of Act No. 60 of the Public Acts of 1976, being S299.352 of the Michigan Compiled Laws)

R 299.3301 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 60 of the Public Acts of 1976, being S299.351 et seq. of the Michigan Compiled Laws.

(b) "Closed system" means electrical capacitors and transformers.

(c) "Combustible material" means a substance for which there is an incineration method available which destroys the PCB.

(d) "Department" means the department of natural resources.

(e) "Director" means the director of the department of natural resources.

(f) "Disposal" means the abandoning, depositing, or otherwise discarding of PCB, a PCB product or a PCB-contaminated material.

(g) "Drain" means to remove, rinse out, or otherwise separate liquids from the solid materials in which they are contained, encased, or enclosed.

(h) "Incidental concentrations of PCB" means concentrations of PCB which are beyond the control of the person and which are not the result of the person: exposing an item, product, or material to concentrations of PCB; failing to take reasonable measures to rid the item, product, or material of concentrations of PCB; or failing to use a reasonable substitute for the item, product, or material.

(i) "PCB" means the class of chlorinated biphenyl, terphenyl, higher polyphenyl, or mixtures of these compounds produced by replacing 2 or more hydrogen atoms on the biphenyl, terphenyl, or higher polyphenyl molecule with chlorine atoms. PCB shall not include chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures of these compounds that have functional groups attached other than chlorine, unless that functional group on the chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures thereof results in a compound which is determined to be dangerous to the public health, safety, and welfare under section 5 of the act.

(j) "PCB-contaminated material" means either a PCB-product, or a material containing any concentration of PCB if that PCB resulting from the disposal of PCB, or a PCB-product via any method other than those specifically approved in these rules.

(k) "PCB product" means a product, item, or material containing a concentration of PCB equal to or greater than 100 ppm or such lower concentration as may arise pursuant to section 3(4)(a) and (b) of the act.

(l) "Person" means an individual, firm, partnership, association, or corporation.

(m) "Ppm" means concentration in parts per million as milligrams per kilogram (mg/kg) and is calculated as follows: if PCB is distributed throughout a product, item, or material, the concentration of PCB is determined on the basis of mg of PCB per kg of the mass in which the PCB is distributed; if PCB is a constituent of only a portion of a product, item, or material, the concentration of PCB is determined on the basis of mg of PCB per kg of only that portion of the product, item, or material in which the PCB is a constituent. For example, if PCB is a constituent of a dielectric fluid which is in a capacitor in a locomotive engine, the concentration of PCB would be determined on the basis of mg of PCB per kg of dielectric fluid.

(n) "Sell for use" or "sale for use" means the sale of PCB or a PCB product to the ultimate buyer or consumer who will use the PCB or PCB product for the purpose for which it was designed and manufactured. "Sell for use" does not include sales to intermediates or others who sell to persons who resell the PCB or PCB product without using it for the purpose for which it was designed and manufactured.

(o) "Small capacitor" means an electrical capacitor containing less than 3 pounds of total PCB.

(p) "Small transformer" means an electrical transformer containing less than 3 pounds of total PCB.

(q) "Use" means to put into action or service; to avail oneself of; to carry out a purpose or action by means of, or to utilize; or to expend or consume by putting to use. PCB use includes both consumptive uses in manufacturing or other processes, as well as nonconsumptive uses adjunctive to manufacturing or other processes, such as the use of dielectric fluids in capacitors and transformers.

History: 1979 AC.

R 299.3302 Compliance with other acts, statutes, and rules.

Rule 2. Compliance with these rules shall not relieve a person of that person's responsibility to conform to other Michigan and federal acts, statutes, and promulgated rules which may apply to PCB, including, but not limited to:

(a) Act No. 87 of the Public Acts of 1965, as amended, being S325.291 et seq. of the Michigan Compiled Laws.

(b) Act No. 348 of the Public Acts of 1965, as amended, being S336.11 et seq. of the Michigan Compiled Laws.

(c) Act No. 136 of the Public Acts of 1969, being S323.271 et seq. of the Michigan Compiled Laws.

(d) Act No. 245 of the Public Acts of 1929, as amended, being S323.1 et seq. of the Michigan Compiled Laws.

(e) Act No. 154 of the Public Acts of 1974, as amended, being S408.1001 et seq. of the Michigan Compiled Laws.

History: 1979 AC.

R 299.3303 Confidentiality of information.

Rule 3. If a record, exemption application, or other document furnished to the department under requirements of these rules is certified to contain information related to production, sales figures, or to processes which are unique to the person and which would adversely affect the competitive position of the person, then that information, under the authority of section 22 of Act No. 306 of the Public Acts of 1969, being S24.222 of the Michigan Compiled Laws, shall be for the confidential use of the department only in administration of the act, unless the person expressly agrees to its publication or availability to the general public. Nothing in this rule renders data on the quantity or quality of emissions or discharges confidential.

History: 1979 AC.

R 299.3304 Small capacitor and transformer exemption.

Rule 4. The use or sale of small capacitors and small transformers, or items and products containing small capacitors or transformers, in this state shall be exempt from these rules. The director shall issue voluntary guidelines for the handling and disposal of small capacitors and transformers.

History: 1979 AC.

R 299.3305 Research exclusion.

Rule 5. PCB or PCB products may be used in scientific research, analytical testing, or experimentation if approval for each use is obtained in writing from the director or his designated representative. The director or his designated representative may waive specific portions of these rules for such uses, and may require other provisions to protect the public health, safety, and welfare.

History: 1979 AC.

R 299.3306 Electric capacitor and transformer exclusion.

Rule 6. (1) PCB or a PCB product may be sold for use and used in this state in a closed system as a dielectric fluid for an electric transformer or capacitor.

(2) A person using PCB or a PCB product in an electric capacitor or transformer, except for small capacitors and transformers or items and products containing small capacitors or transformers exempted under R 299.3304, shall do both of the following:

(a) Comply with all rules promulgated pursuant to the act.

(b) Prepare a pollution incident prevention plan (PIPP) as required by part 5 of the general rules of the water resources commission, being R 323.1151 to R 323.1169 of the Michigan Administrative Code, detailing methods for the siting, handling, and disposing of capacitors and transformers containing PCB dielectric fluid so that the public health, safety, and welfare is insured. The plan shall also include a method of identifying PCB-containing capacitors and transformers so that they can be readily recognized and differentiated from capacitors and transformers which do not contain a PCB dielectric fluid.

History: 1979 AC.

R 299.3307 Exemption applications.

Rule 7. (1) A person may file an application for exemption under section 4 of the act to allow a PCB product to be manufactured for sale, sold for use, or used by the person in that person's business in this state if the PCB product contains incidental concentrations of PCB. The application shall be on forms provided by the director and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) Name of the PCB product.

(c) Concentration of PCB in the PCB product.

(d) Proposed use and quantities of the PCB product.

(e) Source of PCB contamination, if known.

(f) Measures to rid the PCB product of concentrations of PCB.

(g) List of available PCB-free substitutes for the PCB product for which the exemption is being sought.

(2) A person may file an application for exemption under section 4 of the act for continued use of an electric transformer containing residual amounts of PCB if the transformer has had the PCB drained and if the transformer has been filled with a substitute material. The application shall be on forms provided by the director and shall set forth the following information:

(a) The number, size, and location of the transformer or transformers for which an exemption is sought.

(b) Measures taken to rid the transformer of residual amounts of PCB prior to refilling.

(c) Method and location of disposal for the drained PCB and PCB-contaminated materials resulting from replacement.

(d) Name and manufacturer of substitute fluid used.

(e) Concentration in ppm of PCB remaining in the substitute transformer fluid.

(3) Transformers or PCB products exempted under this rule but still containing residual or incidental concentrations of PCB exceeding 100 ppm or such lower maximum concentrations as may arise pursuant to section 3(4)(a) and (b) of the act are exempt from R 299.3308, R 299.3309, R 299.3311, and R 299.3312, but are not exempt from the labeling requirements of R 299.3310 or from the disposal requirements of R 299.3313 to R 299.3317.

History: 1979 AC.

R 299.3308 Notice of intent to use.

Rule 8. (1) A notice of intent to use PCB or a PCB product in a business in this state shall be filed on forms provided by the director and shall set forth the following information:

(a) Name, location, and nature of the enterprise or operation.

(b) Nature of the use of the PCB or PCB product.

(c) Physical state, product name, and other characteristics of the PCB or PCB product.

(d) Concentration of PCB in the PCB product.

(e) Anticipated or known length of period of use of the PCB or PCB product.

- (f) Proposed final disposal methods for the PCB or PCB product.
- (g) Discharges to air, land, or water containing PCB and quantities of PCB discharged.
- (2) Notices of intent to use shall be filed on or before April 1, 1977, for uses implemented as of the effective date of these rules, or shall be filed before a new or modified application is implemented or both. Only modified applications which increase the environmental risks attendant with the use of the PCB or PCB product shall necessitate the filing of a new intent of use notice. A notice of intent to use need only be filed once for each general application or use category.

History: 1979 AC.

R 299.3309 Annual report of use.

Rule 9. (1) Annual reports of PCB or PCB product use in a business in this state shall be filed on forms provided by the director, shall include PCB in use, in inventory, and new purchases during the reporting period, and shall set forth the following information:

- (a) Name, location, and nature of the enterprise or operation.
 - (b) The amount and physical state of the PCB or PCB product in use and in inventory.
 - (c) Nature of the use of the PCB or PCB product.
 - (d) Concentration of PCB in the PCB product.
 - (e) Disposal information as specified in R 299.3316.
- (2) The annual report of PCB usage shall be filed on or before January 1, 1978, and on or before January 1 of each subsequent year.
- (3) A person filing a report of sale for use or a report of manufacture for sale for a general product line, pursuant to R 299.3312, shall not file a report of use for that same product line.

History: 1979 AC.

R 299.3310 Labeling of items, products, or materials; warning statement.

Rule 10. (1) PCB or a PCB product which is manufactured for sale or sold in Michigan on or after April 1, 1977, shall be conspicuously labeled with the following statement:

"CAUTION" Contains PCB's (polychlorinated biphenyls) that are environmental contaminants. In case of leaks or spills, restrain discharge and consult manufacturer. In transportation emergencies, call national response center (800-424-8802) and Chemtrec (800-424-9300). Avoid prolonged breathing of vapors or mists, contact with eyes or skin. Disposal should be in accordance with ANSI C-107 guidelines or applicable state and federal statutes.

(2) Warnings, hazard statements, and statements of fact in addition to those mandated by subrule (1) may be included on the label if the manufacturer or seller so desires.

History: 1979 AC.

R 299.3311 Notice of intent to sell or manufacture.

Rule 11. (1) Notification of intent to sell for use, or to manufacture for sale, PCB or a PCB product in this state shall be filed on forms provided by the director, and shall set forth the following information:

- (a) Name, location, and nature of the enterprise or operation.
- (b) Nature of manufacturing process for the PCB or PCB product.
- (c) Physical state, product name, and other characteristics of the PCB-product manufactured.
- (d) Concentration of PCB in the PCB product.
- (e) Anticipated or known length of time that the PCB or PCB product will be manufactured.
- (f) PCB, PCB product, and process waste disposal methods. This requirement applies to Michigan manufacturers and sellers only.
- (g) Discharges containing PCB to air, land, or water and the quantities of PCB discharged. This requirement applies to Michigan manufacturers and sellers only.

(2) Notice of intent to sell or manufacture for sale shall be filed on or before April 1, 1977, or before a new or modified PCB or PCB product is sold or manufactured for sale in the state, or both. A person need

only file a new notice of intent to sell or manufacture for sale a modified PCB or PCB product if any of the following occurs:

- (a) There is an increase in the amount of concentration of PCB contained in the PCB product.
- (b) The manner in which the PCB is contained in the PCB product is altered.
- (c) The environmental risks attendant with the manufacture, sale, or use of the PCB product are increased.

A notice of intent to sell for use or to manufacture for sale need only be filed once for each general product line.

(3) A person having filed a form of intent to sell for use or to manufacture for sale shall notify the director in writing when that person no longer intends to sell for use or to manufacture for sale the product for which the person filed the intent form.

History: 1979 AC.

R 299.3312 Annual report of sale or manufacture.

Rule 12. (1) Annual reports of the sale for use or manufacture for sale in this state of a PCB or PCB product shall be filed on forms supplied by the director, and shall set forth the following information:

- (a) Name, location, and nature of the enterprise or operation.
- (b) The amount and types of PCB and PCB products manufactured or sold for use in Michigan.
- (c) Nature of the manufacturing process or operation involving PCB or PCB products.
- (d) Final PCB products and their expected or known use.
- (e) PCB concentrations in original material, final products, and wastes.
- (f) Disposal information as specified in R 299.3316.

(2) Annual reports of the sale for use or manufacture for sale of PCB or a PCB product shall be filed by January 1, 1978, and by January 1 of each subsequent year.

(3) A person filing a report of sale for use or manufacture for sale for a general product line shall not file a report of use, pursuant to R 299.3309, for that same product line.

History: 1979 AC.

R 299.3313 General disposal provisions.

Rule 13. (1) PCB and PCB-contaminated materials intended for disposal shall be labeled, packaged, handled, transported, and disposed of in conformity with these rules, unless approval for alternative disposal methods is obtained in writing from the director or the designated representative of the director.

(2) An introduction of PCB or PCB-contaminated materials into surface water, groundwater, or air shall not be considered an approved method of disposal for that material. Introduction of PCB or PCB-contaminated materials into soil shall only be permitted if:

- (a) Provisions are made in these rules for specific disposal methods.
- (b) Approval for a specific disposal method is obtained in writing from the director or the designated representative of the director.

(3) Water, soil, or other materials which are secondarily contaminated with PCB from a transformer, or with a PCB product exempted under R 299.3307, may be exempted from the requirements of R 299.3313 to R 299.3317. Application for this exemption shall be made on forms provided by the director and shall include:

- (a) Physical state, description, and quantity of contaminated materials.
- (b) Concentrations of PCB in the contaminated materials.
- (c) Historical trend of PCB concentrations in the air, water, soil, or other materials.
- (d) Measures taken to prevent entry of PCB into the air, water, soil, or other materials.
- (e) Measures taken to rid the air, water, soil, or other materials of PCB.
- (f) If water is secondarily contaminated, identification of the area to which it is to be discharged.

History: 1979 AC.

R 299.3314 Labeling for disposal.

Rule 14. All containers used to store PCB or PCB-contaminated materials prior to disposal, or used for transportation of PCB or PCB-contaminated materials to a disposal site, shall be labeled pursuant to R 299.3310.

History: 1979 AC.

R 299.3315 Storage, handling, and transportation of PCB or PCB-contaminated materials intended for disposal.

Rule 15. (1) All containers used to store or transport PCB or PCB-contaminated materials which are awaiting disposal shall be adequate to prevent PCB from leaving the container through spillage, leakage, or vaporization.

(2) PCB and PCB-contaminated materials shall be transported in either their original design housing or containers not exceeding 55-gallon capacity, unless approval for an alternative method is obtained in writing from the director or the designated representative of the director.

(3) All trucks or other vehicles specifically approved by the director for use as designated bulk PCB-transporting vehicles shall be permanently labeled on both sides of the vehicle in letters not less than 2 inches high with the words "DESIGNATED PCB TRANSPORTING VEHICLE."

(4) Equipment, such as pumps, hoses, and associated equipment, used for handling PCB materials shall not be used for handling other non-PCB materials unless approval for alternative uses is obtained in writing from the director or the designated representative of the director.

History: 1979 AC.

R 299.3316 Reporting on disposal of PCB or PCB-contaminated materials.

Rule 16. (1) Information on disposal of PCB and PCB-contaminated materials shall be included in the annual reports required pursuant to sections 6 and 7 of the act. The annual reports shall include the quantities, physical state, composition, PCB concentration, carrier, method of transportation, final disposal site, and disposal method for all PCB and PCB-contaminated materials disposed of during the reporting period, in addition to other information required by sections 6 and 7 of the act.

(2) A manifest supplied by the department shall accompany all shipments of PCB or PCB-contaminated materials intended for disposal. The originator of the material shall supply descriptive information including quantity, physical state, composition, and PCB concentration in the material. The originator, carrier, and person ultimately responsible for disposal of the material shall sign the manifest, supply the company name and location, and retain a copy of the manifest. The original copy of the manifest shall be forwarded to the director within 30 days after all the above parties have signed it.

History: 1979 AC.

R 299.3317 Disposal methods.

Rule 17. (1) PCB-contaminated materials which are combustible materials shall be incinerated at a department-approved facility, unless approval for an alternative method of disposal is obtained in writing from the director or the designated representative of the director. Approval of incineration facilities for disposal of PCB or combustible PCB-contaminated materials shall be based on criteria established by the director or the designated representative of the director.

(2) PCB-contaminated materials which are not combustible materials shall be disposed of at a licensed landfill approved for PCB disposal, unless approval for an alternative method of disposal is obtained in writing from the director or the designated representative of the director. Such disposal shall be in accordance with the following:

(a) Approval of landfills for disposal of noncombustible PCB-contaminated materials shall be based on criteria established by the director or the designated representative of the director.

(b) Prior to disposal of noncombustible PCB-contaminated materials in an approved landfill, all liquid PCB which can reasonably be drained from the solids shall be so drained and disposed of in conformity with these rules, unless approval of an alternative method of disposal is obtained in writing from the director or the designated representative of the director.

History: 1979 AC.

R 299.3318 Penalties.

Rule 18. A person who violates the act or these rules shall be subject to the provisions and penalties prescribed by section 9 of the act.

History: 1979 AC.

R 299.3319 Reports on cost of conversion.

Rule 19. (1) A person subject to regulation under the act and actually converting from PCB to substitute compounds shall file a report on the total cost to that person of the conversion from PCB to substitute compounds. The annual conversion costs to be reported are those incremental changes in costs resulting from the conversion of PCB or a PCB product that does not satisfy the standards set forth in the act and these rules to a substitute product that does satisfy the standards set forth in the act and these rules. These costs, expressed to the nearest thousand of dollars, include:

- (a) Recurring incremental material costs.
 - (b) Recurring incremental labor costs which arise from changes in manpower levels, man hours, or skill levels.
 - (c) Research and development costs necessary to redesign PCB products or develop substitutes for PCB.
 - (d) Nonrecurring costs of altering existing PCB or PCB product production equipment.
 - (e) Nonrecurring costs, including financing costs, for additional equipment, building, land, or other property items necessary to convert existing PCB or PCB product production facilities.
 - (f) All other significant conversion costs of a recurring or nonrecurring nature.
- (2) Reports on cost of conversion shall be filed on or before January 1 of each year subsequent to the year in which actual costs of conversion were incurred.

History: 1979 AC.