Subpart A—General

§ 761.1 Applicability.

(a) This part establishes prohibitions of, and requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items.

(b)(1) This part applies to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs or PCB Items. Substances that are regulated by this part include, but are not limited to: dielectric fluids; solvents; oils; waste oils; heat transfer fluids; hydraulic fluids; paints or coatings; sludges; slurries; sediments; dredge spoils; soils; materials containing PCBs as a result of spills; and other chemical substances or combinations of substances, including impurities and by-products and any byproduct, intermediate, or impurity manufactured at any point in a process.

(2) Unless otherwise noted, PCB concentrations shall be determined on a weight-per-weight basis (e.g., milligrams per kilogram), or for liquids, on a weight-per-volume basis (e.g., milligrams per liter) if the density of the liquid is also reported. Unless otherwise provided, PCBs are quantified based on the formulation of PCBs present in the material analyzed. For example, measure Aroclor™ 1242 PCBs based on a comparison with Aroclor™ 1242 standards. Measure individual congener PCBs based on a comparison with individual PCB congener standards.

(3) Most provisions in this part apply only if PCBs are present in concentrations above a specified level. Provisions that apply to PCBs at concentrations of < 50 ppm apply also to contaminated surfaces at PCB concentrations of ≤ 10 μg/100 cm². Provisions that apply to PCBs at concentrations of ≥ 50 to < 500 ppm apply also to contaminated surfaces at PCB concentrations of > 10/100 cm² to < 100 μg/100 cm². Provisions that apply to PCBs at concentrations of ≥500 ppm apply also to contaminated surfaces at PCB concentrations of ≥ 100 μg/100 cm².

(4) PCBs can be found in liquid, non-liquid and multi-phasic (combinations of liquid and non-liquid) forms. A person should use the following criteria to determine PCB concentrations to determine which provisions of this part apply to such PCBs.

(i) Any person determining PCB concentrations for non-liquid PCBs must do so on a dry weight basis.

(ii) Any person determining PCB concentrations for liquid PCBs must do so on a wet weight basis. Liquid PCBs containing more than 0.5 percent by weight non-dissolved material shall be analyzed as multi-phasic non-liquid/liquid mixtures.

(iii) Any person determining the PCB concentration of samples containing PCBs and non-dissolved non-liquid materials ≥0.5 percent, must separate the non-dissolved materials into non-liquid PCBs and liquid PCBs. For multi-phasic non-liquid/liquid or liquid/liquid mixtures, the phases shall be separated before chemical analysis. Following phase separation, the PCB concentration in each non-liquid phase shall be determined on a dry weight basis and the PCB concentration in each liquid phase shall be determined separately on a wet weight basis.

(iv) Any person disposing of multi-phasic non-liquid/liquid or liquid/liquid mixtures must use the PCB disposal requirements that apply to the individual phase with the highest PCB concentration except where otherwise noted. Alternatively, phases may be separated and disposed of using the PCB disposal requirements that apply to each separated, single-phase material.

(5) No person may avoid any provision specifying a PCB concentration by diluting the PCBs, unless otherwise specifically provided.

(6) Unless otherwise specified, references to weights or volumes of PCBs in this part apply to the total weight or total volume of the material (oil, soil, debris, etc.) that contains regulated concentrations of PCBs, not the calculated weight or volume of only the PCB molecules contained in the material.
§ 761.2 PCB concentration assumptions for use.

(a) Any person may assume that transformers with < 3 pounds (1.36 kilograms (kgs)) of fluid, circuit breakers, reclosers, oil-filled cable, and rectifiers whose PCB concentration is not established contain PCBs at < 50 ppm.

(b) Any person must assume that mineral oil-filled electrical equipment that was manufactured before July 2, 1979, and whose PCB concentration is not established contain PCBs at < 50 ppm. All pole-top and pad-mounted distribution transformers manufactured before July 2, 1979, must be assumed to be mineral-oil filled. Any person may assume that electrical equipment manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture of mineral oil-filled electrical equipment is unknown, any person must assume it to be PCB-Contaminated.

(c) Persons who inadvertently manufacture or import PCBs generated as unintentional impurities in excluded manufacturing processes, as defined in §761.3, are exempt from the requirements of subpart B of this part, provided that such persons comply with subpart J of this part, as applicable.

(d) Persons who process, distribute in commerce, or use products containing recycled PCBs defined in §761.3, are exempt from the requirements of subpart B of this part, provided that such persons comply with subpart J of this part, as applicable.

(e) Except as provided in §761.20 (d) and (e), persons who process, distribute in commerce, or use products containing excluded PCB products as defined in §761.3, are exempt from the requirements of subpart B of this part.

(f) Unless and until superseded by any new more stringent regulations issued under EPA authorities, or any permits or any pretreatment requirements issued by EPA, a state or local government that affect release of PCBs to any particular medium:

1. Persons who inadvertently manufacture or import PCBs generated as unintentional impurities in excluded manufacturing processes, as defined in §761.3, are exempt from the requirements of subpart B of this part, provided that such persons comply with subpart J of this part, as applicable.

2. Persons who process, distribute in commerce, or use products containing PCBs generated in excluded manufacturing processes defined in §761.3 are exempt from the requirements of subpart B provided that such persons comply with subpart J of this part, as applicable.

720