

(ii) In addition to the requirements of paragraph (b) of this section, the Regional Administrator may include in an approval any other requirements or provisions that the Regional Administrator finds are necessary to ensure that operation of the chemical waste landfill does not present an unreasonable risk of injury to health or the environment from PCBs. Such provisions may include a fixed period of time for which the approval is valid.

The approval may also include a stipulation that the operator of the chemical waste landfill report to the Regional Administrator any instance when PCBs are detectable during monitoring activities conducted pursuant to paragraph (b)(6) of this section.

(4) *Waivers.* An owner or operator of a chemical waste landfill may submit evidence to the Regional Administrator that operation of the landfill will not present an unreasonable risk of injury to health or the environment from PCBs when one or more of the requirements of paragraph (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator may in his discretion find that one or more of the requirements of paragraph (b) of this section is not necessary to protect against such a risk and may waive the requirements in any approval for that landfill. Any finding and waiver under this paragraph will be stated in writing and included as part of the approval.

(5) *Persons approved.* Any approval will designate the persons who own and who are authorized to operate the chemical waste landfill, and will apply only to such persons, except as provided by paragraph (c)(7) of this section.

(6) *Final approval.* Approval of a chemical waste landfill will be in writing and will be signed by the Regional Administrator. The approval will state all requirements applicable to the approved landfill.

(7) *Transfer of property.* Any person who owns or operates an approved chemical waste landfill must notify EPA at least 30 days before transferring ownership in the property or transferring the right to conduct the chemical waste landfill operation. The

transferor must also submit to EPA, at least 30 days before such transfer, a notarized affidavit signed by the transferee which states that the transferee will abide by the transferor's EPA chemical waste landfill approval. Within 30 days of receiving such notification and affidavit, EPA will issue an amended approval substituting the transferee's name for the transferor's name, or EPA may require the transferee to apply for a new chemical waste landfill approval. In the latter case, the transferee must abide by the transferor's EPA approval until EPA issues the new approval to the transferee.

(Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605)

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982, and amended at 48 FR 5730, Feb. 8, 1983; 49 FR 28191, July 10, 1984; 53 FR 12524, Apr. 15, 1988; 53 FR 21641, June 9, 1988; 57 FR 13323, Apr. 16, 1992; 63 FR 35456, June 29, 1998]

§761.77 Coordinated approval.

(a) *General requirements.* Notwithstanding any other provision of this part, the EPA Regional Administrator for the Region in which a PCB disposal or PCB commercial storage facility described in paragraphs (b) and (c) of this section is located may issue a TSCA PCB Coordinated Approval to the persons described in those paragraphs if the conditions listed in this section are met. A TSCA PCB Coordinated Approval will designate the persons who own and who are authorized to operate the facilities described in paragraphs (b) and (c) of this section and will apply only to such persons. All requirements, conditions, and limitations of any other permit or waste management document cited or described in paragraphs (b) and (c) of this section, as the technical or legal basis on which the TSCA PCB Coordinated Approval is issued, are conditions of the TSCA PCB Coordinated Approval.

(1) Persons seeking a TSCA PCB Coordinated Approval shall submit a request for approval by certified mail, to the EPA Regional Administrator for the Region in which the activity will take place. Persons seeking a TSCA PCB Coordinated Approval for a new PCB activity shall submit the request for approval at the same time they

Environmental Protection Agency

§ 761.77

seek a permit, approval, or other action for a PCB waste management activity under any other Federal or State authority.

(i) The request for a TSCA PCB Coordinated Approval shall include a copy of the letter from EPA announcing or confirming the EPA identification number issued to the facility for conducting PCB activities; the name, organization, and telephone number of the person who is the contact point for the non-TSCA Federal or State waste management authority; a copy of the relevant permit or waste management document specified in paragraphs (b) and (c) of this section, including all requirements, conditions, and limitations, if the EPA Regional Administrator does not have a copy of the document, or a description of the waste management activities to be conducted if a permit or other relevant waste management document has not been issued; and a certification that the person who owns or operates the facility is aware of and will adhere to the TSCA PCB reporting and recordkeeping requirements at subparts J and K of this part.

(ii) The EPA Regional Administrator shall review the request for completeness, for compliance with the requirements of paragraphs (b) and (c) of this section, and to ensure that the PCB activity for which approval is requested will not present an unreasonable risk of injury to health or the environment. The EPA Regional Administrator shall either:

(A) Issue a written notice of deficiency explaining why the request for approval is deficient. If appropriate, the EPA Regional Administrator may either:

(1) Request additional information to cure the deficiency.

(2) Deny the request for a TSCA PCB Coordinated Approval.

(B) Issue a letter granting or denying the TSCA PCB Coordinated Approval. If the EPA Regional Administrator grants the TSCA PCB Coordinated Approval, he or she may acknowledge the non-TSCA approval meets the regulatory requirements under TSCA as written, or require additional conditions the EPA Regional Administrator has determined are necessary to pre-

vent unreasonable risk of injury to health or the environment.

(C) If the EPA Regional Administrator denies a request for a Coordinated Approval under paragraphs (a)(1)(ii)(A) or (a)(1)(ii)(B) of this section, the person who requested the TSCA PCB Coordinated Approval may submit an application for a TSCA Disposal Approval.

(2) The EPA Regional Administrator may issue a notice of deficiency, revoke the TSCA PCB Coordinated Approval, require the person to whom the TSCA PCB Coordinated Approval was issued to submit an application for a TSCA PCB approval, or bring an enforcement action under TSCA if he or she determines that:

(i) Conditions of the approval relating to PCB waste management activities are not met.

(ii) The PCB waste management process is being operated in a manner which may result in an unreasonable risk of injury to health or the environment.

(iii) The non-TSCA approval expires, is revoked, is suspended, or otherwise ceases to be in full effect.

(3) Any person with a TSCA PCB Coordinated Approval must notify the EPA Regional Administrator in writing within 5 calendar days of changes relating to PCB waste requirements in the non-TSCA waste management document which serves as the basis for a TSCA PCB Coordinated Approval. Changes in the ownership of a commercial storage facility which holds a TSCA PCB Coordinated Approval shall be handled pursuant to § 761.65(j).

(b) Any person who owns or operates a facility that he or she intends to use to landfill PCB wastes; incinerate PCB wastes; dispose of PCB wastes using an alternative disposal method that is equivalent to disposal in an incinerator approved under § 761.70 or a high efficiency boiler operating in compliance with § 761.71; or stores PCB wastes may apply for a TSCA PCB Coordinated Approval. The EPA Regional Administrator may approve the request if the EPA Regional Administrator determines that the activity will not pose an unreasonable risk of injury to health or the environment and the person:

§761.79

40 CFR Ch. I (7-1-03 Edition)

(1)(i) Has a waste management permit or other decision or enforcement document which exercises control over PCB wastes, issued by EPA or an authorized State Director for a State program that has been approved by EPA and is no less stringent in protection of health or the environment than the applicable TSCA requirements found in this part; or

(ii) Has a PCB waste management permit or other decision or enforcement document issued by a State Director pursuant to a State PCB waste management program no less stringent in protection of health or the environment than the applicable TSCA requirements found in this part; or

(iii) Is subject to a waste management permit or other decision or enforcement document which is applicable to the disposal of PCBs and which was issued through the promulgation of a regulation published in Title 40 of the Code of Federal Regulations.

(2) Complies with the terms and conditions of the permit or other decision or enforcement document described in paragraph (b)(1) of this section.

(3) Unless otherwise waived or modified in writing by the EPA Regional Administrator, complies with §761.75(b); §761.70(a)(1) through (a)(9), (b)(1) and (b)(2), and (c); or the PCB storage requirements at §§761.65(a), (c), and (d)(2), as appropriate.

(4) Complies with the reporting and recordkeeping requirements in subparts J and K of this part.

(c) A person conducting research and development (R&D) into PCB disposal methods (regardless of PCB concentration), or conducting PCB remediation activities may apply for a TSCA PCB Coordinated Approval. The EPA Regional Administrator may approve the request if the EPA Regional Administrator determines that the activity will not pose an unreasonable risk of injury to health or the environment and the person:

(1)(i) Has a permit or other decision and enforcement document issued or otherwise agreed to by EPA, or permit or other decision and enforcement document issued by an authorized State Director for a State program that has been approved by EPA, which exercises control over the management of PCB

wastes, and that person is in compliance with all terms and conditions of that document; or

(ii) Has a permit, which exercises control over the management of PCB wastes, issued by a State Director pursuant to a State PCB disposal program no less stringent than the requirements in this part.

(2) Complies with the terms and conditions of that permit or other decision and enforcement document.

(3) Complies with the reporting and recordkeeping requirements in subparts J and K of this part.

[63 FR 35456, June 29, 1998]

§761.79 Decontamination standards and procedures.

(a) *Applicability.* This section establishes decontamination standards and procedures for removing PCBs, which are regulated for disposal, from water, organic liquids, non-porous surfaces (including scrap metal from disassembled electrical equipment), concrete, and non-porous surfaces covered with a porous surface, such as paint or coating on metal.

(1) Decontamination in accordance with this section does not require a disposal approval under subpart D of this part.

(2) Materials from which PCBs have been removed by decontamination in accordance with this section may be distributed in commerce in accordance with §761.20(c)(5).

(3) Materials from which PCBs have been removed by decontamination in accordance with this section may be used or reused in accordance with §761.30(u).

(4) Materials from which PCBs have been removed by decontamination in accordance with this section, not including decontamination waste and residuals under paragraph (g) of this section, are unregulated for disposal under subpart D of this part.

(5) Any person decontaminating porous surfaces other than concrete under paragraph (b)(4) of this section and non-porous surfaces covered with a porous surface, such as paint or coating on metal, under paragraph (b)(3) or (c)(6) of this section must obtain an alternative decontamination approval in