

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DEC 30 1988

Mr. John R. Davies  
 Manager  
 Special Projects  
 Oliver Machinery Company  
 1025 Clancy  
 Grand Rapids, MI 49503

Dear Mr. Davies:

This is in response to your letter of October 21, 1988 regarding the Environmental Protection Agency's (EPA's) interpretation of the scope of the polychlorinated biphenyl (PCB) large capacitor phase-out requirements. As you know, the PCB regulations of 40 CFR 761.30(1)(1)(ii) prohibit the use of large PCB capacitors after October 1, 1988 unless the large PCB capacitors are located in a restricted-access electrical substation or in a contained and restricted-access indoor installation. I acknowledge that the regulation itself and the preamble to the August 25, 1982 Federal Register (when and where the prohibition was originally promulgated) are somewhat ambiguous regarding the definition of a "contained and restricted-access indoor installation." Accordingly, there may have been varying interpretations within EPA regarding the scope of this particular "exemption" from the October 1, 1988 phase-out requirement. Further research into the rulemaking record, completed in September of this year, indicates that EPA intended to phase-out only nonsubstation outdoor PCB capacitors.

Preamble language to the August 1982 rule suggests that the term "restricted-access" could be viewed as pertaining to restricting access to the capacitor location within the building and not simply to the building itself. The preamble states that a contained and restricted-access indoor installation "prevents rain water from reaching the large PCB capacitors and has controlled access to these PCB capacitors." This is the interpretation the EPA had been providing prior to it's further research into the rulemaking record and the interpretation provided to you by the Michigan DNR. A recent poll of the EPA regional offices indicated a majority of the regional offices also shared this interpretation. However, the additional

CONCURRENCES

SYMBOL	B-798	T9-798	Key 2411	LE 132P	EN-342	EN 342	
SURNAME	Simons	MOOS	WJW	McMurray	Albon	2411	WOOD
DATE	11/1/88	11/1/88	11/4/88	11/15/88	12/21-88	12-21-88	12/23



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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OFFICE OF  
PESTICIDES AND TOXIC SUBSTANCES

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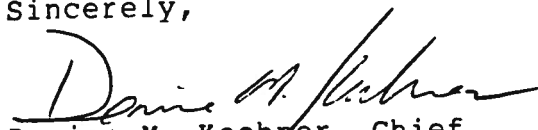
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research into the historical (1982) rulemaking record indicated that EPA intended to only phase-out those PCB capacitors located in outdoor nonsubstation locations (primarily pole mounted capacitors). The section of the preamble that addresses the impact of the regulation (47 FR 37348, August 25, 1982) explains that the final rule requires the removal of 1.087 million large PCB capacitors. Although the preamble does not describe in precise terms where these 1.087 million PCB capacitors are located a review of the 1982 Regulatory Impact Analysis developed for this rule estimates that there would be 1.087 million nonsubstation outdoor PCB capacitors that would be subject to removal if EPA required phase-out by October 1, 1988. Accordingly, it appears that EPA intended to phase-out only those large PCB capacitors located in nonsubstation locations.

Therefore, large PCB capacitors located in indoor locations that restrict public access and have an adequate roof, walls and floor to contain and prevent any releases of PCBs into the outside environment (i.e., no floor drains near enough to the capacitors to cause releases in the event of a rupture in the facility) would not be subject to the October 1, 1988 phase-out requirements.

A copy of this interpretation has been sent to all EPA regional offices and will be sent to all persons who inquire about the large PCB capacitor phase-out requirement. I hope this clarifies this issue and regret any inconveniences that may have been caused by this misunderstanding. If you have further questions or comments you may call me or Tom Simons of my staff at 202-382-3933.

Sincerely,

  
Denise M. Keehner, Chief  
Chemical Regulation Branch

cc: John Bohunsky  
Michigan DNR  
Waste Management Division  
P.O. Box 30028  
Lansing, MI 48909