

findings. In January and April 2001, the United States Defense Logistics Agency (DLA), a component of the Department of Defense (DoD), submitted two petitions to EPA to import foreign-manufactured PCBs that DoD currently owns in Japan and Wake Island for disposal in the United States. EPA is amending its rules to grant both of DLA's petitions; this action will allow DLA to engage in the import of these PCBs for disposal.

DATES: This rule shall become effective April 18, 2003, and shall expire on April 17, 2004. This rule shall be promulgated for purposes of judicial review at 1 p.m. eastern standard time on January 31, 2003.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

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SUPPLEMENTARY INFORMATION:

I. General Information

A. To Whom Does this Action Apply?

This action applies to the petitioner, the DLA. Potentially affected categories and entities include, but are not necessarily limited to:

Public Administration (NAICS Code 92), e.g., Petitioning Agency (i.e., DLA).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR part 761. If you have any questions regarding the applicability of this action to a particular entity, consult

the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document or Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT-2002-0013. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566-0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 761 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr761_00.html, a beta site currently under development. To access information about PCBs, go directly to the PCB Home Page for the Office of Pollution Prevention and Toxics at <http://www.epa.gov/pcb>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. Background

A. What Action is the Agency Taking?

In this document, the Agency is granting two petitions submitted by

DLA to import PCB waste for disposal. In the absence of an exemption, import of this waste would be banned by TSCA section 6(e)(3). One petition, dated January 19, 2001, is for an exemption to import foreign-source PCBs that were used on DoD installations in Japan and are currently stored on Wake Island, a United States territory in the Pacific Ocean west of Hawaii (Ref. 9). (While Wake Island is part of the United States, it is outside the Customs Territory of the United States, and TSCA defines "manufacture" to include "import into the Customs Territory of the United States.") In addition, 40 CFR 761.99(c) does not exclude this waste from EPA's regulatory interpretation of "import," because it was not present in the United States on January 1, 1979. For more information on these definitional issues, see the **Federal Register** documents of November 1, 2000 (Ref. 7) and March 30, 2001 (Ref. 8). The other petition, dated April 16, 2001, is to import foreign-generated PCBs owned by DoD that are currently in use or storage in Japan (Ref. 10). (The term "foreign-generated PCBs" is used to identify those PCBs that DoD acquired from foreign sources and that are subject to the TSCA ban on import.)

B. What is the Agency's Statutory Authority for Taking this Action?

Section 6(e) of 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 most uses of PCBs after October 11, 1977. Section 6(e)(3)(A) of TSCA prohibits the manufacture, processing, and distribution in commerce of PCBs except for the distribution in commerce of PCBs that were sold for purposes other than resale before July 1, 1979. Section 6(e)(1) of TSCA also authorizes EPA to regulate the disposal of PCBs consistent with the provisions in TSCA section 6(e)(2) and (3). Section 6(e)(3)(B) of TSCA 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. (15 U.S.C. 2605(e)(3)(B)(i)-(ii)).

The Administrator may prescribe terms and conditions for an exemption