

§ 750.12

must submit a new exemption petition to EPA. The existing exemption activity may continue until the new submission is addressed by rulemaking, provided the activity conforms to the terms of the current exemption approved by EPA, and the petitioner complies with the conditions of paragraph (e)(1) of this section.

(3) Any petitioner who has been granted a TSCA section 6(e)(3)(B) exemption in a rule prior to May 25, 1994, and who seeks to increase the amount of PCBs handled or to change the type of activities, the procedures for handling the PCBs, and any other aspect of their existing exemption must submit a new exemption petition to EPA. The existing exemption activity may continue until the new submission is addressed by rulemaking, provided the activity conforms to the terms of the original exemption approved by EPA.

[43 FR 50905, Nov. 1, 1978, as amended at 53 FR 12524, Apr. 15, 1988; 59 FR 16998, Apr. 11, 1994]

§ 750.12 Consolidation of rulemakings.

All petitions received pursuant to § 750.11(a) will be consolidated into one rulemaking with one informal hearing held on all petitions.

§ 750.13 Notice of proposed rulemaking.

Rulemaking for PCB exemptions filed pursuant to § 750.11(a) shall begin with the publication of a notice of proposed rulemaking in the FEDERAL REGISTER. The notice shall state in summary form the required information described in § 750.11(c). Due to time constraints, the notice need not indicate what action EPA proposes to take on the exemption petitions. The notice shall also be subject to § 750.2(c) with the exceptions (1) that the clause "in addition to the material required under paragraph (b)" is eliminated; and (2) that § 750.2(c)(3) is changed to read:

The due date for public comments, which shall be (1) thirty days after publication of the notice of proposed rulemaking for main comments and (2) one week after the close of the informal hearing for reply comments.

[43 FR 50905, Nov. 1, 1978, as amended at 59 FR 16998, Apr. 11, 1994]

40 CFR Ch. I (7-1-00 Edition)

§ 750.14 Record.

Section 750.3 shall be applicable with the exception that the words "§ 750.11(c)" are substituted for "§ 750.2(b)" in § 750.3(a)(1) and (2).

[43 FR 50905, Nov. 1, 1978, as amended at 59 FR 16998, Apr. 11, 1994]

§ 750.15 Public comments.

Section 750.4 shall be applicable with the exception that the time period in § 750.4(b) is shortened to 1 week.

§ 750.16 Confidentiality.

The Agency encourages the submission of nonconfidential information by petitioners and commenters. The Agency does not wish to have unnecessary restrictions on access to the rulemaking record. However, if a petitioner or commenter believes that he can only state his position through the use of information claimed to be confidential, he may submit it. Such information must be separately submitted for the rulemaking record and marked "confidential" by the submitter. For the information claimed to be confidential, the Agency will list only the date and the name and address of the petitioner or commenter in the public file, noting that the petitioner or commenter has requested confidential treatment. The information claimed to be confidential will be placed in a confidential file. A petitioner must also file a nonconfidential petition with a nonconfidential summary of the confidential information to be placed in the public file. Similarly, a commenter must supply a nonconfidential summary of the information claimed to be confidential to be placed in the public file. Any information not marked as confidential will be placed in the public file. Information marked confidential will be treated in accordance with the procedures in part 2, subpart B of this title.

§ 750.17 Subpoenas.

Section 750.5 shall be applicable.

§ 750.18 Participation in informal hearing.

(a) Each person or organization desiring to participate in the informal hearing required by section 6(c)(2)(C) of TSCA shall file a written request to so

Environmental Protection Agency

§ 750.31

participate with the record and hearing clerk which shall be received no later than 7 days prior to the scheduled start of the hearing. The hearing shall begin 7 days after the close of the 30-day comment period or as soon thereafter as practicable.

(b) With the exception of the first sentence in § 750.6(a), § 750.6 shall be applicable with the further exception that the time period in § 750.6(b) is shortened to no later than 3 days prior to the start of the hearing.

§ 750.19 Conduct of informal hearing.

Section 750.7 shall be applicable with the addition of the following sentence at the end of § 750.7(c):

Participants shall be allowed to designate testimony from prior EPA informal rulemaking hearings concerning PCB's under TSCA. The hearing panel may reject repetitive testimony previously presented at such hearings.

§ 750.20 Cross-examination.

Section 750.8 shall be applicable.

§ 750.21 Final rule.

(a) As soon as feasible after the deadline for submittal of reply comments, the Agency shall issue a final rule. The Agency shall also publish at that time:

(1) A list of all material added to the record (other than public comments and material from the hearing record) which has not previously been listed in a FEDERAL REGISTER document, and

(2) The effective date of the rule.

(b) The Administrator hereby delegates final Agency authority to grant or deny petitions under section 6(e)(3)(B) of TSCA submitted pursuant to § 750.11 of these rules to the Assistant Administrator for Prevention, Pesticides and Toxic Substances. The Assistant Administrator shall act on such petitions subsequent to opportunity for an informal hearing pursuant to these rules.

(c) In determining whether to grant an exemption to the PCB ban, the Agency shall apply the two standards enunciated in section 6(e)(3)(B) of TSCA.

Subpart C—Interim Procedural Rules for Processing and Distribution in Commerce Exemptions

SOURCE: 44 FR 31560, Mar. 31, 1979, unless otherwise noted.

§ 750.30 Applicability.

Sections 750.30–750.41 apply to all rulemakings under authority of section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e)(3)(B) with respect to petitions for PCB processing and distribution in commerce exemptions filed pursuant to § 750.31(a) of this part.

§ 750.31 Filing of petitions for exemption.

(a) *Who may file.* Any person seeking an exemption from the PCB processing and distribution in commerce prohibitions imposed by section 6(e)(3)(A)(ii) of TSCA may file a petition for exemption. Petitions must be submitted on an individual basis for each processor, distributor, seller or individual affected by the 1979 processing and distribution in commerce prohibitions, except as described in paragraphs (a) (1) through (9) of this section.

(1) *Processing and distribution in commerce of PCB-contaminated transformer dielectric fluid.* Persons who process or distribute in commerce dielectric fluid containing 50 ppm or greater PCB (but less than 500 ppm PCB) for use in PCB-Contaminated Transformers may submit a single consolidated petition on behalf of any number of petitioners. The name and address of each petitioner must be stated in the petition.

(2) *Contaminated substances and mixtures—processing.* Persons who process the same chemical substance or the same mixture containing 50 ppm or greater PCB as an impurity or contaminant may submit a consolidated petition if the chemical substance or mixture is processed for the same use by each person represented by the petition. For example, persons who process a PCB-contaminated pigment into printing inks may combine their petitions into one petition. The name and address of each petitioner must be stated in the petition.