

1. Citation

This order may be cited as the "Polychlorinated Biphenyl (PCB) Chemical Control Order 1997".

[Published in Government Gazette No. 66 of 20.6.1997 p. 4686]

2. Commencement

2.1 This order commences on 21 July 1997.

3. Repeal

3.1 "Polychlorinated Biphenyl Waste (PCB) Chemical Control Order 1994" published in Government Gazette No. 139 of 14.10.1994 p. 6306 is repealed.

4. Definitions

In this Order:

4.1 *Act* means the Environmentally Hazardous Chemicals Act 1985,

4.2 *aggregate* means the total quantity of the material or waste including associated articles (for example, containers and equipment),

4.3 *approved* means approved by the EPA,

4.4 *article* means an object that is manufactured for use for a particular purpose and contains PCBs,

4.5 *concentrated PCB material* means scheduled PCB material containing 10% or more of PCBs by mass,

4.6 *disaggregation* means the separation of different materials that were brought together or stored together in the same physical space,

4.7 *EPA* means the Environment Protection Authority, New South Wales,

4.8 *HCAC* means the Hazardous Chemicals Advisory Committee established under the Act,

4.9 *licence* means a licence that is in force after having been granted under the Act, whether it is an original or a renewed licence,

4.10 *manufacturing* includes the act of generating or producing PCB material or PCB waste,

4.11 *mg/kg* means milligrams per kilogram,

4.12 *non-scheduled PCB material* means PCB material containing PCB at a concentration below 50 mg/kg,

- 4.13 *non-scheduled PCB waste* means PCB waste containing PCB at a concentration below 50 mg/kg,
- 4.14 *occupier* in relation to any premises, means the person in occupation or control of the premises and, in relation to a part of any premises where different parts are occupied or controlled by different persons, means the person in occupation or control of that part,
- 4.15 *package* means the complete product of the packing operation, consisting of the packaging and its contents,
- 4.16 *PCB* means polychlorinated biphenyl,
- 4.17 *PCB contaminated soils* means soils, or concrete or bricks present in soils, that contain PCBs at concentration levels above 2 mg/kg,
- 4.18 *PCB material* means articles, containers, equipment and other substances containing PCBs at concentration levels above 2 mg/kg,
- 4.19 *PCB waste* means waste containing PCB at concentration levels above 2 mg/kg,
- 4.20 *polychlorinated biphenyl* is a chemical substance in which the biphenyl structure has chlorine substitutions (for hydrogen atoms) to varying degrees, PCBs have the chemical formula $C_{12}H_{10-n}Cl_n$ where n ranges from 1 to 10,
- 4.21 *premises* include a place (whether or not a public place) and a vessel,
- 4.22 *prescribed activity* has the same meaning as in the Act,
- 4.23 *priority area* means an area which has been identified as requiring a particularly high level of protection because a release or escape of PCB within the priority area, or release or escape of PCB from an adjoining area could pose a high level of risk to the area. Factors to consider in assessing the level of risk include the proximity of persons, groups or ecosystems and the potential pathways to the persons, groups or ecosystems of the released PCB. Such areas include, but are not restricted to, proclaimed potable surface and underground water catchment areas, food processing facilities, animal feed lots, schools, hospitals, aquatic spawning areas (an area of the environment which fish and other aquatic vertebrate species use for spawning purposes) and endangered species habitats (an area of the environment which provides a habitat for a species that is likely to become extinct unless action is taken to remove the factors which threaten its survival),
- 4.24 *process* means but is not limited to, an activity which transforms, destroys, recovers, separates or concentrates PCB material and PCB waste,
- 4.25 *scheduled PCB material* means PCB material which in aggregate contains 50 grams or more of PCBs at concentration levels of 50 mg/kg or more,
- 4.26 *scheduled PCB waste* means PCB waste that contain PCB at concentration levels of 50 mg/kg or greater at 50 grams or greater,

4.27 *waste* has the same meaning as in the Waste Minimisation and Management Act 1995.

5. Prohibition of prescribed activities

5.1 The act of manufacturing, processing, keeping, distributing, conveying, using, selling or disposing of PCB material or PCB waste, or any act related to any such act is prohibited unless it is otherwise permitted by, and carried out according to the conditions of, this chemical control order.

5.2 Without limiting the generality of subclause 5.1, the processing, using or disposing of PCB material or PCB waste includes:

5.2.1 dilution of PCB material or PCB waste with any other substance to reduce the concentration of PCB in the material or waste, and

5.2.2 disaggregation of PCB material or PCB waste to result in scheduled PCB material or scheduled PCB waste becoming non-scheduled PCB material or non-scheduled PCB waste.

5.3 This prohibition is made on the recommendation of the HCAC.

6. Prescribed activities permitted to be carried on

6.1 Manufacturing of PCB material and PCB waste

6.1.1 The manufacturing of PCB material or PCB waste by:

6.1.1.1 the removal of articles from service,

6.1.1.2 the removal of unwanted dielectric fluids from an article,

6.1.1.3 the remediation of contaminated sites, and

6.1.1.4 unintentional manufacture,

is permitted subject to the conditions set out in this order.

6.2 Processing of PCB material and PCB waste

6.2.1 The processing of scheduled PCB material and scheduled PCB waste by an approved process is permitted under the authority of, and according to the conditions of a licence. Scheduled PCB material and scheduled PCB waste must be processed by:

6.2.1.1 methods which only leave process residues for which EPA approved methods of disposal are available, and

6.2.1.2 technologies approved and licensed by the EPA and which

minimise release of waste to the environment.

- 6.2.2 Processing of scheduled PCB material and scheduled PCB waste is subject to the following conditions:
 - 6.2.2.1 any liquid residue from the processing of scheduled PCB waste must contain less than 2 mg/kg of PCB,
 - 6.2.2.2 any solid residue from the processing of scheduled PCB waste must contain less than 2 mg/kg of PCB unless in the EPA's opinion this is not practicable using existing technologies,
 - 6.2.2.3 there must be no discharge of liquid PCB effluent from facilities for the processing of PCB waste or material to wetlands, whether naturally occurring or artificially created.
 - 6.2.2.4 there must be no intentional dilution or disaggregation merely to result in scheduled PCB waste becoming non-scheduled PCB waste.
- 6.2.3 Blending of PCB waste to facilitate processing of PCB waste is permitted with the prior written approval of the EPA.
- 6.2.4 The processing of non-scheduled PCB material and non-scheduled PCB waste is allowed by a process approved in writing by the EPA.
- 6.2.5 PCB material and PCB waste which are non-porous solid items may be reused or recycled if the surface PCB residue is less than 1 milligram per square metre of surface area.

6.3 Keeping PCB material and PCB waste

- 6.3.1 The occupier of any premises where, or in or on which, PCB material or PCB waste are kept must ensure that an adequate supply of appropriate personal protective equipment (such as respirators, overalls, gloves, goggles and boots), clean-up material and equipment (such as absorbents, spades, open head drums and brooms) is readily available in a secure area external to the storage area or storage tank.
- 6.3.2 The occupier of any premises where, or in or on which, PCB material or PCB waste are kept must ensure that any person handling PCB material or PCB waste is trained in handling PCBs and methods of containing PCB spills, and wears appropriate personal protective equipment.
- 6.3.3 Keeping of PCB contaminated soils is permitted subject to the following conditions:
 - 6.3.3.1 the occupier of premises on which PCB contaminated soils are

generated may keep them on site provided the PCB contaminated soils are kept in a manner approved in writing by the EPA,

- 6.3.3.2 where PCB contaminated soils are conveyed and kept other than on the premises where they are generated they are considered to be and must be managed as PCB waste in accordance with this chemical control order.
- 6.3.4 Keeping of scheduled PCB material and scheduled PCB waste is permitted subject to the following conditions:
 - 6.3.4.1 the occupier of a premises must provide written notification to the EPA of the identity, amount and location of the scheduled PCB material or scheduled PCB waste kept in or on the premises. This notification must be made to the EPA within 30 days of the date on which the quantity of scheduled PCB material or scheduled PCB waste being kept in or on the premises becomes greater than 10 kg, and thereafter annually.
 - 6.3.4.2 Clause 6.3.4.1 does not come into effect until 90 days after the commencement date of this order.
 - 6.3.4.3 Liquid scheduled PCB material or scheduled PCB waste must be stored in accordance with Australian Standard AS1940-The Storage and Handling of Flammable and Combustible Liquids.
 - 6.3.4.4 All packages containing scheduled PCB material or scheduled PCB waste must be clearly marked.
 - 6.3.4.5 All packages containing scheduled PCB material or scheduled PCB waste must be maintained in good order. The contents of corroded or leaking packages must be immediately repacked into sound packages, and any spillage immediately cleaned up.
- 6.3.5 Where more than 50 kg but less than one tonne of scheduled PCB waste in aggregate is kept or proposed to be kept in or on any premises:
 - 6.3.5.1 there must be a clearly identified and defined storage area for the scheduled PCB waste, and
 - 6.3.5.2 the scheduled PCB waste storage area must be sited and constructed to prevent any discharge of scheduled PCB waste from the storage area into the external environment.
- 6.3.6 Where one tonne or more of scheduled PCB waste in aggregate is kept in or on any premises the scheduled PCB waste must be kept under the authority and in accordance with the conditions of a licence, and in accordance with the following conditions:

6.3.6.1 Scheduled PCB waste must be kept in a storage facility which must:

- (i) be located and constructed to adequately protect the contents from the ingress of stormwater, weather conditions and unlawful entry,
- (ii) have an impermeable floor or base with no drainage outlets. Where liquids are kept on concrete floors, the floors must be coated with sealant material to prevent the absorption of any leak or spill,
- (iii) have appropriate environmental controls to prevent offsite contamination and, where practicable, be bunded in accordance with Australian Standard AS1940,
- (iv) be appropriately ventilated,
- (v) be located no closer to any storage of:
 - (a) flammable or combustible liquids than permitted for protected works by Australian Standard AS1940, and
 - (b) liquefied petroleum gas than permitted for protected works by Australian Standard AS1596,

but in any case not less than twelve metres.

6.3.6.2 The occupier must provide written notification to the EPA of the receipt at, or dispatch from, the premises of scheduled PCB waste within one month of such receipt or dispatch.

6.3.6.3 Conspicuous notices, stating a warning that packages contain scheduled PCB waste must be attached to the door or building close to the entrance of scheduled PCB waste storage area by the occupier.

6.3.6.4 The occupier must inspect the storage facility at least monthly to ensure that no unauthorised entry or leakage has occurred. A log, containing details of the personnel carrying out inspections, corresponding dates and reports of those inspections, must be maintained at the scheduled PCB material or scheduled PCB waste storage facility.

6.3.7 Equipment Management and Phase-out of PCB material and PCB waste is to be applied in accordance with the following.

6.3.7.1 The occupier of premises where, or in or on which:

- (i) PCB material, or
- (ii) PCB waste, or
- (iii) equipment that contains PCB material or PCB waste, are kept, or may possibly be kept, must carry out a survey and implement a risk management program in accordance with this clause 6.3.7.

6.3.7.2 The survey must:

- (i) be carried out by 1 January 1999,
- (ii) include an initial survey of equipment and articles that could possibly contain PCBs,
- (iii) place emphasis on priority areas, and
- (iv) identify probable locations and probable quantities of scheduled PCB material and scheduled PCB waste.

6.3.7.3 The occupier must implement a risk management program for all equipment by 1 January 1999.

6.3.7.4 The risk management program must include:

- (i) in priority areas:
 - (a) the removal from service of all equipment containing concentrated PCB material within 2 years of the survey being completed, and
 - (b) the management of that concentrated PCB material as scheduled PCB waste;
- (ii) in other than priority areas:
 - (a) *in situ* processing of concentrated PCB material to reduce the concentration of PCB to less than 50 mg/kg within 5 years of the survey being completed, or,
 - (b) removal from service of all equipment containing concentrated PCB material within 5 years of the survey being completed,
- (iii) the management of PCB material and PCB waste which have a probability of 1% or greater (as determined using a statistical method acceptable to the EPA) of being scheduled PCB material or scheduled PCB waste, as scheduled PCB material or scheduled PCB waste unless analyses are undertaken which

indicate otherwise,

- (iv) the management of PCB material and PCB waste which have a probability of less than 1% (as determined using a statistical method acceptable to the EPA) of being scheduled PCB material or scheduled PCB waste, as non-scheduled PCB material or non-scheduled PCB waste unless analyses are undertaken which indicate otherwise,
- (v) testing of all equipment which has a probability of 1% or greater (as determined using a statistical method acceptable to the EPA) of containing scheduled PCB material within 5 years of the survey being completed,
- (vi) testing at the time of maintenance, repair or decommissioning of all other equipment which is likely to contain scheduled PCB material,
- (vii) for material identified as scheduled PCB material:
 - (a) *in situ* processing of identified scheduled PCB material to reduce the concentration of PCB to less than 50 mg/kg within 5 years of identification, or,
 - (b) removal from service of all equipment containing identified scheduled PCB material within 5 years of identification,
- (viii) the management of that scheduled PCB material which has been surveyed and removed from service as scheduled PCB waste.

6.3.7.5 Scheduled PCB material or scheduled PCB waste on any premises must remain in place where the EPA determines, on the basis of the information provided to it by the occupier, that the risk of leaving scheduled PCB material or PCB waste *in situ* without processing is less than the risk associated with its removal or processing.

6.3.8 The occupier of premises where, or in or on which, small equipment items (such as lighting and other similar sized capacitors) containing PCB at concentration levels at or above 50 mg/kg, and in an aggregate quantity at or above 50 grams of PCB at any one premises, must ensure that those small equipment items:

6.3.8.1 are collected and managed as scheduled PCB waste at the end of their useful lives, and

6.3.8.2 where these items are located in a priority area:

- (i) removed from the priority area within two years of identification, and
- (ii) managed as scheduled PCB waste.

6.4 Conveying of PCB material and PCB waste

6.4.1 Conveying of scheduled PCB material and scheduled PCB waste is permitted subject to the following:

- 6.4.1.1 a person must not convey scheduled PCB material or scheduled PCB waste unless the vehicle used carries personnel trained in methods of containing spilled scheduled PCB material or scheduled PCB waste and is provided with appropriate personal protective equipment, clean-up material and equipment to deal with any spill,
- 6.4.1.2 the EPA must be notified as soon as is practicable by the person conveying the scheduled PCB material or scheduled PCB waste of any spill of scheduled PCB material or scheduled PCB waste occurring during the conveyance,
- 6.4.1.3 where one tonne or more of scheduled PCB material or scheduled PCB waste is to be conveyed by road, the scheduled PCB material or scheduled PCB waste must only be conveyed under the authority of, and in accordance with the conditions of a licence.

6.5 Disposing of PCB waste

6.5.1 Disposing of non-scheduled PCB waste is permitted subject to the following:

- 6.5.1.1 solid non-scheduled PCB waste must be disposed of by a method approved in writing by the EPA or at landfills approved by the EPA to receive such waste,
- 6.5.1.2 liquid non-scheduled PCB waste must be disposed of by a method approved in writing by the EPA,
- 6.5.1.3 PCB material containing less than 50 grams of PCB at a concentration of 50 mg/kg or greater must be disposed of as scheduled PCB waste at the end of its useful life,
- 6.5.1.4 PCB waste containing less than 50 grams of PCB at a concentration of 50 mg/kg or greater must be disposed of as scheduled PCB waste.

6.5.2 Disposing of scheduled PCB waste is permitted subject to the following:

- 6.5.2.1 scheduled PCB waste must not be disposed of to landfill or elsewhere in the environment,
- 6.5.2.2 scheduled PCB waste must only be disposed of by an approved process under the authority of, and in accordance with the conditions of a licence.

7. Emergency Procedures

- 7.1 Occupiers of premises where, or in or on which, scheduled PCB material and scheduled PCB waste is kept, must develop emergency management arrangements including containment, clean-up and disposal procedures in accordance with EPA requirements to be approved by the EPA.

SUE DAWSON
Director Environmental Policy
For Director-General
Environment Protection Authority