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Polychlorinated Biphenyl Inspection Manual

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Office of Enforcement and Compliance Assurance
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<http://www.epa.gov/compliance/resources/publications/monitoring/manuals.html>

Chapter Two

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2.0 Pre-Inspection Activities

The chapter includes general pre-inspection preparation procedures.

2.1 Inspection Authority

Section 11(a) of TSCA sets forth the authority for an inspector to enter and inspect a facility handling PCBs or PCB Items. Under section 11(a), "the Administrator and any duly designated representative of the Administrator" may inspect "any establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce." The inspector also may inspect "any conveyance being used to transport chemical substances, mixtures, or such articles in connection with distribution in commerce." The Agency may designate EPA employees, state/tribe personnel, or contractors to conduct inspections.

Section 11(b) of TSCA addresses the scope of the inspection. It prohibits the inspection of the following unless described with reasonable specificity in the required written **Notice of Inspection** (see Section 2.4.2):

- ! Financial data
- ! Sales data (other than shipment data)
- ! Pricing data
- ! Personnel data
- ! Research data (other than data required under TSCA or a rule promulgated under TSCA).

2.2 Preparation

To prepare, an inspector collects and analyzes background information such as address, parent company, and compliance history on the facility to be inspected. This background information enables the inspector to become familiar with facility operations and any previous legal issues *before* entry. This preparation phase enables the inspector to note areas that may need investigation during the inspection.

The inspector can obtain and review the following information for the facility, which may be on file in previous inspection reports/files with Regions and EPA Headquarters. Some of this information may also be available in the PCB Activity Database (PADS), which has information on facilities that generate, store, transport, or dispose of PCBs. Inspectors can access this database at <http://www.epa.gov/pcb/data.html>.

- ! **General facility information**, including the official name of the facility, exact physical location of the facility, facility type and size, industrial processes employed, and EPA identification number. EPA records or files on the particular facility (where a previous inspection was conducted) may contain such data as well as the company web site (if available). Inspectors may find enforcement and inspection data in the FIFRA/TSCA Tracking System (FTTS).
- ! **Facility offices or contacts**, including names, titles, and telephone numbers.
- ! **Previous inspection records and reports**. Note previous violations cited; target these areas to ensure or verify compliance. Identify any changes in facility conditions since previous inspection.
- ! **Compliance status**, including past, current, and pending litigation, deficiency notices issued to the facility, the status of administrative orders or consent decrees, penalties imposed against the facility, and citizen suits or complaints. Some of this information is found in EPA databases such as Enforcement and Compliance History Online (ECHO), Online Targeting Information System (OTIS), and FIFRA/TSCA Tracking System (FTTS).
- ! **Permits**, types of permits, and permit approvals (EPA and/or state). The main types of permitted facilities or activities that include permits are commercial storers, disposal facilities, and remediation/decontamination activities.
- ! **TSCA, PCB Exemptions** granted by EPA. Note specific exemption eligibility requirements listed (if any).
- ! **Reports of spills** or other environmental incidents.
- ! **Transformers**. Review the PCB Transformer Registration Database to find the number of PCB Transformers the facility registered.
- ! **Annual PCB Records, Annual PCB Document Log, and Annual Reports** for commercial storers and disposers. Note omissions/deficiencies for clarification during the inspection. Remember that the requirement to submit annual reports to EPA applies only to commercial storers and disposers. If EPA possesses annual PCB records for an owner/operator from a previous inspection, the inspector should review those records as well.
- ! **Facility location, 100-year floodplain evaluation** to verify that storage is not in a 100-year floodplain or determine whether a landfill is subject to flood protection provisions of the regulations. Consult U.S. Geological Survey topographic maps or Federal Flood Insurance maps at <http://www.usgs.gov/>.
- ! **PCB manifests**, exception reports, and unmanifested waste reports.
- ! **Correspondence** between the facility and EPA.

- ! **PCB Transformer Registration Database** at <http://www.epa.gov/pcb/data.html> for any information which might be useful for PCB inspections.
- ! **EPA's National Policy:** The Role of the EPA Inspector in Providing Compliance Assistance During Inspections (see Appendix B) and the Compliance Assistance Resources Guide. Inspectors should familiarize themselves with this policy.

2.2.1 Document Preparation

Before conducting an inspection, the inspector should obtain an adequate number of the following forms and documents to properly document all events that may take place during the inspection.

- ! Notice of Inspection
- ! TSCA Inspection Confidentiality Notice
- ! Receipt for Samples and Documents*
- ! Declaration of Confidential Business Information*
- ! PCB Inventory (part of the PCB Field Report: see Chapter Seven)
- ! Custody Seals*
- ! Chain of Custody Record*
- ! Sample Collection Report*
- ! A copy of TSCA and a copy of PCB Regulations
- ! Related Information/Educational/Outreach Material to provide to the facility
- ! A copy of the Inspection Conclusion Data Sheet (ICDS) forms or if entering information directly into ICIS review the information that needs to be entered. Refer to Appendix D or to the EPA Inspector website at <http://intranet.epa.gov.oeca.oc.campd.inspector> for copies of the most recent ICDS forms.

* These documents are required when documentary or sample evidence will be collected. For sample collection, the inspector should follow the regulations and the sampling quality assurance plan approved by the appropriate Region prior to the inspection.

2.3 Confidential Business Information (CBI) Clearance

U.S. EPA PCB inspectors must be cleared for TSCA CBI clearance before handling any information that is claimed as CBI by a facility. The CBI clearance process includes viewing a video, completing a TSCA CBI form, and gaining approval from the Regional Document Control Officer (DCO). Inspectors are required to view a video which covers the following topics:

- ! working with TSCA CBI on computers
- ! handling TSCA CBI
- ! storing CBI documents.

After viewing the video, inspectors need to fill out EPA Form 7740- 6: "TSCA CBI Access Request, Agreement and Approval", which they can obtain from their Regional DCO. The form

needs to be signed by the inspector's supervisor and submitted to the Regional DCO. The Regional DCO sends the completed Form 7740-6 to the Headquarters/ OPPT DCO for processing and approval. Once the form is submitted to the Headquarter's DCO, inspectors usually get CBI clearance within 24 hours.

Only EPA inspectors and government contractors working for EPA can obtain TSCA CBI clearance. EPA-cleared government contractors go through a different process to get CBI clearance including a published Federal Register Notice. It takes approximately 30 to 60 days for contractors to obtain TSCA CBI clearance. State inspectors, grantees (including Senior Environmental Employment (SEE) Program employees), and state inspectors working under a grant cannot get TSCA CBI clearance. For more detailed information on TSCA CBI, please refer to the TSCA CBI Security Manual that can be found at: <http://intranet.epa.gov/rmpolicy/ads/manuals/7700.pdf>.

2.3.1 CBI and Inspectors

The PCB inspector must present the facility official with the TSCA Inspection Confidentiality Notice (Appendix A) at the start of the opening conference. This notice informs the facility representative of the right to claim any information (e.g., documents, records, physical samples, or other material) collected from the facility during the inspection as confidential. The facility may make CBI claims by completing the Declaration of Confidential Business Information form (Appendix A). The inspector should also have available, if possible, certification that he or she is authorized to have access to CBI.

The inspector should inform the facility official that an authorized facility official may declassify information claimed as CBI in the original submission of the Declaration of Confidential Business Information. However, the inspector must inform the facility official that the facility cannot make such a declassification verbally, but rather must make it through a letter waiving confidentiality sent to the EPA DCO for EPA's OPPT. The facility must send a separate letter for each item for which confidentiality is waived.

The inspector must determine whether the facility official to whom the Confidentiality Notice was given is authorized by the facility to make claims of confidentiality. The inspector should obtain the official's signature on the notice certifying that the person does or does not have such authority. The facility owner is assumed to have such authority. In most cases, it is expected that the agent designated by the owner will also have such authority. It is possible that the facility officials will want to consult with their attorneys concerning this issue.

If no one at the site has the authority to make business confidentiality claims, the notice and other inspection materials should be sent to the CEO of the company within two days of the inspection. The CEO will then have seven calendar days in which to make confidentiality claims. During this seven-day period, the inspector should follow routine security measures in the event that records taken during the inspection are subsequently claimed as CBI. For example, the inspector should file the records in a secured area instead of leaving them on his/her desk.

2.4 Equipment Preparation

The inspector should assemble the equipment needed for the inspection. Table 2-1 lists the general equipment and documents the inspector will most likely need. Note that the specific equipment needed for an inspection varies, and the inspector should consider the equipment list on a case-by-case basis, taking into account important factors such as the physical conditions at the facility or whether sampling is likely.

Table 2-1. Types of Equipment Useful for an Inspection

General	Safety	Emergency	Sampling
<ul style="list-style-type: none"> • Credentials • Camera • Film/memory card and flash equipment • Pocket calculator • Tape measure • Clipboard • Waterproof pens, pencils, and markers • Pre-addressed envelopes (e.g., to Document Control Officer) • Plastic covers • Plain envelopes • Polyethylene bags • Disposable towels or rags • Laptop computer or personal digital assistant (PDA) • Global Positioning System (GPS) equipment • Portable copying machine • Flashlight and batteries • Pocket knife • Locking briefcase (especially for CBI) • Binoculars 	<ul style="list-style-type: none"> • Safety glasses or goggles • Face shield • Ear plugs • Rubber-soled, metal-toed, non-skid shoes • PCB-resistant gloves (disposable, if possible) • Coveralls, long-sleeved (disposable, if possible) • Long rubber apron • Hard hat • Disposable footwear covers • Respirators and cartridges • Self-contained breathing apparatus (may be required occasionally under certain circumstances) • Nitrile/butyl rubber gloves • Coated Tyvek • First-aid kit 	<ul style="list-style-type: none"> • Emergency telephone numbers • First-aid kit with eyewash • Fire extinguisher • Soap and towels • Supply of clean water for washing • Do not use waterless hand cleaner 	<ul style="list-style-type: none"> • Crescent wrench, bung opener • Siphoning equipment • Weighted bottle sampler • Bottom sediment sampler • Liquid waste samplers (e.g., glass samplers) • Auger, trowel, or core sampler • Scoop sampler • Sample bottles/containers (certified clean bottles with teflon-lined lids) • Labeling tags, tape, chain-of-custody forms, waterproof permanent pen • Ice chest, ice (if required by the lab) • Container for contaminated material • Hazard labels for shipping samples • Ambient air monitor • Field document records • Department of Transportation (DOT) approved shipping containers • Thermometer • Colorimetric gas detection tubes • PCB labels • Custody seals • Wipe sample template • Gauze pads

Safety Note: Some enclosed storage areas or transformer vaults may be in confined spaces that present health hazards because of dangerous levels of explosives or insufficient oxygen. The inspector should not enter a confined space unless properly trained and equipped.