

**Title 40**  
**CHAPTER I**  
**PART 761**

Electronic Code of Federal Regulations  
*e-CFR*  
 TM

**Title 40--Protection of Environment**

**CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY**

**PART 761--POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING,  
 PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS**

- [761.1](#)
  - [761.2](#)
  - [761.3](#)
  - [761.19](#)
  - [761.20](#)
  - [761.30](#)
  - [761.35](#)
  - [761.40](#)
  - [761.45](#)
  - [761.50](#)
  - [761.60](#)
  - [761.61](#)
  - [761.62](#)
  - [761.63](#)
  - [761.64](#)
  - [761.65](#)
  - [761.70](#)
  - [761.71](#)
  - [761.72](#)
  - [761.75](#)
  - [761.77](#)
  - [761.79](#)
  - [761.80](#)
  - [761.91](#)
  - [761.93](#)
  - [761.97](#)
  - [761.99](#)
  - [761.120](#)
  - [761.123](#)
  - [761.125](#)
  - [761.130](#)
  - [761.135](#)
  - [761.180](#)
- [761.1](#) Applicability.
  - [761.2](#) PCB concentration assumptions for use.
  - [761.3](#) Definitions.
  - [761.19](#) References.
  - [761.20](#) Prohibitions and exceptions.
  - [761.30](#) Authorizations.
  - [761.35](#) Storage for reuse.
  - [761.40](#) Marking requirements.
  - [761.45](#) Marking formats.
  - [761.50](#) Applicability.
  - [761.60](#) Disposal requirements.
  - [761.61](#) PCB remediation waste.
  - [761.62](#) Disposal of PCB bulk product waste.
  - [761.63](#) PCB household waste storage and disposal.
  - [761.64](#) Disposal of wastes generated as a result of research and development activities authorized under 761.30(j) and chemical analysis of PCBs.
  - [761.65](#) Storage for disposal.
  - [761.70](#) Incineration.
  - [761.71](#) High efficiency boilers.
  - [761.72](#) Scrap metal recovery ovens and smelters.
  - [761.75](#) Chemical waste landfills.
  - [761.77](#) Coordinated approval.

- [761.185](#)
  - [761.187](#)
  - [761.193](#)
  - [761.202](#)
  - [761.205](#)
  - [761.207](#)
  - [761.208](#)
  - [761.209](#)
  - [761.210](#)
  - [761.211](#)
  - [761.215](#)
  - [761.218](#)
  - [761.240](#)
  - [761.243](#)
  - [761.247](#)
  - [761.250](#)
  - [761.253](#)
  - [761.257](#)
  - [761.260](#)
  - [761.265](#)
  - [761.267](#)
  - [761.269](#)
  - [761.272](#)
  - [761.274](#)
  - [761.280](#)
  - [761.283](#)
  - [761.286](#)
  - [761.289](#)
  - [761.292](#)
  - [761.295](#)
  - [761.298](#)
  - [761.300](#)
  - [761.302](#)
  - [761.304](#)
  - [761.306](#)
  - [761.308](#)
  - [761.310](#)
  - [761.312](#)
  - [761.79](#)
  - [761.80](#)
  - [761.91](#)
  - [761.93](#)
  - [761.97](#)
  - [761.99](#)
  - [761.120](#)
  - [761.123](#)
  - [761.125](#)
  - [761.130](#)
  - [761.135](#)
  - [761.180](#)
  - [761.185](#)
  - [761.187](#)
  - [761.193](#)
  - [761.202](#)
  - [761.205](#)
  - [761.207](#)
  - [761.208](#)
  - [761.209](#)
  - [761.210](#)
  - [761.211](#)
  - [761.215](#)
  - [761.218](#)
  - [761.240](#)
  - [761.243](#)
  - [761.247](#)
  - [761.250](#)
  - [761.253](#)
  - [761.257](#)
- Decontamination standards and procedures.
- Manufacturing, processing and distribution in commerce exemptions.
- Applicability.
- Import for disposal.
- Export for disposal.
- Other transboundary shipments.
- Scope.
- Definitions.
- Requirements for PCB spill cleanup.
- Sampling requirements.
- Effect of compliance with this policy and enforcement.
- Records and monitoring.
- Certification program and retention of records by importers and persons generating PCBs in excluded manufacturing processes.
- Reporting importers and by persons generating PCBs in excluded manufacturing processes.
- Maintenance of monitoring records by persons who import, manufacture, process, distribute in commerce, or use chemicals containing inadvertently generated PCBs.
- EPA identification numbers.
- Notification of PCB waste activity (EPA Form 7710-53).
- The manifest--general requirements.
- Use of the manifest.
- Retention of manifest records.
- Manifest discrepancies.
- Unmanifested waste report.
- Exception reporting.
- Certificate of disposal.
- Scope and definitions.
- Standard wipe sample method and size.
- Sample site selection for pipe segment removal.
- Sample site selection for pipeline section abandonment.
- Chemical analysis.
- Determining the regulatory status of sampled pipe.

- [761.314](#)
- [761.316](#)
- [761.320](#)
- [761.323](#)
- [761.326](#)
- [761.340](#)
- [761.345](#)
- [761.346](#)
- [761.347](#)
- [761.348](#)
- [761.350](#)
- [761.353](#)
- [761.355](#)
- [761.356](#)
- [761.357](#)
- [761.358](#)
- [761.359](#)
- [761.360](#)
- [761.363](#)
- [761.366](#)
- [761.369](#)
- [761.372](#)
- [761.375](#)
- [761.378](#)
- [761.380](#)
- [761.383](#)
- [761.386](#)
- [761.389](#)
- [761.392](#)
- [761.395](#)
- [761.398](#)
- [761.260](#) Applicability.
- [761.265](#) Sampling bulk PCB remediation waste and porous surfaces.
- [761.267](#) Sampling non-porous surfaces.
- [761.269](#) Sampling liquid PCB remediation waste.
- [761.272](#) Chemical extraction and analysis of samples.
- [761.274](#) Reporting PCB concentrations in samples.
- [761.280](#) Application and scope.
- [761.283](#) Determination of the number of samples to collect and sample collection locations.
- [761.286](#) Sample size and procedure for collecting a sample.
- [761.289](#) Compositing samples.
- [761.292](#) Chemical extraction and analysis of individual samples and composite samples.
- [761.295](#) Reporting and recordkeeping of the PCB concentrations in samples.
- [761.298](#) Decisions based on PCB concentration measurements resulting from sampling.
- [761.300](#) Applicability.
- [761.302](#) Proportion of the total surface area to sample.
- [761.304](#) Determining sample location.
- [761.306](#) Sampling 1 meter square surfaces by random selection of halves.
- [761.308](#) Sample selection by random number generation on any two-dimensional square grid.
- [761.310](#) Collecting the sample.
- [761.312](#) Compositing of samples.
- [761.314](#) Chemical analysis of standard wipe test samples.
- [761.316](#) Interpreting PCB concentration measurements resulting from this sampling scheme.
- [761.320](#) Applicability.
- [761.323](#) Sample preparation.
- [761.326](#) Conducting the comparison study.
- [761.340](#) Applicability.
- [761.345](#) Form of the waste to be sampled.
- [761.346](#) Three levels of sampling.
- [761.347](#) First level sampling--waste from existing piles.




- [761.348](#) Contemporaneous sampling.
- [761.350](#) Subsampling from composite samples.
- [761.353](#) Second level of sample selection.
- [761.355](#) Third level of sample selection.
- [761.356](#) Conducting a leach test.
- [761.357](#) Reporting the results of the procedure used to simulate leachate generation.
- [761.358](#) Determining the PCB concentration of samples of waste.
- [761.359](#) Reporting the PCB concentrations in samples.
- [761.360](#) Background.
- [761.363](#) Applicability.
- [761.366](#) Cleanup equipment.
- [761.369](#) Pre-cleaning the surface.
- [761.372](#) Specific requirements for relatively clean surfaces.
- [761.375](#) Specific requirements for surfaces coated or covered with dust, dirt, grime, grease, or another absorbent material.
- [761.378](#) Decontamination, reuse, and disposal of solvents, cleaners, and equipment.
- [761.380](#) Background.
- [761.383](#) Applicability.
- [761.386](#) Required experimental conditions for the validation study and subsequent use during decontamination.
- [761.389](#) Testing parameter requirements.
- [761.392](#) Preparing validation study samples.
- [761.395](#) A validation study.
- [761.398](#) Reporting and recordkeeping.

---

[BACK](#)

[ECFR  
HOME](#)

Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.1 Applicability.**

(a) This part establishes prohibitions of, and requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items.

(b)(1) This part applies to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs or PCB Items. Substances that are regulated by this part include, but are not limited to: dielectric fluids; solvents; oils; waste oils; heat transfer fluids; hydraulic fluids; paints or coatings; sludges; slurries; sediments; dredge spoils; soils; materials containing PCBs as a result of spills; and other chemical substances or combinations of substances, including impurities and byproducts and any byproduct, intermediate, or impurity manufactured at any point in a process.

(2) Unless otherwise noted, PCB concentrations shall be determined on a weight-per-weight basis (e.g., milligrams per kilogram), or for liquids, on a weight-per-volume basis (e.g., milligrams per liter) if the density of the liquid is also reported. Unless otherwise provided, PCBs are quantified based on the formulation of PCBs present in the material analyzed. For example, measure Aroclor<sup>TM</sup> 1242 PCBs based on a comparison with Aroclor<sup>TM</sup> 1242 standards. Measure individual congener PCBs based on a comparison with individual PCB congener standards.

(3) Most provisions in this part apply only if PCBs are present in concentrations above a specified level. Provisions that apply to PCBs at concentrations of <50 ppm apply also to contaminated surfaces at PCB concentrations of  $\leq 10 \mu\text{g}/100 \text{ cm}^2$ . Provisions that apply to PCBs at concentrations of  $\geq 50$  to <500 ppm apply also to contaminated surfaces at PCB concentrations of  $>10/100 \text{ cm}^2$  to  $<100 \mu\text{g}/100 \text{ cm}^2$ . Provisions that apply to PCBs at concentrations of  $\geq 500$  ppm apply also to contaminated surfaces at PCB concentrations of  $\geq 100 \mu\text{g}/100 \text{ cm}^2$ .

(4) PCBs can be found in liquid, non-liquid and multi-phasic (combinations of liquid and non-liquid) forms. A person should use the following criteria to determine PCB concentrations to determine which provisions of this part apply to such PCBs.

- (i) Any person determining PCB concentrations for non-liquid PCBs must do so on a dry weight basis.
- (ii) Any person determining PCB concentrations for liquid PCBs must do so on a wet weight basis. Liquid PCBs containing more than 0.5 percent by weight non-dissolved material shall be analyzed as multi-phasic non-liquid/liquid mixtures.
- (iii) Any person determining the PCB concentration of samples containing PCBs and non-dissolved non-liquid materials  $\geq$ 0.5 percent, must separate the non-dissolved materials into non-liquid PCBs and liquid PCBs. For multi-phasic non-liquid/liquid or liquid/liquid mixtures, the phases shall be separated before chemical analysis. Following phase separation, the PCB concentration in each non-liquid phase shall be determined on a dry weight basis and the PCB concentration in each liquid phase shall be determined separately on a wet weight basis.
- (iv) Any person disposing of multi-phasic non-liquid/liquid or liquid/liquid mixtures must use the PCB disposal requirements that apply to the individual phase with the highest PCB concentration except where otherwise noted. Alternatively, phases may be separated and disposed of using the PCB disposal requirements that apply to each separated, single-phase material.
- (5) No person may avoid any provision specifying a PCB concentration by diluting the PCBs, unless otherwise specifically provided.
- (6) Unless otherwise specified, references to weights or volumes of PCBs in this part apply to the total weight or total volume of the material (oil, soil, debris, etc.) that contains regulated concentrations of PCBs, not the calculated weight or volume of only the PCB molecules contained in the material.
- (c) Definitions of the terms used in these regulations are in subpart A. The basic requirements applicable to disposal and marking of PCBs and PCB Items are set forth in subpart D -- Disposal of PCBs and PCB Items and in subpart C -- Marking of PCBs and PCB Items. Prohibitions applicable to PCB activities are set forth in subpart B -- Manufacture, Processing, Distribution in Commerce, and Use of PCBs and PCB Items. Subpart B also includes authorizations from the prohibitions. Subparts C and D set forth the specific requirements for disposal and marking of PCBs and PCB Items.
- (d) Section 15 of the Toxic Substances Control Act (TSCA) states that failure to comply with these regulations is unlawful. Section 16 imposes liability for civil penalties upon any person who violates these regulations, and the Administrator can establish appropriate remedies for any violations subject to any limitations included in section 16 of TSCA. Section 16 also subjects a person to criminal prosecution for a violation which is knowing or willful. In addition, section 17 authorizes Federal district courts to enjoin activities prohibited by these regulations, compel the taking of actions required by these regulations, and issue orders to seize PCBs and PCB Items manufactured, processed or distributed in violation of these regulations.
- (e) These regulations do not preempt other more stringent Federal statutes and regulations.
- (f) Unless and until superseded by any new more stringent regulations issued under EPA authorities, or any permits or any pretreatment requirements issued by EPA, a state or local government that affect release of PCBs to any particular medium:
- (1) Persons who inadvertently manufacture or import PCBs generated as unintentional impurities in excluded manufacturing processes, as defined in § 761.3, are exempt from the requirements of subpart B

of this part, provided that such persons comply with subpart J of this part, as applicable.

(2) Persons who process, distribute in commerce, or use products containing PCBs generated in excluded manufacturing processes defined in § 761.3 are exempt from the requirements of subpart B provided that such persons comply with subpart J of this part, as applicable.

(3) Persons who process, distribute in commerce, or use products containing recycled PCBs defined in § 761.3, are exempt from the requirements of subpart B of this part, provided that such persons comply with subpart J of this part, as applicable.

(4) Except as provided in § 761.20 (d) and (e), persons who process, distribute in commerce, or use products containing excluded PCB products as defined in § 761.3, are exempt from the requirements of subpart B of this part. (Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605))

[44 FR 31542, May 31, 1979, as amended at 49 FR 28189, July 10, 1984; 53 FR 24220, June 27, 1988; 63 FR 35436, June 29, 1998; 64 FR 33759, June 24, 1999]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.2 PCB concentration assumptions for use.**

(a)(1) Any person may assume that transformers with <3 pounds (1.36 kilograms (kgs)) of fluid, circuit breakers, reclosers, oil-filled cable, and rectifiers whose PCB concentration is not established contain PCBs at <50 ppm.

(2) Any person must assume that mineral oil-filled electrical equipment that was manufactured before July 2, 1979, and whose PCB concentration is not established is PCB-Contaminated Electrical Equipment (i.e., contains  $\geq$ 50 ppm PCB, but <500 ppm PCB). All pole-top and pad-mounted distribution transformers manufactured before July 2, 1979, must be assumed to be mineral-oil filled. Any person may assume that electrical equipment manufactured after July 2, 1979, is non-PCB (i.e., <50 ppm PCBs). If the date of manufacture of mineral oil-filled electrical equipment is unknown, any person must assume it to be PCB-Contaminated.

(3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration is not established, is a PCB Transformer (i.e.,  $\geq$ 500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.

(4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains  $\geq$ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., <50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains  $\geq$ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with § 761.40(g) is non-PCB.

(b) PCB concentration may be established by:

(1) Testing the equipment; or



(2)(i) A permanent label, mark, or other documentation from the manufacturer of the equipment indicating its PCB concentration at the time of manufacture; and

(ii) Service records or other documentation indicating the PCB concentration of all fluids used in servicing the equipment since it was first manufactured.

[63 FR 35436, June 29, 1998, as amended at 64 FR 33759, June 24, 1999]



Electronic Code of Federal Regulations  
*e-CFR*<sup>TM</sup>

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.3 Definitions.**

For the purpose of this part:

*Administrator* means the Administrator of the Environmental Protection Agency, or any employee of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any person who shall by operation of law be authorized to carry out such functions.

*Agency* means the United States Environmental Protection Agency.

*Air compressor system* means air compressors, piping, receiver tanks, volume tanks and bottles, dryers, airlines, and related appurtenances.

*Annual document log* means the detailed information maintained at the facility on the PCB waste handling at the facility.

*Annual report* means the written document submitted each year by each disposer and commercial storer of PCB waste to the appropriate EPA Regional Administrator. The annual report is a brief summary of the information included in the annual document log.

*ASTM* means American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

*Byproduct* means a chemical substance produced without separate commercial intent during the manufacturing or processing of another chemical substance(s) or mixture(s).

*Capacitor* means a device for accumulating and holding a charge of electricity and consisting of conducting surfaces separated by a dielectric. Types of capacitors are as follows:

(1) *Small capacitor* means a capacitor which contains less than 1.36 kg (3 lbs.) of dielectric fluid. The following assumptions may be used if the actual weight of the dielectric fluid is unknown. A capacitor

whose total volume is less than 1,639 cubic centimeters (100 cubic inches) may be considered to contain less than 1.36 kgs (3 lbs.) of dielectric fluid and a capacitor whose total volume is more than 3,278 cubic centimeters (200 cubic inches) must be considered to contain more than 1.36 kg (3 lbs.) of dielectric fluid. A capacitor whose volume is between 1,639 and 3,278 cubic centimeters may be considered to contain less than 1.36 kg (3 lbs.) of dielectric fluid if the total weight of the capacitor is less than 4.08 kg (9 lbs.).

(2) *Large high voltage capacitor* means a capacitor which contains 1.36 kg (3 lbs.) or more of dielectric fluid and which operates at 2,000 volts (a.c. or d.c.) or above.

(3) *Large low voltage capacitor* means a capacitor which contains 1.36 kg (3 lbs.) or more of dielectric fluid and which operates below 2,000 volts (a.c. or d.c.).

*CERCLA* means the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601-9657).

*Certification* means a written statement regarding a specific fact or representation that contains the following language:

Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (18 U.S.C. 1001 and 15 U.S.C. 2615), I certify that the information contained in or accompanying this document is true, accurate, and complete. As to the identified section(s) of this document for which I cannot personally verify truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete.

*Chemical substance*, (1) except as provided in paragraph (2) of this definition, means any organic or inorganic substance of a particular molecular identity, including: Any combination of such substances occurring in whole or part as a result of a chemical reaction or occurring in nature, and any element or uncombined radical.

(2) Such term does not include: Any mixture; any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide; tobacco or any tobacco product; any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act); any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or section 4221 or any provisions of such Code); and any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

*Chemical waste landfill* means a landfill at which protection against risk of injury to health or the environment from migration of PCBs to land, water, or the atmosphere is provided from PCBs and PCB Items deposited therein by locating, engineering, and operating the landfill as specified in § 761.75.

*Cleanup site* means the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of a cleanup of PCB remediation waste, regardless of whether the site was intended for management of waste.

*Commerce* means trade, traffic, transportation, or other commerce:

- (1) Between a place in a State and any place outside of such State, or
- (2) Which affects trade, traffic, transportation, or commerce described in paragraph (1) of this definition.

*Commercial storer of PCB waste* means the owner or operator of each facility that is subject to the PCB storage unit standards of § 761.65(b)(1) or (c)(7) or meets the alternate storage criteria of § 761.65(b)(2), and who engages in storage activities involving either PCB waste generated by others or that was removed while servicing the equipment owned by others and brokered for disposal. The receipt of a fee or any other form of compensation for storage services is not necessary to qualify as a commercial storer of PCB waste. A generator who only stores its own waste is subject to the storage requirements of § 761.65, but is not required to obtain approval as a commercial storer. If a facility's storage of PCB waste generated by others at no time exceeds a total of 500 gallons of liquid and/or non-liquid material containing PCBs at regulated levels, the owner or operator is a commercial storer but is not required to seek EPA approval as a commercial storer of PCB waste. Storage of one company's PCB waste by a related company is not considered commercial storage. A "related company" includes, but is not limited to: a parent company and its subsidiaries; sibling companies owned by the same parent company; companies owned by a common holding company; members of electric cooperatives; entities within the same Executive agency as defined at 5 U.S.C. 105; and a company having a joint ownership interest in a facility from which PCB waste is generated (such as a jointly owned electric power generating station) where the PCB waste is stored by one of the co-owners of the facility. A "related company" does not include another voluntary member of the same trade association. Change in ownership or title of a generator's facility, where the generator is storing PCB waste, does not make the new owner of the facility a commercial storer of PCB waste.

*Designated facility* means the off-site disposer or commercial storer of PCB waste designated on the manifest as the facility that will receive a manifested shipment of PCB waste.

*Disposal* means intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. Disposal includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items.

*Disposer of PCB waste*, as the term is used in subparts J and K of this part, means any person who owns or operates a facility approved by EPA for the disposal of PCB waste which is regulated for disposal under the requirements of subpart D of this part.

*Distribute in commerce* and *Distribution in Commerce* when used to describe an action taken with respect to a chemical substance, mixture, or article containing a substance or mixture means to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of the substance, mixture, or article; or to hold or the holding of, the substance, mixture, or article after its introduction into commerce.

*DOT* means the United States Department of Transportation.

*Dry weight* means the weight of the sample, excluding the weight of the water in the sample. Prior to chemical analysis the water may be removed by any reproducible method that is applicable to measuring

PCBs in the sample matrix at the concentration of concern, such as air drying at ambient temperature, filtration, decantation, heating at low temperature followed by cooling in the presence of a desiccant, or other processes or combinations of processes which would remove water but not remove PCBs from the sample. Analytical procedures which calculate the dry weight concentration by adjusting for moisture content may also be used.

*EPA identification number* means the 12-digit number assigned to a facility by EPA upon notification of PCB waste activity under § 761.205.

*Excluded manufacturing process* means a manufacturing process in which quantities of PCBs, as determined in accordance with the definition of inadvertently generated PCBs, calculated as defined, and from which releases to products, air, and water meet the requirements of paragraphs (1) through (5) of this definition, or the importation of products containing PCBs as unintentional impurities, which products meet the requirements of paragraphs (1) and (2) of this definition.

- (1) The concentration of inadvertently generated PCBs in products leaving any manufacturing site or imported into the United States must have an annual average of less than 25 ppm, with a 50 ppm maximum.
- (2) The concentration of inadvertently generated PCBs in the components of detergent bars leaving the manufacturing site or imported into the United States must be less than 5 ppm.
- (3) The release of inadvertently generated PCBs at the point at which emissions are vented to ambient air must be less than 10 ppm.
- (4) The amount of inadvertently generated PCBs added to water discharged from a manufacturing site must be less than 100 micrograms per resolvable gas chromatographic peak per liter of water discharged.
- (5) Disposal of any other process wastes above concentrations of 50 ppm PCB must be in accordance with subpart D of this part.

*Excluded PCB products* means PCB materials which appear at concentrations less than 50 ppm, including but not limited to:

- (1) Non-Aroclor inadvertently generated PCBs as a byproduct or impurity resulting from a chemical manufacturing process.
- (2) Products contaminated with Aroclor or other PCB materials from historic PCB uses (investment casting waxes are one example).
- (3) Recycled fluids and/or equipment contaminated during use involving the products described in paragraphs (1) and (2) of this definition (heat transfer and hydraulic fluids and equipment and other electrical equipment components and fluids are examples).
- (4) Used oils, provided that in the cases of paragraphs (1) through (4) of this definition:
  - (i) The products or source of the products containing < 50 ppm concentration PCBs were legally manufactured, processed, distributed in commerce, or used before October 1, 1984.
  - (ii) The products or source of the products containing < 50 ppm concentrations PCBs were legally manufactured, processed, distributed in commerce, or used, i.e., pursuant to authority granted by EPA

regulation, by exemption petition, by settlement agreement, or pursuant to other Agency-approved programs;

(iii) The resulting PCB concentration (i.e. below 50 ppm) is not a result of dilution, or leaks and spills of PCBs in concentrations over 50 ppm.

*Facility* means all contiguous land, and structures, other appurtenances, and improvements on the land, used for the treatment, storage, or disposal of PCB waste. A facility may consist of one or more treatment, storage, or disposal units.

*Fluorescent light ballast* means a device that electrically controls fluorescent light fixtures and that includes a capacitor containing 0.1 kg or less of dielectric.

*Generator of PCB waste* means any person whose act or process produces PCBs that are regulated for disposal under subpart D of this part, or whose act first causes PCBs or PCB Items to become subject to the disposal requirements of subpart D of this part, or who has physical control over the PCBs when a decision is made that the use of the PCBs has been terminated and therefore is subject to the disposal requirements of subpart D of this part. Unless another provision of this part specifically requires a site-specific meaning, "generator of PCB waste" includes all of the sites of PCB waste generation owned or operated by the person who generates PCB waste.

*High occupancy area* means any area where PCB remediation waste has been disposed of on-site and where occupancy for any individual not wearing dermal and respiratory protection for a calendar year is: 840 hours or more (an average of 16.8 hours or more per week) for non-porous surfaces and 335 hours or more (an average of 6.7 hours or more per week) for bulk PCB remediation waste. Examples could include a residence, school, day care center, sleeping quarters, a single or multiple occupancy 40 hours per week work station, a school class room, a cafeteria in an industrial facility, a control room, and a work station at an assembly line.

*Importer* means any person defined as an "importer" at § 720.3(l) of this chapter who imports PCBs or PCB Items and is under the jurisdiction of the United States.

*Impurity* means a chemical substance which is unintentionally present with another chemical substance.

*In or Near Commercial Buildings* means within the interior of, on the roof of, attached to the exterior wall of, in the parking area serving, or within 30 meters of a non-industrial non-substation building. Commercial buildings are typically accessible to both members of the general public and employees, and include: (1) Public assembly properties, (2) educational properties, (3) institutional properties, (4) residential properties, (5) stores, (6) office buildings, and (7) transportation centers (e.g., airport terminal buildings, subway stations, bus stations, or train stations).

*Incinerator* means an engineered device using controlled flame combustion to thermally degrade PCBs and PCB Items. Examples of devices used for incineration include rotary kilns, liquid injection incinerators, cement kilns, and high temperature boilers.

*Industrial building* means a building directly used in manufacturing or technically productive enterprises. Industrial buildings are not generally or typically accessible to other than workers. Industrial buildings include buildings used directly in the production of power, the manufacture of products, the mining of raw materials, and the storage of textiles, petroleum products, wood and paper products, chemicals,

plastics, and metals.

*Laboratory* means a facility that analyzes samples for PCBs and is unaffiliated with any entity whose activities involve PCBs.

*Leak* or *leaking* means any instance in which a PCB Article, PCB Container, or PCB Equipment has any PCBs on any portion of its external surface.

*Liquid PCBs* means a homogenous flowable material containing PCBs and no more than 0.5 percent by weight non-dissolved material.

*Low occupancy area* means any area where PCB remediation waste has been disposed of on-site and where occupancy for any individual not wearing dermal and respiratory protection for a calendar year is: less than 840 hours (an average of 16.8 hours per week) for non-porous surfaces and less than 335 hours (an average of 6.7 hours per week) for bulk PCB remediation waste. Examples could include an electrical substation or a location in an industrial facility where a worker spends small amounts of time per week (such as an unoccupied area outside a building, an electrical equipment vault, or in the non-office space in a warehouse where occupancy is transitory).

*Manifest* means the shipping document EPA form 8700-22 and any continuation sheet attached to EPA form 8700-22, originated and signed by the generator of PCB waste in accordance with the instructions included with the form and subpart K of this part.

*Manned Control Center* means an electrical power distribution control room where the operating conditions of a PCB Transformer are continuously monitored during the normal hours of operation (of the facility), and, where the duty engineers, electricians, or other trained personnel have the capability to deenergize a PCB Transformer completely within 1 minute of the receipt of a signal indicating abnormal operating conditions such as an overtemperature condition or overpressure condition in a PCB Transformer.

*Manufacture* means to produce, manufacture, or import into the customs territory of the United States.

*Manufacturing process* means all of a series of unit operations operating at a site, resulting in the production of a product.

*Mark* means the descriptive name, instructions, cautions, or other information applied to PCBs and PCB Items, or other objects subject to these regulations.

*Marked* means the marking of PCB Items and PCB storage areas and transport vehicles by means of applying a legible mark by painting, fixation of an adhesive label, or by any other method that meets the requirements of these regulations.

*Market/Marketers* means the processing or distributing in commerce, or the person who processes or distributes in commerce, used oil fuels to burners or other marketers, and may include the generator of the fuel if it markets the fuel directly to the burner.

*Mineral Oil PCB Transformer* means any transformer originally designed to contain mineral oil as the dielectric fluid and which has been tested and found to contain 500 ppm or greater PCBs.

*Mixture* means any combination of two or more chemical substances if the combination does not occur in

nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

*Municipal solid wastes* means garbage, refuse, sludges, wastes, and other discarded materials resulting from residential and non-industrial operations and activities, such as household activities, office functions, and commercial housekeeping wastes.

*Natural gas pipeline system* means natural gas gathering facilities, natural gas pipe, natural gas compressors, natural gas storage facilities, and natural gas pipeline appurtenances (including instrumentation and vessels directly in contact with transported natural gas such as valves, regulators, drips, filter separators, etc., but not including air compressors).

*Non-liquid PCBs* means materials containing PCBs that by visual inspection do not flow at room temperature (25 °C or 77 °F) or from which no liquid passes when a 100 g or 100 ml representative sample is placed in a mesh number 60 ± 5 percent paint filter and allowed to drain at room temperature for 5 minutes.

*Non-PCB Transformer* means any transformer that contains less than 50 ppm PCB; except that any transformer that has been converted from a PCB Transformer or a PCB-Contaminated Transformer cannot be classified as a non-PCB Transformer until reclassification has occurred, in accordance with the requirements of § 761.30(a)(2)(v).

*Non-porous surface* means a smooth, unpainted solid surface that limits penetration of liquid containing PCBs beyond the immediate surface. Examples are: smooth uncorroded metal; natural gas pipe with a thin porous coating originally applied to inhibit corrosion; smooth glass; smooth glazed ceramics; impermeable polished building stone such as marble or granite; and high density plastics, such as polycarbonates and melamines, that do not absorb organic solvents.

*NTIS* means the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161.

*On site* means within the boundaries of a contiguous property unit.

*Open burning* means the combustion of any PCB regulated for disposal, in a manner not approved or otherwise allowed under subpart D of this part, and without any of the following:

- (1) Control of combustion air to maintain adequate temperature for efficient combustion.
- (2) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion.
- (3) Control of emission of the gaseous combustion products.

*PCB and PCBs* means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance. Refer to § 761.1(b) for applicable concentrations of PCBs. PCB and PCBs as contained in PCB items are defined in § 761.3. For any purposes under this part, inadvertently generated non-Aroclor PCBs are defined as



the total PCBs calculated following division of the quantity of monochlorinated biphenyls by 50 and dichlorinated biphenyls by 5.

*PCB Article* means any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs. "PCB Article" includes capacitors, transformers, electric motors, pumps, pipes and any other manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the PCB Article.

*PCB Article Container* means any package, can, bottle, bag, barrel, drum, tank, or other device used to contain PCB Articles or PCB Equipment, and whose surface(s) has not been in direct contact with PCBs.

*PCB bulk product waste* means waste derived from manufactured products containing PCBs in a non-liquid state, at any concentration where the concentration at the time of designation for disposal was  $\geq$ 50 ppm PCBs. PCB bulk product waste does not include PCBs or PCB Items regulated for disposal under § 761.60(a) through (c), § 761.61, § 761.63, or § 761.64. PCB bulk product waste includes, but is not limited to:

- (1) Non-liquid bulk wastes or debris from the demolition of buildings and other man-made structures manufactured, coated, or serviced with PCBs. PCB bulk product waste does not include debris from the demolition of buildings or other man-made structures that is contaminated by spills from regulated PCBs which have not been disposed of, decontaminated, or otherwise cleaned up in accordance with subpart D of this part.
- (2) PCB-containing wastes from the shredding of automobiles, household appliances, or industrial appliances.
- (3) Plastics (such as plastic insulation from wire or cable; radio, television and computer casings; vehicle parts; or furniture laminates); preformed or molded rubber parts and components; applied dried paints, varnishes, waxes or other similar coatings or sealants; caulking; adhesives; paper; Galbestos; sound deadening or other types of insulation; and felt or fabric products such as gaskets.
- (4) Fluorescent light ballasts containing PCBs in the potting material.

*PCB Capacitor* means any capacitor that contains  $\geq$ 500 ppm PCB. Concentration assumptions applicable to capacitors appear under § 761.2.

*PCB Container* means any package, can, bottle, bag, barrel, drum, tank, or other device that contains PCBs or PCB Articles and whose surface(s) has been in direct contact with PCBs.

*PCB-Contaminated* means a non-liquid material containing PCBs at concentrations  $\geq$ 50 ppm but  $<$ 500 ppm; a liquid material containing PCBs at concentrations  $\geq$ 50 ppm but  $<$ 500 ppm or where insufficient liquid material is available for analysis, a non-porous surface having a surface concentration  $>$ 10  $\mu$ g/100 cm<sup>2</sup> but  $<$ 100  $\mu$ g/100 cm<sup>2</sup>, measured by a standard wipe test as defined in § 761.123.

*PCB-Contaminated Electrical Equipment* means any electrical equipment including, but not limited to, transformers (including those used in railway locomotives and self-propelled cars), capacitors, circuit

breakers, reclosers, voltage regulators, switches (including sectionalizers and motor starters), electromagnets, and cable, that contains PCBs at concentrations of  $\geq 50$  ppm and  $< 500$  ppm in the contaminating fluid. In the absence of liquids, electrical equipment is PCB-Contaminated if it has PCBs at  $> 10 \mu\text{g}/100 \text{ cm}^2$  and  $< 100 \mu\text{g}/100 \text{ cm}^2$  as measured by a standard wipe test (as defined in § 761.123) of a non-porous surface.

*PCB Equipment* means any manufactured item, other than a PCB Container or a PCB Article Container, which contains a PCB Article or other PCB Equipment, and includes microwave ovens, electronic equipment, and fluorescent light ballasts and fixtures.

*PCB field screening test* means a portable analytical device or kit which measures PCBs. PCB field screening tests usually report less than or greater than a specific numerical PCB concentration. These tests normally build in a safety factor which increases the probability of a false positive report and decreases the probability of a false negative report. PCB field screening tests do not usually provide: an identity record generated by an instrument; a quantitative comparison record from calibration standards; any identification of PCBs; and/or any indication or identification of interferences with the measurement of the PCBs. PCB field screening test technologies include, but are not limited to, total chlorine colorimetric tests, total chlorine x-ray fluorescence tests, total chlorine microcoulometric tests, and rapid immunoassay tests.

*PCB household waste* means PCB waste that is generated by residents on the premises of a temporary or permanent residence for individuals (including individually owned or rented units of a multi-unit construction), and that is composed primarily of materials found in wastes generated by consumers in their homes. PCB household waste includes unwanted or discarded non-commercial vehicles (prior to shredding), household items, and appliances or appliance parts and wastes generated on the premises of a residence for individuals as a result of routine household maintenance by or on behalf of the resident. Bulk or commingled liquid PCB wastes at concentrations of  $\geq 50$  ppm, demolition and renovation wastes, and industrial or heavy duty equipment with PCBs are not household wastes.

*PCB Item* means any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.

*PCB/radioactive waste* means PCBs regulated for disposal under subpart D of this part that also contain source, special nuclear, or byproduct material subject to regulation under the Atomic Energy Act of 1954, as amended, or naturally-occurring or accelerator-produced radioactive material.

*PCB remediation waste* means waste containing PCBs as a result of a spill, release, or other unauthorized disposal, at the following concentrations: Materials disposed of prior to April 18, 1978, that are currently at concentrations  $\geq 50$  ppm PCBs, regardless of the concentration of the original spill; materials which are currently at any volume or concentration where the original source was  $\geq 500$  ppm PCBs beginning on April 18, 1978, or  $\geq 50$  ppm PCBs beginning on July 2, 1979; and materials which are currently at any concentration if the PCBs are spilled or released from a source not authorized for use under this part. PCB remediation waste means soil, rags, and other debris generated as a result of any PCB spill cleanup, including, but not limited to:

- (1) Environmental media containing PCBs, such as soil and gravel; dredged materials, such as sediments, settled sediment fines, and aqueous decantate from sediment.
- (2) Sewage sludge containing  $< 50$  ppm PCBs and not in use according to § 761.20(a)(4); PCB sewage

sludge; commercial or industrial sludge contaminated as the result of a spill of PCBs including sludges located in or removed from any pollution control device; aqueous decantate from an industrial sludge.

(3) Buildings and other man-made structures (such as concrete floors, wood floors, or walls contaminated from a leaking PCB or PCB-Contaminated Transformer), porous surfaces, and non-porous surfaces.

*PCB sewage sludge* means sewage sludge as defined in 40 CFR 503.9(w) which contains  $\geq$ 50 ppm PCBs, as measured on a dry weight basis.

*PCB Transformer* means any transformer that contains  $\geq$ 500 ppm PCBs. For PCB concentration assumptions applicable to transformers containing 1.36 kilograms (3 lbs.) or more of fluid other than mineral oil, see § 761.2. For provisions permitting reclassification of electrical equipment, including PCB Transformers, containing  $\geq$ 500 ppm PCBs to PCB-Contaminated Electrical Equipment, see § 761.30(a) and (h).

*PCB waste(s)* means those PCBs and PCB Items that are subject to the disposal requirements of subpart D of this part.

*Performance-based organic decontamination fluid (PODF)* means kerosene, diesel fuel, terpene hydrocarbons, and terpene hydrocarbon/alcohol mixtures.

*Person* means any natural or judicial person including any individual, corporation, partnership, or association; any State or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.

*Porous surface* means any surface that allows PCBs to penetrate or pass into itself including, but not limited to, paint or coating on metal; corroded metal; fibrous glass or glass wool; unglazed ceramics; ceramics with a porous glaze; porous building stone such as sandstone, travertine, limestone, or coral rock; low-density plastics such as styrofoam and low-density polyethylene; coated (varnished or painted) or uncoated wood; concrete or cement; plaster; plasterboard; wallboard; rubber; fiberboard; chipboard; asphalt; or tar paper. For purposes of cleaning and disposing of PCB remediation waste, porous surfaces have different requirements than non-porous surfaces.

*Posing an exposure risk to food or feed* means being in any location where human food or animal feed products could be exposed to PCBs released from a PCB Item. A PCB Item poses an exposure risk to food or feed if PCBs released in any way from the PCB Item have a potential pathway to human food or animal feed. EPA considers human food or animal feed to include items regulated by the U.S. Department of Agriculture or the Food and Drug Administration as human food or animal feed; this includes direct additives. Food or feed is excluded from this definition if it is used or stored in private homes.

*Process* means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce:

(1) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(2) As part of an article containing the chemical substance or mixture.

*Qualified incinerator* means one of the following:

- (1) An incinerator approved under the provisions of § 761.70. Any level of PCB concentration can be destroyed in an incinerator approved under § 761.70.
- (2) A high efficiency boiler which complies with the criteria of § 761.71(a)(1), and for which the operator has given written notice to the appropriate EPA Regional Administrator in accordance with the notification requirements for the burning of mineral oil dielectric fluid under § 761.71(a)(2).
- (3) An incinerator approved under section 3005(c) of the Resource Conservation and Recovery Act (42 U.S.C. 6925(c)) (RCRA).
- (4) Industrial furnaces and boilers which are identified in 40 CFR 260.10 and 40 CFR 279.61 (a)(1) and (2) when operating at their normal operating temperatures (this prohibits feeding fluids, above the level of detection, during either startup or shutdown operations).

*Quantifiable Level/Level of Detection* means 2 micrograms per gram from any resolvable gas chromatographic peak, i.e. 2 ppm.

*RCRA* means the Resource Conservation and Recovery Act (40 U.S.C. 6901 *et seq.*).

*Recycled PCBs* means those PCBs which appear in the processing of paper products or asphalt roofing materials from PCB-contaminated raw materials. Processes which recycle PCBs must meet the following requirements:

- (1) There are no detectable concentrations of PCBs in asphalt roofing material products leaving the processing site.
- (2) The concentration of PCBs in paper products leaving any manufacturing site processing paper products, or in paper products imported into the United States, must have an annual average of less than 25 ppm with a 50 ppm maximum.
- (3) The release of PCBs at the point at which emissions are vented to ambient air must be less than 10 ppm.
- (4) The amount of Aroclor PCBs added to water discharged from an asphalt roofing processing site must at all times be less than 3 micrograms per liter ( $\mu\text{g/L}$ ) for total Aroclors (roughly 3 parts per billion (3 ppb)). Water discharges from the processing of paper products must at all times be less than 3 micrograms per liter ( $\mu\text{g/L}$ ) for total Aroclors (roughly 3 ppb), or comply with the equivalent mass-based limitation.
- (5) Disposal of any other process wastes at concentrations of 50 ppm or greater must be in accordance with subpart D of this part.

*Research and development (R&D) for PCB disposal* means demonstrations for commercial PCB disposal approvals, pre-demonstration tests, tests of major modifications to previously approved PCB disposal technologies, treatability studies for PCB disposal technologies which have not been approved, development of new disposal technologies, and research on chemical transformation processes including, but not limited to, biodegradation.

*Retrofit* means to remove PCB or PCB-contaminated dielectric fluid and to replace it with either PCB, PCB-contaminated, or non-PCB dielectric fluid.

*Rupture of a PCB Transformer* means a violent or non-violent break in the integrity of a PCB Transformer caused by an overtemperature and/or overpressure condition that results in the release of PCBs.

*Sale for purposes other than resale* means sale of PCBs for purposes of disposal and for purposes of use, except where use involves sale for distribution in commerce. PCB Equipment which is first leased for purposes of use any time before July 1, 1979, will be considered sold for purposes other than resale.

*Sewage sludge* means sewage sludge as defined in § 503.9(w) of this chapter that contains <50 ppm (on a dry weight basis) PCBs.

*Small quantities for research and development* means any quantity of PCBs (1) that is originally packaged in one or more hermetically sealed containers of a volume of no more than five (5.0) milliliters, and (2) that is used only for purposes of scientific experimentation or analysis, or chemical research on, or analysis of, PCBs, but not for research or analysis for the development of a PCB product.

*Soil washing* means the extraction of PCBs from soil using a solvent, recovering the solvent from the soil, separating the PCBs from the recovered solvent for disposal, and then disposal or reuse of the solvent.

*Standard wipe sample* means a sample collected for chemical extraction and analysis using the standard wipe test as defined in § 761.123. Except as designated elsewhere in part 761, the minimum surface area to be sampled shall be 100 cm<sup>2</sup>.

*Storage for disposal* means temporary storage of PCBs that have been designated for disposal.

*SW-846* means the document having the title "SW-846, Test Methods for Evaluating Solid Waste," which is available from either the National Technical Information Service (NTIS, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161, telephone: (703) 487-4650 or the U.S. Government Printing Office (U.S. GPO, 710 North Capitol St., NW., Washington, DC 20401, telephone: (202) 783-3238).

*Totally enclosed manner* means any manner that will ensure no exposure of human beings or the environment to any concentration of PCBs.

*Transfer facility* means any transportation-related facility including loading docks, parking areas, and other similar areas where shipments of PCB waste are held during the normal course of transportation. Transport vehicles are not transfer facilities under this definition, unless they are used for the storage of PCB waste, rather than for actual transport activities. Storage areas for PCB waste at transfer facilities are subject to the storage facility standards of § 761.65, but such storage areas are exempt from the approval requirements of § 761.65(d) and the recordkeeping requirements of § 761.180, unless the same PCB waste is stored there for a period of more than 10 consecutive days between destinations.

*Transporter of PCB waste* means, for the purposes of subpart K of this part, any person engaged in the transportation of regulated PCB waste by air, rail, highway, or water for purposes other than consolidation by a generator.

*Transport vehicle* means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (e.g., trailer, railroad freight car) is a separate transport vehicle.

*Treatability Study* means a study in which PCB waste is subjected to a treatment process to determine:

- (1) Whether the waste is amenable to the treatment process;
- (2) What pretreatment (if any) is required;
- (3) The optimal process conditions needed to achieve the desired treatment;
- (4) The efficiency of a treatment process for the specific type of waste (i.e., soil, sludge, liquid, etc.); or,
- (5) The characteristics and volumes of residuals from a particular treatment process. A "treatability study" is not a mechanism to commercially treat or dispose of PCB waste. Treatment is a form of disposal under this part.

*TSCA* means the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

*TSCA PCB Coordinated Approval* means the process used to recognize other Federal or State waste management documents governing the storage, cleanup, treatment, and disposal of PCB wastes. It is the mechanism under TSCA for accomplishing review, coordination, and approval of PCB waste management activities which are conducted outside of the TSCA PCB approval process, but require approval under the TSCA PCB regulations at 40 CFR part 761.

*Unit* means a particular building, structure, or cell used to manage PCB waste (including, but not limited to, a building used for PCB waste storage, a landfill, an industrial boiler, or an incinerator).

*U.S. GPO* means the U.S. Government Printing Office, 710 North Capitol St., NW., Washington, DC 20401.

*Waste Oil* means used products primarily derived from petroleum, which include, but are not limited to, fuel oils, motor oils, gear oils, cutting oils, transmission fluids, hydraulic fluids, and dielectric fluids.

*Wet weight* means reporting chemical analysis results by including either the weight, or the volume and density, of all liquids. (Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605))

[49 FR 25239, June 20, 1984, as amended at 49 FR 28189, July 10, 1984; 49 FR 29066, July 18, 1984; 49 FR 44638, Nov. 8, 1984; 50 FR 29199, July 17, 1985; 50 FR 32176, Aug. 9, 1985; 53 FR 24220, June 27, 1988; 53 FR 27327, July 19, 1988; 54 FR 52745, Dec. 21, 1989; 55 FR 26205, June 27, 1990; 58 FR 32061, June 8, 1993; 61 FR 11106, Mar. 18, 1996; 63 FR 35437, June 29, 1998; 64 FR 33759, June 24, 1999]



Electronic Code of Federal Regulations  
  
 e-CFR<sup>TM</sup>

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.19 References.**

(a) [Reserved]

(b) *Incorporation by reference.* The following material is incorporated by reference, and is available for inspection at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC. These incorporations by reference were approved by the Director of the Office of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. Copies of the incorporated material are available for inspection at the TSCA Nonconfidential Information Center (7407), Rm. B607, Northeast Mall, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Copies of the incorporated material may be obtained from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

-----  
 References

CFR Citation  
 -----

ASTM D 93 - 90 Standard Test Methods for Flash Point by Pensky-Martens Closed Tester.	Sec. 761.71(b)(2)(vi); Sec. 761.75(b)(8)(iii)
1 1 ASTM D 129-64 (Reapproved 1978) Standard Test Method for Sulfur in Petroleum Products (General Bomb Method).	Sec. 761.71(b)(2)(vi)
ASTM D 240-87 Standard Test Method for Heat of Combustion of Liquid	Sec. 761.71(b)(2)(vi)

Hydrocarbon Fuel by Bomb  
Calorimeter.

ASTM D 482-87 Standard Test Method for Ash from Petroleum Products.	Sec. 761.71(b)(2)(vi)
ASTM D 524-88 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products.	Sec. 761.71(b)(2)(vi)
ASTM D 808-87 Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method).	Sec. 761.71(b)(2)(vi)
ASTM D 923-86 Standard Test Method for Sampling Electrical Insulating Liquids.	Sec. 761.60(g)(1)(ii); (g)(2)(ii)
ASTM D 923-89 Standard Methods of Sampling Electrical Insulating Liquids.	Sec. 761.60(g)(1)(ii); (g)(2)(ii)
ASTM D 1266-87 Standard Test Method for Sulfur in Petroleum Products (Lamp Method).	Sec. 761.71(b)(2)(vi)
ASTM D 1796-83 (Reapproved 1990) Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method (Laboratory Procedure).	Sec. 761.71(b)(2)(vi)
ASTM D 2158-89 Standard Test Method for Residues in Liquified Petroleum (LP) Gases.	Sec. 761.71(b)(2)(vi)
ASTM D 2709-88 Standard Test Method for Water and Sediment in Distillate Fuels by Centrifuge.	Sec. 761.71(b)(2)(vi)
ASTM D 2784-89 Standard Test Method for Sulfur in Liquified Petroleum Gases (Oxy-hydrogen Burner or Lamp).	Sec. 761.71(b)(2)(vi)
ASTM D 3178-84 Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coke and Coal.	Sec. 761.71(b)(2)(vi)
ASTM D 3278-89 Standard Test Methods for Flash Point of Liquids by Setaflash Closed-Cup Apparatus.	Sec. 761.75(b)(8)(iii)
ASTM E 258-67 (Reapproved 1987) Standard Test Method for Total Nitrogen Inorganic Material by Modified KJELDAHL Method.	Sec. 761.71(b)(2)(vi)

---



[47 FR 22098, May 21, 1982, as amended at 49 FR 29067, July 18, 1984; 49 FR 36648, Sept. 19, 1984; 53 FR 10391, Mar. 31, 1988; 53 FR 12524, Apr. 15, 1988; 53 FR 21641, June 9, 1988; 57 FR 13323, Apr. 16, 1992; 59 FR 33697, June 30, 1994; 60 FR 34465, July 3, 1995; 63 FR 35439, June 29, 1998; 64 FR 33759, June 24, 1999]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.20 Prohibitions and exceptions.**

Except as authorized in § 761.30, the activities listed in paragraphs (a) and (d) of this section are prohibited pursuant to section 6(e)(2) of TSCA. The requirements set forth in paragraph (c) of this section and subpart F of this part concerning export and import of PCBs and PCB Items for disposal are established pursuant to section 6(e)(1) of TSCA. Subject to any exemptions granted pursuant to section 6(e)(3)(B) of TSCA, the activities listed in paragraphs (b) and (c) of this section are prohibited pursuant to section 6(e)(3)(A) of TSCA. In addition, the Administrator hereby finds, under the authority of section 12(a)(2) of TSCA, that the manufacture, processing, and distribution in commerce of PCBs at concentrations of 50 ppm or greater and PCB Items with PCB concentrations of 50 ppm or greater present an unreasonable risk of injury to health within the United States. This finding is based upon the well-documented human health and environmental hazard of PCB exposure, the high probability of human and environmental exposure to PCBs and PCB Items from manufacturing, processing, or distribution activities; the potential hazard of PCB exposure posed by the transportation of PCBs or PCB Items within the United States; and the evidence that contamination of the environment by PCBs is spread far beyond the areas where they are used. In addition, the Administrator hereby finds, for purposes of section 6(e)(2)(C) of TSCA, that any exposure of human beings or the environment to PCBs, as measured or detected by any scientifically acceptable analytical method, may be significant, depending on such factors as the quantity of PCBs involved in the exposure, the likelihood of exposure to humans and the environment, and the effect of exposure. For purposes of determining which PCB Items are totally enclosed, pursuant to section 6(e)(2)(C) of TSCA, since exposure to such Items may be significant, the Administrator further finds that a totally enclosed manner is a manner which results in no exposure to humans or the environment to PCBs. The following activities are considered totally enclosed: distribution in commerce of intact, nonleaking electrical equipment such as transformers (including transformers used in railway locomotives and self-propelled cars), capacitors, electromagnets, voltage regulators, switches (including sectionalizers and motor starters), circuit breakers, reclosers, and cable that contain PCBs at any concentration and processing and distribution in commerce of PCB

Equipment containing an intact, nonleaking PCB Capacitor. See paragraph (c)(1) of this section for provisions allowing the distribution in commerce of PCBs and PCB Items.

(a) No persons may use any PCB, or any PCB Item regardless of concentration, in any manner other than in a totally enclosed manner within the United States unless authorized under § 761.30, except that:

(1) An authorization is not required to use those PCBs or PCB Items which consist of excluded PCB products as defined in § 761.3.

(2) An authorization is not required to use those PCBs or PCB Items resulting from an excluded manufacturing process or recycled PCBs as defined in § 761.3, provided all applicable conditions of § 761.1(f) are met.

(3) An authorization is not required to use those PCB Items which contain or whose surfaces have been in contact with excluded PCB products as defined in § 761.3.

(4) An authorization is not required to use sewage sludge where the uses are regulated at parts 257, 258, and 503 of this chapter. No person may blend or otherwise dilute PCBs regulated for disposal, including PCB sewage sludge and sewage sludge not used pursuant to parts 257, 258, and 503 of this chapter, for purposes of use or to avoid disposal requirements under this part. Except as explicitly provided in subpart D of this part, no person may dispose of regulated PCB wastes including, but not limited to, PCB remediation waste, PCB bulk product waste, PCBs, and PCB industrial sludges, into treatment works, as defined in § 503.9(aa) of this chapter.

(b) No person may manufacture PCBs for use within the United States or manufacture PCBs for export from the United States without an exemption, except that: an exemption is not required for PCBs manufactured in an excluded manufacturing process as defined in § 761.3, provided all applicable conditions of § 761.1(f) are met.

(c) No persons may process or distribute in commerce any PCB, or any PCB Item regardless of concentration, for use within the United States or for export from the United States without an exemption, except that an exemption is not required to process or distribute in commerce PCBs or PCB Items resulting from an excluded manufacturing process as defined in § 761.3, or to process or distribute in commerce recycled PCBs as defined in § 761.3, or to process or distribute in commerce excluded PCB products as defined in § 761.3, provided that all applicable conditions of § 761.1(f) are met. In addition, the activities described in paragraphs (c) (1) through (5) of this section may also be conducted without an exemption, under the conditions specified therein.

(1) PCBs at concentrations of 50 ppm or greater, or PCB Items with PCB concentrations of 50 ppm or greater, sold before July 1, 1979 for purposes other than resale may be distributed in commerce only in a totally enclosed manner after that date.

(2) Any person may process and distribute in commerce for disposal PCBs at concentrations of  $\geq$ 50 ppm, or PCB Items with PCB concentrations of  $\geq$ 50 ppm, if they comply with the applicable provisions of this part.

(i) Processing activities which are primarily associated with and facilitate storage or transportation for disposal do not require a TSCA PCB storage or disposal approval.

(ii) Processing activities which are primarily associated with and facilitate treatment, as defined in

§ 260.10 of this chapter, or disposal require a TSCA PCB disposal approval unless they are part of an existing approval, are part of a self-implementing activity under § 761.61(a) or § 761.79 (b) or (c), or are otherwise specifically allowed under subpart D of this part.

(iii) With the exception of provisions in § 761.60 (a)(2) and (a)(3), in order to meet the intent of § 761.1(b), processing, diluting, or otherwise blending of waste prior to being introduced into a disposal unit for purposes of meeting a PCB concentration limit shall be done in accordance with a TSCA PCB disposal approval or comply with the requirements of § 761.79.

(iv) Where the rate of delivering liquids or non-liquids into a PCB disposal unit is an operating parameter, this rate shall be a condition of the TSCA PCB disposal approval for the unit when an approval is required.

(3) PCBs and PCB Items may be exported for disposal in accordance with the requirements of subpart F of this part.

(4) PCBs, at concentrations of less than 50 ppm, or PCB Items, with concentrations of less than 50 ppm, may be processed and distributed in commerce for purposes of disposal.

(5) Decontaminated materials. Any person may distribute in commerce equipment, structures, or other liquid or non-liquid materials that were contaminated with PCBs  $\geq$  50 ppm, including those not otherwise authorized for distribution in commerce under this part, provided that one of the following applies:

(i) The materials were decontaminated in accordance with a TSCA PCB disposal approval issued under subpart D of this part, with § 761.79, or with applicable EPA PCB spill cleanup policies in effect at the time of the decontamination.

(ii) If not previously decontaminated, the materials now meet an applicable decontamination standard in § 761.79(b).

(d) The use of waste oil that contains any detectable concentration of PCB as a sealant, coating, or dust control agent is prohibited. Prohibited uses include, but are not limited to, road oiling, general dust control, use as a pesticide or herbicide carrier, and use as a rust preventative on pipes.

(e) In addition to any applicable requirements under 40 CFR part 279, subparts G and H, marketers and burners of used oil who market (process or distribute in commerce) for energy recovery, used oil containing any quantifiable level of PCBs are subject to the following requirements:

(1) *Restrictions on marketing.* Used oil containing any quantifiable level of PCBs (2 ppm) may be marketed only to:

(i) Qualified incinerators as defined in 40 CFR 761.3.

(ii) Marketers who market off-specification used oil for energy recovery only to other marketers who have notified EPA of their used oil management activities, and who have an EPA identification number where an identification number is required by 40 CFR 279.73. This would include persons who market off-specification used oil who are subject to the requirements at 40 CFR part 279 and the notification requirements of 40 CFR 279.73.

(iii) Burners identified in 40 CFR 279.61(a)(1) and (2). Only burners in the automotive industry may burn used oil generated from automotive sources in used oil-fired space heaters provided the provisions of 40 CFR 279.23 are met. The Regional Administrator may grant a variance for a boiler that does not meet the 40 CFR 279.61(a)(1) and (2) criteria after considering the criteria listed in 40 CFR 260.32 (a) through (f). The applicant must address the relevant criteria contained in 40 CFR 260.32 (a) through (f) in an application to the Regional Administrator.

(2) *Testing of used oil fuel.* Used oil to be burned for energy recovery is presumed to contain quantifiable levels (2 ppm) of PCB unless the marketer obtains analyses (testing) or other information that the used oil fuel does not contain quantifiable levels of PCBs.

(i) The person who first claims that a used oil fuel does not contain quantifiable level (2 ppm) PCB must obtain analyses or other information to support that claim.

(ii) Testing to determine the PCB concentration in used oil may be conducted on individual samples, or in accordance with the testing procedures described in § 761.60(g)(2). However, for purposes of this part, if any PCBs at a concentration of 50 ppm or greater have been added to the container or equipment, then the total container contents must be considered as having a PCB concentration of 50 ppm or greater for purposes of complying with the disposal requirements of this part.

(iii) Other information documenting that the used oil fuel does not contain quantifiable levels (2 ppm) of PCBs may consist of either personal, special knowledge of the source and composition of the used oil, or a certification from the person generating the used oil claiming that the oil contains no detectable PCBs.

(3) *Restrictions on burning.* (i) Used oil containing any quantifiable levels of PCB may be burned for energy recovery only in the combustion facilities identified in paragraph (e)(1) of this section when such facilities are operating at normal operating temperatures (this prohibits feeding these fuels during either startup or shutdown operations). Owners and operators of such facilities are "burners" of used oil fuels.

(ii) Before a burner accepts from a marketer the first shipment of used oil fuel containing detectable PCBs (2 ppm), the burner must provide the marketer a one-time written and signed notice certifying that:

(A) The burner has complied with any notification requirements applicable to "qualified incinerators" (§ 761.3) or to "burners" regulated under 40 CFR part 279, subpart G.

(B) The burner will burn the used oil only in a combustion facility identified in paragraph (e)(1) of this section and identify the class of burner he qualifies.

(4) *Recordkeeping requirements.* The following recordkeeping requirements are in addition to the recordkeeping requirements for marketers found in 40 CFR 279.72(b), 279.74(a), (b) and (c), and 279.75, and for burners found in 40 CFR 279.65 and 279.66.

(i) *Marketers.* Marketers who first claim that the used oil fuel contains no detectable PCBs must include among the records required by 40 CFR 279.72(b) and 279.74(b) and (c), copies of the analysis or other information documenting his claim, and he must include among the records required by 40 CFR 279.74(a) and (c) and 279.75, a copy of each certification notice received or prepared relating to transactions involving PCB-containing used oil.

(ii) *Burners.* Burners must include among the records required by 40 CFR 279.65 and 279.66, a copy of each certification notice required by paragraph (e)(3)(ii) of this section that he sends to a marketer. (Sec.

6, Pub. L. 94-469, 90 Stat. 2020, (15 U.S.C. 2605)

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982, and amended at 49 FR 25241, June 20, 1984; 49 FR 28190, July 10, 1984; 49 FR 44638, Nov. 8, 1984; 53 FR 12524, Apr. 15, 1988; 53 FR 24220, June 27, 1988; 58 FR 15435, Mar. 23, 1993; 58 FR 34205, June 23, 1993; 60 FR 34465, July 3, 1995; 61 FR 11106, Mar. 18, 1996; 63 FR 35439, June 29, 1998; 64 FR 33760, June 24, 1999]





THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

## 40 CFR - CHAPTER I - PART 761

[View Part](#)

### § 761.30 Authorizations.

The following non-totally enclosed PCB activities are authorized pursuant to section 6(e)(2)(B) of TSCA:

(a) *Use in and servicing of transformers (other than railroad transformers).* PCBs at any concentration may be used in transformers (other than in railroad locomotives and self-propelled railroad cars) and may be used for purposes of servicing including rebuilding these transformers for the remainder of their useful lives, subject to the following conditions:

(1) *Use conditions.* (i) As of October 1, 1985, the use and storage for reuse of PCB Transformers that pose an exposure risk to food or feed is prohibited.

(ii) As of October 1, 1990, the use of network PCB Transformers with higher secondary voltages (secondary voltages equal to or greater than 480 volts, including 480/277 volt systems) in or near commercial buildings is prohibited. Network PCB Transformers with higher secondary voltages which are removed from service in accordance with this requirement must either be reclassified to PCB Contaminated or non PCB status, placed into storage for disposal, or disposed.

(iii) Except as otherwise provided, as of October 1, 1985, the installation of PCB Transformers, which have been placed into storage for reuse or which have been removed from another location, in or near commercial buildings is prohibited.

(A) Retrofilled mineral oil PCB Transformers may be installed for reclassification purposes indefinitely after October 1, 1990.

(B) Once a retrofilled transformer has been installed for reclassification purposes, it must be tested 3 months after installation to ascertain the concentration of PCBs. If the PCB concentration is below 50 ppm, the transformer can be reclassified as a non-PCB Transformer. If the PCB concentration is between 50 and 500 ppm, the transformer can be reclassified as a PCB-Contaminated transformer. If the PCB concentration remains at 500 ppm or greater, the entire process must either be repeated until the transformer has been reclassified to a non-PCB or PCB-Contaminated transformer in accordance with paragraph (a)(2)(v) of this section or the transformer must be removed from service.

(iv) As of October 1, 1990, all higher secondary voltage radial PCB Transformers, in use in or near commercial buildings, and lower secondary voltage network PCB Transformers not located in sidewalk vaults in or near commercial buildings (network transformers with secondary voltages below 480 volts) that have not been removed from service as provided in paragraph (a)(1)(iv)(B) of this section, must be equipped with electrical protection to avoid transformer ruptures caused by high current faults. As of February 25, 1991, all lower secondary voltage radial PCB Transformers, in use in or near commercial buildings, must be equipped with electrical

protection to avoid transformer ruptures caused by high current faults.

(A) Current-limiting fuses or other equivalent technology must be used to detect sustained high current faults and provide for the complete deenergization of the transformer (within several hundredths of a second in the case of higher secondary voltage radial PCB Transformers and within tenths of a second in the case of lower secondary voltage network PCB Transformers), before transformer rupture occurs. Lower secondary voltage radial PCB Transformers must be equipped with electrical protection as provided in paragraph (a)(1)(iv)(E) of this section. The installation, setting, and maintenance of current-limiting fuses or other equivalent technology to avoid PCB Transformer ruptures from sustained high current faults must be completed in accordance with good engineering practices.

(B) All lower secondary voltage network PCB Transformers not located in sidewalk vaults (network transformers with secondary voltages below 480 volts), in use in or near commercial buildings, which have not been protected as specified in paragraph (a)(1)(iv)(A) of this section by October 1, 1990, must be removed from service by October 1, 1993.

(C) As of October 1, 1990, owners of lower secondary voltage network PCB Transformers, in use in or near commercial buildings which have not been protected as specified in paragraph (a)(1)(iv)(A) of this section and which are not located in sidewalk vaults, must register in writing those transformers with the EPA Regional Administrator in the appropriate region. The information required to be provided in writing to the Regional Administrator includes:

(1) The specific location of the PCB Transformer(s).

(2) The address(es) of the building(s) and the physical location of the PCB Transformer(s) on the building site(s).

(3) The identification number(s) of the PCB Transformer(s).

(D) As of October 1, 1993, all lower secondary voltage network PCB Transformers located in sidewalk vaults (network transformers with secondary voltages below 480 volts) in use near commercial buildings must be removed from service.

(E) As of February 25, 1991, all lower secondary voltage radial PCB Transformers must be equipped with electrical protection, such as current-limiting fuses or other equivalent technology, to detect sustained high current faults and provide for the complete deenergization of the transformer or complete deenergization of the faulted phase of the transformer within several hundredths of a second. The installation, setting, and maintenance of current-limiting fuses or other equivalent technology to avoid PCB Transformer ruptures from sustained high current faults must be completed in accordance with good engineering practices.

(v) As of October 1, 1990, all radial PCB Transformers with higher secondary voltages (480 volts and above, including 480/277 volt systems) in use in or near commercial buildings must, in addition to the requirements of paragraph (a)(1)(iv)(A) of this section, be equipped with protection to avoid transformer ruptures caused by sustained low current faults.

(A) Pressure and temperature sensors (or other equivalent technology which has been demonstrated to be effective in early detection of sustained low current faults) must be used in these transformers to detect sustained low current faults.

(B) Disconnect equipment must be provided to insure complete deenergization of the transformer in the event of a sensed abnormal condition (e.g., an overpressure or overtemperature condition in the transformer), caused by a sustained low current fault. The disconnect equipment must be configured to operate automatically within 30 seconds to 1 minute of the receipt of a signal indicating an abnormal condition from a sustained low current fault, or can be configured to allow for manual deenergization from a manned on-site control center upon the receipt of an audio or visual signal indicating an abnormal condition caused by a sustained low current fault. Manual deenergization from a manned on-site control center must occur within 1 minute of the receipt of the audio or visual signal indicating an abnormal condition caused by a sustained low current fault. If automatic operation is selected and a circuit breaker is utilized for disconnection, it must also have the capability to be manually opened if necessary.

(C) The enhanced electrical protective system required for the detection of sustained low current faults and the complete and rapid deenergization of transformers must be properly installed, maintained, and set sensitive enough (in accordance with good engineering practices) to detect sustained low current faults and allow for rapid and total deenergization prior to PCB Transformer rupture (either violent or non violent rupture) and release of PCBs.

(vi)(A) No later than December 28, 1998 all owners of PCB Transformers, including those in storage for reuse, must register their transformers with the Environmental



Protection Agency, National Program Chemicals Division, Office of Pollution Prevention and Toxics (7404), 1200 Pennsylvania Ave., NW., Washington, DC 20460. This registration requirement is subject to the limitations in paragraph (a)(1) of this section.

(1) A transformer owner who assumes a transformer is a PCB-Contaminated transformer, and discovers after December 28, 1998 that it is a PCB-Transformer, must register the newly-identified PCB Transformer, in writing, with the Environmental Protection Agency no later than 30 days after it is identified as such. This requirement does not apply to transformer owners who have previously registered with the EPA PCB Transformers located at the same address as the transformer that they assumed to be PCB-Contaminated and later determined to be a PCB Transformer.

(2) A person who takes possession of a PCB Transformer after December 28, 1998 is not required to register or re-register the transformer with the EPA.

(B) Any person submitting a registration under this section must include:

(1) Company name and address.

(2) Contact name and telephone number.

(3) Address where these transformers are located. For mobile sources such as ships, provide the name of the ship.

(4) Number of PCB Transformers and the total weight in kilograms of PCBs contained in the transformers.

(5) Whether any transformers at this location contain flammable dielectric fluid (optional).

(6) Signature of the owner, operator, or other authorized representative certifying the accuracy of the information submitted.

(C) A transformer owner must retain a record of each PCB Transformer's registration (e.g., a copy of the registration and the return receipt signed by EPA) with the inspection and maintenance records required for each PCB Transformer under paragraph (a)(1)(xii)(I) of this section.

(D) A transformer owner must comply with all requirements of paragraph (a)(1)(vi)(A) of this section to continue the PCB-Transformer's authorization for use, or storage for reuse, pursuant to this section and TSCA section 6(e)(2)(B).

(vii) As of December 1, 1985, PCB Transformers in use in or near commercial buildings must be registered with building owners. For PCB Transformers located in commercial buildings, PCB Transformer owners must register the transformers with the building owner of record. For PCB Transformers located near commercial buildings, PCB Transformer owners must register the transformers with all owners of buildings located within 30 meters of the PCB Transformer(s). Information required to be provided to building owners by PCB Transformer owners includes but is not limited to:

(A) The specific location of the PCB Transformer(s).

(B) The principal constituent of the dielectric fluid in the transformer(s) (e.g., PCBs, mineral oil, or silicone oil).

(C) The type of transformer installation (e.g., 208/120 volt network, 208/120 volt radial, 208 volt radial, 480 volt network, 480/277 volt network, 480 volt radial, 480/277 volt radial).

(viii) As of December 1, 1985, combustible materials, including, but not limited to paints, solvents, plastics, paper, and sawn wood must not be stored within a PCB Transformer enclosure (i.e., in a transformer vault or in a partitioned area housing a transformer); within 5 meters of a transformer enclosure, or, if unenclosed (unpartitioned), within 5 meters of a PCB Transformer.

(ix) A visual inspection of each PCB Transformer (as defined in the definition of "PCB Transformer" under § 761.3) in use or stored for reuse shall be performed at least once every 3 months. These inspections may take place any time during the 3-month periods: January-March, April-June, July-September, and October-December as long as there is a minimum of 30 days between inspections. The visual inspection must include investigation for any leak of dielectric fluid on or around the transformer. The extent of the visual inspections will depend on the physical constraints of each transformer installation and should not require an electrical shutdown of the transformer being inspected.

(x) If a PCB Transformer is found to have a leak which results in any quantity of PCBs running off or about to run off the external surface of the transformer, then the transformer must be repaired or replaced to eliminate the source of the leak. In all cases any leaking material must be cleaned up and properly disposed of according to disposal requirements of subpart D of this part. Cleanup of the released PCBs must be initiated as soon as possible, but in no case later than 48 hours of its discovery. Until appropriate action is completed, any active leak of PCBs must be contained to prevent exposure of humans or the environment and inspected daily to verify containment of the leak. Trenches, dikes, buckets, and pans are examples of proper containment measures.

(xi) If a PCB Transformer is involved in a fire-related incident, the owner of the transformer must immediately report the incident to the National Response Center (toll-free 1-800-424-8802; in Washington, DC 202-426-2675). A fire-related incident is defined as any incident involving a PCB Transformer which involves the generation of sufficient heat and/or pressure (by any source) to result in the violent or non-violent rupture of a PCB Transformer and the release of PCBs. Information must be provided regarding the type of PCB Transformer installation involved in the fire-related incident (e.g., high or low secondary voltage network transformer, high or low secondary voltage simple radial system, expanded radial system, primary selective system, primary loop system, or secondary selective system or other systems) and the readily ascertainable cause of the fire-related incident (e.g., high current fault in the primary or secondary or low current fault in secondary). The owner of the PCB Transformer must also take measures as soon as practically and safely possible to contain and control any potential releases of PCBs and incomplete combustion products into water. These measures include, but are not limited to:

(A) The blocking of all floor drains in the vicinity of the transformer.

(B) The containment of water runoff.

(C) The control and treatment (prior to release) of any water used in subsequent cleanup operations.

(xii) Records of inspection and maintenance history shall be maintained at least 3 years after disposing of the transformer and shall be made available for inspection, upon request by EPA. Such records shall contain the following information for each PCB Transformer:

(A) Its location.

(B) The date of each visual inspection and the date that leak was discovered, if different from the inspection date.

(C) The person performing the inspection.

(D) The location of any leak(s).

(E) An estimate of the amount of dielectric fluid released from any leak.

(F) The date of any cleanup, containment, repair, or replacement.

(G) A description of any cleanup, containment, or repair performed.

(H) The results of any containment and daily inspection required for uncorrected active leaks.

(I) Record of the registration of PCB Transformer(s).

(J) Records of transfer of ownership in compliance with § 761.180(a)(2)(ix).

(xiii) A reduced visual inspection frequency of at least once every 12 months applies to PCB Transformers that utilize either of the following risk reduction measures. These inspections may take place any time during the calendar year as long as there is a minimum of 180 days between inspections.

(A) A PCB Transformer which has impervious, undrained, secondary containment capacity of at least 100 percent of the total dielectric fluid volume of all transformers so contained or

(B) A PCB Transformer which has been tested and found to contain less than 60,000 ppm PCBs (after 3 months of in service use if the transformer has been serviced for purposes of reducing the PCB concentration).

(xiv) An increased visual inspection frequency of at least once every week applies to any PCB Transformer in use or stored for reuse which poses an exposure risk to food or feed. The user of a PCB Transformer posing an exposure risk to food is responsible for the inspection, recordkeeping, and maintenance requirements under this section until the user notifies the owner that the transformer may pose an exposure risk to food or feed. Following such notification, it is the owner's ultimate responsibility to determine whether the PCB Transformer poses an exposure risk to food or feed.

(xv) In the event a mineral oil transformer, assumed to contain less than 500 ppm of PCBs as provided in § 761.2, is tested and found to be contaminated at 500 ppm or greater PCBs, it will be subject to all the requirements of this Part 761. In addition, efforts must be initiated immediately to bring the transformer into compliance in accordance with the following schedule:

(A) Report fire-related incidents, effective immediately after discovery.

(B) Mark the PCB transformer within 7 days after discovery.

(C) Mark the vault door, machinery room door, fence, hallway or other means of access to the PCB Transformer within 7 days after discovery.

(D) Register the PCB Transformer in writing with the building owner within 30 days of discovery.

(E) Install electrical protective equipment on a radial PCB Transformer and a non-sidewalk vault, lower secondary voltage network PCB Transformer in or near a commercial building within 18 months of discovery or by October 1, 1990, whichever is later.

(F) Remove a non-sidewalk vault, lower secondary voltage network PCB Transformer in or near a commercial building, if electrical protective equipment is not installed, within 18 months of discovery or by October 1, 1993, whichever is later.

(G) Remove a lower secondary voltage network PCB Transformer located in a sidewalk vault in or near a commercial building, within 18 months of discovery or by October 1, 1993, whichever is later.

(H) Retrofill and reclassify a radial PCB Transformer or a lower or higher secondary voltage network PCB Transformer, located in other than a sidewalk vault in or near a commercial building, within 18 months or by October 1, 1990, whichever is later. This is an option in lieu of installing electrical protective equipment on a radial or lower secondary voltage network PCB Transformer located in other than a sidewalk vault or of removing a higher secondary voltage network PCB Transformer or a lower secondary voltage network PCB Transformer, located in a sidewalk vault, from service.

(I) Retrofill and reclassify a lower secondary voltage network PCB Transformer, located in a sidewalk vault, in or near a commercial building within 18 months or by October 1, 1993, whichever is later. This is an option in lieu of installing electrical protective equipment or removing the transformer from service.

(J) Retrofill and reclassify a higher secondary voltage network PCB Transformer, located in a sidewalk vault, in or near a commercial building within 18 months or by October 1, 1990, whichever is later. This is an option in lieu of other requirements.

(2) *Servicing conditions.* (i) Transformers classified as PCB-Contaminated Electrical Equipment (as defined in the definition of "PCB-Contaminated Electrical Equipment" under § 761.3) may be serviced (including rebuilding) only with dielectric fluid containing less than 500 ppm PCB.

(ii) Any servicing (including rebuilding) of PCB Transformers (as defined in the definition of "PCB Transformer" under § 761.3) that requires the removal of the transformer coil from the transformer casing is prohibited. PCB Transformers may be serviced (including topping off) with dielectric fluid at any PCB concentration.

(iii) PCBs removed during any servicing activity must be captured and either reused as dielectric fluid or disposed of in accordance with the requirements of § 761.60. PCBs from PCB Transformers must not be mixed with or added to dielectric fluid from PCB-Contaminated Electrical Equipment.

(iv) Regardless of its PCB concentration, dielectric fluids containing less than 500 ppm PCB that are mixed with fluids that contain 500 ppm or greater PCB must not be used as dielectric fluid in any electrical equipment. The entire mixture of dielectric fluid must be considered to be greater than 500 ppm PCB and must be disposed of in an incinerator that meets the requirements in § 761.70.

(v) You may reclassify a PCB Transformer that has been tested and determined to have a concentration of  $\geq$ 500 ppm PCBs to a PCB-Contaminated transformer

(>=50 but <500 ppm) or to a non-PCB transformer (<50 ppm), and you may reclassify a PCB-Contaminated transformer that has been tested and determined to have a concentration of >=50 ppm but <500 ppm to a non-PCB transformer, as follows:

(A) Remove the free-flowing PCB dielectric fluid from the transformer. Flushing is not required. Either test the fluid or assume it contains >=1,000 ppm PCBs. Refill the transformer with fluid containing known PCB levels according to the following table. Determine the transformer's reclassified status according to the following table (if following this process does not result in the reclassified status you desire, you may repeat the process):

If test results show the PCB concentration (ppm) in the transformer prior to refill is . . .	and you refill the transformer with dielectric fluid containing . .	and you . . .	and test results show the PCB concentration (ppm) after refill is . . .	then the transformer's reclassified status is . . .
>=1,000 (or untested)	<50 ppm PCBs	operate the transformer electrically under loaded conditions for at least 90-continuous days after refill, then test the fluid for PCBs	>=50 but <500	PCB-contaminated
	<50 ppm PCBs	operate the transformer electrically under loaded conditions for at least 90-continuous days after refill, then test the fluid for PCBs	<50	non-PCB
>=500 but <1,000	<50 ppm PCBs	test the fluid for PCBs at least 90 days after refill	>=50 but <500	PCB-contaminated
	<50 ppm PCBs	test the fluid for	<50	non-PCB

PCBs at least 90  
days after  
retrofill

---

<math>\geq 50</math> but <math>< 500</math>	<math>\geq 2</math> but <math>< 50</math> ppm PCBs	test the fluid for PCBs at least 90 days after retrofill	<math>< 50</math>	non-PCB
<hr/>				
	<math>< 2</math> ppm PCBs	(no need to test)	(not applicable)	non-PCB

---

(B) If you discover that the PCB concentration of the fluid in a reclassified transformer has changed, causing the reclassified status to change, the transformer is regulated based on the actual concentration of the fluid. For example, a transformer that was reclassified to non-PCB status is regulated as a PCB-Contaminated transformer if you discover that the concentration of the fluid has increased to  $\geq 50$  but  $< 500$  ppm PCBs. If you discover that the PCB concentration of the fluid has risen to  $\geq 500$  ppm, the transformer is regulated as a PCB Transformer. Follow paragraphs (a)(1)(xv)(A) through (J) of this section to come into compliance with the regulations applicable to PCB Transformers. You also have the option of repeating the reclassification process.

(C) The Director, National Program Chemicals Division, may, without further rulemaking, grant approval on a case-by-case basis for the use of alternative methods to reclassify transformers. You may request an approval by writing to the Director, National Program Chemicals Division (7404), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460. Describe the equipment you plan to reclassify, the alternative reclassification method you plan to use, and test data or other evidence on the effectiveness of the method.

(D) You must keep records of the reclassification required by § 761.180(g).

(vi) Any dielectric fluid containing 50 ppm or greater PCB used for servicing transformers must be stored in accordance with the storage for disposal requirements of § 761.65.

(vii) Processing and distribution in commerce of PCBs for purposes of servicing transformers is permitted only for persons who are granted an exemption under TSCA 6(e)(3)(B).

(b) *Use in and servicing of railroad transformers.* PCBs may be used in transformers in railroad locomotives or railroad self-propelled cars ("railroad transformers") and may be processed and distributed in commerce for purposes of servicing these transformers in a manner other than a totally enclosed manner subject to the following conditions:

(1) *Use restrictions.* After July 1, 1986, use of railroad transformers that contain dielectric fluids with a PCB concentration  $> 1,000$  ppm is prohibited.

(2) *Servicing restrictions.* (i) If the coil is removed from the casing of a railroad transformer (e.g., the transformer is rebuilt), after January 1, 1982, the railroad transformer may not be refilled with dielectric fluid containing a PCB concentration greater than 50 ppm;

(ii) After January 1, 1984, railroad transformers may only be serviced with dielectric fluid containing less than 1000 ppm PCB, except as provided in paragraph (b)(2)(i) of this section;

(iii) Dielectric fluid may be filtered through activated carbon or otherwise industrially processed for the purpose of reducing the PCB concentration in the fluid;

(iv) Any PCB dielectric fluid that is used to service PCB railroad transformers must be stored in accordance with the storage for disposal requirements of § 761.65;

(v) After July 1, 1979, processing and distribution in commerce of PCBs for purposes of servicing railroad transformers is permitted only for persons who are granted

an exemption under TSCA section 6(e)(3)(B).

(vi) A PCB Transformer may be converted to a PCB-Contaminated Transformer or to a non-PCB Transformer by draining, refilling, and/or otherwise servicing the railroad transformer. In order to reclassify, the railroad transformer's dielectric fluid must contain less than 500 ppm (for conversion to PCB-Contaminated Transformer) or less than 50 ppm PCB (for conversion to a non-PCB Transformer) after a minimum of three months of inservice use subsequent to the last servicing conducted for the purpose of reducing the PCB concentration in the transformer.

(c) *Use in mining equipment.* After January 1, 1982, PCBs may be used in mining equipment only at a concentration level of <50 ppm.

(d) *Use in heat transfer systems.* After July 1, 1984, PCBs may be used in heat transfer systems only at a concentration level of < 50 ppm. Heat transfer systems that were in operation after July 1, 1984, with a concentration level of <50 ppm PCBs may be serviced to maintain a concentration level of <50 ppm PCBs. Heat transfer systems may only be serviced with fluids containing <50 ppm PCBs.

(e) *Use in hydraulic systems.* After July 1, 1984, PCBs may be used in hydraulic systems only at a concentration level of <50 ppm. Hydraulic systems that were in operation after July 1, 1984, with a concentration level of <50 ppm PCBs may be serviced to maintain a concentration level of <50 ppm PCBs. Hydraulic systems may only be serviced with fluids containing <50 ppm PCBs.

(f) *Use in carbonless copy paper.* Carbonless copy paper containing PCBs may be used in a manner other than a totally enclosed manner indefinitely.

(g) [Reserved]

(h) *Use in and servicing of electromagnets, switches and voltage regulators.* PCBs at any concentration may be used in electromagnets, switches (including sectionalizers and motor starters), and voltage regulators and may be used for purposes of servicing this equipment (including rebuilding) for the remainder of their useful lives, subject to the following conditions:

(1) *Use conditions.* (i) After October 1, 1985, the use and storage for reuse of any electromagnet which poses an exposure risk to food or feed is prohibited if the electromagnet contains greater than 500 ppm PCBs.

(ii) Use and storage for reuse of voltage regulators which contain 1.36 kilograms (3 lbs) or more of dielectric fluid with a PCB concentration of  $\geq$ 500 ppm are subject to the following provisions:

(A) The owner of the voltage regulator must mark its location in accordance with § 761.40.

(B) If a voltage regulator is involved in a fire-related incident, the owner must immediately report the incident to the National Response Center (Toll-free: 1-800-424-8802; in Washington, DC: 202-426-2675). A fire-related incident is defined as any incident that involves the generation of sufficient heat and/or pressure, by any source, to result in the violent or non-violent rupture of the voltage regulator and the release of PCBs.

(C) The owner of the voltage regulator must inspect it in accordance with the requirements of paragraphs (a)(1)(ix), (a)(1)(xiii), and (a)(1)(xiv) of this section that apply to PCB Transformers.

(D) The owner of the voltage regulator must comply with the recordkeeping and reporting requirements at § 761.180.

(iii) The owner of a voltage regulator that assumes it contains <500 ppm PCBs as provided in § 761.2, and discovers by testing that it is contaminated at  $\geq$ 500 ppm PCBs, must comply with paragraph (h)(1)(ii)(A) of this section 7 days after the discovery, and paragraphs (h)(1)(ii)(B), (h)(1)(ii)(C), and (h)(1)(ii)(D) of this section immediately upon discovery.

(2) *Servicing conditions.* (i) Servicing (including rebuilding) any electromagnet, switch, or voltage regulator with a PCB concentration of 500 ppm or greater which requires the removal and rework of the internal components is prohibited.

(ii) Electromagnets, switches, and voltage regulators classified as PCB-Contaminated Electrical Equipment (as defined in the definition of "PCB-Contaminated Electrical Equipment" under § 761.3) may be serviced (including rebuilding) only with dielectric fluid containing less than 500 ppm PCB.

(iii) PCBs removed during any servicing activity must be captured and either reused as dielectric fluid or disposed of in accordance with the requirements of § 761.60. PCBs from electromagnets switches, and voltage regulators with a PCB concentration of at least 500 ppm must not be mixed with or added to dielectric fluid from PCB-Contaminated Electrical Equipment.

(iv) Regardless of its PCB concentration, dielectric fluids containing less than 500 ppm PCB that are mixed with fluids that contain 500 ppm or greater PCB must not be used as dielectric fluid in any electrical equipment. The entire mixture of dielectric fluid must be considered to be greater than 500 ppm PCB and must be disposed of in an incinerator that meets the requirements of § 761.70.

(v) You may reclassify an electromagnet, switch, or voltage regulator that has been tested and determined to have a concentration of  $\geq 500$  ppm PCBs to PCB-Contaminated status ( $\geq 50$  but  $< 500$  ppm) or to non-PCB status ( $< 50$  ppm), and you may reclassify a PCB-Contaminated electromagnet, switch, or voltage regulator that has been tested and determined to have a concentration of  $\geq 50$  ppm but  $< 500$  ppm to a non-PCB status, as follows:

(A) Remove the free-flowing PCB dielectric fluid from the electromagnet, switch, or voltage regulator. Flushing is not required. Either test the fluid or assume it contains  $\geq 1,000$  ppm PCBs. Refill the electromagnet, switch, or voltage regulator with fluid containing known PCB levels according to the following table. Determine the electromagnet, switch, or voltage regulator's reclassified status according to the following table (if following this process does not result in the reclassified status you desire, you may repeat the process):

If test results show the PCB concentration (ppm) in the voltage equipment prior to refill is . . .	and you refill the equipment with dielectric fluid containing . . .	and you . . .	and test results show the PCB concentration (ppm) after refill is . . .	then the electromagnet, switch, or regulator's reclassified status is . . .
$> 1,000$ (or untested)	$< 50$ ppm PCBs	operate the equipment electrically under loaded conditions for at least 90-continuous days after refill, then test the fluid for PCBs	$> 50$ but $< 500$	PCB-contaminated
	$< 50$ ppm PCBs	operate the equipment electrically under loaded conditions for at least 90-	$< 50$	non-PCB

		continuous days after retrofill, then test the fluid for PCBs		
<gr-thn-eq>500 but <1,000	<50 ppm PCBs	test the fluid for PCBs at least 90 days after retrofill	<gr-thn-eq>50 but <500	PCB-contaminated
	<50 ppm PCBs	test the fluid for PCBs at least 90 days after retrofill	<50	non-PCB
<gr-thn-eq>50 but <500	<gr-thn-eq>2 but <50 ppm PCBs	test the fluid for PCBs at least 90 days after retrofill	<50	non-PCB
	<2 ppm PCBs	(no need to test)	(not applicable)	non-PCB

(B) If you discover that the PCB concentration of the fluid in a reclassified electromagnet, switch, or voltage regulator has changed, causing the reclassified status to change, the electromagnet, switch, or voltage regulator is regulated based on the actual concentration of the fluid. For example, an electromagnet, switch, or voltage regulator that was reclassified to non-PCB status is regulated as a PCB-Contaminated electromagnet, switch, or voltage regulator if you discover that the concentration of the fluid has increased to  $\geq 50$  but  $< 500$  ppm PCBs. If you discover that the PCB concentration of the fluid in a voltage regulator has risen to  $\geq 500$  ppm, follow paragraph (h)(1)(iii) of this section to come into compliance with the regulations applicable to voltage regulators containing  $\geq 500$  ppm PCBs. You also have the option of repeating the reclassification process.

(C) The Director, National Program Chemicals Division may, without further rulemaking, grant approval on a case-by-case basis for the use of alternative methods to reclassify electromagnets, switches or voltage regulators. You may request an approval by writing to the Director, National Program Chemicals Division (7404), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460. Describe the equipment you plan to reclassify, the alternative reclassification method you plan to use, and test data or other evidence on the effectiveness of the method.

(D) You must keep records of the reclassification required by § 761.180(g).

(vi) Any dielectric fluid containing 50 ppm or greater PCB used for servicing electromagnets, switches, or voltage regulators must be stored in accordance with the storage for disposal requirements of § 761.65.

(vii) Processing and distribution in commerce of PCBs for purposes of servicing electromagnets, switches or voltage regulators is permitted only for persons who are granted an exemption under TSCA 6(e)(3)(B).

(i) *Use and reuse of PCBs in natural gas pipeline systems; use and reuse of PCB-Contaminated natural gas pipe and appurtenances.* (1)(i) PCBs are authorized for use



in natural gas pipeline systems at concentrations <50 ppm.

(ii) PCBs are authorized for use, at concentrations  $\geq$ 50 ppm, in natural gas pipeline systems not owned or operated by a seller or distributor of natural gas.

(iii)(A) PCBs are authorized for use, at concentrations  $\geq$ 50 ppm, in natural gas pipeline systems owned or operated by a seller or distributor of natural gas, if the owner or operator:

(1) Submits to EPA, upon request, a written description of the general nature and location of PCBs  $\geq$ 50 ppm in their natural gas pipeline system. Each written description shall be submitted to the EPA Regional Administrator having jurisdiction over the segment or component of the system (or the Director, National Program Chemicals Division, Office of Prevention, Pesticides, and Toxic Substances, if the system is contaminated in more than one region).

(2) Within 120 days after discovery of PCBs  $\geq$ 50 ppm in natural gas pipeline systems, or by December 28, 1998, whichever is later, characterizes the extent of PCB contamination by collecting and analyzing samples to identify the upstream and downstream end points of the segment or component where PCBs  $\geq$ 50 ppm were discovered.

(3) Within 120 days of characterization of the extent of PCB contamination, or by December 28, 1998, whichever is later, samples and analyzes all potential sources of introduction of PCBs into the natural gas pipeline system for PCBs  $\geq$ 50 ppm. Potential sources include natural gas compressors, natural gas scrubbers, natural gas filters, and interconnects where natural gas is received upstream from the most downstream sampling point where PCBs  $\geq$ 50 ppm were detected; potential sources exclude valves, drips, or other small liquid condensate collection points.

(4) Within 1 year of characterization of the extent of PCB contamination, reduces all demonstrated sources of PCBs  $\geq$ 50 ppm to <50 ppm, or removes such sources from the natural gas pipeline system; or implements other engineering measures or methods to reduce PCB levels to <50 ppm and to prevent further introduction of PCBs  $\geq$ 50 ppm into the natural gas pipeline system (e.g., pigging, decontamination, in-line filtration).

(5) Repeats sampling and analysis at least annually where PCBs are  $\geq$ 50 ppm, until sampling results indicate the natural gas pipeline segment or component is <50 ppm PCB in two successive samples with a minimum interval between samples of 180 days.

(6) Marks aboveground sources of PCB liquids in natural gas pipeline systems with the ML Mark in accordance with § 761.45(a), where such sources have been demonstrated through historical data or recent sampling to contain PCBs  $\geq$ 50 ppm.

(B) Owners or operators of natural gas pipeline systems which do not include potential sources of PCB contamination as described in paragraph (i)(1)(iii)(A)(3) of this section containing  $\geq$ 50 ppm PCB are not subject to paragraphs (i)(1)(iii)(A)(2), (i)(1)(iii)(A)(3), (i)(1)(iii)(A)(4), or (i)(1)(iii)(A)(6) of this section. Owners or operators of these systems, however, must comply with the other provisions of this section (e.g., sampling of any collected PCB liquids and recordkeeping).

(C) The owner or operator of a natural gas pipeline system must document in writing all data collected and actions taken, or not taken, pursuant to the authorization in paragraph (i)(1)(iii)(A) of this section. They must maintain the information for 3 years after the PCB concentration in the component or segment is reduced to <50 ppm, and make it available to EPA upon request.

(D) The Director, National Program Chemicals Division, after consulting with the appropriate EPA Region(s) may, based on a finding of no unreasonable risk, modify in writing the requirements of paragraph (i)(1)(iii)(A) of this section, including extending any compliance date, approving alternative formats for documentation, waiving one or more requirements for a segment or component, requiring sampling and analysis, and requiring implementation of engineering measures to reduce PCB concentrations. EPA will make such modifications based on the natural gas pipeline system size, configuration, and current operating conditions; nature, extent or source of contamination; proximity of contamination to end-users; or previous sampling, monitoring, remedial actions or documentation of activities taken regarding compliance with this authorization or other applicable Federal, State, or local laws and regulations. The Director, National Program Chemicals Division, may defer the authority described in this paragraph, upon request, to the appropriate EPA Region.

(E) The owner or operator of a natural gas pipeline system may use historical data to fulfill the requirements of paragraphs (i)(1)(iii)(A)(1), (i)(1)(iii)(A)(2) and (i)(1)(iii)(A)(3) of this section. They may use documented historical actions taken to reduce PCB concentrations in known sources; decontaminate components or segments of natural gas pipeline systems; or otherwise to reduce PCB levels to fulfill the requirements of paragraph (i)(1)(iii)(A)(4) of this section.

(2) Any person may reuse PCB-Contaminated natural gas pipe and appurtenances in a natural gas pipeline system, provided all free-flowing liquids have been removed.

(3) Any person may use PCB-Contaminated natural gas pipe, drained of all free-flowing liquids, in the transport of liquids (e.g., bulk hydrocarbons, chemicals, petroleum products, or coal slurry), as casing to provide secondary containment or protection (e.g., protection for electrical cable), as industrial structural material (e.g., fence posts, sign posts, or bridge supports), as temporary flume at construction sites, as equipment skids, as culverts under transportation systems in intermittent flow situations, for sewage service with written consent of the Publicly Owned Treatment Works (POTW), for steam service, as irrigation systems (<20 inch diameter) of less than 200 miles in length, and in a totally enclosed compressed air system.

(4) Any person characterizing PCB contamination in natural gas pipe or natural gas pipeline systems must do so by analyzing organic liquids collected at existing condensate collection points in the pipe or pipeline system. The level of PCB contamination found at a collection point is assumed to extend to the next collection point downstream. Any person characterizing multi-phasic liquids must do so in accordance with § 761.1(b)(4); if no liquids are present, they must use standard wipe samples in accordance with subpart M of this part.

(5)(i) Any person disposing of liquids containing PCBs  $\geq$ 50 ppm removed, spilled, or otherwise released from a natural gas pipeline system must do so in accordance with § 761.61(a)(5)(iv) based on the PCB concentration at the time of removal from the system. Any person disposing of materials contaminated by spills or other releases of PCBs  $\geq$ 50 ppm from a natural gas pipeline systems, must do so in accordance with §§ 761.61 or 761.79, as applicable.

(ii) Any person who markets or burns for energy recovery liquids containing PCBs at concentrations <50 ppm PCBs at the time of removal from a natural gas pipeline system must do so in accordance with the provisions pertaining to used oil at § 761.20(e). No other use of liquid containing PCBs at concentrations above the quantifiable level/level of detection removed from a natural gas pipeline system is authorized.

(j) *Research and development.* For purposes of this section, authorized research and development (R&D) activities include, but are not limited to: the chemical analysis of PCBs, including analyses to determine PCB concentration; determinations of the physical properties of PCBs; studies of environmental transport processes; studies of biochemical transport processes; studies of effects of PCBs on the environment; and studies of the health effects of PCBs, including direct toxicity and toxicity of metabolic products of PCBs. Authorized R&D activities do not include research, development, or analysis for the development of any PCB product. Any person conducting R&D activities under this section is also responsible for determining and complying with all other applicable Federal, State, and local laws and regulations. Although the use of PCBs and PCBs in analytical reference samples derived from waste material is authorized in conjunction with PCB-disposal related activities, R&D for PCB disposal (as defined under § 761.3) is addressed in § 761.60(j). PCBs and PCBs in analytical reference samples derived from waste materials are authorized for use, in a manner other than a totally enclosed manner, provided that:

(1) They obtain the PCBs and PCBs in analytical reference samples derived from waste materials from sources authorized under § 761.80 to manufacture, process, and distribute PCBs in commerce and the PCBs are packaged in compliance with the Hazardous Materials Regulations at 49 CFR parts 171 through 180.

(2) They store all PCB wastes resulting from R&D activities (e.g., spent laboratory samples, residuals, contaminated media such as clothing, etc.) in compliance with § 761.65(b) and dispose of all PCB wastes in compliance with § 761.64.

(3) [Reserved]

(4) No person may manufacture, process, or distribute in commerce PCBs for research and development unless they have been granted an exemption to do so under TSCA section 6(e)(3)(B).

(k) *Use in scientific instruments.* PCBs may be used indefinitely in scientific instruments, for example, in oscillatory flow birefringence and viscoelasticity instruments for the study of the physical properties of polymers, as microscopy mounting fluids, as microscopy immersion oil, and as optical liquids in a manner other than a totally enclosed manner. No person may manufacture, process, or distribute in commerce PCBs for use in scientific instruments unless they have been granted an exemption to do so under TSCA section 6(e)(3)(B).

(l) *Use in capacitors.* PCBs at any concentration may be used in capacitors, subject to the following conditions:

(1) *Use conditions.* (i) After October 1, 1988, the use and storage for reuse of PCB Large High Voltage Capacitors and PCB Large Low Voltage Capacitors which pose

an exposure risk to food or feed is prohibited.

(ii) After October 1, 1988, the use of PCB Large High Voltage Capacitors and PCB Large Low Voltage Capacitors is prohibited unless the capacitor is used within a restricted-access electrical substation or in a contained and restricted-access indoor installation. A restricted-access electrical substation is an outdoor, fenced or walled-in facility that restricts public access and is used in the transmission or distribution of electric power. A contained and restricted-access indoor installation does not have public access and has an adequate roof, walls, and floor to contain any release of PCBs within the indoor location.

(2) [Reserved]

(m) *Use in and servicing of circuit breakers, reclosers and cable.* PCBs at any concentration may be used in circuit breakers, reclosers, and cable and may be used for purposes of servicing this electrical equipment (including rebuilding) for the remainder of their useful lives, subject to the following conditions:

(1) *Servicing conditions.* (i) Circuit breakers, reclosers, and cable may be serviced (including rebuilding) only with dielectric fluid containing less than 50 ppm PCB.

(ii) Any circuit breaker, recloser or cable found to contain at least 50 ppm PCBs may be serviced only in accordance with the conditions contained in 40 CFR 761.30(h)(2).

(2) [Reserved]

(n)-(o) [Reserved]

(p) *Continued use of porous surfaces contaminated with PCBs regulated for disposal by spills of liquid PCBs.* (1) Any person may use porous surfaces contaminated by spills of liquid PCBs at concentrations ; 50 ppm for the remainder of the useful life of the surfaces and subsurface material if the following conditions are met:

(i) The source of PCB contamination is removed or contained to prevent further release to porous surfaces.

(ii) If the porous surface is accessible to superficial surface cleaning:

(A) The double wash rinse procedure in subpart S of this part is conducted on the surface to remove surface PCBs.

(B) The treated surface is allowed to dry for 24 hours.

(iii) After accessible surfaces have been cleaned according to paragraph (p)(1)(ii) of this section and for all surfaces inaccessible to cleanup:

(A) The surface is completely covered to prevent release of PCBs with:

(1) Two solvent resistant and water repellent coatings of contrasting colors to allow for a visual indication of wear through or loss of outer coating integrity; or

(2) A solid barrier fastened to the surface and covering the contaminated area or all accessible parts of the contaminated area. Examples of inaccessible areas are underneath a floor-mounted electrical transformer and in an impassible space between an electrical transformer and a vault wall.

(B) The surface is marked with the ML Mark in a location easily visible to individuals present in the area; the ML Mark shall be placed over the encapsulated area or the barrier to the encapsulated area.

(C) ML Marks shall be replaced when worn or illegible.

(2) Removal of a porous surface contaminated with PCBs from its location or current use is prohibited except for removal for disposal in accordance with §§ 761.61 or 761.79 for surfaces contaminated by spills, or § 761.62 for manufactured porous surfaces.

(q) [Reserved]

(r) *Use in and servicing of rectifiers.* Any person may use PCBs at any concentration in rectifiers for the remainder of the PCBs' useful life, and may use PCBs <50 ppm in servicing (including rebuilding) rectifiers.

(s) *Use of PCBs in air compressor systems.* (1) Any person may use PCBs in air compressor systems at concentrations <50 ppm.

(2) Any person may use PCBs in air compressor systems (or components thereof) at concentrations  $\geq$ 50 ppm provided that:

(i) All free-flowing liquids containing PCBs  $\geq$ 50 ppm are removed from the air compressor crankcase and the crankcase is refilled with non-PCB liquid.

(ii) Other air compressor system components contaminated with PCBs  $\geq$ 50 ppm, are decontaminated in accordance with § 761.79 or disposed of in accordance with subpart D of this part.

(iii) Air compressor piping with a nominal inside diameter of <2 inches is decontaminated by continuous flushing for 4 hours, at no <300 gallons per hour (§ 761.79 contains solvent requirements).

(3) The requirements in paragraph (s)(2) of this section must be completed by August 30, 1999 or within 1 year of the date of discovery of PCBs at  $\geq$ 50 ppm in the air compressor system, whichever is later. The EPA Regional Administrator for the EPA Region in which an air compressor system is located may, at his/her discretion and in writing, extend this timeframe.

(t) *Use of PCBs in other gas or liquid transmission systems.* (1) PCBs are authorized for use in intact and non-leaking gas or liquid transmission systems at concentrations <50 ppm PCBs.

(2) PCBs are authorized for use at concentrations  $\geq$ 50 ppm in intact and non-leaking gas or liquid transmission systems not owned or operated by a seller or distributor of the gas or liquid transmitted in the system.

(3) Any person may use PCBs at concentrations  $\geq$ 50 ppm in intact and non-leaking gas or liquid transmission systems, with the written approval of the Director, National Program Chemicals Division, subject to the requirements applicable to natural gas pipeline systems at paragraphs (i)(1)(iii)(A), (i)(1)(iii)(C) through (i)(1)(iii)(E), and (i)(2) through (i)(5) of this section.

(u) *Use of decontaminated materials.* (1) Any person may use equipment, structures, other non-liquid or liquid materials that were contaminated with PCBs during manufacture, use, servicing, or because of spills from, or proximity to, PCBs  $\geq$ 50 ppm, including those not otherwise authorized for use under this part, provided:

(i) The materials were decontaminated in accordance with:

(A) A TSCA PCB disposal approval issued under subpart D of this part;

(B) Section 761.79; or

(C) Applicable EPA PCB spill cleanup policies (e.g., TSCA, RCRA, CERCLA, EPA regional) in effect at the time of the decontamination; or

(ii) If not previously decontaminated, the materials now meet an applicable decontamination standard in § 761.79(b).

(2) No person shall use or reuse materials decontaminated in accordance with paragraph (u)(1)(i) of this section or meeting an applicable decontamination standard in paragraph (u)(1)(ii) of this section, in direct contact with food, feed, or drinking water unless otherwise allowed under this section or this part.

(3) Any person may use water containing PCBs at concentrations  $\leq$ 0.5  $\mu$ g/L PCBs without restriction.

(4) Any person may use water containing PCBs at concentrations <200  $\mu$ g/L (i.e., < 200 ppb PCBs) for non-contact use in a closed system where there are no releases (e.g., as a non-contact cooling water). (Sec. 6, Pub. L. 94-469, 90 Stat. 2020, 2025 (15 U.S.C. 2605)

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]

**Editorial Note:** For Federal Register citations affection § 761.30 see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.35 Storage for reuse.**

(a) The owner or operator of a PCB Article may store it for reuse in an area which is not designed, constructed, and operated in compliance with § 761.65(b), for no more than 5 years after the date the Article was originally removed from use (e.g., disconnected electrical equipment) or 5 years after August 28, 1998, whichever is later, if the owner or operator complies with the following conditions:

(1) Follows all use requirements at § 761.30 and marking requirements at subpart C of this part that are applicable to the PCB Article.

(2) Maintains records starting at the time the PCB Article is removed from use or August 28, 1998. The records must indicate:

(i) The date the PCB Article was removed from use or August 28, 1998, if the removal date is not known.

(ii) The projected location and the future use of the PCB Article.

(iii) If applicable, the date the PCB Article is scheduled for repair or servicing.

(b) The owner or operator of a PCB Article may store it for reuse in an area that does not comply with § 761.65(b) for a period longer than 5 years, provided that the owner or operator has received written approval from the EPA Regional Administrator for the Region in which the PCB Article is stored. An owner or operator of a PCB Article seeking approval to extend the 5-year period must submit a request for extension to the EPA Regional Administrator at least 6 months before the 5-year storage for reuse period expires and must include an item- by-item justification for the desired extension. The EPA Regional Administrator may include any conditions to such approval deemed necessary to protect health or the environment. The owner or operator of the PCB Article being stored for reuse must comply with the other applicable provisions of this part, including the record retention requirements at § 761.180(a).

(c) Any person may store a PCB Article for reuse indefinitely in:

(1) A unit in compliance with § 761.65(b).

(2) A unit permitted under section 3004 of RCRA to manage hazardous wastes in containers.

(3) A unit permitted by a State authorized under section 3006 of RCRA to manage hazardous waste.

[63 FR 35443, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.40 Marking requirements.**

(a) Each of the following items in existence on or after July 1, 1978 shall be marked as illustrated in Figure 1 in § 761.45(a): The mark illustrated in Figure 1 is referred to as ML throughout this subpart.

(1) PCB Containers;

(2) PCB Transformers at the time of manufacture, at the time of distribution in commerce if not already marked, and at the time of removal from use if not already marked. [Marking of PCB-Contaminated Electrical Equipment is not required];

(3) PCB Large High Voltage Capacitors at the time of manufacture, at the time of distribution in commerce if not already marked, and at the time of removal from use if not already marked;

(4) Equipment containing a PCB Transformer or a PCB Large High Voltage Capacitor at the time of manufacture, at the time of distribution in commerce if not already marked, and at the time of removal of the equipment from use if not already marked;

(5) PCB Large Low Voltage Capacitors at the time of removal from use (see also paragraph (k) of this section).

(6) Electric motors using PCB coolants (See also paragraph (e) of this section).

(7) Hydraulic systems using PCB hydraulic fluid (See also paragraph (e) of this section);

(8) Heat transfer systems (other than PCB Transformers) using PCBs (See also paragraph (e) of this section);

(9) PCB Article Containers containing articles or equipment that must be marked under paragraphs (a) (1) through (8) of this section;



(10) Each storage area used to store PCBs and PCB Items for disposal.

(b) As of October 1, 1978, each transport vehicle loaded with PCB Containers that contain more than 45 kg (99.4 lbs.) of liquid PCBs at concentrations of  $\geq$ 50 ppm or with one or more PCB Transformers shall be marked on each end and each side with the ML mark as described in § 761.45(a).

(c) As of January 1, 1979, the following PCB Articles shall be marked with mark ML as described in § 761.45(a):

(1) All PCB Transformers not marked under paragraph (a) of this section [marking of PCB-Contaminated Electrical Equipment is not required];

(2) All PCB Large High Voltage Capacitors not marked under paragraph (a) of this section

(i) Will be marked individually with mark ML, or

(ii) If one or more PCB Large High Voltage Capacitors are installed in a protected location such as on a power pole, or structure, or behind a fence; the pole, structure, or fence shall be marked with mark ML, and a record or procedure identifying the PCB Capacitors shall be maintained by the owner or operator at the protected location.

(d) As of January 1, 1979, all PCB Equipment containing a PCB Small Capacitor shall be marked at the time of manufacture with the statement, "This equipment contains PCB Capacitor(s)". The mark shall be of the same size as the mark ML.

(e) As of October 1, 1979, applicable PCB Items in paragraphs (a)(1), (a)(6), (a)(7), and (a)(8) of this section containing PCBs in concentrations of 50 to 500 ppm shall be marked with the ML mark as described in § 761.45(a).

(f) Where mark ML is specified but the PCB Article or PCB Equipment is too small to accommodate the smallest permissible size of mark ML, mark MS as described in § 761.45(b), may be used instead of mark ML.

(g) Each large low voltage capacitor, each small capacitor normally used in alternating current circuits, and each fluorescent light ballast manufactured ("manufactured", for purposes of this sentence, means built) between July 1, 1978 and July 1, 1998 that do not contain PCBs shall be marked by the manufacturer at the time of manufacture with the statement, "No PCBs". The mark shall be of similar durability and readability as other marking that indicate electrical information, part numbers, or the manufacturer's name. For purposes of this paragraph marking requirement only is applicable to items built domestically or abroad after June 30, 1978.

(h) All marks required by this subpart must be placed in a position on the exterior of the PCB Items, storage units, or transport vehicles so that the marks can be easily read by any persons inspecting or servicing the marked PCB Items, storage units, or transport vehicles.

(i) Any chemical substance or mixture that is manufactured after the effective date of this rule and that contains less than 500 ppm PCB (0.05% on a dry weight basis), including PCB that is a byproduct or impurity, must be marked in accordance with any requirements contained in the exemption granted by EPA to permit such manufacture and is not subject to any other requirement in this subpart unless so specified in the exemption. This paragraph applies only to containers of chemical substances or mixtures.

PCB articles and equipment into which the chemical substances or mixtures are processed, are subject to the marking requirements contained elsewhere in this subpart.

(j) PCB Transformer locations shall be marked as follows:

(1) Except as provided in paragraph (j)(2) of this section, as of December 1, 1985, the vault door, machinery room door, fence, hallway, or means of access, other than grates and manhole covers, to a PCB Transformer must be marked with the mark ML as required by paragraph (a) of this section.

(2) A mark other than the ML mark may be used provided all of the following conditions are met:

(i) The program using such an alternative mark was initiated prior to August 15, 1985, and can be substantiated with documentation.

(ii) Prior to August 15, 1985, coordination between the transformer owner and the primary fire department occurred, and the primary fire department knows, accepts, and recognizes what the alternative mark means, and that this can be substantiated with documentation.

(iii) The EPA Regional Administrator in the appropriate region is informed in writing of the use of the alternative mark by October 3, 1988 and is provided with documentation that the program began before August 15, 1985, and documentation that demonstrates that prior to that date the primary fire department knew, accepted and recognized the meaning of the mark, and included this information in firefighting training.

(iv) The Regional Administrator will either approve or disapprove in writing the use of an alternative mark within 30 days of receipt of the documentation of a program.

(3) Any mark placed in accordance with the requirements of this section must be placed in the locations described in paragraph (j)(1) of this section and in a manner that can be easily read by emergency response personnel fighting a fire involving this equipment.

(k) As of April 26, 1999 the following PCB Items shall be marked with the ML mark as described in § 761.45(a):

(1) All PCB Large Low Voltage Capacitors not marked under paragraph (a) of this section shall be marked individually, or if one or more PCB Large Low Voltage Capacitors are installed in a protected location such as on a power pole, or structure, or behind a fence, then the owner or operator shall mark the pole, structure, or fence with the ML mark, and maintain a record or procedure identifying the PCB Capacitors at the protected location. PCB Large Low Voltage Capacitors in inaccessible locations inside equipment need not be marked individually, provided the owner or operator marks the equipment in accordance with paragraph (k)(2) of this section, and marks the individual capacitors at the time of removal from use in accordance with paragraph (a) of this section.

(2) All equipment not marked under paragraph (a) of this section containing a PCB Transformer or a PCB Large High or Low Voltage Capacitor.

(1)(1) All voltage regulators which contain 1.36 kilograms (3 lbs.) or more of dielectric fluid with a PCB concentration of &ge; 500 ppm must be marked individually with the ML mark as described in § 761.45(a).

(2) Locations of voltage regulators which contain 1.36 kilograms (3 lbs.) or more of dielectric fluid with a PCB concentration of  $\geq$  500 ppm shall be marked as follows: The vault door, machinery room door, fence, hallway, or means of access, other than grates or manhole covers, must be marked with the ML mark as described in § 761.45(a).

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982, and amended at 47 FR 37359, Aug. 25, 1982; 50 FR 29201, July 17, 1985; 50 FR 32176, Aug. 9, 1985; 53 FR 12524, Apr. 15, 1988; 53 FR 27329, July 19, 1988; 63 FR 35443, June 29, 1998; 64 FR 33760, June 24, 1999]





**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

## **40 CFR - CHAPTER I - PART 761**

[View Part](#)

### **§ 761.45 Marking formats.**

The following formats shall be used for marking:

(a) *Large PCB Mark -- ML.* Mark ML shall be as shown in Figure 1, letters and striping on a white or yellow background and shall be sufficiently durable to equal or exceed the life (including storage for disposal) of the PCB Article, PCB Equipment, or PCB Container. The size of the mark shall be at least 15.25 cm (6 inches) on each side. If the PCB Article or PCB Equipment is too small to accommodate this size, the mark may be reduced in size proportionately down to a minimum of 5 cm (2 inches) on each side.

(b) *Small PCB Mark -- Ms.* Mark Ms shall be as shown in Figure 2, letters and striping on a white or yellow background, and shall be sufficiently durable to equal or exceed the life (including storage for disposal) of the PCB Article, PCB Equipment, or PCB Container. The mark shall be a rectangle 2.5 by 5 cm (1 inch by 2 inches). If the PCB Article or PCB Equipment is too small to accommodate this size, the mark may be reduced in size proportionately down to a minimum of 1 by 2 cm (.4 by .8 inches).



Figure 1



Figure 2

[View or Download PDF](#)

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

40 CFR - CHAPTER I - PART 761

[View Part](#)

**§ 761.50 Applicability.**

(a) *General PCB disposal requirements.* Any person storing or disposing of PCB waste must do so in accordance with subpart D of this part. The following prohibitions and conditions apply to all PCB waste storage and disposal:

- (1) No person may open burn PCBs. Combustion of PCBs approved under § 761.60 (a) or (e), or otherwise allowed under part 761, is not open burning.
- (2) No person may process liquid PCBs into non-liquid forms to circumvent the high temperature incineration requirements of § 761.60(a).
- (3) No person may discharge water containing PCBs to a treatment works (as defined § 503.9(aa) of this chapter) or to navigable waters unless the PCB concentration is  $<3 \mu\text{g/L}$  (approximately 3 ppb), or unless the discharge is in accordance with a PCB discharge limit included in a permit issued under section 307(b) or 402 of the Clean Water Act.
- (4) Spills and other uncontrolled discharges of PCBs at concentrations of  $\geq 50$  ppm constitute the disposal of PCBs.
- (5) Any person land disposing of non-liquid PCBs may avoid otherwise-applicable sampling requirements by presuming that the PCBs disposed of are  $\geq 500$  ppm (or  $\geq 100 \mu\text{g}/100 \text{ cm}^2$  if no free-flowing liquids are present).
- (6) Any person storing or disposing of PCBs is also responsible for determining and complying with all other applicable Federal, State, and local laws and regulations.

(b) *PCB waste.* (1) *PCB liquids.* Any person removing PCB liquids from use (i.e., not PCB remediation waste) must dispose of them in accordance with § 761.60(a), or decontaminate them in accordance with § 761.79.

(2) *PCB Items*. Any person removing from use a PCB Item containing an intact and non-leaking PCB Article must dispose of it in accordance with § 761.60(b), or decontaminate it in accordance with § 761.79. PCB Items where the PCB Articles are no longer intact and non-leaking are regulated for disposal as PCB bulk product waste under § 761.62(a) or (c).

(i) Fluorescent light ballasts containing PCBs only in an intact and non-leaking PCB Small Capacitor are regulated for disposal under § 761.60(b)(2)(ii).

(ii) Fluorescent light ballasts containing PCBs in the potting material are regulated for disposal as PCB bulk product waste under § 761.62.

(3) *PCB remediation waste*. PCB remediation waste, including PCB sewage sludge, is regulated for cleanup and disposal in accordance with § 761.61.

(i) Any person responsible for PCB waste at as-found concentrations  $\geq$  50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment prior to April 18, 1978, regardless of the concentration of the spill or release; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was  $\geq$  50 ppm but  $<$  500 ppm, must dispose of the waste as follows:

(A) Sites containing these wastes are presumed not to present an unreasonable risk of injury to health or the environment from exposure to PCBs at the site. However, the EPA Regional Administrator may inform the owner or operator of the site that there is reason to believe that spills, leaks, or other uncontrolled releases or discharges, such as leaching, from the site constitute ongoing disposal that may present an unreasonable risk of injury to health or the environment from exposure to PCBs at the site, and may require the owner or operator to generate data necessary to characterize the risk. If after reviewing any such data, the EPA Regional Administrator makes a finding, that an unreasonable risk exists, then he or she may direct the owner or operator of the site to dispose of the PCB remediation waste in accordance with § 761.61 such that an unreasonable risk of injury no longer exists.

(B) Unless directed by the EPA Regional Administrator to dispose of PCB waste in accordance with paragraph (b)(3)(i)(A) of this section, any person responsible for PCB waste at as-found concentrations  $\geq$  50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment prior to April 18, 1978, regardless of the concentration of the spill or release; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was  $\geq$  50 ppm but  $<$  500 ppm, who unilaterally decides to dispose of that waste (for example, to obtain insurance or to sell the property), is not required to clean up in accordance with § 761.61. Disposal of the PCB remediation waste must comply with § 761.61. However, cleanup of those wastes that is not in complete compliance with § 761.61 will not afford the responsible party with relief from the applicable PCB regulations for that waste.

(ii) Any person responsible for PCB waste at as-found concentrations  $\geq$  50 ppm that was either placed in a land disposal facility, spilled, or otherwise released into the environment on or after April 18, 1978, but prior to July 2, 1979, where the concentration of the spill or release was  $\geq$  500 ppm; or placed in a land disposal facility, spilled, or otherwise released into the environment on or after July 2, 1979, where the concentration of the spill or release was  $\geq$  50 ppm, must dispose of it in accordance

with either of the following:

(A) In accordance with the PCB Spill Cleanup Policy (Policy) at subpart G of this part, for those PCB remediation wastes that meet the criteria of the Policy. Consult the Policy for a description of the spills it covers and its notification and timing requirements.

(B) In accordance with § 761.61. Complete compliance with § 761.61 does not create a presumption against enforcement action for penalties for any unauthorized PCB disposal.

(iii) The owner or operator of a site containing PCB remediation waste has the burden of proving the date that the waste was placed in a land disposal facility, spilled, or otherwise released into the environment, and the concentration of the original spill.

(4) *PCB bulk product waste* -- (i) *General*. Any person disposing of PCB bulk product waste must do so in accordance with § 761.62. PCB bulk product waste, as that term is defined in § 761.3, is waste that was  $\geq 50$  ppm when originally removed from service, even if its current PCB concentration is  $< 50$  ppm. PCB bulk product waste is regulated for disposal based on the risk from the waste once disposed of. For waste which is land disposed, the waste is regulated based on how readily the waste is released from disposal to the environment, in particular by leaching out from the land disposal unit.

(ii) *Metal surfaces in contact with PCBs*. Any person disposing of metal surfaces in contact with PCBs (e.g., painted metal) may use thermal decontamination procedures in accordance with § 761.79(c)(6) (see § 761.62(a)(6)).

(5) *PCB household waste*. Any person storing or disposing of PCB household waste, as that term is defined in § 761.3, must do so in accordance with § 761.63.

(6) *PCB research and development waste*. Any person disposing of PCB wastes generated during and as a result of research and development for use under § 761.30(j), or for disposal under § 761.60(j), must do so in accordance with § 761.64.

(7) *PCB/Radioactive waste*. (i) Any person storing PCB/radioactive waste  $\geq 50$  ppm PCBs must do so taking into account both its PCB concentration and its radioactive properties, except as provided in § 761.65(a)(1), (b)(1)(ii), and (c)(6)(i).

(ii) Any person disposing of PCB/radioactive waste must do so taking into account both its PCB concentration and its radioactive properties. If, taking into account only the properties of the PCBs in the waste (and not the radioactive properties of the waste), the waste meets the requirements for disposal in a facility permitted, licensed, or registered by a State as a municipal or non-municipal non-hazardous waste landfill (e.g., PCB bulk product waste under § 761.62(b)(1)), then the person may dispose of the PCB/radioactive waste, without regard to the PCB component of the waste, on the basis of its radioactive properties in accordance with all applicable requirements for the radioactive component of the waste.

(8) *Porous surfaces*. In most cases a person must dispose of porous surfaces as materials where PCBs have penetrated far beneath the surface, rather than a simple surface contamination. Any person disposing of porous surfaces on which PCBs have been spilled and meeting the definition of PCB remediation waste at § 761.3 must do so in accordance with § 761.61. Any person disposing of porous surfaces which are part of manufactured non-liquid products containing PCBs and meeting the definition of PCB bulk product waste at § 761.3 must do so in accordance with § 761.62. Any person may



decontaminate concrete surfaces upon which PCBs have been spilled in accordance with § 761.79(b)(4), if the decontamination procedure is commenced within 72 hours of the initial spill of PCBs to the concrete or portion thereof being decontaminated. Any person may decontaminate porous non-liquid PCBs in contact with non-porous surfaces, such as underground metal fuel tanks coated with fire retardant resin or pitch, for purposes of unrestricted use or disposal in a smelter in accordance with § 761.79(b)(3).

(c) *Storage for disposal.* Any person who holds PCB waste must store it in accordance with § 761.65.

(d) *Performance specifications for disposal technologies -- (1) Incinerators.* Any person using an incinerator to dispose of PCBs must use an incinerator that meets the criteria set forth in § 761.70.

(2) *High efficiency boilers.* Any person using a high efficiency boiler to dispose of PCBs must use a boiler that meets the criteria set forth in § 761.71.

(3) *Scrap metal recovery ovens and smelters.* Any person using scrap metal recovery ovens and smelters to dispose of PCBs must use a device that meets the criteria set forth in § 761.72.

(4) *Chemical waste landfills.* Any person using a chemical waste landfill to dispose of PCBs must use a chemical waste landfill that meets the criteria set forth in § 761.75.

(e) *TSCA PCB Coordinated Approval.* Any person seeking a TSCA PCB Coordinated Approval must follow the procedures set forth in § 761.77.

[63 FR 35444, June 29, 1998, as amended at 64 FR 33760, June 24, 1999]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.60 Disposal requirements.**

(a) *PCB liquids*. PCB liquids at concentrations  $\geq 50$  ppm must be disposed of in an incinerator which complies with § 761.70, except that PCB liquids at concentrations  $\geq 50$  ppm and  $< 500$  ppm may be disposed of as follows:

- (1) For mineral oil dielectric fluid, in a high efficiency boiler according to § 761.71(a).
- (2) For liquids other than mineral oil dielectric fluid, in a high efficiency boiler according to § 761.71(b).
- (3) For liquids from incidental sources, such as precipitation, condensation, leachate or load separation and are associated with PCB Articles or non-liquid PCB wastes, in a chemical waste landfill which complies with § 761.75 if:

(i) [Reserved]

(ii) Information is provided to or obtained by the owner or operator of the chemical waste landfill that shows that the liquids do not exceed 500 ppm PCB and are not an ignitable waste as described in § 761.75(b)(8)(iii).

(b) *PCB Articles*. This paragraph does not authorize disposal that is otherwise prohibited in § 761.20 or elsewhere in this part.

(1) *Transformers*. (i) PCB Transformers shall be disposed of in accordance with either of the following:

(A) In an incinerator that complies with § 761.70; or

(B) In a chemical waste landfill approved under § 761.75; provided that all free-flowing liquid is removed from the transformer, the transformer is filled with a solvent, the transformer is allowed to stand for at least 18 continuous hours, and then the solvent is thoroughly removed. Any person disposing of PCB liquids that are removed from the transformer (including the dielectric fluid and all solvents used as

a flush), shall do so in an incinerator that complies with § 761.70 of this part, or shall decontaminate them in accordance with § 761.79. Solvents may include kerosene, xylene, toluene, and other solvents in which PCBs are readily soluble. Any person disposing of these PCB liquids must ensure that the solvent flushing procedure is conducted in accordance with applicable safety and health standards as required by Federal or State regulations.

(ii) [Reserved]

(2) *PCB Capacitors.* (i) The disposal of any capacitor shall comply with all requirements of this subpart unless it is known from label or nameplate information, manufacturer's literature (including documented communications with the manufacturer), or chemical analysis that the capacitor does not contain PCBs.

(ii) Any person may dispose of PCB Small Capacitors as municipal solid waste, unless that person is subject to the requirements of paragraph (b)(2)(iv) of this section.

(iii) Any PCB Large High or Low Voltage Capacitor which contains 500 ppm or greater PCBs, owned by any person, shall be disposed of in accordance with either of the following:

(A) Disposal in an incinerator that complies with § 761.70; or

(B) Until March 1, 1981, disposal in a chemical waste landfill that complies with § 761.75.

(iv) Any person who manufactures or at any time manufactured PCB Capacitors or PCB Equipment, and acquired the PCB Capacitor in the course of such manufacturing, shall place the PCB Small Capacitors in a container meeting the DOT packaging requirements at 49 CFR parts 171 through 180 and dispose of them in accordance with either of the following:

(A) Disposal in an incinerator which complies with § 761.70; or

(B) Until March 1, 1981, disposal in a chemical waste landfill which complies with § 761.75.

(v) Notwithstanding the restrictions imposed by paragraph (b)(2)(iii)(B) or (b)(2)(iv)(B) of this section, PCB capacitors may be disposed of in PCB chemical waste landfills that comply with § 761.75 subsequent to March 1, 1981, if the Assistant Administrator for Prevention, Pesticides and Toxic Substances publishes a notice in the Federal Register declaring that those landfills are available for such disposal and explaining the reasons for the extension or reopening. An extension or reopening for disposal of PCB capacitors that is granted under this subsection shall be subject to such terms and conditions as the Assistant Administrator may prescribe and shall be in effect for such period as the Assistant Administrator may prescribe. The Assistant Administrator may permit disposal of PCB capacitors in EPA approved chemical waste landfills after March 1, 1981, if in his opinion,

(A) Adequate incineration capability for PCB capacitors is not available, or

(B) The incineration of PCB capacitors will significantly interfere with the incineration of liquid PCBs, or

(C) There is other good cause shown. As part of this evaluation, the Assistant Administrator will consider the impact of his action on the incentives to construct or expand PCB incinerators.

(vi) Any person disposing of large PCB capacitors or small PCB capacitors described in paragraph (b)(2)(iv) of this section in a chemical waste landfill approved under § 761.75, shall first place them in a

container meeting the DOT packaging requirements at 49 CFR parts 171 through 180. In all cases, the person must fill the interstitial space in the container with sufficient absorbent material (such as soil) to absorb any liquid PCBs remaining in the capacitors.

(3) *PCB hydraulic machines.* (i) Any person disposing of PCB hydraulic machines containing PCBs at concentrations of  $\geq 50$  ppm, such as die casting machines, shall do so by one of the following methods:

(A) In accordance with § 761.79.

(B) In a facility which is permitted, licensed, or registered by a State to manage municipal solid waste subject to part 258 of this chapter or non-municipal non-hazardous waste subject to §§ 257.5 through 257.30 of this chapter, as applicable (excluding thermal treatment units).

(C) In a scrap metal recovery oven or smelter operating in compliance with § 761.72.

(D) In a disposal facility approved under this part.

(ii) All free-flowing liquid must be removed from each machine and the liquid must be disposed of in accordance with the provisions of paragraph (a) of this section. If the PCB liquid contains  $\geq 1,000$  ppm PCB, then the hydraulic machine must be decontaminated in accordance with § 761.79 or flushed prior to disposal with a solvent listed at paragraph (b)(1)(i)(B) of this section which contains  $< 50$  ppm PCB. The solvent must be disposed of in accordance with paragraph (a) of this section or § 761.79.

(4) *PCB-Contaminated Electrical Equipment.* Any person disposing of PCB-Contaminated Electrical Equipment, except capacitors, shall do so in accordance with paragraph (b)(6)(ii)(A) of this section. Any person disposing of Large Capacitors that contain  $\geq 50$  ppm but  $< 500$  ppm PCBs shall do so in a disposal facility approved under this part.

(5) *Natural gas pipeline systems containing PCBs.* The owner or operator of natural gas pipeline systems containing  $\geq 50$  ppm PCBs, when no longer in use, shall dispose of the system either by abandonment in place of the pipe under paragraph (b)(5)(i) of this section or removal with subsequent action under paragraph (b)(5)(ii) of this section. Any person determining the PCB concentrations in natural gas pipeline systems shall do so in accordance with paragraph (b)(5)(iii) of this section.

(i) *Abandonment.* Natural gas pipe containing  $\geq 50$  ppm PCBs may be abandoned in place under one or more of the following provisions:

(A) Natural gas pipe having a nominal inside diameter of  $\leq 4$  inches, and containing PCBs at any concentration but no free-flowing liquids, may be abandoned in the place it was used to transport natural gas if each end is sealed closed and the pipe is either:

(1) Included in a public service notification program, such as a "one-call" system under 49 CFR 192.614(a) and (b).

(2) Filled to 50 percent or more of the volume of the pipe with grout (such as a hardening slurry consisting of cement, bentonite, or clay) or high density polyurethane foam.

(B) PCB-Contaminated natural gas pipe of any diameter, where the PCB concentration was determined after the last transmission of gas through the pipe or at the time of abandonment, that contains no

free-flowing liquids may be abandoned in the place it was used to transport natural gas if each end is sealed closed.

(C) Natural gas pipe of any diameter which contains PCBs at any concentration but no free-flowing liquids, may be abandoned in the place it was used to transport natural gas, if each end is sealed closed, and either:

(1) The interior surface is decontaminated with one or more washes of a solvent in accordance with the use and disposal requirements of § 761.79(d). This decontamination process must result in a recovery of 95 percent of the solvent volume introduced into the system, and the PCB concentration of the recovered wash must be <50 ppm (see § 761.79(a)(1) for requirements on use and disposal of decontaminating fluids).

(2) The pipe is filled to 50 percent or more of the volume of the pipe with grout (such as a hardening slurry-like cement, bentonite, or clay) or high density polyurethane foam (except that only cement shall be used as grout under rivers or streams) and each end is sealed closed.

(D) Natural gas pipe of any diameter which contains PCBs at any concentration may be abandoned in place after decontamination in accordance with § 761.79(c)(3), (c)(4) or (h) or a PCB disposal approval issued under § 761.60(e) or § 761.61(c).

(ii) *Removal with subsequent action.* Natural gas pipeline systems may be disposed of under one of the following provisions:

(A) The following classifications of natural gas pipe containing no free-flowing liquids may be disposed of in a facility permitted, licensed, or registered by a State to manage municipal solid waste subject to part 258 of this chapter or non-municipal non-hazardous waste subject to §§ 257.5 through 257.30 of this chapter, as applicable (excluding thermal treatment units); a scrap metal recovery oven or smelter operating in compliance with the requirements of § 761.72; or a disposal facility approved under this part:

(1) PCB-Contaminated natural gas pipe of any diameter where the PCB concentration was determined after the last transmission of gas through the pipe or during removal from the location it was used to transport natural gas.

(2) Natural gas pipe containing PCBs at any concentration and having a nominal inside diameter &le;4 inches.

(B) Any component of a natural gas pipeline system may be disposed of under one of the following provisions:

(1) In an incinerator operating in compliance with § 761.70.

(2) In a chemical waste landfill operating in compliance with § 761.75, provided that all free-flowing liquid PCBs have been thoroughly drained.

(3) As a PCB remediation waste in compliance with § 761.61.

(4) In accordance with § 761.79.

(iii) *Characterization of natural gas pipeline systems by PCB concentration in condensate.* (A) Any

person disposing of a natural gas pipeline system under paragraphs (b)(5)(i)(B) or (b)(5)(ii)(A)(I) of this section must characterize it for PCB contamination by analyzing organic liquids collected at existing condensate collection points in the natural gas pipeline system. The level of PCB contamination found at a collection point is assumed to extend to the next collection point downstream. If no organic liquids are present, drain free-flowing liquids and collect standard wipe samples according to subpart M of this part. Collect condensate within 72 hours of the final transmission of natural gas through the part of the system to be abandoned or removed. Collect wipe samples after the last transmission of gas through the pipe or during removal from the location it was used to transport natural gas.

(B) PCB concentration of the organic phase of multi-phasic liquids shall be determined in accordance with § 761.1(b)(4).

(iv) *Disposal of pipeline liquids.* (A) Any person disposing of liquids containing PCBs  $\geq$ 50 ppm removed, spilled, or otherwise released from a natural gas pipeline system must do so in accordance with § 761.61(a)(5)(iv) based on the PCB concentration at the time of removal from the system. Any person disposing of material contaminated by spills or other releases of PCBs  $\geq$ 50 ppm from a natural gas pipeline system, must do so in accordance with § 761.61 or § 761.79, as applicable.

(B) Any person who markets or burns for energy recovery liquid containing PCBs at concentrations  $<$ 50 ppm PCBs at the time of removal from a natural gas pipeline system must do so in accordance with the provisions pertaining to used oil at § 761.20(e). No other use of liquid containing PCBs at concentrations above the quantifiable level/level of detection removed from a natural gas pipeline system is authorized.

(6) *Other PCB Articles.* (i) PCB articles with concentrations at 500 ppm or greater must be disposed of:

(A) In an incinerator that complies with § 761.70; or

(B) In a chemical waste landfill that complies with § 761.75, provided that all free-flowing liquid PCBs have been thoroughly drained from any articles before the articles are placed in the chemical waste landfill and that the drained liquids are disposed of in an incinerator that complies with § 761.70.

(ii)(A) Except as specifically provided in paragraphs (b)(1) through (b)(5) of this section, any person disposing of a PCB-Contaminated Article must do so by removing all free-flowing liquid from the article, disposing of the liquid in accordance with paragraph (a) of this section, and disposing of the PCB-Contaminated Article with no free-flowing liquid by one of the following methods:

(1) In accordance with § 761.79.

(2) In a facility permitted, licensed, or registered by a State to manage municipal solid waste subject to part 258 of this chapter or non-municipal non-hazardous waste subject to §§ 257.5 through 257.30 of this chapter, as applicable (excluding thermal treatment units).

(3) In a scrap metal recovery oven or smelter operating in compliance with § 761.72.

(4) In a disposal facility approved under this part.

(B) Storage for disposal of PCB-Contaminated Articles from which all free-flowing liquids have been removed is not regulated under subpart D of this part.

(C) Requirements in subparts J and K of this part do not apply to PCB-Contaminated Articles from which all free-flowing liquids have been removed.

(iii) Fluorescent light ballasts containing PCBs in their potting material must be disposed of in a TSCA-approved disposal facility, as bulk product waste under § 761.62, as household waste under § 761.63 (where applicable), or in accordance with the decontamination provisions of § 761.79.

(7) *Storage of PCB Articles.* Except for a PCB Article described in paragraph (b)(2)(ii) of this section and hydraulic machines that comply with the municipal solid waste disposal provisions described in paragraph (b)(3) of this section, any PCB Article, with PCB concentrations at 50 ppm or greater, shall be stored in accordance with § 761.65 prior to disposal.

(8) Persons disposing of PCB Articles must wear or use protective clothing or equipment to protect against dermal contact with or inhalation of PCBs or materials containing PCBs.

(c) *PCB Containers.* (1) Unless decontaminated in compliance with § 761.79 or as provided in paragraph (c)(2) of this section, a PCB container with PCB concentrations at 500 ppm or greater shall be disposed of:

(i) In an incinerator which complies with § 761.70, or

(ii) In a chemical waste landfill that complies with § 761.75; provided that if there are PCBs in a liquid state, the PCB Container shall first be drained and the PCB liquid disposed of in accordance with paragraph (a) of this section.

(2) Any PCB Container used to contain only PCBs at a concentration less than 500 ppm shall be disposed of as municipal solid wastes; provided that if the PCBs are in a liquid state, the PCB Container shall first be drained and the PCB liquid shall be disposed of in accordance with paragraph (a) of this section.

(3) Prior to disposal, a PCB container with PCB concentrations at 50 ppm or greater shall be stored in a unit which complies with § 761.65.

(d) [Reserved]

(e) Any person who is required to incinerate any PCBs and PCB Items under this subpart and who can demonstrate that an alternative method of destroying PCBs and PCB Items exists and that this alternative method can achieve a level of performance equivalent to an incinerator approved under § 761.70 or a high efficiency boiler operating in compliance with § 761.71, must submit a written request to either the EPA Regional Administrator or the Director, National Program Chemicals Division, for a waiver from the incineration requirements of § 761.70 or § 761.71. Requests for approval of alternate methods that will be operated in more than one Region must be submitted to the Director, National Program Chemicals Division except for research and development activities involving less than 500 pounds of PCB material (see paragraph (i)(2) of this section). Requests for approval of alternate methods that will be operated in only one Region must be submitted to the appropriate EPA Regional Administrator. The applicant must show that his or her method of destroying PCBs will not present an unreasonable risk of injury to health or the environment. On the basis of such information and any available information, the EPA Regional Administrator or the Director, National Program Chemicals Division may, in his or her discretion, approve the use of the alternate method if he or she finds that the alternate disposal method provides PCB destruction equivalent to disposal in a § 761.70 incinerator or a § 761.71 high efficiency

boiler and will not present an unreasonable risk of injury to health or the environment. Any approval must be stated in writing and may include such conditions and provisions as the EPA Regional Administrator or Director, National Program Chemicals Division deems appropriate. The person to whom such waiver is issued must comply with all limitations contained in such determination. No person may use the alternate method of destroying PCBs or PCB Items prior to obtaining permission from the appropriate EPA official.

(f)(1) Each operator of a chemical waste landfill, incinerator, or alternative to incineration approved under paragraph (e) of this section shall give the following written notices to the state and local governments within whose jurisdiction the disposal facility is located:

(i) Notice at least thirty (30) days before a facility is first used for disposal of PCBs required by these regulations; and

(ii) At the request of any state or local government, annual notice of the quantities and general description of PCBs disposed of during the year. This annual notice shall be given no more than thirty (30) days after the end of the year covered.

(iii) The Regional Administrator may reduce the notice period required by paragraph (f)(1)(i) of this section from thirty days to a period of no less than five days in order to expedite interim approval of the chemical waste landfill located in Sedgwick County, Kansas.

(2) [Reserved]

(g) *Testing procedures.* (1) Owners or users of mineral oil dielectric fluid electrical equipment may use the following procedures to determine the concentration of PCBs in the dielectric fluid:

(i) Dielectric fluid removed from mineral oil dielectric fluid electrical equipment may be collected in a common container, provided that no other chemical substances or mixtures are added to the container. This common container option does not permit dilution of the collected oil. Mineral oil that is assumed or known to contain at least 50 ppm PCBs must not be mixed with mineral oil that is known or assumed to contain less than 50 ppm PCBs to reduce the concentration of PCBs in the common container. If dielectric fluid from untested, oil-filled circuit breakers, reclosers, or cable is collected in a common container with dielectric fluid from other oil-filled electrical equipment, the entire contents of the container must be treated as PCBs at a concentration of at least 50 ppm, unless all of the fluid from the other oil-filled electrical equipment has been tested and shown to contain less than 50 ppm PCBs.

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common containers or the individual electrical equipment to determine the PCB concentration, except that if any PCBs at a concentration of 500 ppm or greater have been added to the container or equipment then the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this subparagraph, representative samples of mineral oil dielectric fluid are either samples taken in accordance with ASTM D 923-86 or ASTM D 923-89 or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

(iii) Unless otherwise specified in this part, any person conducting the chemical analysis of PCBs shall do so using gas chromatography. Any gas chromatographic method that is appropriate for the material



being analyzed may be used, including EPA Method 608, "Organochlorine Pesticides and PCBs" at 40 CFR part 136, Appendix A;" EPA Method 8082, "Polychlorinated Biphenyls (PCBs) by Capillary Column Gas Chromatography" of SW-846, "OSW Test Methods for Evaluating Solid Waste," which is available from NTIS; and ASTM Standard D-4059, "Standard Test Method for Analysis of Polychlorinated Biphenyls in Insulating Liquids by Gas Chromatography," which is available from ASTM.

(2) Owners or users of waste oil may use the following procedures to determine the PCB concentration of waste oil:

(i) Waste oil from more than one source may be collected in a common container, provided that no other chemical substances or mixtures, such as non-waste oils, are added to the container.

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common containers or the individual electrical equipment to determine the PCB concentration. *Except*, That if any PCBs at a concentration of 500 ppm or greater have been added to the container or equipment then the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this paragraph, representative samples of mineral oil dielectric fluid are either samples taken in accordance with ASTM D 923-86 or ASTM D 923-89 or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

(iii) Unless otherwise specified in this part, any person conducting the chemical analysis of PCBs shall do so using gas chromatography. Any gas chromatographic method that is appropriate for the material being analyzed may be used, including those indicated in paragraph (g)(1)(iii) of this section.

(h) Requirements for export and import of PCBs and PCB Items for disposal are found in Subpart F of this part.

(i) *Approval authority for disposal methods.* (1) The officials (the Director, National Programs Chemical Division and the Regional Administrators) designated in §§ 761.60(e) and 761.70 (a) and (b) to receive requests for approval of PCB disposal activities are the primary approval authorities for these activities. Notwithstanding, the Director, National Programs Chemical Division may, at his/her discretion, assign the authority to review and approve any aspect of a disposal system to the Office of Prevention, Pesticides and Toxic Substances or to a Regional Administrator.

(2) Except for activity authorized under paragraph (j) of this section, research and development (R&D) for PCB disposal using a total of <500 pounds of PCB material (regardless of PCB concentration) will be reviewed and approved by the EPA Regional Administrator for the Region where the R&D will be conducted, and R&D for PCB disposal using 500 pounds or more of PCB material (regardless of PCB concentration) will be reviewed and approved by the Director, National Program Chemicals Division.

(j) *Self-implementing requirements for research and development (R&D) for PCB disposal.*

(1) Any person may conduct R&D for PCB disposal without prior written approval from EPA if they meet the following conditions:

(i) File a notification and obtain an EPA identification number pursuant to subpart K of this part.

(ii) Notify in writing the EPA Regional Administrator, the State environmental protection agency, and local environmental protection agency, having jurisdiction where the R&D for PCB disposal activity will occur at least 30 days prior to the commencement of any R&D for PCB disposal activity conducted under this section. Each written notification shall include the EPA identification number of the site where the R&D for PCB disposal activities will be conducted, the quantity of PCBs to be treated, the type of R&D technology to be used, the general physical and chemical properties of material being treated, and an estimate of the duration of the PCB activity. The EPA Regional Administrator, the State environmental protection agency, and the local environmental protection agency may waive notification in writing prior to commencement of the research.

(iii) The amount of material containing PCBs treated annually by the facility during R&D for PCB disposal activities does not exceed 500 gallons or 70 cubic feet of liquid or non-liquid PCBs and does not exceed a maximum concentration of 10,000 ppm PCBs.

(iv) No more than 1 kilogram total of pure PCBs per year is disposed of in all R&D for PCB disposal activities at a facility.

(v) Each R&D for PCB disposal activity under this section lasts no more than 1 calendar year.

(vi) Store all PCB wastes (treated and untreated PCB materials, testing samples, spent laboratory samples, residuals, untreated samples, contaminated media or instrumentation, clothing, etc.) in compliance with § 761.65(b) and dispose of them according to the undiluted PCB concentration prior to treatment. However, PCB materials not treated in the R&D for PCB disposal activity may be returned either to the physical location where the samples were collected or a location where other regulated PCBs from the physical location where the samples were collected are being stored for disposal.

(vii) Use manifests pursuant to subpart K of this part for all R&D PCB wastes being transported from the R&D facility to an approved PCB storage or disposal facility. However, §§ 761.207 through 761.218 do not apply if the residuals or treated samples are returned either to the physical location where the samples were collected or a location where other regulated PCBs from the physical location where the samples were collected are being stored for disposal.

(viii) Package and ship all PCB wastes pursuant to DOT requirements under 49 CFR parts 171 through 180.

(ix) Comply with the recordkeeping requirements of § 761.180.

(2) Do not exceed material limitations set out in paragraphs (j)(1) (iii) and (iv) of this section and the time limitation set out in paragraph (j)(1)(v) of this section without prior written approval from EPA. Requests for approval to exceed the material limitations for PCBs in R&D for PCB disposal activities as specified in this section must be submitted in writing to the EPA Regional Administrator for the Region in which the facility conducting R&D for PCB disposal activities is located. Each request shall specify the quantity or concentration requested or additional time needed for disposal and include a justification for each increase. For extensions to the duration of the R&D for PCB disposal activity, the request shall also include a report on the accomplishments and progress of the previously authorized R&D for PCB disposal activity for which the extension is sought. The EPA Regional Administrator may grant a waiver in writing for an increase in the volume of PCB material, the maximum concentration of PCBs, the total amount of pure PCBs, or the duration of the R&D activity. Approvals will state all requirements applicable to the R&D for PCB disposal activity.

(3) The EPA Regional Administrator for the Region in which an R&D for PCB disposal activity is conducted may determine, at any time, that an R&D PCB disposal approval is required under paragraphs (e) and (i)(2) of this section or § 761.70(d) to ensure that any R&D for PCB disposal activity does not present an unreasonable risk of injury to health or the environment. (Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605))

[44 FR 31542, May 31, 1979]

**Editorial Note:** For Federal Register citations affecting § 761.60, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.61 PCB remediation waste.**

This section provides cleanup and disposal options for PCB remediation waste. Any person cleaning up and disposing of PCBs managed under this section shall do so based on the concentration at which the PCBs are found. This section does not prohibit any person from implementing temporary emergency measures to prevent, treat, or contain further releases or mitigate migration to the environment of PCBs or PCB remediation waste.

(a) *Self-implementing on-site cleanup and disposal of PCB remediation waste.* EPA designed the self-implementing procedure for a general, moderately-sized site where there should be low residual environmental impact from remedial activities. The procedure may be less practical for larger or environmentally diverse sites. For these other sites, the self-implementing procedure still applies, but an EPA Regional Administrator may authorize more practical procedures through paragraph (c) of this section. Any person may conduct self-implementing cleanup and disposal of PCB remediation waste in accordance with the following requirements without prior written approval from EPA.

(1) *Applicability.* (i) The self-implementing procedures may not be used to clean up:

(A) Surface or ground waters.

(B) Sediments in marine and freshwater ecosystems.

(C) Sewers or sewage treatment systems.

(D) Any private or public drinking water sources or distribution systems.

(E) Grazing lands.

(F) Vegetable gardens.

(ii) The self-implementing cleanup provisions shall not be binding upon cleanups conducted under other

authorities, including but not limited to, actions conducted under section 104 or section 106 of CERCLA, or section 3004(u) and (v) or section 3008(h) of RCRA.

(2) *Site characterization.* Any person conducting self-implementing cleanup of PCB remediation waste must characterize the site adequately to be able to provide the information required by paragraph (a)(3) of this section. Subpart N of this part provides a method for collecting new site characterization data or for assessing the sufficiency of existing site characterization data.

(3) *Notification and certification.* (i) At least 30 days prior to the date that the cleanup of a site begins, the person in charge of the cleanup or the owner of the property where the PCB remediation waste is located shall notify, in writing, the EPA Regional Administrator, the Director of the State or Tribal environmental protection agency, and the Director of the county or local environmental protection agency where the cleanup will be conducted. The notice shall include:

(A) The nature of the contamination, including kinds of materials contaminated.

(B) A summary of the procedures used to sample contaminated and adjacent areas and a table or cleanup site map showing PCB concentrations measured in all pre-cleanup characterization samples. The summary must include sample collection and analysis dates. The EPA Regional Administrator may require more detailed information including, but not limited to, additional characterization sampling or all sample identification numbers from all previous characterization activities at the cleanup site.

(C) The location and extent of the identified contaminated area, including topographic maps with sample collection sites cross referenced to the sample identification numbers in the data summary from paragraph (a)(3)(i)(B) of this section.

(D) A cleanup plan for the site, including schedule, disposal technology, and approach. This plan should contain options and contingencies to be used if unanticipated higher concentrations or wider distributions of PCB remediation waste are found or other obstacles force changes in the cleanup approach.

(E) A written certification, signed by the owner of the property where the cleanup site is located and the party conducting the cleanup, that all sampling plans, sample collection procedures, sample preparation procedures, extraction procedures, and instrumental/chemical analysis procedures used to assess or characterize the PCB contamination at the cleanup site, are on file at the location designated in the certificate, and are available for EPA inspection. Persons using alternate methods for chemical extraction and chemical analysis for site characterization must include in the certificate a statement that such a method will be used and that a comparison study which meets or exceeds the requirements of subpart Q of this part, and for which records are on file, has been completed prior to verification sampling.

(ii) Within 30 calendar days of receiving the notification, the EPA Regional Administrator will respond in writing approving of the self-implementing cleanup, disapproving of the self-implementing cleanup, or requiring additional information. If the EPA Regional Administrator does not respond within 30 calendar days of receiving the notice, the person submitting the notification may assume that it is complete and acceptable and proceed with the cleanup according to the information the person provided to the EPA Regional Administrator. Once cleanup is underway, the person conducting the cleanup must provide any proposed changes from the notification to the EPA Regional Administrator in writing no less than 14 calendar days prior to the proposed implementation of the change. The EPA Regional Administrator will determine in his or her discretion whether to accept the change, and will respond to the change notification verbally within 7 calendar days and in writing within 14 calendar days of receiving it. If the

EPA Regional Administrator does not respond verbally within 7 calendar days and in writing within 14 calendar days of receiving the change notice, the person who submitted it may deem it complete and acceptable and proceed with the cleanup according to the information in the change notice provided to the EPA Regional Administrator.

(iii) Any person conducting a cleanup activity may obtain a waiver of the 30-day notification requirement, if they receive a separate waiver, in writing, from each of the agencies they are required to notify under this section. The person must retain the original written waiver as required in paragraph (a)(9) of this section.

(4) *Cleanup levels.* For purposes of cleaning, decontaminating, or removing PCB remediation waste under this section, there are four general waste categories: bulk PCB remediation waste, non-porous surfaces, porous surfaces, and liquids. Cleanup levels are based on the kind of material and the potential exposure to PCBs left after cleanup is completed.

(i) *Bulk PCB remediation waste.* Bulk PCB remediation waste includes, but is not limited to, the following non-liquid PCB remediation waste: soil, sediments, dredged materials, muds, PCB sewage sludge, and industrial sludge.

(A) *High occupancy areas.* The cleanup level for bulk PCB remediation waste in high occupancy areas is  $\leq 1$  ppm without further conditions. High occupancy areas where bulk PCB remediation waste remains at concentrations  $> 1$  ppm and  $\leq 10$  ppm shall be covered with a cap meeting the requirements of paragraphs (a)(7) and (a)(8) of this section.

(B) *Low occupancy areas.* (1) The cleanup level for bulk PCB remediation waste in low occupancy areas is  $\leq 25$  ppm unless otherwise specified in this paragraph.

(2) Bulk PCB remediation wastes may remain at a cleanup site at concentrations  $> 25$  ppm and  $\leq 50$  ppm if the site is secured by a fence and marked with a sign including the ML mark.

(3) Bulk PCB remediation wastes may remain at a cleanup site at concentrations  $> 25$  ppm and  $\leq 100$  ppm if the site is covered with a cap meeting the requirements of paragraphs (a)(7) and (a)(8) of this section.

(ii) *Non-porous surfaces.* In high occupancy areas, the surface PCB cleanup standard is  $\leq 10$   $\mu\text{g}/100$  cm<sup>2</sup> of surface area. In low occupancy areas, the surface cleanup standard is  $< 100$   $\mu\text{g}/100$  cm<sup>2</sup> of surface area. Select sampling locations in accordance with subpart P of this part or a sampling plan approved under paragraph (c) of this section.

(iii) *Porous surfaces.* In both high and low occupancy areas, any person disposing of porous surfaces must do so based on the levels in paragraph (a)(4)(i) of this section. Porous surfaces may be cleaned up for use in accordance with § 761.79(b)(4) or § 761.30(p).

(iv) *Liquids.* In both high and low occupancy areas, cleanup levels are the concentrations specified in § 761.79(b)(1) and (b)(2).

(v) *Change in the land use for a cleanup site.* Where there is an actual or proposed change in use of an area cleaned up to the levels of a low occupancy area, and the exposure of people or animal life in or at that area could reasonably be expected to increase, resulting in a change in status from a low occupancy area to a high occupancy area, the owner of the area shall clean up the area in accordance with the high

occupancy area cleanup levels in paragraphs (a)(4)(i) through (a)(4)(iv) of this section.

(vi) The EPA Regional Administrator, as part of his or her response to a notification submitted in accordance with § 761.61(a)(3) of this part, may require cleanup of the site, or portions of it, to more stringent cleanup levels than are otherwise required in this section, based on the proximity to areas such as residential dwellings, hospitals, schools, nursing homes, playgrounds, parks, day care centers, endangered species habitats, estuaries, wetlands, national parks, national wildlife refuges, commercial fisheries, and sport fisheries.

(5) *Site cleanup.* In addition to the options set out in this paragraph, PCB disposal technologies approved under §§ 761.60 and 761.70 are acceptable for on-site self-implementing PCB remediation waste disposal within the confines of the operating conditions of the respective approvals.

(i) *Bulk PCB remediation waste.* Any person cleaning up bulk PCB remediation waste shall do so to the levels in paragraph (a)(4)(i) of this section.

(A) Any person cleaning up bulk PCB remediation waste on-site using a soil washing process may do so without EPA approval, subject to all of the following:

(1) A non-chlorinated solvent is used.

(2) The process occurs at ambient temperature.

(3) The process is not exothermic.

(4) The process uses no external heat.

(5) The process has secondary containment to prevent any solvent from being released to the underlying or surrounding soils or surface waters.

(6) Solvent disposal, recovery, and/or reuse is in accordance with relevant provisions of approvals issued according to paragraphs (b)(1) or (c) of this section or applicable paragraphs of § 761.79.

(B) Bulk PCB remediation waste may be sent off-site for decontamination or disposal in accordance with this paragraph, provided the waste is either dewatered on-site or transported off-site in containers meeting the requirements of the DOT Hazardous Materials Regulations (HMR) at 49 CFR parts 171 through 180.

(1) Removed water shall be disposed of according to paragraph (b)(1) of this section.

(2) Any person disposing off-site of dewatered bulk PCB remediation waste shall do so as follows:

(i) Unless sampled and analyzed for disposal according to the procedures set out in §§ 761.283, 761.286, and 761.292, the bulk PCB remediation waste shall be assumed to contain  $\geq$  50 ppm PCBs.

(ii) Bulk PCB remediation wastes with a PCB concentration of  $<50$  ppm shall be disposed of in accordance with paragraph (a)(5)(v)(A) of this section.

(iii) Bulk PCB remediation wastes with a PCB concentration  $\geq 50$  ppm shall be disposed of in a hazardous waste landfill permitted by EPA under section 3004 of RCRA, or by a State authorized under section 3006 of RCRA, or a PCB disposal facility approved under this part.

(iv) The generator must provide written notice, including the quantity to be shipped and highest concentration of PCBs (using extraction EPA Method 3500B/3540C or Method 3500B/3550B followed by chemical analysis using EPA Method 8082 in SW-846 or methods validated under subpart Q of this part) at least 15 days before the first shipment of bulk PCB remediation waste from each cleanup site by the generator, to each off-site facility where the waste is destined for an area not subject to a TSCA PCB Disposal Approval.

(3) Any person may decontaminate bulk PCB remediation waste in accordance with § 761.79 and return the waste to the cleanup site for disposal as long as the cleanup standards of paragraph (a)(4) of this section are met.

(ii) *Non-porous surfaces.* PCB remediation waste non-porous surfaces shall be cleaned on-site or off-site for disposal on-site, disposal off-site, or use, as follows:

(A) For on-site disposal, non-porous surfaces shall be cleaned on-site or off-site to the levels in paragraph (a)(4)(ii) of this section using:

(1) Procedures approved under § 761.79.

(2) Technologies approved under § 761.60(e).

(3) Procedures or technologies approved under paragraph (c) of this section.

(B) For off-site disposal, non-porous surfaces:

(1) Having surface concentrations  $<100 \mu\text{g}/100 \text{ cm}^2$  shall be disposed of in accordance with paragraph (a)(5)(i)(B)(2)(ii) of this section. Metal surfaces may be thermally decontaminated in accordance with § 761.79(c)(6)(i).

(2) Having surface concentrations  $\geq 100 \mu\text{g}/100 \text{ cm}^2$  shall be disposed of in accordance with paragraph (a)(5)(i)(B)(2)(iii) of this section. Metal surfaces may be thermally decontaminated in accordance with § 761.79(c)(6)(ii).

(C) For use, non-porous surfaces shall be decontaminated on-site or off-site to the standards specified in § 761.79(b)(3) or in accordance with § 761.79(c).

(iii) *Porous surfaces.* Porous surfaces shall be disposed on-site or off-site as bulk PCB remediation waste according to paragraph (a)(5)(i) of this section or decontaminated for use according to § 761.79(b)(4), as applicable.

(iv) *Liquids.* Any person disposing of liquid PCB remediation waste shall either:

(A) Decontaminate the waste to the levels specified in § 761.79(b)(1) or (b)(2).

(B) Dispose of the waste in accordance with paragraph (b) of this section or an approval issued under paragraph (c) of this section.

(v) *Cleanup wastes.* Any person generating the following wastes during and from the cleanup of PCB remediation waste shall dispose of or reuse them using one of the following methods:

(A) Non-liquid cleaning materials and personal protective equipment waste at any concentration, including non-porous surfaces and other non-liquid materials such as rags, gloves, booties, other



disposable personal protective equipment, and similar materials resulting from cleanup activities shall be either decontaminated in accordance with § 761.79(b) or (c), or disposed of in one of the following facilities, without regard to the requirements of subparts J and K of this part:

(1) A facility permitted, licensed, or registered by a State to manage municipal solid waste subject to part 258 of this chapter.

(2) A facility permitted, licensed, or registered by a State to manage non-municipal non-hazardous waste subject to § 257.5 through 257.30 of this chapter, as applicable.

(3) A hazardous waste landfill permitted by EPA under section 3004 of RCRA, or by a State authorized under section 3006 of RCRA.

(4) A PCB disposal facility approved under this part.

(B) Cleaning solvents, abrasives, and equipment may be reused after decontamination in accordance with § 761.79.

(6) *Cleanup verification* -- (i) *Sampling and analysis*. Any person collecting and analyzing samples to verify the cleanup and on-site disposal of bulk PCB remediation wastes and porous surfaces must do so in accordance with subpart O of this part. Any person collecting and analyzing samples from non-porous surfaces must do so in accordance with subpart P of this part. Any person collecting and analyzing samples from liquids must do so in accordance with § 761.269. Any person conducting interim sampling during PCB remediation waste cleanup to determine when to sample to verify that cleanup is complete, may use PCB field screening tests.

(ii) *Verification*. (A) Where sample analysis results in a measurement of PCBs less than or equal to the levels specified in paragraph (a)(4) of this section, self-implementing cleanup is complete.

(B) Where sample analysis results in a measurement of PCBs greater than the levels specified in paragraph (a)(4) of this section, self-implementing cleanup of the sampled PCB remediation waste is not complete. The owner or operator of the site must either dispose of the sampled PCB remediation waste, or reclean the waste represented by the sample and reinitiate sampling and analysis in accordance with paragraph (a)(6)(i) of this section.

(7) *Cap requirements*. A cap means, when referring to on-site cleanup and disposal of PCB remediation waste, a uniform placement of concrete, asphalt, or similar material of minimum thickness spread over the area where remediation waste was removed or left in place in order to prevent or minimize human exposure, infiltration of water, and erosion. Any person designing and constructing a cap must do so in accordance with § 264.310(a) of this chapter, and ensure that it complies with the permeability, sieve, liquid limit, and plasticity index parameters in § 761.75(b)(1)(ii) through (b)(1)(v). A cap of compacted soil shall have a minimum thickness of 25 cm (10 inches). A concrete or asphalt cap shall have a minimum thickness of 15 cm (6 inches). A cap must be of sufficient strength to maintain its effectiveness and integrity during the use of the cap surface which is exposed to the environment. A cap shall not be contaminated at a level  $\geq$  1 ppm PCB per Aroclor™ (or equivalent) or per congener. Repairs shall begin within 72 hours of discovery for any breaches which would impair the integrity of the cap.

(8) *Deed restrictions for caps, fences and low occupancy areas*. When a cleanup activity conducted under this section includes the use of a fence or a cap, the owner of the site must maintain the fence or

cap, in perpetuity. In addition, whenever a cap, or the procedures and requirements for a low occupancy area, is used, the owner of the site must meet the following conditions:

(i) Within 60 days of completion of a cleanup activity under this section, the owner of the property shall:

(A) Record, in accordance with State law, a notation on the deed to the property, or on some other instrument which is normally examined during a title search, that will in perpetuity notify any potential purchaser of the property:

(1) That the land has been used for PCB remediation waste disposal and is restricted to use as a low occupancy area as defined in § 761.3.

(2) Of the existence of the fence or cap and the requirement to maintain the fence or cap.

(3) The applicable cleanup levels left at the site, inside the fence, and/or under the cap.

(B) Submit a certification, signed by the owner, that he/she has recorded the notation specified in paragraph (a)(8)(i)(A) of this section to the EPA Regional Administrator.

(ii) The owner of a site being cleaned up under this section may remove a fence or cap after conducting additional cleanup activities and achieving cleanup levels, specified in paragraph (a)(4) of this section, which do not require a cap or fence. The owner may remove the notice on the deed no earlier than 30 days after achieving the cleanup levels specified in this section which do not require a fence or cap.

(9) *Recordkeeping.* For paragraphs (a)(3), (a)(4), and (a)(5) of this section, recordkeeping is required in accordance with § 761.125(c)(5).

(b) *Performance-based disposal.* (1) Any person disposing of liquid PCB remediation waste shall do so according to § 761.60(a) or (e), or decontaminate it in accordance with § 761.79.

(2) Any person disposing of non-liquid PCB remediation waste shall do so by one of the following methods:

(i) Dispose of it in a high temperature incinerator approved under § 761.70(b), an alternate disposal method approved under § 761.60(e), a chemical waste landfill approved under § 761.75, or in a facility with a coordinated approval issued under § 761.77.

(ii) Decontaminate it in accordance with § 761.79.

(3) Any person may manage or dispose of material containing <50 ppm PCBs that has been dredged or excavated from waters of the United States:

(i) In accordance with a permit that has been issued under section 404 of the Clean Water Act, or the equivalent of such a permit as provided for in regulations of the U.S. Army Corps of Engineers at 33 CFR part 320.

(ii) In accordance with a permit issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act, or the equivalent of such a permit as provided for in regulations of the U.S. Army Corps of Engineers at 33 CFR part 320.

(c) *Risk-based disposal approval.* (1) Any person wishing to sample, cleanup, or dispose of PCB remediation waste in a manner other than prescribed in paragraphs (a) or (b) of this section, or store PCB

remediation waste in a manner other than prescribed in § 761.65, must apply in writing to the EPA Regional Administrator in the Region where the sampling, cleanup, disposal or storage site is located, for sampling, cleanup, disposal or storage occurring in a single EPA Region; or to the Director of the National Program Chemicals Division, for sampling, cleanup, disposal or storage occurring in more than one EPA Region. Each application must contain information described in the notification required by § 761.61(a)(3). EPA may request other information that it believes necessary to evaluate the application. No person may conduct cleanup activities under this paragraph prior to obtaining written approval by EPA.

(2) EPA will issue a written decision on each application for a risk-based method for PCB remediation wastes. EPA will approve such an application if it finds that the method will not pose an unreasonable risk of injury to health or the environment.

[63 FR 35448, June 29, 1998, as amended at 64 FR 33761, June 24, 1999]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

40 CFR - CHAPTER I - PART 761

[View Part](#)

**§ 761.62 Disposal of PCB bulk product waste.**

PCB bulk product waste shall be disposed of in accordance with paragraph (a), (b), or (c) of this section. Under some of these provisions, it may not be necessary to determine the PCB concentration or leaching characteristics of the PCB bulk product waste. When it is necessary to analyze the waste to make either of these determinations, use the applicable procedures in subpart R of this part to sample the waste for analysis, unless EPA approves another sampling plan under paragraph (c) of this section.

(a) *Performance-based disposal.* Any person disposing of PCB bulk product waste may do so as follows:

- (1) In an incinerator approved under § 761.70.
- (2) In a chemical waste landfill approved under § 761.75.
- (3) In a hazardous waste landfill permitted by EPA under section 3004 of RCRA, or by a State authorized under section 3006 of RCRA.
- (4) Under an alternate disposal approval under § 761.60(e).
- (5) In accordance with the decontamination provisions of § 761.79.
- (6) For metal surfaces in contact with PCBs, in accordance with the thermal decontamination provisions of § 761.79(c)(6).
- (7) In accordance with a TSCA PCB Coordinated Approval issued under § 761.77.

(b) *Disposal in solid waste landfills.* (1) Any person may dispose of the following PCB bulk product waste in a facility permitted, licensed, or registered by a State as a municipal or non-municipal non-hazardous waste landfill:

- (i) Plastics (such as plastic insulation from wire or cable; radio, television and computer casings; vehicle

parts; or furniture laminates); preformed or molded rubber parts and components; applied dried paints, varnishes, waxes or other similar coatings or sealants; caulking; Galbestos; non-liquid building demolition debris; or non-liquid PCB bulk product waste from the shredding of automobiles or household appliances from which PCB small capacitors have been removed (shredder fluff).

(ii) Other PCB bulk product waste, sampled in accordance with the protocols set out in subpart R of this part, that leaches PCBs at  $<10 \mu\text{g/L}$  of water measured using a procedure used to simulate leachate generation.

(2) Any person may dispose of PCB bulk product waste other than those materials meeting the conditions of paragraph (b)(1) of this section, (e.g., paper or felt gaskets contaminated by liquid PCBs in a facility that is permitted, licensed, or registered by a State to manage municipal solid waste subject to part 258 of this chapter or non-municipal non-hazardous waste subject to §§ 257.5 through 257.30 of this chapter, as applicable, if:

(i) The PCB bulk product waste is segregated from organic liquids disposed of in the landfill unit.

(ii) Leachate is collected from the landfill unit and monitored for PCBs.

(3) Any release of PCBs (including but not limited to leachate) from the landfill unit shall be cleaned up in accordance with § 761.61.

(4)(i) Any person disposing off-site of PCB bulk product waste regulated under paragraph (b)(1) of this section at a waste management facility not having a commercial PCB storage or disposal approval must provide written notice to the facility a minimum of 15 days in advance of the first shipment from the same disposal waste stream. The notice shall state that the PCB bulk product waste may include components containing PCBs at  $\geq 50$  ppm based on analysis of the waste in the shipment or application of a general knowledge of the waste stream (or similar material) which is known to contain PCBs at those levels, and that the PCB bulk product waste is known or presumed to leach  $<10 \mu\text{g/L}$  PCBs.

(ii) Any person disposing off-site of PCB bulk product waste regulated under paragraph (b)(2) of this section at a waste management facility not having a commercial PCB storage or disposal approval must provide written notice to the facility a minimum of 15 days in advance of the first shipment from the same disposal waste stream and with each shipment thereafter. The notice shall state that the PCB bulk product waste may include components containing PCBs at  $\geq 50$  ppm based on analysis of the waste in the shipment or application of a general knowledge of the waste stream (or similar material) which is known to contain PCBs at those levels, and that the PCB bulk product waste is known or presumed to leach  $\geq 10 \mu\text{g/L}$  PCBs.

(5) Any person disposing of PCB bulk product waste must maintain a written record of all sampling and analysis of PCBs or notifications made under this paragraph for 3 years from the date of the waste's generation. The records must be made available to EPA upon request.

(6) Requirements in subparts C, J, and K of this part do not apply to waste disposed of under paragraph (b) of this section.

(c) *Risk-based disposal approval.* (1) Any person wishing to sample or dispose of PCB bulk product waste in a manner other than prescribed in paragraphs (a) or (b) of this section, or store PCB bulk

product waste in a manner other than prescribed in § 761.65, must apply in writing to: the EPA Regional Administrator in the Region where the sampling, disposal, or storage site is located, for sampling, disposal, or storage occurring in a single EPA Region; or the Director of the National Program Chemicals Division, for sampling, disposal, or storage occurring in more than one EPA Region. Each application must contain information indicating that, based on technical, environmental, or waste-specific characteristics or considerations, the proposed sampling, disposal, or storage methods or locations will not pose an unreasonable risk of injury to health or the environment. EPA may request other information that it believes necessary to evaluate the application. No person may conduct sampling, disposal, or storage activities under this paragraph prior to obtaining written approval by EPA.

(2) EPA will issue a written decision on each application for a risk-based sampling, disposal, or storage method for PCB bulk product wastes. EPA will approve such an application if it finds that the method will not pose an unreasonable risk of injury to health or the environment.

(d) *Disposal as daily landfill cover or roadbed.* Bulk product waste described in paragraph (b)(1) of this section may be disposed of:

(1) As daily landfill cover as long as the daily cover remains in the landfill and is not released or dispersed by wind or other action; or

(2) Under asphalt as part of a road bed.

[63 FR 35451, June 29, 1998, as amended at 64 FR 33761, June 24, 1999]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.63 PCB household waste storage and disposal.**

PCB household waste, as defined at § 761.3, managed in a facility permitted, licensed, or registered by a State to manage municipal or industrial solid waste, or in a facility with an approval to dispose of PCB bulk product waste under § 761.62(c), is not subject to any other requirements of part 761 of this chapter. PCB household waste stored in a unit regulated for storage of PCB waste must not be commingled with PCB waste.

[63 FR 35452, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

40 CFR - CHAPTER I - PART 761

[View Part](#)

**§ 761.64 Disposal of wastes generated as a result of research and development activities authorized under § 761.30(j) and chemical analysis of PCBs.**

This section provides disposal requirements for wastes generated during and as a result of research and development authorized under § 761.30(j). This section also provides disposal requirements for wastes generated during the chemical analysis of samples containing PCBs under part 761, including §§ 761.30, 761.60, 761.61, 761.62, and 761.79. For determining the presence of PCBs in samples, chemical analysis includes: sample preparation, sample extraction, extract cleanup, extract concentration, addition of PCB standards, and instrumental analysis.

(a) Portions of samples of a size designated in a chemical extraction and analysis method for PCBs and extracted for purposes of determining the presence of PCBs or concentration of PCBs are unregulated for PCB disposal under this part.

(b) All other wastes generated during these activities are regulated for disposal based on their concentration at the time of disposal as follows:

(1) Liquid wastes, including rinse solvents, must be disposed of according to § 761.61(a)(5)(iv).

(2) Non-liquid wastes must be disposed of in the same manner as non-liquid cleaning materials and personal protective equipment waste according to § 761.61(a)(5)(v)(A).

[63 FR 35452, June 29, 1998]





Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.65 Storage for disposal.**

This section applies to the storage for disposal of PCBs at concentrations of 50 ppm or greater and PCB Items with PCB concentrations of 50 ppm or greater.

(a)(1) *Storage limitations.* Any PCB waste shall be disposed of as required by subpart D of this part within 1-year from the date it was determined to be PCB waste and the decision was made to dispose of it. This date is the date of removal from service for disposal and the point at which the 1-year time frame for disposal begins. PCB/radioactive waste removed from service for disposal is exempt from the 1-year time limit provided that the provisions at paragraphs (a)(2)(ii) and (a)(2)(iii) of this section are followed and the waste is managed in accordance with all other applicable Federal, State, and local laws and regulations for the management of radioactive material.

(2) *One-year extension.* Any person storing PCB waste that is subject to the 1-year time limit for storage and disposal in paragraph (a)(1) of this section may provide written notification to the EPA Regional Administrator for the Region in which the PCB waste is stored that their continuing attempts to dispose of or secure disposal for their waste within the 1-year time limit have been unsuccessful. Upon receipt of the notice by the EPA Regional Administrator, the time for disposal is automatically extended for 1 additional year (2 years total) if the following conditions are met:

(i) The notification is received by the EPA Regional Administrator at least 30 days before the initial 1-year time limit expires and the notice identifies the storer, the types, volumes, and locations of the waste and the reasons for failure to meet the initial 1-year time limit.

(ii) A written record documenting all continuing attempts to secure disposal is maintained until the waste is disposed of.

(iii) The written record required by paragraph (a)(2)(ii) of this section is available for inspection or submission if requested by EPA.

(iv) Continuing attempts to secure disposal were initiated within 270 days after the time the waste was first subject to the 1-year time limit requirement, as specified in paragraph (a)(1) of this section. Failure to initiate and continue attempts to secure disposal throughout the total time the waste is in storage shall automatically disqualify the notifier from receiving an automatic extension under this section.

(3) *Additional extensions.* Upon written request, the EPA Regional Administrator for the Region in which the wastes are stored or the Director, National Program Chemicals Division, may grant additional extensions beyond the 1-year extension authorized in paragraph (a)(2) of this section. At the time of the request, the requestor must supply specific justification for the additional extension and indicate what measures the requestor is taking to secure disposal of the waste or indicate why disposal could not be conducted during the period of the prior extension. The EPA Regional Administrator or the Director, National Program Chemicals Division may require, as a condition to granting any extension under this section, specific actions including, but not limited to, marking, inspection, recordkeeping, or financial assurance to ensure that the waste does not pose an unreasonable risk of injury to health or the environment.

(4) *Storage at an approved facility.* Increased time for storage may be granted as a condition of any TSCA PCB storage or disposal approval, by the EPA Regional Administrator for the Region in which the PCBs or PCB Items are to be stored or disposed of, or by the Director, National Program Chemicals Division, if EPA determines that there is a demonstrated need or justification for additional time, that the owner or operator of the facility is pursuing relevant treatment or disposal options, and that no unreasonable risk of injury to health or the environment will result from the increased storage time. In making this determination, EPA will consider such factors as absence of any approved treatment technology and insufficient time to complete the treatment or destruction process. EPA may require as a condition of the approval that the owner or operator submit periodic progress reports.

(b) Except as provided in paragraphs (b)(2), (c)(1), (c)(7), (c)(9), and (c)(10) of this section, after July 1, 1978, owners or operators of any facilities used for the storage of PCBs and PCB Items designated for disposal shall comply with the following storage unit requirements:

(1) The facilities shall meet the following criteria:

(i) Adequate roof and walls to prevent rain water from reaching the stored PCBs and PCB Items;

(ii) An adequate floor that has continuous curbing with a minimum 6 inch high curb. The floor and curbing must provide a containment volume equal to at least two times the internal volume of the largest PCB Article or PCB Container or 25 percent of the total internal volume of all PCB Articles or PCB Containers stored there, whichever is greater. PCB/radioactive wastes are not required to be stored in an area with a minimum 6 inch high curbing. However, the floor and curbing must still provide a containment volume equal to at least two times the internal volume of the largest PCB Container or 25 percent of the total internal volume of all PCB Containers stored there, whichever is greater.

(iii) No drain valves, floor drains, expansion joints, sewer lines, or other openings that would permit liquids to flow from the curbed area;

(iv) Floors and curbing constructed of Portland cement, concrete, or a continuous, smooth, non-porous surface as defined at § 761.3, which prevents or minimizes penetration of PCBs.

(v) Not located at a site that is below the 100-year flood water elevation.

(2) No person may store PCBs and PCB Items designated for disposal in a storage unit other than one approved pursuant to paragraph (d) of this section or meeting the design requirements of paragraph (b) of this section, unless the unit meets one of the following conditions:

(i) Is permitted by EPA under section 3004 of RCRA to manage hazardous waste in containers, and spills of PCBs are cleaned up in accordance with subpart G of this part.

(ii) Qualifies for interim status under section 3005 of RCRA to manage hazardous waste in containers, meets the requirements for containment at § 264.175 of this chapter, and spills of PCBs are cleaned up in accordance with subpart G of this part.

(iii) Is permitted by a State authorized under section 3006 of RCRA to manage hazardous waste in containers, and spills of PCBs are cleaned up in accordance with subpart G of this part.

(iv) Is approved or otherwise regulated pursuant to a State PCB waste management program no less stringent in protection of health or the environment than the applicable TSCA requirements found in this part.

(v) Is subject to a TSCA Coordinated Approval, which includes provisions for storage of PCBs, issued pursuant to § 761.77.

(vi) Has a TSCA PCB waste management approval, which includes provisions for storage, issued pursuant to § 761.61(c) or § 761.62(c).

(c)(1) The following PCB Items may be stored temporarily in an area that does not comply with the requirements of paragraph (b) of this section for up to thirty days from the date of their removal from service, provided that a notation is attached to the PCB Item or a PCB Container (containing the item) indicating the date the item was removed from service:

(i) Non-leaking PCB Articles and PCB Equipment;

(ii) Leaking PCB Articles and PCB Equipment if the PCB Items are placed in a non-leaking PCB Container that contains sufficient sorbent materials to absorb any liquid PCBs remaining in the PCB Items;

(iii) PCB Containers containing non-liquid PCBs such as contaminated soil, rags, and debris; and

(iv) PCB containers containing liquid PCBs at concentrations of  $\geq$ 50 ppm, provided a Spill Prevention, Control and Countermeasure Plan has been prepared for the temporary storage area in accordance with part 112 of this chapter and the liquid PCB waste is in packaging authorized in the DOT Hazardous Materials Regulations at 49 CFR parts 171 through 180 or stationary bulk storage tanks (including rolling stock such as, but not limited to, tanker trucks, as specified by DOT).

(2) Non-leaking and structurally undamaged PCB Large High Voltage Capacitors and PCB-Contaminated Electrical Equipment that have not been drained of free flowing dielectric fluid may be stored on pallets next to a storage facility that meets the requirements of paragraph (b) of this section. PCB-Contaminated Electrical Equipment that has been drained of free flowing dielectric fluid is not subject to the storage provisions of § 761.65. Storage under this subparagraph will be permitted only when the storage facility has immediately available unfilled storage space equal to 10 percent of the volume of capacitors and equipment stored outside the facility. The capacitors and equipment

temporarily stored outside the facility shall be checked for leaks weekly.

(3) Any storage area subject to the requirements of paragraph (b) or paragraph (c)(1) of this section shall be marked as required in subpart C § 761.40(a)(10).

(4) No item of movable equipment that is used for handling PCBs and PCB Items in the storage units and that comes in direct contact with PCBs shall be removed from the storage unit area unless it has been decontaminated as specified in § 761.79.

(5) All PCB Items in storage shall be checked for leaks at least once every 30 days. Any leaking PCB Items and their contents shall be transferred immediately to properly marked non-leaking containers. Any spilled or leaked materials shall be immediately cleaned up and the materials and residues containing PCBs shall be disposed of in accordance with § 761.61. Records of inspections, maintenance, cleanup and disposal must be maintained in accordance with § 761.180(a) and (b).

(6) Except as provided in paragraphs (c)(6)(i) and (c)(6)(ii) of this section, any container used for the storage of liquid or non-liquid PCB waste shall be in accordance with the requirements set forth in the DOT Hazardous Materials Regulations (HMR) at 49 CFR parts 171 through 180. PCB waste not subject to the HMR (i.e., PCB wastes at concentrations of <20 ppm or <1 pound of PCBs regardless of concentration) must be packaged in accordance with Packaging Group III, unless other hazards associated with the PCB waste cause it to require packaging in accordance with Packaging Groups I or II. For purposes of describing PCB waste not subject to DOT's HMR on a manifest, one may use the term "Non-DOT Regulated PCBs."

(i) Containers other than those meeting HMR performance standards may be used for storage of PCB/radioactive waste provided the following requirements are met:

(A) Containers used for storage of liquid PCB/radioactive wastes must be non-leaking.

(B) Containers used for storage of non-liquid PCB/ radioactive wastes must be designed to prevent the buildup of liquids if such containers are stored in an area meeting the containment requirements of paragraph (b)(1)(ii) of this section, as well as all other applicable State or Federal regulations or requirements for control of radioactive materials.

(C) Containers used to store both liquid and non-liquid PCB/radioactive wastes must meet all regulations and requirements pertaining to nuclear criticality safety. Acceptable container materials currently include polyethylene and stainless steel provided that the container material is chemically compatible with the wastes being stored. Other containers may be used to store both liquid and non-liquid PCB/radioactive wastes if the users are able to demonstrate, to the appropriate Regional Administrator and other appropriate regulatory authorities (i.e., Nuclear Regulatory Commission, Department of Energy or the Department of Transportation), that the use of such containers is protective of health and the environment as well as public health and safety.

(ii) The following DOT specification containers that conform to the requirements of 49 CFR, chapter I, subchapter C in effect on September 30, 1991, may be used for storage and transportation activities that are not subject to DOT regulation, and may be used on a transitional basis as permitted at 49 CFR 171.14. For liquid PCBs: Specification 5 container without removable head, Specification 5B container without removable head, Specification 6D overpack with Specification 2S or 2SL polyethylene containers, or Specification 17E container. For non-liquid PCBs: Specification 5 container, Specification

5B container, or Specification 17C container.

(7) Stationary storage containers for liquid PCBs can be larger than the containers specified in paragraph (c)(6) of this section provided that:

(i) The containers are designed, constructed, and operated in compliance with Occupational Safety and Health Standards, 29 CFR 1910.106, *Flammable and combustible liquids*. Before using these containers for storing PCBs, the design of the containers must be reviewed to determine the effect on the structural safety of the containers that will result from placing liquids with the specific gravity of PCBs into the containers (see 29 CFR 1910.106(b)(1)(i)(f)).

(ii) The owners or operators of any facility using containers described in paragraph (c)(7)(i) of this section, shall prepare and implement a Spill Prevention Control and Countermeasure (SPCC) Plan as described in part 112 of this title. In complying with 40 CFR part 112, the owner or operator shall read "oil(s)" as "PCB(s)" whenever it appears. The exemptions for storage capacity, 40 CFR 112.1(d)(2), and the amendment of SPCC plans by the Regional Administrator, 40 CFR 112.4, shall not apply unless some fraction of the liquids stored in the container are oils as defined by section 311 of the Clean Water Act.

(8) PCB Items shall be dated on the item when they are removed from service for disposal. The storage shall be managed so that the PCB Items can be located by this date. Storage containers provided in paragraph (c)(7) of this section, shall have a record that includes for each batch of PCBs the quantity of the batch and date the batch was added to the container. The record shall also include the date, quantity, and disposition of any batch of PCBs removed from the container.

(9) Bulk PCB remediation waste or PCB bulk product waste may be stored at the clean-up site or site of generation for 180 days subject to the following conditions:

(i) The waste is placed in a pile designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting.

(ii) The waste must not generate leachate through decomposition or other reactions.

(iii) The storage site must have:

(A) A liner that is designed, constructed, and installed to prevent any migration of wastes off or through the liner into the adjacent subsurface soil, ground water or surface water at any time during the active life (including the closure period) of the storage site. The liner may be constructed of materials that may allow waste to migrate into the liner. The liner must be:

(1) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation.

(2) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift.

(3) Installed to cover all surrounding earth likely to be in contact with the waste.

- (B) A cover that meets the requirements of paragraph (c)(9)(iii)(A) of this section, is installed to cover all of the stored waste likely to be contacted with precipitation, and is secured so as not to be functionally disabled by winds expected under normal seasonal meteorological conditions at the storage site.
- (C) A run-on control system designed, constructed, operated, and maintained such that:
- (1) It prevents flow onto the stored waste during peak discharge from at least a 25-year storm.
  - (2) It collects and controls at least the water volume resulting from a 24-hour, 25-year storm. Collection and holding facilities (e.g., tanks or basins) must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.
- (iv) The provisions of this paragraph may be modified under § 761.61(c).
- (10) Owners or operators of storage facilities shall establish and maintain records as provided in § 761.180.
- (d) *Approval of commercial storers of PCB waste.* (1) All commercial storers of PCB waste shall have interim approval to operate commercial facilities for the storage of PCB waste until August 2, 1990. Commercial storers of PCB waste are prohibited from storing any PCB waste at their facilities after August 2, 1990 unless they have submitted by August 2, 1990 a complete application for a final storage approval under paragraph (d)(2) of this section. The period of interim approval shall continue until the Regional Administrator (or the Director of the Chemical Management Division (Director, National Programs Chemical Division) in cases involving commercial storage ancillary to a facility approved for disposal by the Director, National Programs Chemical Division) makes a final decision on the storage application at which time such interim approval shall terminate.
- (2) The Regional Administrator for the region in which the storage facility is located (or the Director, National Programs Chemical Division, if the commercial storage area is ancillary to a facility approved for disposal by the Director, National Programs Chemical Division) shall grant written, final approval to engage in the commercial storage of PCB waste upon a determination by the Regional Administrator or the Director, National Programs Chemical Division, that the criteria in paragraph (d)(2)(i) through (d)(2)(vii) of this section have been met by the applicant:
- (i) The applicant, its principals, and its key employees responsible for the establishment or operation of the commercial storage facility are qualified to engage in the business of commercial storage of PCB waste.
  - (ii) The facility possesses the capacity to handle the quantity of PCB waste which the owner or operator of the facility has estimated will be the maximum quantity of PCB waste that will be handled at any one time at the facility.
  - (iii) The owner or operator of the unit has certified compliance with the storage facility standards in paragraphs (b) and (c)(7) of this section.
  - (iv) The owner or operator has developed a written closure plan for the facility that is deemed acceptable by the Regional Administrator (or the Director, National Programs Chemical Division, if the commercial storage is ancillary to a disposal facility permitted by the Director, National Programs Chemical Division) under the closure plan standards of paragraph (e) of this section.

(v) The owner or operator has included in the application for final approval a demonstration of financial responsibility for closure that meets the financial responsibility standards of paragraph (g) of this section.

(vi) The operation of the storage facility will not pose an unreasonable risk of injury to health or the environment.

(vii) The environmental compliance history of the applicant, its principals, and its key employees may be deemed to constitute a sufficient basis for denial of approval whenever in the judgment of the Regional Administrator (or Director, National Programs Chemical Division) that history of environmental civil violations or criminal convictions evidences a pattern or practice of noncompliance that demonstrates the applicant's unwillingness or inability to achieve and maintain compliance with the regulations.

(3) Applicants for storage approvals shall submit a written application that includes any relevant information bearing upon the qualifications of the facility's principals and key employees to engage in the business of commercial storage of PCB wastes. This information shall include, but is not limited to:

(i) The identification of the owner and the operator of the facility, including all general partners of a partnership, any limited partner of a partnership, any stockholder of a corporation or any participant in any other type of business organization or entity who owns or controls, directly or indirectly, more than 5 percent of each partnership, corporation, or other business organization and all officials of the facility who have direct management responsibility for the facility.

(ii) The identification of the person responsible for the overall operations of the facility (i.e., a plant manager, superintendent, or a person of similar responsibility) and the supervisory employees who are or will be responsible for the operation of the facility.

(iii) Information concerning the technical qualifications and experience of the persons responsible for the overall operation of the facility and the employees responsible for handling PCB waste or other wastes.

(iv) Information concerning any past State or Federal environmental violations involving the same business or another business with which the principals or supervisory employees were affiliated directly that occurred within 5 years preceding the date of submission and which relate directly to violations that resulted in either a civil penalty (irrespective of whether the matter was disposed of by an adjudication or by a without prejudice settlement) or judgment of conviction whether entered after trial or a plea, either of guilt or nolo contendere or civil injunctive relief and involved storage, disposal, transport, or other waste handling activities.

(v) A list of all companies currently owned or operated in the past by the principals or key employees identified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section that are or were directly or indirectly involved with waste handling activities.

(vi) The owner's or operator's estimate of maximum PCB waste quantity to be handled at the facility.

(vii) A written statement certifying compliance with paragraph (b) or (c) of this section and containing a certification as defined in § 761.3.

(viii) A written closure plan for the facility, as described in paragraph (e) of this section.

(ix) The current closure cost estimate for the facility, as described in paragraph (f) of this section.

- (x) A demonstration of financial responsibility to close the facility, as described in paragraph (g) of this section.
- (4) The written approval issued by the Regional Administrator (or the Director, National Programs Chemical Division, if the commercial storage area is ancillary to a disposal facility approved by the Director, National Programs Chemical Division) shall include, but not be limited to, the following:
- (i) The determination that the applicant has satisfied the requirements set forth in paragraph (d)(2) of this section, and a brief statement setting forth the basis for the determination.
  - (ii) Incorporation of the closure plan submitted by the facility owner or operator and approved by the Regional Administrator (or the Director, National Programs Chemical Division, if the commercial storage area is ancillary to a disposal facility approved by the Director, National Programs Chemical Division).
  - (iii) A condition imposing a maximum PCB storage capacity which the facility shall not exceed during its PCB waste storage operations. The maximum storage capacity imposed under this condition shall not be greater than the estimated maximum inventory of PCB waste included in the owner's or operator's application for final approval.
  - (iv) Such other conditions as deemed necessary by the Regional Administrator (or the Director, National Programs Chemical Division, if the commercial storage area is ancillary to a disposal facility approved by the Director, National Programs Chemical Division) to ensure that the operations of the PCB storage facility will not pose an unreasonable risk of injury to health or the environment.
- (5) Storage areas at transfer facilities are exempt from the requirement to obtain approval as a commercial storer of PCB waste under this paragraph, unless the same PCB waste is stored at these facilities for a period of time greater than 10 consecutive days between destinations.
- (6) Storage areas at RCRA-permitted facilities may be exempt from the separate TSCA storage approval requirements in this paragraph (d) upon a showing to the Regional Administrator's satisfaction that the facility's existing RCRA closure plan is substantially equivalent to this rule's closure plan standards, and that such facility's closure cost estimate and financial assurance demonstration account for maximum PCB waste inventories, and the requirements of paragraph (d)(3)(i) through (d)(3)(v) and (d)(3)(vii) of this section are met. A pay-in period of longer than 3 years after approval of the storage facility pursuant to this rule, will be acceptable to EPA if that pay-in period has already been established for a valid RCRA facility or previously approved TSCA facility.
- (7) Storage areas ancillary to TSCA-approved disposal facilities may be exempt from a separate facility approval provided all of the following conditions are met:
- (i) The current disposal approval contains an expiration date.
  - (ii) The current disposal approval's closure and financial responsibility conditions specifically extend to storage areas ancillary to disposal.
  - (iii) The current disposal approval's closure and financial responsibility conditions provide for annual adjustments for inflation, and for modification when changes in operation would affect closure costs.
  - (iv) The current disposal approval contains conditions on closure and financial responsibility that are at



least as stringent as those in paragraphs (e) and (g) of this section. However, the provision for a 3-year closure trust pay-in period, as specified in paragraph (g)(1)(i) of this section, would be waived in a case in which an approved TSCA facility or RCRA facility that covers PCB storage has a longer pay-in period for the trust.

(v) The current disposal approval satisfies the requirements of paragraph (d)(3)(i) through (d)(3)(v) of this section.

(8) The approval of any existing TSCA-approved disposal facility ancillary to a commercial storage facility that is deficient in any of the conditions of paragraph (d)(7)(i) through (d)(7)(v) of this section shall be called in by the Regional Administrator or the Director, National Programs Chemical Division, if it was the Director, National Programs Chemical Division who issued it. The approval shall be modified to meet the requirements of paragraph (d)(7) of this section within 180 days of the effective date of this final rule, or a separate application for approval of the storage facility may be submitted to the Regional Administrator or the Director, National Programs Chemical Division, in the cases where the Director, National Programs Chemical Division issued the approval.

(e) *Closure.* (1) A commercial storer of PCB waste shall have a written closure plan that identifies the steps that the owner or operator of the facility shall take to close the PCB waste storage facility in a manner that eliminates the potential for post-closure releases of PCBs which may present an unreasonable risk to human health or the environment. An acceptable closure plan must include, at a minimum, all of the following:

(i) A description of how the PCB storage areas of the facility will be closed in a manner that eliminates the potential for post-closure releases of PCBs into the environment.

(ii) An identification of the maximum extent of storage operations that will be open during the active life of the facility, including an identification of the extent of PCB storage operations at the facility relative to other wastes that will be handled at the facility.

(iii) An estimate of the maximum inventory of PCB wastes that could be handled at one time at the facility over its active life, and a detailed description of the methods or arrangements to be used during closure for removing, transporting, storing, or disposing of the facility's inventory of PCB waste, including an identification of any off-site facilities that will be used.

(iv) A detailed description of the steps needed to remove or decontaminate PCB waste residues and contaminated containment system components, equipment, structures, and soils during closure in accordance with the levels specified in the PCB Spills Cleanup Policy in subpart G of this part, including a description of the methods for sampling and testing of surrounding soils, and the criteria for determining the extent of removal or decontamination.

(v) A detailed description of other activities necessary during the closure period to ensure that any post-closure releases of PCBs will not present unreasonable risks to human health or the environment. This includes activities such as ground-water monitoring, run-on and run-off control, and facility security.

(vi) A schedule for closure of each area of the facility where PCB waste is stored or handled, including the total time required to close each area of PCB waste storage or handling, and the time required for any intervening closure activities.

(vii) An estimate of the expected year of closure of the PCB waste storage areas, if a trust fund is opted for as the financial mechanism.

(2) A written closure plan determined to be acceptable by the Regional Administrator (or the Director, National Programs Chemical Division, if the commercial storage area is ancillary to a disposal facility approved by the Director, National Programs Chemical Division) under this section shall become a condition of any approval granted under paragraph (d) of this section.

(3) A separate and new closure plan need not be submitted in cases where a facility is currently covered by a TSCA approval or a RCRA permit, upon a showing to the satisfaction of the Regional Administrator (or the Director, National Programs Chemical Division, if the commercial storage area is ancillary to a disposal facility approved by the Director, National Programs Chemical Division) that the existing closure plan is substantially equivalent to closure plans required under paragraphs (d) through (g) of this section, and that the plan adequately accounts for PCB waste inventories.

(4) The commercial storer of PCB waste shall submit a written request to the Regional Administrator (or the Director, National Programs Chemical Division, if he approved the closure plan) for a modification to its storage approval to amend its closure plan, whenever:

(i) Changes in ownership, operating plans, or facility design affect the existing closure plan.

(ii) There is a change in the expected date of closure, if applicable.

(iii) In conducting closure activities, unexpected events require a modification of the approved closure plan.

(5) The Regional Administrator or the Director, National Programs Chemical Division, if he approved the closure plan, may modify the existing closure plan under the conditions described in paragraph (e)(4) of this section.

(6) Commercial storers of PCB waste shall comply with the following closure schedule:

(i) The commercial storer shall notify in writing the Regional Administrator or the Director, National Programs Chemical Division if he approved the closure plan, at least 60 days prior to the date on which final closure of its PCB storage facility is expected to begin.

(ii) The date when a commercial storer of PCB waste "expects to begin closure" shall be no later than 30 days after the date on which the storage facility received its final quantities of PCB waste. For good cause shown, the Regional Administrator or the Director, National Programs Chemical Division if he approved the closure plan, may extend the date for commencement of closure for an additional 30-day period.

(iii) Within 90 days after receiving the final quantity of PCB waste for storage, a commercial storer of PCB waste shall remove all PCB waste in storage at the facility from the facility in accordance with the approved closure plan. For good cause shown, the Regional Administrator or the Director, National Programs Chemical Division if he approved the closure plan, may approve a reasonable extension to the period for removal of the PCB waste.

(iv) A commercial storer of PCB waste shall complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final quantity of PCB waste for storage at the

facility. For good cause shown, the Regional Administrator or Director, National Programs Chemical Division if he approved the closure plan, may approve a reasonable extension to the closure period.

(7) During the closure period, all contaminated system component equipment, structures, and soils shall be disposed of in accordance with the disposal requirements of subpart D of this part, or, if applicable, decontaminated in accordance with the levels specified in the PCB Spills Cleanup Policy at subpart G of this part. When PCB waste is removed from the storage facility during closure, the owner or operator becomes a generator of PCB waste subject to the generator requirements of subpart J of this part.

(8) Within 60 days of completion of closure of each facility for the storage of PCB waste, the commercial storer of PCB waste shall submit to the Regional Administrator (or Director, National Programs Chemical Division if he approved the closure plan), by registered mail, a certification that the PCB storage facility has been closed in accordance with the approved closure plan. The certification shall be signed by the owner or operator and by an independent registered professional engineer.

(f) *Closure cost estimate.* (1) A commercial storer of PCB wastes shall have a detailed estimate, in current dollars, of the cost of closing the facility in accordance with its approved closure plan. The closure cost estimate shall be in writing, be certified by the person preparing it (using the certification defined in § 761.3) and comply with all of the following criteria:

(i) The closure cost estimate shall equal the cost of final closure at the point in the PCB storage facility's active life when the extent and manner of PCB storage operations would make closure the most expensive, as indicated by the facility's closure plan.

(ii) The closure cost estimate shall be based on the costs to the owner or operator of hiring a third party to close the facility, and the third party shall not be either a corporate parent or subsidiary of the owner or operator, or member in joint ownership of the facility.

(iii) The owner or operator shall include in the estimate the current market costs for off-site commercial disposal of the facility's maximum estimated inventory of PCB wastes, except that on-site disposal costs may be used if on-site disposal capacity will exist at the facility at all times over the life of the PCB storage facility.

(iv) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of wastes, facility structures or equipment, land, or other assets associated with the facility at the time of closure.

(2) During the active life of the PCB storage facility, the commercial storer of PCB waste shall adjust annually for inflation the closure cost estimate within 60 days prior to the anniversary date of the establishment of the financial instruments used to demonstrate financial responsibility for closure, except that owners or operators who use the financial test or corporate guarantee shall adjust their closure cost estimates for inflation within 30 days after the close of the storer's fiscal year. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its *Survey of Current Business*. The Implicit Price Deflator for Gross National Product is included in a monthly publication titled *Economic Indicators*, which is available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The inflation factor used in the latter method is the result of dividing the latest published annual Deflator by the Deflator for the previous year. The adjustment to the closure cost estimate is then made by

multiplying the most recent closure cost estimate by the latest inflation factor.

(3) Where the Regional Administrator (or the Director, National Programs Chemical Division, if he approved the closure plan) approves a modification to the facility's closure plan, and that modification increases the cost of closure, the owner or operator shall revise the closure cost estimate no later than 30 days after the modification is approved. Any such revision shall also be adjusted for inflation in accordance with paragraph (f)(2) of this section.

(4) The owner or operator of the facility shall keep at the facility during its operating life the most recent closure cost estimate, including any adjustments resulting from inflation or from modifications to the closure plan.

(g) *Financial assurance for closure.* A commercial storer of PCB waste shall establish financial assurance for closure of each PCB storage facility that he owns or operates. In establishing financial assurance for closure, the commercial storer of PCB waste may choose from the following financial assurance mechanisms or any combination of mechanisms:

(1) The "closure trust fund," as specified in § 264.143(a) of this chapter, except for paragraph (a)(3) of § 264.143. For purposes of this paragraph, the following provisions also apply:

(i) Payments into the trust fund shall be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan, or over 3 years, whichever period is shorter. This period of time is hereafter referred to as the "pay-in period." For an existing facility, the first payment must be made within 30 calendar days after EPA has notified the facility of its conditional approval. Interim approval to operate is canceled and the application is denied if EPA does not receive verification that the payment was made in that 30-day period.

(ii) For a new facility, the first payment into the closure trust fund shall be made before EPA grants final approval of the application and before the facility may accept the initial shipment of PCB waste for commercial storage. A receipt from the trustee shall be submitted by the owner or operator to the Regional Administrator (or the Director, National Programs Chemical Division, if the commercial storage area is ancillary to a disposal facility approved by the Director CMD) before this initial delivery of PCB waste. The first payment shall be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period, except as provided in paragraph (g)(7) of this section for multiple mechanisms. Subsequent payments shall be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment shall be determined by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period.

(iii) If an owner or operator of a facility existing on the effective date of this paragraph establishes a trust fund to meet the financial assurance requirements of this paragraph, and the value of the trust fund is less than the current closure cost estimate when a final approval is granted for the facility, the amount of the current closure cost estimate still to be paid into the trust fund shall be paid in over the pay-in period as defined in paragraph (g)(1)(i) of this section. Payments shall continue to be made no later than 30 days after each anniversary date of the first payment made into the trust fund. The amount of each payment shall be determined by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period.

(iv) The submission of a trust agreement with the wording specified in § 264.151(a)(1) of this chapter,

including any reference to hazardous waste management facilities, shall be deemed to be in compliance with the requirement to submit a trust agreement under this subpart.

(2) The "surety bond guaranteeing payment into a closure trust fund," as specified in § 264.143(b) of this chapter, including the use of the surety bond instrument specified at § 264.151(b) of this chapter and the standby trust specified at § 264.143(b)(3) of this chapter. The use of the surety bonds, surety bond instruments, and standby trust agreements specified in § § 264.143(b) and 264.151(b) of this chapter shall be deemed to be in compliance with this subpart.

(3)(i) The "surety bond guaranteeing performance of closure," as specified at § 264.143(c) of this chapter, except for paragraph (c)(5) of § 264.143 of this chapter. The submission and use of the surety bond instrument specified at § 264.151(c) of this chapter and the standby trust specified at § 264.143(c)(3) of this chapter shall be deemed to be in compliance with the requirements under this subpart relating to the use of surety bonds and standby trust funds.

(ii) For the purposes of this paragraph, and under the terms of the bond, the surety shall become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Liability is established by a final administrative determination pursuant to section 16 of TSCA that the owner or operator has failed to perform final closure in accordance with the closure plan and other approval or regulatory requirements when required to do so.

(4)(i) The "closure letter of credit" specified in § 264.143(d) of this chapter, except for paragraph (d)(8). The submission and use of the irrevocable letter of credit instrument specified in § 264.151(d) of this chapter and the standby trust specified in § 264.143(d)(3) of this chapter shall be deemed to be in compliance with the requirements of this subpart relating to the use of letters of credit and standby trust funds.

(ii) For the purposes of this paragraph, the Regional Administrator (or the Director, National Programs Chemical Division, if the commercial storage area is ancillary to a disposal facility approved by the Director, National Programs Chemical Division) may draw on the letter of credit following a final administrative determination pursuant to section 16 of TSCA that the owner or operator has failed to perform final closure in accordance with the closure plan and other approval or regulatory requirements when required to do so.

(5) "Closure insurance," as specified in § 264.143(e) of this chapter, utilizing the certificate of insurance for closure specified at § 264.151(e) of this chapter. The use of closure insurance as specified in § 264.143(e) of this chapter and the submission and use of the certificate of insurance specified in § 264.151(e) of this chapter shall be deemed to be in compliance with the requirements of this subpart relating to the use of closure insurance.

(6) The "financial test and corporate guarantee for closure," as described in § 264.143(f) of this chapter, including a letter signed by the owner's or operator's chief financial officer as specified at § 264.151(f) of this chapter and, if applicable, the written corporate guarantee specified at § 264.151(h) of this chapter. The use of the financial test and corporate guarantee specified in § 264.143(f) of this chapter, the submission and use of the letter specified in § 264.151(f) of this chapter, and the submission and use of the written corporate guarantee specified at § 264.151(h) of this chapter shall be deemed to be in compliance with the requirements of this subpart relating to the use of financial tests and corporate guarantees.

- (7) The corporate guarantee as specified in § 264.143(f)(10) of this chapter.
- (8) The use of multiple financial mechanisms, as specified in § 264.143(g) of this chapter is permitted.
- (9) A modification to a facility storing PCB waste that increases the maximum storage capacity indicated in the permit requires that a new financial assurance mechanism be established or an existing one be amended. When such a modification occurs, the Director of the Federal or State issuing authority must be notified in writing no later than 30 days from the completion of the modification. The new or revised financial assurance mechanism must be established and activated no later than 30 days after the Director of the Federal or State issuing authority is notified of the completion of the modification, but prior to the use of the modified portion of the facility.
- (h) *Release of owner or operator.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator or the Director, National Programs Chemical Division, if he approved the closure plan, will notify the owner or operator in writing that the owner or operator is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Regional Administrator or the Director, National Programs Chemical Division, if he approved the closure plan, has reason to believe that final closure has not been completed in accordance with the approved closure plan. The Regional Administrator or the Director, National Programs Chemical Division, if he approved the closure plan, shall provide the owner or operator with a detailed written statement stating the reasons why he believed closure was not conducted in accordance with the approved closure plan.
- (i) *Laboratories and samples.* (1) A laboratory is conditionally exempt from the notification and approval requirements for a commercial storer under § 761.65 (d) through (h) when it stores samples held for disposal in a facility that complies with the standards in § 761.65 (b)(1)(i) through (b)(1)(iv).
- (2) A laboratory sample is exempt from the manifesting requirements in § 761.208 when:
- (i) The sample is being transported to a laboratory for the purpose of testing.
- (ii) The sample is being transported back to the sample collector after testing.
- (iii) The sample is being stored by the sample collector before transport to a laboratory for testing.
- (iv) The sample is being stored in a laboratory before testing.
- (v) The sample is being stored in a laboratory after testing but before it is returned to the sample collector.
- (vi) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- (3) In order to qualify for the exemption in paragraph (i)(2)(i) and (i)(2)(ii) of this section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:
- (i) Comply with applicable U.S. Department of Transportation (DOT) or U.S. Postal Service (USPS) shipping requirements, found respectively in 49 CFR 173.345 and U.S. Postal Regulations 652.2 and

652.3.

(ii) Assure that the following information accompanies the sample:

(A) The sample collector's name, mailing address, and telephone number.

(B) The laboratory's name, mailing address, and telephone number.

(C) The quantity of the sample.

(D) The date of shipment.

(E) A description of the sample.

(iii) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(4) When the concentration of the PCB sample has been determined, and its use is terminated, the sample must be properly disposed. A laboratory must either manifest the PCB waste to a disposer or commercial storer, as required under § 761.208, retain a copy of each manifest, as required under § 761.209, and follow up on exception reporting, as required under § 761.215 (a) and (b), or return the sample to the sample collector who must then properly dispose of the sample. If the laboratory returns the sample to the sample collector, the laboratory must comply with the shipping requirements set forth in paragraph (i)(3)(i) through (i)(3)(iii) of this section.

(j) *Changes in ownership or operational control of a commercial storage facility.* The date of transfer of interim status or final approval shall be the date the EPA Regional Administrator (or Director, National Program Chemicals Division) provides written approval of the transfer. EPA will provide a final written decision within 90 days of receipt of the complete new or amended application. The Agency will approve the transfer if the following conditions are met:

(1) The transferee has established financial assurance for closure pursuant to paragraph (g) of this section using a mechanism effective as of the date of final approval so that there will be no lapse in financial assurance for the transferred facility.

(2) The transferor or transferee has resolved any deficiencies (e.g., technical operations, closure plans, cost estimates, etc.) the Agency has identified in the transferor's application.

(k) *States and the Federal Government.* States and the Federal Government are exempt from the requirements of paragraphs (f) and (g) of this section. (Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605)

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982, and amended at 47 FR 37359, Aug. 8, 1982; 49 FR 28191, July 10, 1984; 53 FR 12524, Apr. 15, 1988; 54 FR 52746, Dec. 21, 1989; 55 FR 695, Jan. 8, 1990; 55 FR 26205, June 27, 1990; 58 FR 15809, Mar. 24, 1993; 58 FR 34205, June 23, 1993; 58 FR 59374, Nov. 9, 1993; 63 FR 35439, 35452, June 29, 1998]





Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

40 CFR - CHAPTER I - PART 761

[View Part](#)

§ 761.70 Incineration.

This section applies to facilities used to incinerate PCBs required to be incinerated by this part.

(a) *Liquid PCBs*. An incinerator used for incinerating PCBs shall be approved by an EPA Regional Administrator or the Director, National Programs Chemical Division pursuant to paragraph (d) of this section. Requests for approval of incinerators to be used in more than one region must be submitted to the Director, National Programs Chemical Division, except for research and development involving less than 500 pounds of PCB material (see § 761.60(i)(2)). Requests for approval of incinerators to be used in only one region must be submitted to the appropriate Regional Administrator. The incinerator shall meet all of the requirements specified in paragraphs (a) (1) through (9) of this section, unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements which may be prescribed pursuant to paragraph (d)(4) of this section.

(1) Combustion criteria shall be either of the following:

(i) Maintenance of the introduced liquids for a 2-second dwell time at 1200 °C(±100 °C) and 3 percent excess oxygen in the stack gas; or

(ii) Maintenance of the introduced liquids for a 1 1/2 second dwell time at 1600 °C(±100 °C) and 2 percent excess oxygen in the stack gas.

(2) Combustion efficiency shall be at least 99.9 percent computed as follows:

Combustion efficiency=

$[C_{CO_2}/(C_{CO_2}+C_{CO})]100$  where

$C_{CO_2}$ =Concentration of carbon dioxide.

Cco=Concentration of carbon monoxide.

(3) The rate and quantity of PCBs which are fed to the combustion system shall be measured and recorded at regular intervals of no longer than 15 minutes.

(4) The temperatures of the incineration process shall be continuously measured and recorded. The combustion temperature of the incineration process shall be based on either direct (pyrometer) or indirect (wall thermocouple-pyrometer correlation) temperature readings.

(5) The flow of PCBs to the incinerator shall stop automatically whenever the combustion temperature drops below the temperatures specified in paragraph (a)(1) of this section.

(6) Monitoring of stack emission products shall be conducted:

(i) When an incinerator is first used for the disposal of PCBs under the provisions of this regulation;

(ii) When an incinerator is first used for the disposal of PCBs after the incinerator has been modified in a manner which may affect the characteristics of the stack emission products; and

(iii) At a minimum such monitoring shall be conducted for the following parameters:

(a) O<sub>2</sub>; (b) CO; (c) CO<sub>2</sub>; (d) Oxides of Nitrogen (NO<sub>x</sub>); (e) Hydrochloric Acid (HCl); (f) Total Chlorinated Organic Content (RCI); (g) PCBs; and (h) Total Particulate Matter.

(7) At a minimum monitoring and recording of combustion products and incineration operations shall be conducted for the following parameters whenever the incinerator is incinerating PCBs:

(i) O<sub>2</sub>; (ii) CO; and (iii) CO<sub>2</sub>. The monitoring for O<sub>2</sub> and CO shall be continuous. The monitoring for CO<sub>2</sub> shall be periodic, at a frequency specified by the Regional Administrator or Director, National Programs Chemical Division.

(8) The flow of PCBs to the incinerator shall stop automatically when any one or more of the following conditions occur, unless a contingency plan is submitted by the incinerator owner or operator and approved by the Regional Administrator or Director, National Programs Chemical Division. The contingency plan indicates what alternative measures the incinerator owner or operator would take if any of the following conditions occur:

(i) Failure of monitoring operations specified in paragraph (a)(7) of this section;

(ii) Failure of the PCB rate and quantity measuring and recording equipment specified in paragraph (a)(3) of this section; or

(iii) Excess oxygen falls below the percentage specified in paragraph (a)(1) of this section.

(9) Water scrubbers shall be used for HCl control during PCB incineration and shall meet any performance requirements specified by the appropriate EPA Regional Administrator or the Director, National Programs Chemical Division. Scrubber effluent shall be monitored and shall comply with applicable effluent or pretreatment standards, and any other State and Federal laws and regulations. An alternate method of HCl control may be used if the alternate method has been approved by the Regional Administrator or the Director, National Programs Chemical Division. (The HCl neutralizing capability of cement kilns is considered to be an alternate method.)

(b) *Nonliquid PCBs.* An incinerator used for incinerating nonliquid PCBs, PCB Articles, PCB Equipment, or PCB Containers shall be approved by the appropriate EPA Regional Administrator or the Director, National Programs Chemical Division pursuant to paragraph (d) of this section. Requests for approval of incinerators to be used in more than one region must be submitted to the Director, National Programs Chemical Division except for research and development involving less than 500 pounds of PCB material (see § 761.60(i)(2)). Requests for approval of incinerators to be used in only one region must be submitted to the appropriate Regional Administrator. The incinerator shall meet all of the requirements specified in paragraphs (b)(1) and (2) of this section unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements that may be prescribed pursuant to paragraph (d)(4) of this section.

(1) The mass air emissions from the incinerator shall be no greater than 0.001g PCB/kg of the PCB introduced into the incinerator.

(2) The incinerator shall comply with the provisions of paragraphs (a)(2), (3), (4), (6), (7), (8)(i) and (ii), and (9) of this section.

(c) *Maintenance of data and records.* All data and records required by this section shall be maintained in accordance with § 761.180, Records and monitoring.

(d) *Approval of incinerators.* Prior to the incineration of PCBs and PCB Items the owner or operator of an incinerator shall receive the written approval of the Agency Regional Administrator for the region in which the incinerator is located, or the Director, National Programs Chemical Division. Approval from the Director, National Programs Chemical Division may be effective in all ten EPA regions. Such approval shall be obtained in the following manner:

(1) *Application.* The owner or operator shall submit to the Regional Administrator or the Director, National Programs Chemical Division an application which contains:

(i) The location of the incinerator;

(ii) A detailed description of the incinerator including general site plans and design drawings of the incinerator;

(iii) Engineering reports or other information on the anticipated performance of the incinerator;

(iv) Sampling and monitoring equipment and facilities available;

(v) Waste volumes expected to be incinerated;

(vi) Any local, State, or Federal permits or approvals; and

(vii) Schedules and plans for complying with the approval requirements of this regulation.

(2) *Trial burn.* (i) Following receipt of the application described in paragraph (d)(1) of this section, the Regional Administrator or the Director, National Programs Chemical Division shall determine if a trial burn is required and notify the person who submitted the report whether a trial burn of PCBs and PCB Items must be conducted. The Regional Administrator or the Director, National Programs Chemical Division may require the submission of any other information that the Regional Administrator or the Director, National Programs Chemical Division finds to be reasonably necessary to determine the need

for a trial burn. Such other information shall be restricted to the types of information required in paragraphs (d)(1)(i) through (vii) of this section.

(ii) If the Regional Administrator or the Director, National Programs Chemical Division determines that a trial burn must be held, the person who submitted the report described in paragraph (d)(1) of this section shall submit to the Regional Administrator or the Director, National Programs Chemical Division a detailed plan for conducting and monitoring the trial burn. At a minimum, the plan must include:

(A) Date trial burn is to be conducted;

(B) Quantity and type of PCBs and PCB Items to be incinerated;

(C) Parameters to be monitored and location of sampling points;

(D) Sampling frequency and methods and schedules for sample analyses; and

(E) Name, address, and qualifications of persons who will review analytical results and other pertinent data, and who will perform a technical evaluation of the effectiveness of the trial burn.

(iii) Following receipt of the plan described in paragraph (d)(2)(ii) of this section, the Regional Administrator or the Director, National Programs Chemical Division will approve the plan, require additions or modifications to the plan, or disapprove the plan. If the plan is disapproved, the Regional Administrator or the Director, National Programs Chemical Division will notify the person who submitted the plan of such disapproval, together with the reasons why it is disapproved. That person may thereafter submit a new plan in accordance with paragraph (d)(2)(ii) of this section. If the plan is approved (with any additions or modifications which the Regional Administrator or the Director, National Programs Chemical Division may prescribe), the Regional Administrator or the Director, National Programs Chemical Division will notify the person who submitted the plan of the approval. Thereafter, the trial burn shall take place at a date and time to be agreed upon between the Regional Administrator or the Director, National Programs Chemical Division and the person who submitted the plan.

(3) *Other information.* In addition to the information contained in the report and plan described in paragraphs (d)(1) and (2) of this section, the Regional Administrator or the Assistant Administrator for Prevention, Pesticides and Toxic Substances may require the owner or operator to submit any other information that the Regional Administrator or the Assistant Administrator for Prevention, Pesticides and Toxic Substances finds to be reasonably necessary to determine whether an incinerator shall be approved.

**Note:** The Regional Administrator will have available for review and inspection an Agency manual containing information on sampling methods and analytical procedures for the parameters required in § 761.70(a) (3), (4), (6), and (7) plus any other parameters he/she may determine to be appropriate. Owners or operators are encouraged to review this manual prior to submitting any report required in § 761.70.

(4) *Contents of approval.* (i) Except as provided in paragraph (d)(5) of this section, the Regional Administrator or the Director, National Programs Chemical Division may not approve an incinerator for the disposal of PCBs and PCB Items unless he finds that the incinerator meets all of the requirements of paragraphs (a) and/or (b) of this section.

(ii) In addition to the requirements of paragraphs (a) and/or (b) of this section, the Regional Administrator or the Director, National Programs Chemical Division may include in an approval any other requirements that the Regional Administrator or the Director, National Programs Chemical Division finds are necessary to ensure that operation of the incinerator does not present an unreasonable risk of injury to health or the environment from PCBs. Such requirements may include a fixed period of time for which the approval is valid.

(5) *Waivers.* An owner or operator of the incinerator may submit evidence to the Regional Administrator or the Director, National Programs Chemical Division that operation of the incinerator will not present an unreasonable risk of injury to health or the environment from PCBs, when one or more of the requirements of paragraphs (a) and/or (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator or the Director, National Programs Chemical Division may in his/her discretion find that any requirement of paragraphs (a) and (b) of this section is not necessary to protect against such a risk, and may waive the requirements in any approval for that incinerator. Any finding and waiver under this paragraph must be stated in writing and included as part of the approval.

(6) *Persons approved.* An approval will designate the persons who own and who are authorized to operate the incinerator, and will apply only to such persons, except as provided in paragraph (d)(8) of this section.

(7) *Final approval.* Approval of an incinerator will be in writing and signed by the Regional Administrator or the Director, National Programs Chemical Division. The approval will state all requirements applicable to the approved incinerator.

(8) *Transfer of property.* Any person who owns or operates an approved incinerator must notify EPA at least 30 days before transferring ownership in the incinerator or the property it stands upon, or transferring the right to operate the incinerator. The transferor must also submit to EPA, at least 30 days before such transfer, a notarized affidavit signed by the transferee which states that the transferee will abide by the transferor's EPA incinerator approval. Within 30 days of receiving such notification and affidavit, EPA will issue an amended approval substituting the transferee's name for the transferor's name, or EPA may require the transferee to apply for a new incinerator approval. In the latter case, the transferee must abide by the transferor's EPA approval until EPA issues the new approval to the transferee. (Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605))

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982, and amended at 48 FR 13185, Mar. 30, 1983; 49 FR 28191, July 10, 1984; 53 FR 12524, Apr. 15, 1988; 58 FR 15809, Mar. 24, 1993; 63 FR 35439, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.71 High efficiency boilers.**

(a) To burn mineral oil dielectric fluid containing a PCB concentration of  $\geq 50$  ppm, but  $< 500$  ppm:

(1) The boiler shall comply with the following criteria:

(i) The boiler is rated at a minimum of 50 million BTU hours.

(ii) If the boiler uses natural gas or oil as the primary fuel, the carbon monoxide concentration in the stack is  $\leq 50$  ppm and the excess oxygen is at least 3 percent when PCBs are being burned.

(iii) If the boiler uses coal as the primary fuel, the carbon monoxide concentration in the stack is  $\leq 100$  ppm and the excess oxygen is at least 3 percent when PCBs are being burned.

(iv) The mineral oil dielectric fluid does not comprise more than 10 percent (on a volume basis) of the total fuel feed rate.

(v) The mineral oil dielectric fluid is not fed into the boiler unless the boiler is operating at its normal operating temperature (this prohibits feeding these fluids during either start up or shut down operations).

(vi) The owner or operator of the boiler:

(A) Continuously monitors and records the carbon monoxide concentration and excess oxygen percentage in the stack gas while burning mineral oil dielectric fluid; or

(B) If the boiler will burn  $< 30,000$  gallons of mineral oil dielectric fluid per year, measures and records the carbon monoxide concentration and excess oxygen percentage in the stack gas at regular intervals of no longer than 60 minutes while burning mineral oil dielectric fluid.

(vii) The primary fuel feed rates, mineral oil dielectric fluid feed rates, and total quantities of both primary fuel and mineral oil dielectric fluid fed to the boiler are measured and recorded at regular

intervals of no longer than 15 minutes while burning mineral oil dielectric fluid.

(viii) The carbon monoxide concentration and the excess oxygen percentage are checked at least once every hour that mineral oil dielectric fluid is burned. If either measurement falls below the levels specified in this section, the flow of mineral oil dielectric fluid to the boiler shall be stopped immediately.

(2) Thirty days before any person burns mineral oil dielectric fluid in the boiler, the person gives written notice to the EPA Regional Administrator for the EPA Region in which the boiler is located and that the notice contains the following information:

(i) The name and address of the owner or operator of the boiler and the address of the boiler.

(ii) The boiler rating in units of BTU/hour.

(iii) The carbon monoxide concentration and the excess oxygen percentage in the stack of the boiler when it is operated in a manner similar to the manner in which it will be operated when mineral oil dielectric fluid is burned.

(iv) The type of equipment, apparatus, and procedures to be used to control the feed of mineral oil dielectric fluid to the boiler and to monitor and record the carbon monoxide concentration and excess oxygen percentage in the stack.

(3) When burning mineral oil dielectric fluid, the boiler must operate at a level of output no less than the output at which the measurements required under paragraph (a)(2)(iii) of this section were taken.

(4) Any person burning mineral oil dielectric fluid in a boiler obtains the following information and retains the information for 5 years at the boiler location:

(i) The data required to be collected under paragraphs (a)(1)(vi) and (vii) of this section.

(ii) The quantity of mineral oil dielectric fluid burned in the boiler each month.

(b) To burn liquids, other than mineral oil dielectric fluid, containing a PCB concentration of  $\geq 50$  ppm, but  $< 500$  ppm:

(1) The boiler shall comply with the following criteria:

(i) The boiler is rated at a minimum of 50 million BTU/hour.

(ii) If the boiler uses natural gas or oil as the primary fuel, the carbon monoxide concentration in the stack is  $\leq 50$  ppm and the excess oxygen is at least 3 percent when PCBs are being burned.

(iii) If the boiler uses coal as the primary fuel, the carbon monoxide concentration in the stack is  $\leq 100$  ppm and the excess oxygen is at least 3 percent when PCBs are being burned.

(iv) The waste does not comprise more than 10 percent (on a volume basis) of the total fuel feed rate.

(v) The waste is not fed into the boiler unless the boiler is operating at its normal operating temperature (this prohibits feeding these fluids during either start up or shut down operations).

(vi) The owner or operator of the boiler must:

(A) Continuously monitor and record the carbon monoxide concentration and excess oxygen percentage in the stack gas while burning waste fluid; or

(B) If the boiler will burn <30,000 gallons of waste fluid per year, measure and record the carbon monoxide concentration and excess oxygen percentage in the stack gas at regular intervals of no longer than 60 minutes while burning waste fluid.

(vii) The primary fuel feed rate, waste fluid feed rate, and total quantities of both primary fuel and waste fluid fed to the boiler must be measured and recorded at regular intervals of no longer than 15 minutes while burning waste fluid.

(viii) The carbon monoxide concentration and the excess oxygen percentage must be checked at least once every hour that the waste is burned. If either measurement falls below the levels specified in either (a)(1)(ii) or (a)(1)(iii) of this section, the flow of waste to the boiler shall be stopped immediately.

(2) Prior to any person burning these liquids in the boiler, approval must be obtained from the EPA Regional Administrator for the EPA Region in which the boiler is located and any persons seeking such approval must submit to the EPA Regional Administrator a request containing at least the following information:

(i) The name and address of the owner or operator of the boiler and the address of the boiler.

(ii) The boiler rating in units of BTU/hour.

(iii) The carbon monoxide concentration and the excess oxygen percentage in the stack of the boiler when it is operated in a manner similar to the manner in which it will be operated when low concentration PCB liquid is burned.

(iv) The type of equipment, apparatus, and procedures to be used to control the feed of mineral oil dielectric fluid to the boiler and to monitor and record the carbon monoxide concentration and excess oxygen percentage in the stack.

(v) The type of waste to be burned (e.g., hydraulic fluid, contaminated fuel oil, heat transfer fluid, etc.).

(vi) The concentration of PCBs and of any other chlorinated hydrocarbon in the waste and the results of analyses using the American Society of Testing and Materials (ASTM) methods as follows: Carbon and hydrogen content using ASTM D-3178-84, nitrogen content using ASTM E-258-67 (Reapproved 1987), sulfur content using ASTM D-2784-89, ASTM D-1266-87, or ASTM D-129-64, chlorine content using ASTM D-808-87, water and sediment content using either ASTM D-2709-88 or ASTM D-1796-83 (Reapproved 1990), ash content using ASTM D-482-87, calorific value using ASTM D-240-87, carbon residue using either ASTM D-2158-89 or ASTM D-524-88, and flash point using ASTM D-93-90.

(vii) The quantity of wastes estimated to be burned in a 30-day period.

(viii) An explanation of the procedures to be followed to ensure that burning the waste will not adversely affect the operation of the boiler such that combustion efficiency will decrease.

(3) On the basis of the information in paragraph (b)(2) of this section and any other available information, the Regional Administrator may, at his/her discretion, find that the alternate disposal method will not present an unreasonable risk of injury to health or the environment and approve the use



of the boiler.

(4) When burning PCB wastes, the boiler must operate at a level of output no less than the output at which the measurements required under paragraph (b)(2)(iii) of this section were taken.

(5) Any person burning liquids in boilers approved as provided in paragraph (b)(3) of this section, must obtain the following information and retain the information for 5 years at the boiler location:

(i) The data required to be collected in paragraphs (b)(1)(vi) and (b)(1)(vii) of this section.

(ii) The quantity of low concentration PCB liquid burned in the boiler each month.

(iii) The analysis of the waste required by paragraph (b)(2)(vi) of this section taken once a month for each month during which low concentration PCB liquid is burned in the boiler.

[63 FR 35454, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.72 Scrap metal recovery ovens and smelters.**

Any person may dispose of residual PCBs associated with PCB-Contaminated articles regulated for disposal under § 761.60(b), metal surfaces in PCB remediation waste regulated under § 761.61, or metal surfaces in PCB bulk product waste regulated under §§ 761.62(a)(6) and 761.79(c)(6), from which all free-flowing liquids have been removed:

(a) In a scrap metal recovery oven:

(1) The oven shall have at least two enclosed (i.e., negative draft, no fugitive emissions) interconnected chambers.

(2) The equipment with all free-flowing liquid removed shall first be placed in the primary chamber at room temperature.

(3) The primary chamber shall operate at a temperature between 537 °C and 650 °C for a minimum of 2 1/2 hours and reach a minimum temperature of 650 °C (1,202 °F) once during each heating cycle or batch treatment of unheated, liquid-free equipment.

(4) Heated gases from the primary chamber must feed directly into the secondary chamber (i.e., afterburner) which must operate at a minimum temperature of 1,200 °C (2,192 °F) with at least a 3 percent excess oxygen and a retention time of 2.0 seconds with a minimum combustion efficiency of 99.9 percent according to the definition in § 761.70(a)(2).

(5) Heating of the primary chamber shall not commence until the secondary chamber has reached a temperature of 1,200 ± 100 °C (2,192 ° ± 180 °F).

(6) Continuous emissions monitors and recorders for carbon dioxide, carbon monoxide, and excess oxygen in the secondary chamber and continuous temperature recorders in the primary and secondary chambers shall be installed and operated while the primary and secondary chambers are in operation to

assure that the two chambers are within the operating parameters in paragraphs (a)(3) through (a)(5) of this section.

(7) Emissions from the secondary chamber must be vented through an exhaust gas stack in accordance with either:

(i) State or local air regulations or permits, or

(ii) The standards in paragraph (a)(8) of this section.

(8) Exhaust gas stack emissions shall be for: particulates <0.015 grains/dry standard cubic foot, sulfur dioxide <35 parts per million by volume (ppmv), nitrogen oxide <150 ppmv, carbon monoxide <35 ppmv, and hydrogen chloride <35 ppmv.

(9) A measurement of the temperature in the secondary chamber at the time the primary chamber starts heating must be taken, recorded and retained at the facility for 3 years from the date each charge is introduced into the primary chamber.

(b) By smelting:

(1) The operating temperature of the hearth must be at least 1,000 °C at the time it is charged with any PCB-Contaminated non-porous surface.

(2) Each charge containing a PCB-Contaminated item must be added into molten metal or a hearth at &ge;1,000 °C.

(3) Successive charges may not be introduced into the hearth in less than 15-minute intervals.

(4) The smelter must operate in compliance with any applicable emissions standards in part 60 of this chapter.

(5) The smelter must have an operational device which accurately measures directly or indirectly, the temperature in the hearth.

(6) Take, record and retain at the disposal facility for 3 years from the date each charge is introduced, a reading of the temperature in the hearth at the time it is charged with a non-porous surface item.

(c)(1) Scrap metal recovery ovens and smelters must either have a final permit under RCRA (part 266, subpart H of this chapter and § 270.66 of this chapter) or be operating under a valid State air emissions permit which includes a standard for PCBs.

(2) Scrap metal recovery ovens and smelters disposing of PCBs must provide notification as disposers of PCBs, are not required to submit annual reports, and shall otherwise comply with all applicable provisions of subparts J and K of this part, as well as other applicable Federal, State, and local laws and regulations.

(3) In lieu of the requirements in paragraph (c)(1) of this section, upon written request by the owner or operator of a scrap metal recovery oven or smelter, the EPA Regional Administrator, for the Region where the oven or smelter is located, may make a finding in writing, based on a site-specific risk assessment, that the oven or smelter does not pose an unreasonable risk of injury to health or the environment because it is operating in compliance with the parameters and conditions listed in paragraph

(a) or (b) of this section even though the oven or smelter does not have a RCRA or State air permit as required by paragraph (c)(1) of this section. The written request shall include a site-specific risk assessment.

(d) PCB liquids, other liquid waste qualifying as waste oils which may be used as provided for at § 761.20(e), or PCB remediation waste, other than PCB-Contaminated articles, may not be disposed of in a scrap metal recovery oven or smelter unless approved or otherwise allowed under subpart D of this part.

[63 FR 35455, June 29, 1998, as amended at 64 FR 33761, June 24, 1999]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.75 Chemical waste landfills.**

This section applies to facilities used to dispose of PCBs in accordance with the part.

(a) *General.* A chemical waste landfill used for the disposal of PCBs and PCB Items shall be approved by the Agency Regional Administrator pursuant to paragraph (c) of this section. The landfill shall meet all of the requirements specified in paragraph (b) of this section, unless a waiver from these requirements is obtained pursuant to paragraph (c)(4) of this section. In addition, the landfill shall meet any other requirements that may be prescribed pursuant to paragraph (c)(3) of this section.

(b) *Technical requirements.* Requirements for chemical waste landfills used for the disposal of PCBs and PCB Items are as follows:

(1) *Soils.* The landfill site shall be located in thick, relatively impermeable formations such as large-area clay pans. Where this is not possible, the soil shall have a high clay and silt content with the following parameters:

(i) In-place soil thickness, 4 feet or compacted soil liner thickness, 3 feet;

(ii) Permeability (cm/sec), equal to or less than  $1 \times 10^{-7}$ ;

(iii) Percent soil passing No. 200 Sieve,  $>30$ ;

(iv) Liquid Limit,  $>30$ ; and

(v) Plasticity Index  $>15$ .

(2) *Synthetic membrane liners.* Synthetic membrane liners shall be used when, in the judgment of the Regional Administrator, the hydrologic or geologic conditions at the landfill require such a liner in order to provide at least a permeability equivalent to the soils in paragraph (b)(1) of this section. Whenever a synthetic liner is used at a landfill site, special precautions shall be taken to insure that its integrity is

maintained and that it is chemically compatible with PCBs. Adequate soil underlining and soil cover shall be provided to prevent excessive stress on the liner and to prevent rupture of the liner. The liner must have a minimum thickness of 30 mils.

(3) *Hydrologic conditions.* The bottom of the landfill shall be above the historical high groundwater table as provided below. Floodplains, shorelands, and groundwater recharge areas shall be avoided. There shall be no hydraulic connection between the site and standing or flowing surface water. The site shall have monitoring wells and leachate collection. The bottom of the landfill liner system or natural in-place soil barrier shall be at least fifty feet from the historical high water table.

(4) *Flood protection.* (i) If the landfill site is below the 100-year floodwater elevation, the operator shall provide surface water diversion dikes around the perimeter of the landfill site with a minimum height equal to two feet above the 100-year floodwater elevation.

(ii) If the landfill site is above the 100-year floodwater elevation, the operators shall provide diversion structures capable of diverting all of the surface water runoff from a 24-hour, 25-year storm.

(5) *Topography.* The landfill site shall be located in an area of low to moderate relief to minimize erosion and to help prevent landslides or slumping.

(6) *Monitoring systems -- (i) Water sampling.* (A) For all sites receiving PCBs, the ground and surface water from the disposal site area shall be sampled prior to commencing operations under an approval provided in paragraph (c) of this section for use as baseline data.

(B) Any surface watercourse designated by the Regional Administrator using the authority provided in paragraph (c)(3)(ii) of this section shall be sampled at least monthly when the landfill is being used for disposal operations.

(C) Any surface watercourse designated by the Regional Administrator using the authority provided in paragraph (c)(3)(ii) of this section shall be sampled for a time period specified by the Regional Administrator on a frequency of no less than once every six months after final closure of the disposal area.

(ii) *Groundwater monitor wells.* (A) If underlying earth materials are homogenous, impermeable, and uniformly sloping in one direction, only three sampling points shall be necessary. These three points shall be equally spaced on a line through the center of the disposal area and extending from the area of highest water table elevation to the area of the lowest water table elevation on the property.

(B) All monitor wells shall be cased and the annular space between the monitor zone (zone of saturation) and the surface shall be completely backfilled with Portland cement or an equivalent material and plugged with Portland cement to effectively prevent percolation of surface water into the well bore. The well opening at the surface shall have a removable cap to provide access and to prevent entrance of rainfall or stormwater runoff. The well shall be pumped to remove the volume of liquid initially contained in the well before obtaining a sample for analysis. The discharge shall be treated to meet applicable State or Federal discharge standards or recycled to the chemical waste landfill.

(iii) *Water analysis.* As a minimum, all samples shall be analyzed for the following parameters, and all data and records of the sampling and analysis shall be maintained as required in § 761.180(d)(1). Sampling methods and analytical procedures for these parameters shall comply with those specified in 40

CFR part 136 as amended in 41 FR 52779 on December 1, 1976.

(A) PCBs.

(B) pH.

(C) Specific conductance.

(D) Chlorinated organics.

(7) *Leachate collection.* A leachate collection monitoring system shall be installed above the chemical waste landfill. Leachate collection systems shall be monitored monthly for quantity and physicochemical characteristics of leachate produced. The leachate should be either treated to acceptable limits for discharge in accordance with a State or Federal permit or disposed of by another State or Federally approved method. Water analysis shall be conducted as provided in paragraph (b)(6)(iii) of this section. Acceptable leachate monitoring/collection systems shall be any of the following designs, unless a waiver is obtained pursuant to paragraph (c)(4) of this section.

(i) *Simple leachate collection.* This system consists of a gravity flow drainfield installed above the waste disposal unit liner. This design is recommended for use when semi-solid or leachable solid wastes are placed in a lined pit excavated into a relatively thick, unsaturated, homogenous layer of low permeability soil.

(ii) *Compound leachate collection.* This system consists of a gravity flow drainfield installed above the waste disposal unit liner and above a secondary installed liner. This design is recommended for use when semi-liquid or leachable solid wastes are placed in a lined pit excavated into relatively permeable soil.

(iii) *Suction lysimeters.* This system consists of a network of porous ceramic cups connected by hoses/tubing to a vacuum pump. The porous ceramic cups or suction lysimeters are installed along the sides and under the bottom of the waste disposal unit liner. This type of system works best when installed in a relatively permeable unsaturated soil immediately adjacent to the bottom and/or sides of the disposal facility.

(8) *Chemical waste landfill operations.* (i) PCBs and PCB Items shall be placed in a landfill in a manner that will prevent damage to containers or articles. Other wastes placed in the landfill that are not chemically compatible with PCBs and PCB Items including organic solvents shall be segregated from the PCBs throughout the waste handling and disposal process.

(ii) An operation plan shall be developed and submitted to the Regional Administrator for approval as required in paragraph (c) of this section. This plan shall include detailed explanations of the procedures to be used for recordkeeping, surface water handling procedures, excavation and backfilling, waste segregation burial coordinates, vehicle and equipment movement, use of roadways, leachate collection systems, sampling and monitoring procedures, monitoring wells, environmental emergency contingency plans, and security measures to protect against vandalism and unauthorized waste placements. EPA guidelines entitled "Thermal Processing and Land Disposal of Solid Waste" (39 FR 29337, Aug. 14, 1974) are a useful reference in preparation of this plan. If the facility is to be used to dispose of liquid wastes containing between 50 ppm and 500 ppm PCB, the operations plan must include procedures to determine that liquid PCBs to be disposed of at the landfill do not exceed 500 ppm PCB and measures to prevent the migration of PCBs from the landfill. Bulk liquids not exceeding 500 ppm PCBs may be

disposed of provided such waste is pretreated and/or stabilized (e.g., chemically fixed, evaporated, mixed with dry inert absorbant) to reduce its liquid content or increase its solid content so that a non-flowing consistency is achieved to eliminate the presence of free liquids prior to final disposal in a landfill. PCB Container of liquid PCBs with a concentration between 50 and 500 ppm PCB may be disposed of if each container is surrounded by an amount of inert sorbant material capable of absorbing all of the liquid contents of the container.

(iii) Ignitable wastes shall not be disposed of in chemical waste landfills. Liquid ignitable wastes are wastes that have a flash point less than 60 degrees C (140 degrees F) as determined by the following method or an equivalent method: Flash point of liquids shall be determined by a Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM D 93-90, or the Setaflash Closed Tester using the protocol specified in ASTM Standard D-3278-89.

(iv) Records shall be maintained for all PCB disposal operations and shall include information on the PCB concentration in liquid wastes and the three dimensional burial coordinates for PCBs and PCB Items. Additional records shall be developed and maintained as required in § 761.180.

(9) *Supporting facilities.* (i) A six foot woven mesh fence, wall, or similar device shall be placed around the site to prevent unauthorized persons and animals from entering.

(ii) Roads shall be maintained to and within the site which are adequate to support the operation and maintenance of the site without causing safety or nuisance problems or hazardous conditions.

(iii) The site shall be operated and maintained in a manner to prevent safety problems or hazardous conditions resulting from spilled liquids and windblown materials.

(c) *Approval of chemical waste landfills.* Prior to the disposal of any PCBs and PCB Items in a chemical waste landfill, the owner or operator of the landfill shall receive written approval of the Agency Regional Administrator for the Region in which the landfill is located. The approval shall be obtained in the following manner:

(1) *Initial report.* The owner or operator shall submit to the Regional Administrator an initial report which contains:

(i) The location of the landfill;

(ii) A detailed description of the landfill including general site plans and design drawings;

(iii) An engineering report describing the manner in which the landfill complies with the requirements for chemical waste landfills specified in paragraph (b) of this section;

(iv) Sampling and monitoring equipment and facilities available;

(v) Expected waste volumes of PCBs;

(vi) General description of waste materials other than PCBs that are expected to be disposed of in the landfill;

(vii) Landfill operations plan as required in paragraph (b) of this section;

(viii) Any local, State, or Federal permits or approvals; and



(ix) Any schedules or plans for complying with the approval requirements of these regulations.

(2) *Other information.* In addition to the information contained in the report described in paragraph (c)(1) of this section, the Regional Administrator may require the owner or operator to submit any other information that the Regional Administrator finds to be reasonably necessary to determine whether a chemical waste landfill should be approved. Such other information shall be restricted to the types of information required in paragraphs (c)(1) (i) through (ix) of this section.

(3) *Contents of approval.* (i) Except as provided in paragraph (c)(4) of this section the Regional Administrator may not approve a chemical waste landfill for the disposal of PCBs and PCB Items, unless he finds that the landfill meets all of the requirements of paragraph (b) of this section.

(ii) In addition to the requirements of paragraph (b) of this section, the Regional Administrator may include in an approval any other requirements or provisions that the Regional Administrator finds are necessary to ensure that operation of the chemical waste landfill does not present an unreasonable risk of injury to health or the environment from PCBs. Such provisions may include a fixed period of time for which the approval is valid. The approval may also include a stipulation that the operator of the chemical waste landfill report to the Regional Administrator any instance when PCBs are detectable during monitoring activities conducted pursuant to paragraph (b)(6) of this section.

(4) *Waivers.* An owner or operator of a chemical waste landfill may submit evidence to the Regional Administrator that operation of the landfill will not present an unreasonable risk of injury to health or the environment from PCBs when one or more of the requirements of paragraph (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator may in his discretion find that one or more of the requirements of paragraph (b) of this section is not necessary to protect against such a risk and may waive the requirements in any approval for that landfill. Any finding and waiver under this paragraph will be stated in writing and included as part of the approval.

(5) *Persons approved.* Any approval will designate the persons who own and who are authorized to operate the chemical waste landfill, and will apply only to such persons, except as provided by paragraph (c)(7) of this section.

(6) *Final approval.* Approval of a chemical waste landfill will be in writing and will be signed by the Regional Administrator. The approval will state all requirements applicable to the approved landfill.

(7) *Transfer of property.* Any person who owns or operates an approved chemical waste landfill must notify EPA at least 30 days before transferring ownership in the property or transferring the right to conduct the chemical waste landfill operation. The transferor must also submit to EPA, at least 30 days before such transfer, a notarized affidavit signed by the transferee which states that the transferee will abide by the transferor's EPA chemical waste landfill approval. Within 30 days of receiving such notification and affidavit, EPA will issue an amended approval substituting the transferee's name for the transferor's name, or EPA may require the transferee to apply for a new chemical waste landfill approval. In the latter case, the transferee must abide by the transferor's EPA approval until EPA issues the new approval to the transferee. (Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605)

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982, and amended at 48 FR 5730, Feb. 8, 1983; 49 FR 28191, July 10, 1984; 53 FR 12524, Apr. 15, 1988; 53 FR 21641, June 9, 1988; 57

FR 13323, Apr. 16, 1992; 63 FR 35456, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

40 CFR - CHAPTER I - PART 761

[View Part](#)

**§ 761.77 Coordinated approval.**

(a) *General requirements.* Notwithstanding any other provision of this part, the EPA Regional Administrator for the Region in which a PCB disposal or PCB commercial storage facility described in paragraphs (b) and (c) of this section is located may issue a TSCA PCB Coordinated Approval to the persons described in those paragraphs if the conditions listed in this section are met. A TSCA PCB Coordinated Approval will designate the persons who own and who are authorized to operate the facilities described in paragraphs (b) and (c) of this section and will apply only to such persons. All requirements, conditions, and limitations of any other permit or waste management document cited or described in paragraphs (b) and (c) of this section, as the technical or legal basis on which the TSCA PCB Coordinated Approval is issued, are conditions of the TSCA PCB Coordinated Approval.

(1) Persons seeking a TSCA PCB Coordinated Approval shall submit a request for approval by certified mail, to the EPA Regional Administrator for the Region in which the activity will take place. Persons seeking a TSCA PCB Coordinated Approval for a new PCB activity shall submit the request for approval at the same time they seek a permit, approval, or other action for a PCB waste management activity under any other Federal or State authority.

(i) The request for a TSCA PCB Coordinated Approval shall include a copy of the letter from EPA announcing or confirming the EPA identification number issued to the facility for conducting PCB activities; the name, organization, and telephone number of the person who is the contact point for the non-TSCA Federal or State waste management authority; a copy of the relevant permit or waste management document specified in paragraphs (b) and (c) of this section, including all requirements, conditions, and limitations, if the EPA Regional Administrator does not have a copy of the document, or a description of the waste management activities to be conducted if a permit or other relevant waste management document has not been issued; and a certification that the person who owns or operates the facility is aware of and will adhere to the TSCA PCB reporting and recordkeeping requirements at subparts J and K of this part.

(ii) The EPA Regional Administrator shall review the request for completeness, for compliance with the requirements of paragraphs (b) and (c) of this section, and to ensure that the PCB activity for which approval is requested will not present an unreasonable risk of injury to health or the environment. The EPA Regional Administrator shall either:

(A) Issue a written notice of deficiency explaining why the request for approval is deficient. If appropriate, the EPA Regional Administrator may either:

(1) Request additional information to cure the deficiency.

(2) Deny the request for a TSCA PCB Coordinated Approval.

(B) Issue a letter granting or denying the TSCA PCB Coordinated Approval. If the EPA Regional Administrator grants the TSCA PCB Coordinated Approval, he or she may acknowledge the non-TSCA approval meets the regulatory requirements under TSCA as written, or require additional conditions the EPA Regional Administrator has determined are necessary to prevent unreasonable risk of injury to health or the environment.

(C) If the EPA Regional Administrator denies a request for a Coordinated Approval under paragraphs (a)(1)(ii)(A) or (a)(1)(ii)(B) of this section, the person who requested the TSCA PCB Coordinated Approval may submit an application for a TSCA Disposal Approval.

(2) The EPA Regional Administrator may issue a notice of deficiency, revoke the TSCA PCB Coordinated Approval, require the person to whom the TSCA PCB Coordinated Approval was issued to submit an application for a TSCA PCB approval, or bring an enforcement action under TSCA if he or she determines that:

(i) Conditions of the approval relating to PCB waste management activities are not met.

(ii) The PCB waste management process is being operated in a manner which may result in an unreasonable risk of injury to health or the environment.

(iii) The non-TSCA approval expires, is revoked, is suspended, or otherwise ceases to be in full effect.

(3) Any person with a TSCA PCB Coordinated Approval must notify the EPA Regional Administrator in writing within 5 calendar days of changes relating to PCB waste requirements in the non-TSCA waste management document which serves as the basis for a TSCA PCB Coordinated Approval. Changes in the ownership of a commercial storage facility which holds a TSCA PCB Coordinated Approval shall be handled pursuant to § 761.65(j).

(b) Any person who owns or operates a facility that he or she intends to use to landfill PCB wastes; incinerate PCB wastes; dispose of PCB wastes using an alternative disposal method that is equivalent to disposal in an incinerator approved under § 761.70 or a high efficiency boiler operating in compliance with § 761.71; or stores PCB wastes may apply for a TSCA PCB Coordinated Approval. The EPA Regional Administrator may approve the request if the EPA Regional Administrator determines that the activity will not pose an unreasonable risk of injury to health or the environment and the person:

(1)(i) Has a waste management permit or other decision or enforcement document which exercises control over PCB wastes, issued by EPA or an authorized State Director for a State program that has been approved by EPA and is no less stringent in protection of health or the environment than the

applicable TSCA requirements found in this part; or

(ii) Has a PCB waste management permit or other decision or enforcement document issued by a State Director pursuant to a State PCB waste management program no less stringent in protection of health or the environment than the applicable TSCA requirements found in this part; or

(iii) Is subject to a waste management permit or other decision or enforcement document which is applicable to the disposal of PCBs and which was issued through the promulgation of a regulation published in Title 40 of the Code of Federal Regulations.

(2) Complies with the terms and conditions of the permit or other decision or enforcement document described in paragraph (b)(1) of this section.

(3) Unless otherwise waived or modified in writing by the EPA Regional Administrator, complies with § 761.75(b); § 761.70(a)(1) through (a)(9), (b)(1) and (b)(2), and (c); or the PCB storage requirements at §§ 761.65(a), (c), and (d)(2), as appropriate.

(4) Complies with the reporting and recordkeeping requirements in subparts J and K of this part.

(c) A person conducting research and development (R&D) into PCB disposal methods (regardless of PCB concentration), or conducting PCB remediation activities may apply for a TSCA PCB Coordinated Approval. The EPA Regional Administrator may approve the request if the EPA Regional Administrator determines that the activity will not pose an unreasonable risk of injury to health or the environment and the person:

(1)(i) Has a permit or other decision and enforcement document issued or otherwise agreed to by EPA, or permit or other decision and enforcement document issued by an authorized State Director for a State program that has been approved by EPA, which exercises control over the management of PCB wastes, and that person is in compliance with all terms and conditions of that document; or

(ii) Has a permit, which exercises control over the management of PCB wastes, issued by a State Director pursuant to a State PCB disposal program no less stringent than the requirements in this part.

(2) Complies with the terms and conditions of that permit or other decision and enforcement document.

(3) Complies with the reporting and recordkeeping requirements in subparts J and K of this part.

[63 FR 35456, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.79 Decontamination standards and procedures.**

(a) *Applicability.* This section establishes decontamination standards and procedures for removing PCBs, which are regulated for disposal, from water, organic liquids, non-porous surfaces (including scrap metal from disassembled electrical equipment), concrete, and non-porous surfaces covered with a porous surface, such as paint or coating on metal.

(1) Decontamination in accordance with this section does not require a disposal approval under subpart D of this part.

(2) Materials from which PCBs have been removed by decontamination in accordance with this section may be distributed in commerce in accordance with § 761.20(c)(5).

(3) Materials from which PCBs have been removed by decontamination in accordance with this section may be used or reused in accordance with § 761.30(u).

(4) Materials from which PCBs have been removed by decontamination in accordance with this section, not including decontamination waste and residuals under paragraph (g) of this section, are unregulated for disposal under subpart D of this part.

(5) Any person decontaminating porous surfaces other than concrete under paragraph (b)(4) of this section and non-porous surfaces covered with a porous surface, such as paint or coating on metal, under paragraph (b)(3) or (c)(6) of this section must obtain an alternative decontamination approval in accordance with paragraph (h) of this section.

(6) Any person engaging in decontamination under this section is responsible for determining and complying with all other applicable Federal, State, and local laws and regulations.

(b) *Decontamination standards.* Chopping (including wire chopping), distilling, filtering, oil/water separation, spraying, soaking, wiping, stripping of insulation, scraping, scarification or the use of

abrasives or solvents may be used to remove or separate PCBs, to the following standards, from liquids, concrete, or non-porous surfaces.

(1) The decontamination standard for water containing PCBs is:

(i) Less than 200  $\mu\text{g/L}$  (i.e., <200 ppb PCBs) for non-contact use in a closed system where there are no releases;

(ii) For water discharged to a treatment works (as defined in § 503.9(aa) of this chapter) or to navigable waters, <3  $\mu\text{g/L}$  (approximately <3 ppb) or a PCB discharge limit included in a permit issued under section 307(b) or 402 of the Clean Water Act; or

(iii) Less than or equal to 0.5  $\mu\text{g/L}$  (i.e., approximately  $\leq$ 0.5 ppb PCBs) for unrestricted use.

(2) The decontamination standard for organic liquids and non-aqueous inorganic liquids containing PCBs is <2 milligrams per kilogram (i.e., <2 ppm PCBs).

(3) The decontamination standard for non-porous surfaces in contact with liquid and non-liquid PCBs is:

(i) For unrestricted use:

(A) For non-porous surfaces previously in contact with liquid PCBs at any concentration, where no free-flowing liquids are currently present,  $\leq$ 10 micrograms PCBs per 100 square centimeters ( $\leq$ 10  $\mu\text{g}/100\text{ cm}^2$ ) as measured by a standard wipe test (§ 761.123) at locations selected in accordance with subpart P of this part.

(B) For non-porous surfaces in contact with non-liquid PCBs (including non-porous surfaces covered with a porous surface, such as paint or coating on metal), cleaning to Visual Standard No. 2, Near-White Blast Cleaned Surface Finish, of the National Association of Corrosion Engineers (NACE). A person shall verify compliance with standard No. 2 by visually inspecting all cleaned areas.

(ii) For disposal in a smelter operating in accordance with § 761.72(b):

(A) For non-porous surfaces previously in contact with liquid PCBs at any concentration, where no free-flowing liquids are currently present, <100  $\mu\text{g}/100\text{ cm}^2$  as measured by a standard wipe test (§ 761.123) at locations selected in accordance with subpart P of this part.

(B) For non-porous surfaces in contact with non-liquid PCBs (including non-porous surfaces covered with a porous surface, such as paint or coating on metal), cleaning to Visual Standard No. 3, Commercial Blast Cleaned Surface Finish, of the National Association of Corrosion Engineers (NACE). A person shall verify compliance with standard No. 3 by visually inspecting all cleaned areas.

(4) The decontamination standard for concrete is  $\leq$ 10  $\mu\text{g}/100\text{ cm}^2$  as measured by a standard wipe test (§ 761.123) if the decontamination procedure is commenced within 72 hours of the initial spill of PCBs to the concrete or portion thereof being decontaminated.

(c) *Self-implementing decontamination procedures.* The following self-implementing decontamination procedures are available as an alternative to the measurement-based decontamination methods specified in paragraph (b) of this section. Any person performing self-implementing decontamination must comply with one of the following procedures.

(1) Any person decontaminating a PCB Container must do so by flushing the internal surfaces of the container three times with a solvent containing <50 ppm PCBs. Each rinse shall use a volume of the flushing solvent equal to approximately 10 percent of the PCB Container capacity.

(2) Any person decontaminating movable equipment contaminated by PCBs, tools, and sampling equipment may do so by:

- (i) Swabbing surfaces that have contacted PCBs with a solvent;
- (ii) A double wash/rinse as defined in subpart S of this part; or
- (iii) Another applicable decontamination procedure in this section.

(3) Any person decontaminating a non-porous surface in contact with free-flowing mineral oil dielectric fluid (MODEF) at levels  $\leq 10,000$  ppm PCBs must do so as follows:

(i) Drain the free-flowing MODEF and allow the residual surfaces to drain for an additional 15 hours.

(ii) Dispose of drained MODEF according to paragraph (g) of this section.

(iii) Soak the surfaces to be decontaminated in a sufficient amount of clean (containing <2 ppm PCBs) performance-based organic decontamination fluid (PODF) such that there is a minimum of 800 ml of PODF for each 100 cm<sup>2</sup> of contaminated or potentially contaminated surface for at least 15 hours at  $\geq 20$  °C.

(iv) Approved PODFs include:

- (A) Kerosene.
- (B) Diesel fuel.
- (C) Terpene hydrocarbons.
- (D) Mixtures of terpene hydrocarbons and terpene alcohols.

(v) Drain the PODF from the surfaces.

(vi) Dispose of the drained PODF in accordance with paragraph (g) of this section.

(4) Any person decontaminating a non-porous surface in contact with free-flowing MODEF containing >10,000 ppm PCB in MODEF or askarel PCB (up to 70 percent PCB in a mixture of trichlorobenzenes and tetrachlorobenzenes) must do so as follows:

(i) Drain the free-flowing MODEF or askarel and allow the residual surfaces to drain for an additional 15 hours.

(ii) Dispose of drained MODEF or askarel according to paragraph (g) of this section.

(iii) Soak the surfaces to be decontaminated in a sufficient amount of clean PODF (containing <2 ppm PCBs) such that there is a minimum of 800 ml of PODF for each 100 cm<sup>2</sup> of contaminated or potentially contaminated surface for at least 15 hours at  $\geq 20$  °C.

(iv) Approved PODFs include:



- (A) Kerosene.
  - (B) Diesel fuel.
  - (C) Terpene hydrocarbons.
  - (D) Mixtures of terpene hydrocarbons and terpene alcohols.
  - (v) Drain the PODF from the surfaces.
  - (vi) Dispose of the drained PODF in accordance with paragraph (g) of this section.
  - (vii) Resoak the surfaces to be decontaminated, pursuant to paragraph (c)(3)(iii) of this section, in a sufficient amount of clean PODF (containing <2 ppm PCBs) such that there is a minimum of 800 ml of PODF for each 100 cm<sup>2</sup> of surface for at least 15 hours at &ge;20 °C.
  - (viii) Drain the PODF from the surfaces.
  - (ix) Dispose of the drained PODF in accordance with paragraph (g) of this section.
- (5) Any person decontaminating piping and air lines in an air compressor system must do so as follows:
- (i) Before decontamination proceeds, disconnect or bypass the air compressors and air dryers from the piping and air lines and decontaminate the air compressors and air dryers separately in accordance with paragraphs (b), (c)(1) through (c)(4), or (c)(6) of this section. Dispose of filter media and desiccant in the air dryers based on their existing PCB concentration.
  - (ii) Test the connecting line and appurtenances of the system to assure that there is no leakage. Test by introducing air into the closed system at from 90 to 100 pounds per square inch (psi). Only if there is a pressure drop of <5 psi in 30 minutes may decontamination take place.
  - (iii) When there is no leakage, fill the piping and air lines with clean (containing <2 ppm PCBs) solvent. Solvents include PODF, aqueous potassium hydroxide at a pH between 9 and 12, or water containing 5 percent sodium hydroxide by weight.
  - (iv) Circulate the solvent to achieve turbulent flow through the piping and air lines in the air compressor system until the total volume of solvent circulated equals 10 times the total volume of the particular article being decontaminated, then drain the solvent. Calculate the total volume of solvent circulated by multiplying the pump rate by the time of pumping. Turbulent flow means a Reynolds number range from 20,000 to 43,000. Refill the system with clean solvent and repeat the circulation and drain process.
- (6) Any person using thermal processes to decontaminate metal surfaces in contact with PCBs, as required by § 761.62(a)(6), must use one of the following options:
- (i) Surfaces in contact with liquid and non-liquid PCBs at concentrations <500 ppm may be decontaminated in a scrap metal recovery oven or smelter for purposes of disposal in accordance with § 761.72.
  - (ii) Surfaces in contact with liquid or non-liquid PCBs at concentrations &ge;500 ppm may be smelted in a smelter operating in accordance with § 761.72(b), but must first be decontaminated in accordance with § 761.72(a) or to a surface concentration of <100 &mu;g/100 cm<sup>2</sup>.

(d) *Decontamination solvents.* (1) Unless otherwise provided in paragraphs (c)(3) through (c)(5) of this section, the solubility of PCBs in any solvent used for purposes of decontamination under this section must be 5 percent or more by weight.

(2) The solvent may be reused for decontamination so long as its PCB concentration is <50 ppm.

(3) Solvent shall be disposed of under paragraph (g) of this section.

(4) Other than as allowed in paragraphs (c)(3) and (c)(4) of this section, solvents may be tested and validated for performance-based decontamination of non-porous surfaces contaminated with MODEP or other PCB liquids, in accordance with the self-implementing procedures found in subpart T of this part. Specific conditions for the performance-based testing from this validation are determined in the validation study.

(e) *Limitation of exposure and control of releases.* (1) Any person conducting decontamination activities under this section shall take necessary measures to protect against direct release of PCBs to the environment from the decontamination area.

(2) Persons participating in decontamination activities shall wear or use protective clothing or equipment to protect against dermal contact or inhalation of PCBs or materials containing PCBs.

(f) *Sampling and recordkeeping.* (1) Confirmatory sampling is required under paragraph (b) of this section. For liquids described in paragraphs (b)(1) and (b)(2) of this section, sample in accordance with §§ 761.269 and 761.272. For non-porous surfaces and concrete described in paragraphs (b)(3) and (b)(4) of this section, sample in accordance with subpart P of this part. A written record of such sampling must be established and maintained for 3 years from the date of any decontamination under this section. The record must show sampling locations and analytical results and must be retained at the site of the decontamination or a copy of the record must be made available to EPA in a timely manner, if requested. In addition, recordkeeping is required in accordance with § 761.180(a) for all wastes generated by a decontamination process and regulated for disposal under this subpart.

(2) Confirmatory sampling is not required for self-implementing decontamination procedures under paragraph (c) of this section. Any person using these procedures must retain a written record documenting compliance with the procedures for 3 years after completion of the decontamination procedures (e.g., video recordings, photographs).

(g) *Decontamination waste and residues.* Decontamination waste and residues shall be disposed of at their existing PCB concentration unless otherwise specified.

(1) Distillation bottoms or residues and filter media are regulated for disposal as PCB remediation waste.

(2) PCBs physically separated from regulated waste during decontamination (such as by chopping, shredding, scraping, abrading or oil/water separation, as opposed to solvent rinsing and soaking), other than wastes described in paragraph (g)(1) of this section, are regulated for disposal at their original concentration.

(3) Hydrocarbon solvent used or reused for decontamination under this section that contains <50 ppm PCB must be burned and marketed in accordance with the requirements for used oil in § 761.20(e), disposed of in accordance with § 761.60(a) or (e), or decontaminated pursuant to this section.

- (4) Chlorinated solvent at any PCB concentration used for decontamination under this section shall be disposed of in an incinerator operating in compliance with § 761.70, or decontaminated pursuant to this section.
- (5) Solvents &ge;50 ppm other than those described in paragraphs (g)(3) and (g)(4) of this section shall be disposed of in accordance with § 761.60(a) or decontaminated pursuant to this section.
- (6) Non-liquid cleaning materials and personal protective equipment waste at any concentration, including non-porous surfaces and other non-liquid materials such as rags, gloves, booties, other disposable personal protective equipment, and similar materials resulting from decontamination shall be disposed of in accordance with § 761.61(a)(5)(v).
- (h) *Alternative decontamination or sampling approval.* (1) Any person wishing to decontaminate material described in paragraph (a) of this section in a manner other than prescribed in paragraph (b) of this section must apply in writing to the EPA Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or the Director of the National Program Chemicals Division, for decontamination activity occurring in more than one EPA Region. Each application must describe the material to be decontaminated and the proposed decontamination method, and must demonstrate that the proposed method is capable of decontaminating the material to the applicable level set out in paragraphs (b)(1) through (b)(4) of this section.
- (2) Any person wishing to decontaminate material described in paragraph (a) of this section using a self-implementing procedure other than prescribed in paragraph (c) of this section must apply in writing to the EPA Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or the Director of the National Program Chemicals Division, for decontamination activity occurring in more than one EPA Region. Each application must describe the material to be decontaminated and the proposed self-implementing decontamination method and must include a proposed validation study to confirm performance of the method.
- (3) Any person wishing to sample decontaminated material in a manner other than prescribed in paragraph (f) of this section must apply in writing to the EPA Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or the Director of the National Program Chemicals Division, for decontamination activity occurring in more than one EPA Region. Each application must contain a description of the material to be decontaminated, the nature and PCB concentration of the contaminating material (if known), the decontamination method, the proposed sampling procedure, and a justification for how the proposed sampling is equivalent to or more comprehensive than the sampling procedure required under paragraph (f) of this section.
- (4) EPA may request additional information that it believes necessary to evaluate the application.
- (5) EPA will issue a written decision on each application for risk-based decontamination or sampling. No person may conduct decontamination or sampling under this paragraph prior to obtaining written approval from EPA. EPA will approve an application if it finds that the proposed decontamination or sampling method will not pose an unreasonable risk of injury to health or the environment.

[63 FR 35457, June 29, 1998, as amended at 64 FR 33761, June 24, 1999]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.80 Manufacturing, processing and distribution in commerce exemptions.**

(a) The Administrator grants the following petitioner(s) an exemption for 1 year to process and distribute in commerce PCBs for use as a mounting medium in microscopy:

(1) McCrone Accessories Components, Division of Walter C. McCrone Associates, Inc., 2820 South Michigan Avenue, Chicago, IL. 60616.

(2) [Reserved]

(b) The Administrator grants the following petitioner(s) an exemption for 1 year to process and distribute in commerce PCBs for use as a mounting medium in microscopy, an immersion oil in low fluorescence microscopy and an optical liquid:

(1) R.P. Cargille Laboratories, Inc., 55 Commerce Road, Cedar Grove, N.J. 07009.

(2) [Reserved]

(c) The Administrator grants the following petitioner(s) an exemption for 1 year to export PCBs for use in small quantities for research and development:

(1) Accu-Standard, New Haven, CT. 06503.

(2) ManTech, Research Triangle Park, NC 27709.

(d) The Administrator grants the following petitioner(s) an exemption for 1 year to import (manufacture) into the United States, small quantities of existing PCB fluids from electrical equipment for analysis:

(1) Unison Transformer Services, Inc., Tarrytown, N.Y. 10591, provided each of the following conditions are met:

- (i) The samples must be shipped in 5.0 ml or less, hermetically sealed vials.
  - (ii) The exemption is limited to no more than 250 total samples per year.
  - (iii) Unison makes quarterly inspections of its laboratories to ensure that proper safety procedures are being followed.
  - (iv) Unison annually notifies and describes to EPA its attempts to have samples analyzed abroad.
- (2) [Reserved]
- (e) The Administrator grants a class exemption to all research and development (R&D) facilities for a period of 1 year to manufacture or import PCBs for use solely in the manufacturer or importer's own research for the development of PCB disposal technologies. Each person that wishes to be part of the exemption must meet the following conditions:
- (1) A petition for an exemption from the PCB prohibition on manufacturing PCBs must be received by EPA 60 days prior to engaging in these activities.
  - (2) Requests for renewal must be filed pursuant to § 750.11 of this chapter. EPA will deem any properly filed request for the renewal of the exemption by any member of the class as a renewal request for the entire class.
  - (3) The quantity of the PCBs manufactured annually must not exceed 500 grams by total weight of pure PCBs. Any person who wishes to manufacture or import more than 500 grams of PCBs in 1 year must receive written approval from the Director, National Program Chemicals Division to exceed the limitations established by this provision. The Director, National Program Chemicals Division may grant approval without further rulemaking. Any increase granted will be in writing and will extend only for a maximum of the time remaining in a specific exemption year.
  - (4) The owner or operator of the facility must notify the EPA Regional Administrator in writing 30 days prior to the commencement of R&D activities that include the manufacture or import of PCBs under the exemption, unless the facility has obtained a PCB R&D approval from EPA pursuant to § 761.60(e), § 761.60(i)(2), § 761.70(a), or § 761.70(b) and the approval contains a provision allowing the manufacture of PCBs.
  - (5) Records are maintained of their PCB activities for a period of 3 years after ceasing operations. The records must include the sources and the annual amounts of PCBs received if imported and the type and annual amount of PCBs that were manufactured.
  - (6) All PCBs and materials containing PCBs, regardless of concentration, remaining from the disposal-related studies must be disposed of according to § 761.60(j)(1)(vi), or decontaminated pursuant to § 761.79, based on the original PCB concentration.
- (f) The Administrator grants the following petitioner(s) an exemption for 1 year to manufacture PCBs for use in small quantities for research and development:
- (1) California Bionuclear Corp., Sun Valley, CA 91352 (ME-13).
  - (2) Foxboro Co., North Haven, CT 06473 (ME-6).

(3) ULTRA-Scientific, Inc., Hope, RI 02831 (ME-99.1).

(4) Midwest Research Institute, Kansas City, MO 64110 (ME-70.1).

(5) Pathfinder Laboratories, St. Louis, MO 63146 (A division of Sigma Aldridge Corporation, St. Louis, MO, 63178 (ME-76).

(6) Radian Corp., Austin, TX 78766 (ME-81.2).

(7) Wellington Sciences USA, College Station, TX 77840 (ME-104.1).

(8) Accu-Standard, 25 Science Park, New Haven, CT. 06503.

(g) The Administrator grants a class exemption to all processors and distributors of PCBs in small quantities for research and development provided that the following conditions are met:

(1) All processors and distributors must maintain records of their PCB activities for a period of 5 years.

(2) Any person or company which expects to process or distribute in commerce 100 grams (.22 lb) or more PCBs in 1 year must report to EPA identifying the sites of PCB activities and the quantity of PCBs to be processed or distributed in commerce.

(h) The Administrator grants the following petitioners an exemption for 1 year to process and distribute in commerce PCBs for analytical reference samples derived from actual waste materials:

(1) R.T. Corporation, Laramie, WY 82070.

(2) [Reserved]

(i) The Administrator grants a class exemption to all persons who manufacture, import, process, distribute in commerce, or export PCBs, or analytical reference samples derived from PCB waste material, provided the PCBs are manufactured, imported, processed, distributed in commerce, or exported solely for the purpose of R&D and the following conditions are met:

(1) Notification in the form of a petition for an exemption from the PCB prohibitions on manufacture, import, processing, distribution in commerce, or export is received by EPA 60 days prior to engaging in these activities.

(2) Requests for renewal are filed pursuant to §§ 750.11 and 750.31 of this chapter. EPA will deem any properly filed request for the renewal of the exemption by any member of the class as a renewal request for the entire class.

(3) The PCBs are packaged in one or more hermetically sealed containers of a volume of no more than 5.0 ml each. Analytical reference samples derived from PCB waste material may be packaged in a container larger than 5.0 ml when packaged pursuant to applicable DOT performance standards.

(4) The quantity of PCBs manufactured, imported, processed, distributed in commerce, or exported annually must not exceed 500 grams by total weight of pure PCBs. Any person who expects to manufacture, import, process, distribute in commerce, or export more than 500 grams of PCBs in 1 year or to exceed the 5.0 ml packaging requirement must obtain a written approval from the Director, National Program Chemicals Division and must identify the sites of PCB activities and the quantity of PCBs to be manufactured, imported, processed, distributed in commerce, or exported. Each request must include a

justification. The Director, National Program Chemicals Division, may grant approval without further rulemaking. Any increase granted will be in writing and will extend only for a maximum of the time remaining in a specific exemption year.

(5) All treated and untreated PCB regulated material and material coming into contact with regulated material must be stored and disposed of according to subpart D of this part, or decontaminated pursuant to § 761.79.

(6) All PCB materials must be distributed in DOT-authorized packaging.

(7) Records are maintained of their PCB activities for a period of 3 years after ceasing operations. The records must include the sources and the annual amounts of PCBs received if imported, the annual amount of PCBs that were manufactured, the annual amount of PCBs that were processed and/or distributed in commerce (to include export), and the persons to whom the PCBs were shipped.

(j)-(l) [Reserved]

(m) The Administrator grants the following petitioner(s) an exemption for 1 year to process and export small quantities of PCBs for research and development:

(1) Chem Service, Inc., West Chester, PA 19380 (PDE-41).

(2) Foxboro Co., North Haven, CT 06473 (ME-6).

(3) PolyScience Corp., Niles, IL 60648 (PDE-178).

(4) ULTRA-Scientific, Inc., Hope, RI 02831 (PDE-282.1).

(5) Supelco, Inc., Bellefonte, PA 16823-0048 (PDE-41.2).

(6) Radian Corp., Austin, TX 78766 (PDE-182.1).

(7) Restek Corporation, Bellefonte, PA

(n) The 1-year exemption granted to petitioners in paragraphs (a) through (c)(1), (d), (f), and (m)(1) through (m)(6) of this section shall be renewed automatically as long as there is no increase in the amount of PCBs to be processed and distributed, imported (manufactured), or exported, nor any change in the manner of processing and distributing, importing (manufacturing), or exporting of PCBs. If there is such a change, a new exemption petition must be submitted to EPA and it will be addressed through an exemption rulemaking. In such a case, the activities granted under the existing exemption may continue until the new petition is addressed by rulemaking, but must conform to the terms of the existing exemption approved by EPA. The 1-year exemption granted to petitioners in paragraphs (c)(2), (h) and (m)(7) of this section may be extended pursuant to 40 CFR 750.11(e) or 750.31(e).

(o) The 1-year class exemption granted to all processors and distributors of PCBs in small quantities for research and development in paragraph (g) of this section shall be renewed automatically unless information is submitted affecting EPA's conclusion that the class exemption, or the activities of any individual or company included in the exemption, will not pose an unreasonable risk of injury to health or the environment. EPA will evaluate the information, issue a proposed rule for public comment, and issue a final rule affecting the class exemption or individuals or companies included in the class exemption. Until EPA issues a final rule, individuals and companies included in the class exemption will



be allowed to continue processing and distributing PCBs in small quantities for research and development.

[55 FR 38999, Sept. 24, 1990, as amended at 59 FR 16998, Apr. 11, 1994; 63 FR 35460, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.91 Applicability.**

This subpart establishes requirements under section 6 of TSCA applicable to the transboundary shipments of PCBs and PCB Items into and out of the United States for disposal. Nothing in this subpart is intended to obviate or otherwise alter obligations applicable to imported or exported PCBs and PCB Items under foreign laws, international agreements or arrangements, other United States statutes and regulations, other sections of TSCA (e.g., sections 13 and 14), or laws of the various States of the United States. No provision of this section shall be construed to affect or limit the applicability of any requirement applicable to transporters of PCB waste under regulations issued by the U.S. Department of Transportation (DOT) and set forth at 49 CFR parts 171-180.



Electronic Code of Federal Regulations  
**e-CFR**  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.93 Import for disposal.**

(a) *General provisions.* No person may import PCBs or PCB Items for disposal without an exemption issued under the authority of TSCA section 6(e)(3).

(b) [Reserved]

[63 FR 35460, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.97 Export for disposal.**

(a) General provisions. No person may export PCBs or PCB Items for disposal without an exemption, except that:

(1) PCBs and PCB Items at concentrations <50 ppm (or <10  $\mu$ g PCB/100 cm<sup>2</sup> if no free-flowing liquids are present) may be exported for disposal.

(2) For the purposes of this section, PCBs and PCB Items of unknown concentrations shall be treated as if they contain  $\geq$ 50 ppm.

(b) [Reserved]

[61 FR 11107, Mar. 18, 1996, as amended at 63 FR 35460, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.99 Other transboundary shipments.**

For purposes of this subpart, the following transboundary shipments are not considered exports or imports:

- (a) PCB waste generated in the United States, transported outside the Customs Territory of the United States (including any residuals resulting from cleanup of spills of such wastes in transit) through another country or its territorial waters, or through international waters, and returned to the United States for disposal.
- (b) PCB waste in transit, including any residuals resulting from cleanup of spills during transit, through the United States (e.g., from Mexico to Canada, from Canada to Mexico).
- (c) PCB waste transported from any State to any other State for disposal, regardless of whether the waste enters or leaves the customs territory of the United States, provided that the PCB waste or the PCBs from which the waste was derived were present in the United States on January 1, 1979, and have remained within the United States since that date.

[63 FR 35461, June 29, 1998, as amended at 66 FR 17478, Mar. 30, 2001]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.120 Scope.**

(a) *General.* This policy establishes criteria EPA will use to determine the adequacy of the cleanup of spills resulting from the release of materials containing PCBs at concentrations of 50 ppm or greater. The policy applies to spills which occur after May 4, 1987.

(1) Existing spills (spills which occurred prior to May 4, 1987, are excluded from the scope of this policy for two reasons:

(i) For old spills which have already been discovered, this policy is not intended to require additional cleanup where a party has already cleaned a spill in accordance with requirements imposed by EPA through its regional offices, nor is this policy intended to interfere with ongoing litigation of enforcement actions which bring into issue PCB spills cleanup.

(ii) EPA recognizes that old spills which are discovered after the effective date of this policy will require site-by-site evaluation because of the likelihood that the site involves more pervasive PCB contamination than fresh spills and because old spills are generally more difficult to clean up than fresh spills (particularly on porous surfaces such as concrete). Therefore, spills which occurred before the effective date of this policy are to be decontaminated to requirements established at the discretion of EPA, usually through its regional offices.

(2) EPA expects most PCB spills subject to the TSCA PCB regulations to conform to the typical spill situations considered in developing this policy. This policy does, however, exclude from application of the final numerical cleanup standards certain spill situations from its scope: Spills directly into surface waters, drinking water, sewers, grazing lands, and vegetable gardens. These types of spills are subject to final cleanup standards to be established at the discretion of the regional office. These spills are, however, subject to the immediate notification requirements and measures to minimize further environmental contamination.

(3) For all other spills, EPA generally expects the decontamination standards of this policy to apply. Occasionally, some small percentage of spills covered by this policy may warrant more stringent cleanup requirements because of additional routes of exposure or significantly greater exposures than those assumed in developing the final cleanup standards of this policy. While the EPA regional offices have the authority to require additional cleanup in these circumstances, the Regional Administrator must first make a finding based on the specific facts of a spill that additional cleanup must occur to prevent unreasonable risk. In addition, before a final decision is made to require additional cleanup, the Regional Administrator must notify the Director, Office of Pollution Prevention and Toxics at Headquarters of his/her finding and the basis for the finding.

(4) There may also be exceptional spill situations that requires less stringent cleanup or a different approach to cleanup because of factors associated with the particular spill. These factors may mitigate expected exposures and risks or make cleanup to these requirements impracticable.

(b) *Spills that may require more stringent cleanup levels.* For spills within the scope of this policy, EPA generally retains, under § 761.135, the authority to require additional cleanup upon finding that, despite good faith efforts by the responsible party, the numerical decontamination levels in the policy have not been met. In addition, EPA foresees the possibility of exceptional spill situations in which site-specific risk factors may warrant additional cleanup to more stringent numerical decontamination levels than are required by the policy. In these situations, the Regional Administrator has the authority to require cleanup to levels lower than those included in this policy upon finding that further cleanup must occur to prevent unreasonable risk. The Regional Administrator will consult with the Director, Office of Pollution Prevention and Toxics, prior to making such a finding.

(1) For example, site-specific characteristics, such as short depth to ground water, type of soil, or the presence of a shallow well, may pose exceptionally high potential for ground water contamination by PCBs remaining after cleanup to the standards specified in this policy. Spills that pose such a high degree of potential for ground water contamination have not been excluded from the policy under paragraph (d) of this section because the presence of such potential may not be readily apparent. EPA feels that automatically excluding such spills from the scope of the policy could result in the delay of cleanup -- a particularly undesirable outcome if potential ground water contamination is, in fact, a significant concern.

(2) In those situations, the Regional Administrator may require cleanup in addition to that required under § 761.125 (b) and (c). However, the Regional Administrator must first make a finding, based on the specific facts of a spill, that additional cleanup is necessary to prevent unreasonable risk. In addition, before making a final decision on additional cleanup, the Regional Administrator must notify the Director of the Office of Pollution Prevention and Toxics of his finding and the basis for the finding.

(c) *Flexibility to allow less stringent or alternative requirements.* EPA retains the flexibility to allow less stringent or alternative decontamination measures based upon site-specific considerations. EPA will exercise this flexibility if the responsible party demonstrates that cleanup to the numerical decontamination levels is clearly unwarranted because of risk-mitigating factors, that compliance with the procedural requirements or numerical standards in the policy is impracticable at a particular site, or that site-specific characteristics make the costs of cleanup prohibitive. The Regional Administrator will notify the Director of OPPT of any decision and the basis for the decision to allow less stringent cleanup. The purpose of this notification is to enable the Director of OPPT to ensure consistency of spill cleanup

standards under special circumstances across the regions.

(d) *Excluded spills.* (1) Although the spill situations in paragraphs (d)(2) (i) through (vi) of this section are excluded from the automatic application of final decontamination standards under § 761.125 (b) and (c), the general requirements under § 761.125(a) do apply to these spills. In addition, all of these excluded situations require practicable, immediate actions to contain the area of contamination. While these situations may not always require more stringent cleanup measures, the Agency is excluding these scenarios because they will always involve significant factors that may not be adequately addressed by cleanup standards based upon typical spill characteristics.

(2) For the spill situations in paragraphs (d)(2)(i) through (vi) of this section, the responsible party shall decontaminate the spill in accordance with site-specific requirements established by the EPA regional offices.

(i) Spills that result in the direct contamination of surface waters (surface waters include, but are not limited to, "waters of the United States" as defined in part 122 of this chapter, ponds, lagoons, wetlands, and storage reservoirs).

(ii) Spills that result in the direct contamination of sewers or sewage treatment systems.

(iii) Spills that result in the direct contamination of any private or public drinking water sources or distribution systems.

(iv) Spills which migrate to and contaminate surface waters, sewers, or drinking water supplies before cleanup has been completed in accordance with this policy.

(v) Spills that contaminate animal grazing lands.

(vi) Spills that contaminate vegetable gradens.

(e) *Relationship of policy to other statutes.* (1) This policy does not affect cleanup standards or requirements for the reporting of spills imposed, or to be imposed, under other Federal statutory authorities, including but not limited to, the Clean Water Act (CWA), the Resource Conservation and Recovery Act (RCRA), and the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA). Where more than one requirement applies, the stricter standard must be met.

(2) The Agency recognizes that the existence of this policy will inevitably result in attempts to apply the standards to situations within the scope of other statutory authorities. However, other statutes require the Agency to consider different or alternative factors in determining appropriate corrective actions. In addition, the types and magnitudes of exposures associated with sites requiring corrective action under other statutes often involve important differences from those expected of the typical, electrical equipment-type spills considered in developing this policy. Thus, cleanups under other statutes, such as RCRA corrective actions or remedial and response actions under SARA may result in different outcomes.





Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.123 Definitions.**

For purposes of this policy, certain words and phrases are used to denote specific materials, procedures, or circumstances. The following definitions are provided for purposes of clarity and are not to be taken as exhaustive lists of situations and materials covered by the policy.

*Double wash/rinse* means a minimum requirement to cleanse solid surfaces (both impervious and nonimpervious) two times with an appropriate solvent or other material in which PCBs are at least 5 percent soluble (by weight). A volume of PCB-free fluid sufficient to cover the contaminated surface completely must be used in each wash/rinse. The wash/rinse requirement does not mean the mere spreading of solvent or other fluid over the surface, nor does the requirement mean a once-over wipe with a soaked cloth. Precautions must be taken to contain any runoff resulting from the cleansing and to dispose properly of wastes generated during the cleansing.

*High-concentration PCBs* means PCBs that contain 500 ppm or greater PCBs, or those materials which EPA requires to be assumed to contain 500 ppm or greater PCBs in the absence of testing.

*High-contact industrial surface* means a surface in an industrial setting which is repeatedly touched, often for relatively long periods of time. Manned machinery and control panels are examples of high-contact industrial surfaces. High-contact industrial surfaces are generally of impervious solid material. Examples of low-contact industrial surfaces include ceilings, walls, floors, roofs, roadways and sidewalks in the industrial area, utility poles, unmanned machinery, concrete pads beneath electrical equipment, curbing, exterior structural building components, indoor vaults, and pipes.

*High-contact residential/commercial surface* means a surface in a residential/commercial area which is repeatedly touched, often for relatively long periods of time. Doors, wall areas below 6 feet in height, uncovered flooring, windowsills, fencing, bannisters, stairs, automobiles, and children's play areas such as outdoor patios and sidewalks are examples of high-contact residential/commercial surfaces. Examples of low-contact residential/commercial surfaces include interior ceilings, interior wall areas above 6 feet

in height, roofs, asphalt roadways, concrete roadways, wooden utility poles, unmanned machinery, concrete pads beneath electrical equipment, curbing, exterior structural building components (e.g., aluminum/vinyl siding, cinder block, asphalt tiles), and pipes.

*Impervious solid surfaces* means solid surfaces which are nonporous and thus unlikely to absorb spilled PCBs within the short period of time required for cleanup of spills under this policy. Impervious solid surfaces include, but are not limited to, metals, glass, aluminum siding, and enameled or laminated surfaces.

*Low-concentration PCBs* means PCBs that are tested and found to contain less than 500 ppm PCBs, or those PCB-containing materials which EPA requires to be assumed to be at concentrations below 500 ppm (i.e., untested mineral oil dielectric fluid).

*Nonimpervious solid surfaces* means solid surfaces which are porous and are more likely to absorb spilled PCBs prior to completion of the cleanup requirements prescribed in this policy. Nonimpervious solid surfaces include, but are not limited to, wood, concrete, asphalt, and plasterboard.

*Nonrestricted access areas* means any area other than restricted access, outdoor electrical substations, and other restricted access locations, as defined in this section. In addition to residential/commercial areas, these areas include unrestricted access rural areas (areas of low density development and population where access is uncontrolled by either man-made barriers or naturally occurring barriers, such as rough terrain, mountains, or cliffs).

*Other restricted access (nonsubstation) locations* means areas other than electrical substations that are at least 0.1 kilometer (km) from a residential/commercial area and limited by man-made barriers (e.g., fences and walls) to substantially limited by naturally occurring barriers such as mountains, cliffs, or rough terrain. These areas generally include industrial facilities and extremely remote rural locations. (Areas where access is restricted but are less than 0.1 km from a residential/commercial area are considered to be residential/commercial areas.)

*Outdoor electrical substations* means outdoor, fenced-off, and restricted access areas used in the transmission and/or distribution of electrical power. Outdoor electrical substations restrict public access by being fenced or walled off as defined under § 761.30(1)(1)(ii). For purposes of this TSCA policy, outdoor electrical substations are defined as being located at least 0.1 km from a residential/commercial area. Outdoor fenced-off and restricted access areas used in the transmission and/or distribution of electrical power which are located less than 0.1 km from a residential/commercial area are considered to be residential/commercial areas.

*PCBs* means polychlorinated biphenyls as defined under § 761.3. As specified under § 761.1(b), no requirements may be avoided through dilution of the PCB concentration.

*Requirements and standards* means:

(1) "Requirements" as used in this policy refers to both the procedural responses and numerical decontamination levels set forth in this policy as constituting adequate cleanup of PCBs.

(2) "Standards" refers to the numerical decontamination levels set forth in this policy.

*Residential/commercial areas* means those areas where people live or reside, or where people work in other than manufacturing or farming industries. Residential areas include housing and the property on

which housing is located, as well as playgrounds, roadways, sidewalks, parks, and other similar areas within a residential community. Commercial areas are typically accessible to both members of the general public and employees and include public assembly properties, institutional properties, stores, office buildings, and transportation centers.

*Responsible party* means the owner of the PCB equipment, facility, or other source of PCBs or his/her designated agent (e.g., a facility manager or foreman).

*Soil* means all vegetation, soils and other ground media, including but not limited to, sand, grass, gravel, and oyster shells. It does not include concrete and asphalt.

*Spill* means both intentional and unintentional spills, leaks, and other uncontrolled discharges where the release results in any quantity of PCBs running off or about to run off the external surface of the equipment or other PCB source, as well as the contamination resulting from those releases. This policy applies to spills of 50 ppm or greater PCBs. The concentration of PCBs spilled is determined by the PCB concentration in the material spilled as opposed to the concentration of PCBs in the material onto which the PCBs were spilled. Where a spill of untested mineral oil occurs, the oil is presumed to contain greater than 50 ppm, but less than 500 ppm PCBs and is subject to the relevant requirements of this policy.

*Spill area* means the area of soil on which visible traces of the spill can be observed plus a buffer zone of 1 foot beyond the visible traces. Any surface or object (e.g., concrete sidewalk or automobile) within the visible traces area or on which visible traces of the spilled material are observed is included in the spill area. This area represents the minimum area assumed to be contaminated by PCBs in the absence of precleanup sampling data and is thus the minimum area which must be cleaned.

*Spill boundaries* means the actual area of contamination as determined by postcleanup verification sampling or by precleanup sampling to determine actual spill boundaries. EPA can require additional cleanup when necessary to decontaminate all areas within the spill boundaries to the levels required in this policy (e.g., additional cleanup will be required if postcleanup sampling indicates that the area decontaminated by the responsible party, such as the spill area as defined in this section, did not encompass the actual boundaries of PCB contamination).

*Standard wipe test* means, for spills of high-concentration PCBs on solid surfaces, a cleanup to numerical surface standards and sampling by a standard wipe test to verify that the numerical standards have been met. This definition constitutes the minimum requirements for an appropriate wipe testing protocol. A standard-size template (10 centimeters (cm) x 10 cm) will be used to delineate the area of cleanup; the wiping medium will be a gauze pad or glass wool of known size which has been saturated with hexane. It is important that the wipe be performed very quickly after the hexane is exposed to air. EPA strongly recommends that the gauze (or glass wool) be prepared with hexane in the laboratory and that the wiping medium be stored in sealed glass vials until it is used for the wipe test. Further, EPA requires the collection and testing of field blanks and replicates.

[52 FR 10705, Apr. 2, 1987; 52 FR 23397, June 19, 1987]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

40 CFR - CHAPTER I - PART 761

[View Part](#)

**§ 761.125 Requirements for PCB spill cleanup.**

(a) *General.* Unless expressly limited, the reporting, disposal, and precleanup sampling requirements in paragraphs (a) (1) through (3) of this section apply to all spills of PCBs at concentrations of 50 ppm or greater which are subject to decontamination requirements under TSCA, including those spills listed under § 761.120(b) which are excluded from the cleanup standards at paragraphs (b) and (c) of this section.

(1) *Reporting requirements.* The reporting in paragraphs (a)(1) (i) through (iv) of this section is required in addition to applicable reporting requirements under the Clean Water Act (CWA) or the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA). For example, under the National Contingency Plan all spills involving 1 pound or more by weight of PCBs must currently be reported to the National Response Center (1-800-424-8802). The requirements in paragraphs (a)(1) (i) through (iv) of this section are designed to be consistent with existing reporting requirements to the extent possible so as to minimize reporting burdens on governments as well as the regulated community.

(i) Where a spill directly contaminates surface water, sewers, or drinking water supplies, as discussed under § 761.120(d), the responsible party shall notify the appropriate EPA regional office (the Office of Prevention, Pesticides and Toxic Substances Branch) and obtain guidance for appropriate cleanup measures in the shortest possible time after discovery, but in no case later than 24 hours after discovery.

(ii) Where a spill directly contaminates grazing lands or vegetable gardens, as discussed under § 761.120(d), the responsible party shall notify the appropriate EPA regional office (the Office of Prevention, Pesticides and Toxic Substances Branch) and proceed with the immediate requirements specified under paragraph (b) or (c) of this section, depending on the source of the spill, in the shortest possible time after discovery, but in no case later than 24 hours after discovery.

(iii) Where a spill exceeds 10 pounds of PCBs by weight and is not addressed in paragraph (a)(1) (i) or

(ii) of this section, the responsible party will notify the appropriate EPA regional office (Pesticides and Toxic Substances Branch) and proceed to decontaminate the spill area in accordance with this TSCA policy in the shortest possible time after discovery, but in no case later than 24 hours after discovery.

(iv) Spills of 10 pounds or less, which are not addressed in paragraph (a)(1) (i) or (ii) of this section, must be cleaned up in accordance with this policy (in order to avoid EPA enforcement liability), but notification of EPA is not required.

(2) *Disposal of cleanup debris and materials.* All concentrated soils, solvents, rags, and other materials resulting from the cleanup of PCBs under this policy shall be properly stored, labeled, and disposed of in accordance with the provisions of subpart D of this part.

(3) *Determination of spill boundaries in the absence of visible traces.* For spills where there are insufficient visible traces yet there is evidence of a leak or spill, the boundaries of the spill are to be determined by using a statistically based sampling scheme.

(b) *Requirements for cleanup of low-concentration spills which involve less than 1 pound of PCBs by weight (less than 270 gallons of untested mineral oil) -- (1) Decontamination requirements.* Spills of less than 270 gallons of untested mineral oil, low-concentration PCBs, as defined under § 761.123, which involve less than 1 pound of PCBs by weight (e.g., less than 270 gallons of untested mineral oil containing less than 500 ppm PCBs) shall be cleaned in the following manner:

(i) Solid surfaces must be double washed/rinsed (as defined under § 761.123); except that all indoor, residential surfaces other than vault areas must be cleaned to 10 micrograms per 100 square centimeters (10  $\mu$ g/100 cm<sup>2</sup>) by standard commercial wipe tests.

(ii) All soil within the spill area (i.e., visible traces of soil and a buffer of 1 lateral foot around the visible traces) must be excavated, and the ground be restored to its original configuration by back-filling with clean soil (i.e., containing less than 1 ppm PCBs).

(iii) Requirements of paragraphs (b)(1) (i) and (ii) of this section must be completed within 48 hours after the responsible party was notified or became aware of the spill.

(2) *Effect of emergency or adverse weather.* Completion of cleanup may be delayed beyond 48 hours in case of circumstances including but not limited to, civil emergency, adverse weather conditions, lack of access to the site, and emergency operating conditions. The occurrence of a spill on a weekend or overtime costs are not acceptable reasons to delay response. Completion of cleanup may be delayed only for the duration of the adverse conditions. If the adverse weather conditions, or time lapse due to other emergency, has left insufficient visible traces, the responsible party must use a statistically based sampling scheme to determine the spill boundaries as required under paragraph (a)(3) of this section.

(3) *Records and certification.* At the completion of cleanup, the responsible party shall document the cleanup with records and certification of decontamination. The records and certification must be maintained for a period of 5 years. The records and certification shall consist of the following:

(i) Identification of the source of the spill (e.g., type of equipment).

(ii) Estimated or actual date and time of the spill occurrence.

(iii) The date and time cleanup was completed or terminated (if cleanup was delayed by emergency or

adverse weather: the nature and duration of the delay).

(iv) A brief description of the spill location.

(v) Precleanup sampling data used to establish the spill boundaries if required because of insufficient visible traces, and a brief description of the sampling methodology used to establish the spill boundaries.

(vi) A brief description of the solid surfaces cleaned and of the double wash/rinse method used.

(vii) Approximate depth of soil excavation and the amount of soil removed.

(viii) A certification statement signed by the responsible party stating that the cleanup requirements have been met and that the information contained in the record is true to the best of his/her knowledge.

(ix) While not required for compliance with this policy, the following information would be useful if maintained in the records:

(A) Additional pre- or post-cleanup sampling.

(B) The estimated cost of the cleanup by man-hours, dollars, or both.

(c) *Requirements for cleanup of high-concentration spills and low-concentration spills involving 1 pound or more PCBs by weight (270 gallons or more of untested mineral oil).* Cleanup of low-concentration spills involving 1 lb or more PCBs by weight and of all spills of materials other than low-concentration materials shall be considered complete if all of the immediate requirements, cleanup standards, sampling, and recordkeeping requirements of paragraphs (c) (1) through (5) of this section are met.

(1) *Immediate requirements.* The four actions in paragraphs (c)(1) (i) through (iv) of this section must be taken as quickly as possible and within no more than 24 hours (or within 48 hours for PCB Transformers) after the responsible party was notified or became aware of the spill, except that actions described in paragraphs (c)(1) (ii) through (iv) of this section can be delayed beyond 24 hours if circumstances (e.g., civil emergency, hurricane, tornado, or other similar adverse weather conditions, lack of access due to physical impossibility, or emergency operating conditions) so require for the duration of the adverse conditions. The occurrence of a spill on a weekend or overtime costs are not acceptable reasons to delay response. Owners of spilled PCBs who have delayed cleanup because of these types of circumstances must keep records documenting the fact that circumstances precluded rapid response.

(i) The responsible party shall notify the EPA regional office and the NRC as required by § 761.125(a)(1) or by other applicable statutes.

(ii) The responsible party shall effectively cordon off or otherwise delineate and restrict an area encompassing any visible traces plus a 3-foot buffer and place clearly visible signs advising persons to avoid the area to minimize the spread of contamination as well as the potential for human exposure.

(iii) The responsible party shall record and document the area of visible contamination, noting the extent of the visible trace areas and the center of the visible trace area. If there are no visible traces, the responsible party shall record this fact and contact the regional office of the EPA for guidance in completing statistical sampling of the spill area to establish spill boundaries.

(iv) The responsible party shall initiate cleanup of all visible traces of the fluid on hard surfaces and



initiate removal of all visible traces of the spill on soil and other media, such as gravel, sand, oyster shells, etc.

(v) If there has been a delay in reaching the site and there are insufficient visible traces of PCBs remaining at the spill site, the responsible party must estimate (based on the amount of material missing from the equipment or container) the area of the spill and immediately cordon off the area of suspect contamination. The responsible party must then utilize a statistically based sampling scheme to identify the boundaries of the spill area as soon as practicable.

(vi) Although this policy requires certain immediate actions, as described in paragraphs (c)(1)(i) through (iv) of this section, EPA is not placing a time limit on completion of the cleanup effort since the time required for completion will vary from case to case. However, EPA expects that decontamination will be achieved promptly in all cases and will consider promptness of completion in determining whether the responsible party made good faith efforts to clean up in accordance with this policy.

(2) *Requirements for decontaminating spills in outdoor electrical substations.* Spills which occur in outdoor electrical substations, as defined under § 761.123, shall be decontaminated in accordance with paragraphs (c)(2) (i) and (ii) of this section. Conformance to the cleanup standards under paragraphs (c)(2) (i) and (ii) of this section shall be verified by post-cleanup sampling as specified under § 761.130. At such times as outdoor electrical substations are converted to another use, the spill site shall be cleaned up to the nonrestricted access requirements under paragraph (c)(4) of this section.

(i) Contaminated solid surfaces (both impervious and non-impervious) shall be cleaned to a PCB concentration of 100 micrograms ( $\mu$ g)/100 square centimeters ( $\text{cm}^2$ ) (as measured by standard wipe tests).

(ii) At the option of the responsible party, soil contaminated by the spill will be cleaned either to 25 ppm PCBs by weight, or to 50 ppm PCBs by weight provided that a label or notice is visibly placed in the area. Upon demonstration by the responsible party that cleanup to 25 ppm or 50 ppm will jeopardize the integrity of the electrical equipment at the substation, the EPA regional office may establish an alternative cleanup method or level and place the responsible party on a reasonably timely schedule for completion of cleanup.

(3) *Requirements for decontaminating spills in other restricted access areas.* Spills which occur in restricted access locations other than outdoor electrical substations, as defined under § 761.123, shall be decontaminated in accordance with paragraphs (c)(3) (i) through (v) of this section. Conformance to the cleanup standards in paragraphs (c)(3) (i) through (v) of this section shall be verified by postcleanup sampling as specified under § 761.130. At such times as restricted access areas other than outdoor electrical substations are converted to another use, the spill site shall be cleaned up to the nonrestricted access area requirements of paragraph (c)(4) of this section.

(i) High-contact solid surfaces, as defined under § 761.163 shall be cleaned to 10  $\mu$ g/ $\text{cm}^2$  (as measured by standard wipe tests).

(ii) Low-contact, indoor, impervious solid surfaces will be decontaminated to 10  $\mu$ g/ $\text{cm}^2$ .

(iii) At the option of the responsible party, low-contact, indoor, nonimpervious surfaces will be cleaned either to 10  $\mu$ g/ $\text{cm}^2$  or to 100  $\mu$ g/ $\text{cm}^2$  and encapsulated. The Regional Administrator, however, retains the authority to disallow the encapsulation option for a particular spill situation upon

finding that the uncertainties associated with that option pose special concerns at that site. That is, the Regional Administrator would not permit encapsulation if he/she determined that if the encapsulation failed the failure would create an imminent hazard at the site.

(iv) Low-contact, outdoor surfaces (both impervious and nonimpervious) shall be cleaned to 100  $\mu\text{g}/100\text{ cm}^2$ .

(v) Soil contaminated by the spill will be cleaned to 25 ppm PCBs by weight.

(4) *Requirements for decontaminating spills in nonrestricted access areas.* Spills which occur in nonrestricted access locations, as defined under § 761.123, shall be decontaminated in accordance with paragraphs (c)(4) (i) through (v) of this section. Conformance to the cleanup standards at paragraphs (c)(4) (i) through (v) of this section shall be verified by postcleanup sampling as specified under § 761.130.

(i) Furnishings, toys, and other easily replaceable household items shall be disposed of in accordance with the provisions of subpart D of this part and replaced by the responsible party.

(ii) Indoor solid surfaces and high-contact outdoor solid surfaces, defined as high contact residential/commercial surfaces under § 761.123, shall be cleaned to 10  $\mu\text{g}/100\text{ cm}^2$  (as measured by standard wipe tests).

(iii) Indoor vault areas and low-contact, outdoor, impervious solid surfaces shall be decontaminated to 10  $\mu\text{g}/100\text{ cm}^2$ .

(iv) At the option of the responsible party, low-contact, outdoor, nonimpervious solid surfaces shall be either cleaned to 10  $\mu\text{g}/100\text{ cm}^2$  or cleaned to 100  $\mu\text{g}/100\text{ cm}^2$  and encapsulated. The Regional Administrator, however, retains the authority to disallow the encapsulation option for a particular spill situation upon finding that the uncertainties associated with that option pose special concerns at that site. That is, the Regional Administrator would not permit encapsulation if he/she determined that if the encapsulation failed the failure would create an imminent hazard at the site.

(v) Soil contaminated by the spill will be decontaminated to 10 ppm PCBs by weight provided that soil is excavated to a minimum depth of 10 inches. The excavated soil will be replaced with clean soil, i.e., containing less than 1 ppm PCBs, and the spill site will be restored (e.g., replacement of turf).

(5) *Records.* The responsible party shall document the cleanup with records of decontamination. The records must be maintained for a period of 5 years. The records and certification shall consist of the following:

(i) Identification of the source of the spill, e.g., type of equipment.

(ii) Estimated or actual date and time of the spill occurrence.

(iii) The date and time cleanup was completed or terminated (if cleanup was delayed by emergency or adverse weather: the nature and duration of the delay).

(iv) A brief description of the spill location and the nature of the materials contaminated. This information should include whether the spill occurred in an outdoor electrical substation, other restricted access location, or in a nonrestricted access area.

- (v) Precleanup sampling data used to establish the spill boundaries if required because of insufficient visible traces and a brief description of the sampling methodology used to establish the spill boundaries.
- (vi) A brief description of the solid surfaces cleaned.
- (vii) Approximate depth of soil excavation and the amount of soil removed.
- (viii) Postcleanup verification sampling data and, if not otherwise apparent from the documentation, a brief description of the sampling methodology and analytical technique used.
- (ix) While not required for compliance with this policy, information on the estimated cost of cleanup (by man-hours, dollars, or both) would be useful if maintained in the records.

[52 FR 10705, Apr. 2, 1987, as amended at 53 FR 40884, Oct. 19, 1988; 63 FR 35461, June 29, 1998]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.130 Sampling requirements.**

Postcleanup sampling is required to verify the level of cleanup under § 761.125(c) (2) through (4). The responsible party may use any statistically valid, reproducible, sampling scheme (either random samples or grid samples) provided that the requirements of paragraphs (a) and (b) of this section are satisfied.

(a) The sampling area is the greater of (1) an area equal to the area cleaned plus an additional 1-foot boundary, or (2) an area 20 percent larger than the original area of contamination.

(b) The sampling scheme must ensure 95 percent confidence against false positives.

(c) The number of samples must be sufficient to ensure that areas of contamination of a radius of 2 feet or more within the sampling area will be detected, except that the minimum number of samples is 3 and the maximum number of samples is 40.

(d) The sampling scheme must include calculation for expected variability due to analytical error.

(e) EPA recommends the use of a sampling scheme developed by the Midwest Research Institute (MRI) for use in EPA enforcement inspections: "Verification of PCB Spill Cleanup by Sampling and Analysis." Guidance for the use of this sampling scheme is available in the MRI report "Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup." Both the MRI sampling scheme and the guidance document are available from the Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room E-543B, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 544-0551. The major advantage of this sampling scheme is that it is designed to characterize the degree of contamination within the entire sampling area with a high degree of confidence while using fewer samples than any other grid or random sampling scheme. This sampling scheme also allows some sites to be characterized on the basis of composite samples.

(f) EPA may, at its discretion, take samples from any spill site. If EPA's sampling indicates that the remaining concentration level exceeds the required level, EPA will require further cleanup. For this purpose, the numerical level of cleanup required for spills cleaned in accordance with § 761.125(b) is deemed to be the equivalent of numerical cleanup requirements required for cleanups under § 761.125(c) (2) through (4). Using its best engineering judgment, EPA may sample a statistically valid random or grid sampling technique, or both. When using engineering judgment or random "grab" samples, EPA will take into account that there are limits on the power of a grab sample to dispute statistically based sampling of the type required of the responsible party. EPA headquarters will provide guidance to the EPA regions on the degree of certainty associated with various grab sample results.

[52 FR 10705, Apr. 2, 1987, as amended at 60 FR 34465, July 3, 1995]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

**THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001**

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.135 Effect of compliance with this policy and enforcement.**

(a) Although a spill of material containing 50 ppm or greater PCBs is considered improper PCB disposal, this policy establishes requirements that EPA considers to be adequate cleanup of the spilled PCBs. Cleanup in accordance with this policy means compliance with the procedural as well as the numerical requirements of this policy. Compliance with this policy creates a presumption against both enforcement action for penalties and the need for further cleanup under TSCA. The Agency reserves the right, however, to initiate appropriate action to compel cleanup where, upon review of the records of cleanup or EPA sampling following cleanup, EPA finds that the decontamination levels in the policy have not been achieved. The Agency also reserves the right to seek penalties where the Agency believes that the responsible party has not made a good faith effort to comply with all provisions of this policy, such as prompt notification of EPA of a spill, recordkeeping, etc.

(b) EPA's exercise of enforcement discretion does not preclude enforcement action under other provisions of TSCA or any other Federal statute. This includes, even in cases where the numerical decontamination levels set forth in this policy have been met, civil or criminal action for penalties where EPA believes the spill to have been the result of gross negligence or knowing violation.



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.180 Records and monitoring.**

This section contains recordkeeping and reporting requirements that apply to PCBs, PCB Items, and PCB storage and disposal facilities that are subject to the requirements of the part.

(a) *PCBs and PCB Items in service or projected for disposal.* Beginning February 5, 1990, each owner or operator of a facility, other than a commercial storer or a disposer of PCB waste, using or storing at any one time at least 45 kilograms (99.4 pounds) of PCBs contained in PCB Container(s), or one or more PCB Transformers, or 50 or more PCB Large High or Low Voltage Capacitors shall develop and maintain at the facility, or a central facility provided they are maintained at that facility, all annual records and the written annual document log of the disposition of PCBs and PCB Items. The written annual document log must be prepared for each facility by July 1 covering the previous calendar year (January through December). The annual document log shall be maintained for at least 3 years after the facility ceases using or storing PCBs and PCB Items in the quantities prescribed in this paragraph. Annual records (manifests and certificates of disposal) shall be maintained for the same period. The annual records and the annual document log shall be available for inspection at the facility where they are maintained by authorized representatives of EPA during normal business hours, and each owner or operator of a facility subject to these requirements shall know the location of these records. All records and annual documents required to be prepared and maintained by this section prior to February 5, 1990 shall continue to be maintained at the facility for the same time as the annual records and the annual document log. The annual document required for 1989 shall cover the period from January 1, 1989 to February 5, 1990.

(1) The annual records shall include the following:

(i) All signed manifests generated by the facility during the calendar year.

(ii) All Certificates of Disposal that have been received by the facility during the calendar year.

(iii) Records of inspections and cleanups performed in accordance with § 761.65(c)(5).

(2) The written annual document log shall include the following:

(i) The name, address, and EPA identification number of the facility covered by the annual document log and the calendar year covered by the annual document log.

(ii) The unique manifest number of every manifest generated by the facility during the calendar year, and from each manifest and for unmanifested waste that may be stored at the facility, the following information:

(A) For bulk PCB waste (*e.g.*, in a tanker or truck), its weight in kilograms, the first date it was removed from service for disposal, the date it was placed into transport for off-site storage or disposal, and the date of disposal, if known.

(B) The serial number (if available) or other means of identifying each PCB Article (*e.g.*, transformer or capacitor), the weight in kilograms of the PCB waste in each transformer or capacitor, the date it was removed from service for disposal, the date it was placed in transport for off-site storage or disposal, and the date of disposal, if known.

(C) A unique number identifying each PCB Container, a description of the contents of each PCB Container, such as liquid, soil, cleanup debris, etc., including the total weight of the material in kilograms in each PCB Container, the first date material placed in each PCB Container was removed from service for disposal, and the date each PCB Container was placed in transport for off-site storage or disposal, and the date of disposal (if known).

(D) A unique number identifying each PCB Article Container, a description of the contents of each PCB Article Container, such as pipes, capacitors, electric motors, pumps, etc., including the total weight in kilograms of the content of each PCB Article Container, the first date a PCB Article placed in each PCB Article Container was removed from service for disposal, and the date the PCB Article Container was placed in transport for off-site storage or disposal, and the date of disposal (if known.)

(iii) The total number by specific type of PCB Articles and the total weight in kilograms of PCBs in PCB Articles, the total number of PCB Article Containers and total weight in kilograms of the contents of PCB Article Containers, the total number of PCB Containers and the total weight in kilograms of the contents of PCB Containers, and the total weight in kilograms of bulk PCB waste that was placed into storage for disposal or disposed during the calendar year.

(iv) The total number of PCB Transformers and total weight in kilograms of PCBs contained in the transformers remaining in service at the end of the calendar year.

(v) The total number of Large High or Low Voltage PCB Capacitors remaining in service at the end of the calendar year.

(vi) The total weight in kilograms of any PCBs and PCB Items in PCB Containers, including the identification of container contents, remaining in service at the facility at the end of the calendar year.

(vii) For any PCBs or PCB item received from or shipped to another facility owned or operated by the same generator, the information required under paragraph (a)(2)(ii)(A) through (a)(2)(ii)(D) of this section.



(viii) A record of each telephone call, or other means of verification agreed upon by both parties, made to each designated commercial storer or designated disposer to confirm receipt of PCB waste transported by an independent transporter, as required by § 761.208.

(ix) Whenever a PCB Item, excluding small capacitors, with a concentration of  $\geq 50$  ppm is distributed in commerce for reuse pursuant to § 761.20(c)(1), the name, address, and telephone number of the person to whom the item was transferred, date of transfer, and the serial number of the item or the internal identification number, if a serial number is not available, must be recorded in the annual document log. The serial number or internal identification number shall be permanently marked on the equipment.

(3) [Reserved]

(4) For purposes of this paragraph, PCB Voltage Regulators shall be recorded as PCB Transformers.

(b) *Disposers and commercial storers of PCB waste.* Beginning February 5, 1990, each owner or operator of a facility (including high efficiency boiler operations) used for the commercial storage or disposal of PCBs and PCB Items shall maintain annual records on the disposition of all PCBs and PCB items at the facility and prepare and maintain a written annual document log that includes the information required by paragraphs (b)(2) of this section for PCBs and PCB Items that were handled as PCB waste at the facility. The written annual document log shall be prepared by July 1 for the previous calendar year (January through December). The written annual document log shall be maintained at each facility for at least 3 years after the facility is no longer used for the storage or disposal of PCBs and PCB Items except that, in the case of chemical waste landfills, the annual document log shall be maintained at least 20 years after the chemical waste landfill is no longer used for the disposal of PCBs and PCB Items. The annual records shall be maintained for the same period. The annual records and written annual document log shall be available at the facility for inspection by authorized representatives of the EPA. All records and annual documents required to be prepared and maintained by this section prior to February 5, 1990 shall continue to be maintained at the facility for the same time as the annual records and the annual document log. The annual document for 1989 shall cover the period from January 1, 1989 to February 5, 1990. From the written annual document log the owner or operator of a facility must prepare the annual report containing the information required by paragraphs (b)(3)(i) through (b)(3)(vi) of this section for PCBs and PCB Items that were handled as PCB waste at the facility during the previous calendar year (January through December). The annual report must be submitted by July 15 of each year for the preceding calendar year. If the facility ceases commercial PCB storage or disposal operations, the owner or operator of the facility shall provide at least 60 days advance written notice to the Regional Administrator for the region in which the facility is located of the date the facility intends to begin closure. d

(1) The annual records shall include the following:

(i) All signed manifests generated or received at the facility during the calendar year.

(ii) All Certificates of Disposal that have been generated or received by the facility during the calendar year.

(iii) Records of inspections and cleanups performed in accordance with § 761.65(c)(5).

(2) The written annual document log shall include the following:

(i) The name, address, and EPA identification number of the storage or disposal facility covered by the annual document log and the calendar year covered by the annual document log.

(ii) For each manifest generated or received by the facility during the calendar year, the unique manifest number and the name and address of the facility that generated the manifest and the following information:

(A) For bulk PCB waste (*e.g.*, in a tanker or truck), its weight in kilograms, the first date PCB waste placed in the tanker or truck was removed from service for disposal, the date it was received at the facility, the date it was placed in transport for off-site disposal (if applicable), and the date of disposal, (if known).

(B) The serial number or other means of identifying each PCB Article, not in a PCB Container or PCB Article Container, the weight in kilograms of the PCB waste in the PCB Article, the date it was removed from service for disposal, the date it was received at the facility, the date it was placed in transport for off-site disposal (if applicable), and the date of disposal (if known).

(C) The unique number assigned by the generator identifying each PCB Container, a description of the contents of each PCB Container, such as liquid, soil, cleanup debris, etc., including the total weight of the PCB waste in kilograms in each PCB Container, the first date PCB waste placed in each PCB Container was removed from service for disposal, the date it was received at the facility, the date each PCB Container was placed in transport for off-site storage or disposal (as applicable), and the date the PCB Container was disposed of (if known).

(D) The unique number assigned by the generator identifying each PCB Article Container, a description of the contents of each PCB Article Container, such as pipes, capacitors, electric motors, pumps, etc., including the total weight in kilograms of the PCB waste in each PCB Article Container, the first date a PCB Article placed in each PCB Article Container was removed from service for disposal, the date it was received at the facility, the date each PCB Article Container was placed in transport for off-site storage or disposal (as applicable), and the date the PCB Article Container was disposed of (if known).

(E) Disposers of PCB waste shall include the confirmed date of disposal for items in paragraphs (b)(2)(ii)(A) through (b)(2)(ii)(D) of this section.

(iii) For any PCB waste disposed at a facility that generated the PCB waste or any PCB waste that was not manifested to the facility, the information required under paragraph (b)(2)(ii)(A) through (b)(2)(ii)(E) of this section.

(3) The owner or operator of a PCB disposal facility (including an owner or operator who disposes of his/her own waste and does not receive or generate manifests) or a commercial storage facility shall submit an annual report, which briefly summarizes the records and annual document log required to be maintained and prepared under paragraphs (b)(1) and (b)(2) of this section to the EPA Regional Administrator of the Region in which the facility is located by July 15 of each year, beginning with July 15, 1991. The first annual report submitted on July 15, 1991, shall be for the period starting February 5, 1990, and ending December 31, 1990. The annual report shall contain no confidential business information. The annual report shall consist of the information listed in paragraphs (b)(3)(i) through (b)(3)(vi) of this section.

(i) The name, address, and EPA identification number of the facility covered by the annual report for the

calendar year.

(ii) A list of the numbers of all signed manifests of PCB waste initiated or received by the facility during that year.

(iii) The total weight in kilograms of bulk PCB waste, PCB waste in PCB Transformers, PCB waste in PCB Large High or Low Voltage Capacitors, PCB waste in PCB Article Containers, and PCB waste in PCB Containers in storage at the facility at the beginning of the calendar year, received or generated at the facility, transferred to another facility, or disposed of at the facility during the calendar year. The information must be provided for each of these categories, as appropriate.

(iv) The total number of PCB Transformers, the total number of PCB Large High or Low Voltage Capacitors, the total number of PCB Article Containers, and the total number of PCB Containers in storage at the facility at the beginning of the calendar year, received or generated at the facility, transferred to another facility, or disposed of at the facility during the calendar year. The information must be provided for each of these categories, as appropriate.

(v) The total weight in kilograms of each of the following PCB categories: bulk PCB waste, PCB waste in PCB Transformers, PCB waste in PCB Large High or Low Voltage Capacitors, PCB waste in PCB Article Containers, and PCB waste in PCB Containers remaining in storage for disposal at the facility at the end of the calendar year.

(vi) The total number of PCB Transformers, the total number of PCB Large High or Low Voltage Capacitors, the total number of PCB Article Containers, and the total number of PCB Containers remaining in storage for disposal at the facility at the end of the calendar year.

(vii) The requirement to submit annual reports to the Regional Administrator continues until the submission of the annual report for the calendar year during which the facility ceases PCB storage or disposal operations. Storage operations have not ceased until all PCB waste, including any PCB waste generated during closure, has been removed from the facility.

(4) Whenever a commercial storer of PCB waste accepts PCBs or PCB Items at his storage facility and transfers the PCB waste off-site to another facility for storage or disposal, the commercial storer of PCB waste shall initiate a manifest under subpart K of this part for the transfer of PCBs or PCB Items to the next storage or disposal facility.

**Note:** Any requirements for weights in kilograms of PCBs may be calculated values if the internal volume of PCBs in containers and transformers is known and included in the reports, together with any assumptions on the density of the PCBs contained in the containers or transformers. If the internal volume of PCBs is not known, a best estimate may be used.

(5) For purposes of this paragraph, PCB Voltage Regulators shall be recorded and reported as PCB Transformers.

(c) *Incineration facilities.* Each owner or operator of a PCB incinerator facility shall collect and maintain for a period of 5 years from the date of collection the following information, in addition to the information required in paragraph (b) of this section:

(1) When PCBs are being incinerated, the following continuous and short-interval data:

(i) Rate and quantity of PCBs fed to the combustion system as required in § 761.70(a)(3);

(ii) Temperature of the combustion process as required in § 761.70(a)(4); and

(iii) Stack emission product to include O<sub>2</sub>, CO, and CO<sub>2</sub> as required in § 761.70(a)(7).

(2) When PCBs are being incinerated, data and records on the monitoring of stack emissions as required in § 761.70(a)(6).

(3) Total weight in kilograms of any solid residues generated by the incineration of PCBs and PCB Items during the calendar year, the total weight in kilograms of any solid residues disposed of by the facility in chemical waste landfills, and the total weight in kilograms of any solid residues remaining on the facility site.

(4) When PCBs and PCB Items are being incinerated, additional periodic data shall be collected and maintained as specified by the Regional Administrator pursuant to § 761.70(d)(4).

(5) Upon any suspension of the operation of any incinerator pursuant to § 761.70(a)(8), the owner or operator of such an incinerator shall prepare a document. The document shall, at a minimum, include the date and time of the suspension and an explanation of the circumstances causing the suspension of operation. The document shall be sent to the appropriate Regional Administrator within 30 days of any such suspension.

(d) *Chemical waste landfill facilities.* Each owner or operator of a PCB chemical waste landfill facility shall collect and maintain until at least 20 years after the chemical waste landfill is no longer used for the disposal of PCBs the following information in addition to the information required in paragraph (b) of this section:

(1) Any water analysis obtained in compliance with § 761.75(b)(6)(iii); and

(2) Any operations records including burial coordinates of wastes obtained in compliance with § 761.75(b)(8)(ii).

(e) *High efficiency boiler facilities.* Each owner or operator of a high efficiency boiler used for the disposal of liquids between 50 and 500 ppm PCB shall collect and maintain for a period of 5 years the following information, in addition to the information required in paragraph (b) of this section:

(1) For each month PCBs are burned in the boiler the carbon monoxide and excess oxygen data required in § 761.71(a)(1)(viii) and § 761.71(b)(1)(viii);

(2) The quantity of PCBs burned each month as required in § 761.71(a)(1)(vii) and § 761.71(b)(1)(vii); and

(3) For each month PCBs (other than mineral oil dielectric fluid) are burned, chemical analysis data of the waste as required in § 761.71(b)(2)(vi).

(f) *Retention of special records by storage and disposal facilities.* In addition to the information required to be maintained under paragraphs (b), (c), (d) and (e) of this section, each owner or operator of a PCB storage or disposal facility (including high efficiency boiler operations) shall collect and maintain for the time period specified in paragraph (b) of this section the following data:

(1) All documents, correspondence, and data that have been provided to the owner or operator of the facility by any State or local government agency and that pertain to the storage or disposal of PCBs and PCB Items at the facility.

(2) All documents, correspondence, and data that have been provided by the owner or operator of the facility to any State or local government agency and that pertain to the storage or disposal of PCBs and PCB Items at the facility.

(3) Any applications and related correspondence sent by the owner or operator of the facility to any local, State, or Federal authorities in regard to waste water discharge permits, solid waste permits, building permits, or other permits or authorizations such as those required by §§ 761.70(d) and 761.75(c).

(g) *Reclassification records.* If you reclassify electrical equipment using the procedures in § 761.30(a)(2)(v) or § 761.30(h)(2)(v), you must keep records showing that you followed the required reclassification procedures. Where these procedures require testing, the records must include copies of pre- and post-reclassification PCB concentration measurements from a laboratory using quality control and quality assurance procedures. You must make these records available promptly to EPA or to any party possessing the equipment through sale, loan, lease, or for servicing. You must retain the records for at least 3 years after you sell or dispose of the equipment. (Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605))

[44 FR 31542, May 31, 1979. Redesignated at 47 FR 19527, May 6, 1982, and further redesignated at 47 FR 37360, Aug. 25, 1982; 49 FR 28191, July 10, 1984; 53 FR 12524, Apr. 15, 1988; 54 FR 52750, Dec. 21, 1989; 55 FR 26205, June 27, 1990; 58 FR 34205, June 23, 1993; 63 FR 35461, June 29, 1998; 66 FR 17619, Apr. 2, 2001]



Electronic Code of Federal Regulations  
*e-CFR*  
TM

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JUNE 18, 2001

**40 CFR - CHAPTER I - PART 761**

[View Part](#)

**§ 761.185 Certification program and retention of records by importers and persons generating PCBs in excluded manufacturing processes.**

(a) In addition to meeting the basic requirements of § 761.1(f) and the definition of excluded manufacturing processes at § 761.3, manufacturers with processes inadvertently generating PCBs and importers of products containing inadvertently generated PCBs must report to EPA any excluded manufacturing process or imports for which the concentration of PCBs in products leaving the manufacturing site or imported is greater than 2 micrograms per gram (2  $\mu$ g/g, roughly 2 ppm) for any resolvable gas chromatographic peak. Such reports must be filed by October 1, 1984 or, if no processes or imports require reports at the time, within 90 days of having processes or imports for which such reports are required.

(b) Manufacturers required to report by paragraph (a) of this section must transmit a letter notifying EPA of the number, the type, and the location of excluded manufacturing processes in which PCBs are generated when the PCB level in products leaving any manufacturing site is greater than 2  $\mu$ g/g for any resolvable gas chromatographic peak. Importers required to report by paragraph (a) of this section must transmit a letter notifying EPA of the concentration of PCBs in imported products when the PCB concentration of products being imported is greater than 2  $\mu$ g/g for any resolvable gas chromatographic peak. Persons must also certify the following:

- (1) Their compliance with all applicable requirements of § 761.1(f), including any applicable requirements for air and water releases and process waste disposal.
- (2) Whether determinations of compliance are based on actual monitoring of PCB levels or on theoretical assessments.
- (3) That such determinations of compliance are being maintained.
- (4) If the determination of compliance is based on a theoretical assessment, the letter must also notify

EPA of the estimated PCB concentration levels generated and released.

(c) Any person who reports pursuant to paragraph (a) of this section:

(1) Must have performed either a theoretical analysis or actual monitoring of PCB concentrations.

(2) Must maintain for a period of three years after ceasing process operations or importation, or for seven years, whichever is shorter, records containing the following information:

(i) *Theoretical analysis.* Manufacturers records must include: the reaction or reactions believed to be generating PCBs; the levels of PCBs generated; and the levels of PCBs released. Importers records must include: the reaction or reactions believed to be generating PCBs and the levels of PCBs generated; the basis for all estimations of PCB concentrations; and the name and qualifications of the person or persons performing the theoretical analysis; or

(ii) *Actual monitoring.* (A) The method of analysis.

(B) The results of the analysis, including data from the Quality Assurance Plan.

(C) Description of the sample matrix.

(D) The name of the analyst or analysts.

(E) The date and time of the analysis.

(F) Numbers for the lots from which the samples are taken.

(d) The certification required by paragraph (b) of this section must be signed by a responsible corporate officer. This certification must be maintained by each facility or importer for a period of three years after ceasing process operation or importation, or for seven years, whichever is shorter, and must be made available to EPA upon request. For the purpose of this section, a responsible corporate officer means:

(1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.

(2) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(e) Any person signing a document under paragraph (d) of this section shall also make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate information. Based on my inquiry of the person or persons directly responsible for gathering information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for falsifying information, including the possibility of fines and imprisonment for knowing violations. Dated: Signature:

(f) This report must be submitted to the Document Control Office (7407), Office of Pollution Prevention

and Toxics, U.S. Environmental Protection Agency, Room G-099, 1200 Pennsylvania Ave., NW., Washington, DC 20460, ATTN: PCB Notification. This report must be submitted by October 1, 1984 or within 90 days of starting up processes or commencing importation of PCBs.

(g) This certification process must be repeated whenever process conditions are significantly modified to make the previous certification no longer valid. (Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605)

[49 FR 28191, July 10, 1984; 49 FR 33019, Aug. 20, 1984, as amended at 53 FR 12524, Apr. 15, 1988; 58 FR 34205, June 23, 1993; 59 FR 33697, June 30, 1994; 60 FR 34465, July 3, 1995]

