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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 ≥500 ppm must be marked individually with the M<sub>L</sub> 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 ≥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 M<sub>L</sub> 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]

§ 761.45 Marking formats.

The following formats shall be used for marking:

(a) *Large PCB Mark—M<sub>L</sub>*. Mark M<sub>L</sub> 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—M<sub>s</sub>*. Mark M<sub>s</sub> 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).

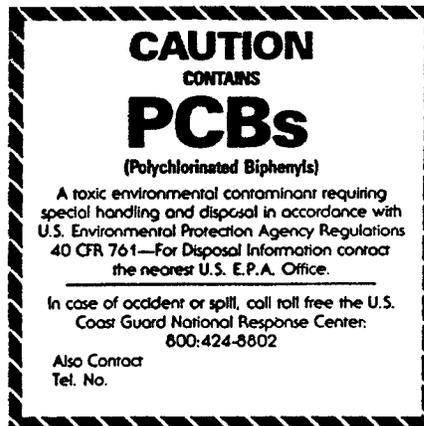


Figure 1

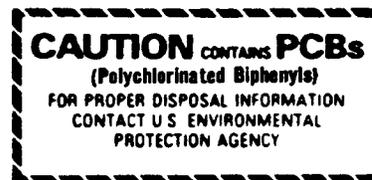


Figure 2

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

Subpart D—Storage and Disposal

§ 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

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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,

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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]

### § 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.