

## § 761.208

500 ppm PCBs, or materials decontaminated in accordance with § 761.79.

[54 FR 52752, Dec. 21, 1989, as amended at 63 FR 35461, June 29, 1998]

### § 761.208 Use of the manifest.

(a)(1) The generator of PCB waste shall:

(i) Sign the manifest certification by hand.

(ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest.

(iii) Retain one copy among its records in accordance with § 761.209(a).

(iv) Give to the transporter the remaining copies of the manifest that will accompany the shipment of PCB waste.

(2) For bulk shipments of PCB waste within the United States transported solely by water, the generator shall send three copies of the manifest dated and signed in accordance with this section directly to the owner or operator of the designated commercial storage or disposal facility. Copies of the manifest are not required for each transporter.

(3) For rail shipments of PCB waste within the United States which originate at the site of generation, the generator shall send at least three copies of the manifest dated and signed in accordance with this section to:

(i) The next non-rail transporter, if any.

(ii) The designated commercial storage or disposal facility if transported solely by rail.

(4) When a generator has employed an independent transporter to transport the PCB waste to a commercial storer or disposer, the generator shall confirm by telephone, or by other means of confirmation agreed to by both parties, that the commercial storer or disposer actually received the manifested waste. The generator shall confirm receipt of the waste by close of business the day after he receives the manifest hand-signed by the commercial storer or disposer, in accordance with paragraph (c)(1)(iv) of this section. If the generator has not received the hand-signed manifest within 35 days after the independent transporter accepted the PCB waste, the generator shall telephone, or communicate with

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by some other agreed-upon means, the disposer or commercial storer to determine whether the PCB waste has actually been received. If the PCB waste has not been received, the generator shall contact the independent transporter to determine the disposition of the PCB waste. If the generator has not received a hand-signed manifest from an EPA-approved facility within 10 days from the date of the telephone call or other agreed upon means of communication, to the independent transporter, the generator shall submit an exception report to the EPA Regional Administrator for the Region in which the generator is located, as specified in § 761.215. The generator shall retain a written record of all telephone or other confirmations to be included in the annual document log, in accordance with § 761.180.

(b)(1) A transporter shall not accept PCB waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with paragraph (a)(1) of this section, except that a manifest is not required if any one of the following conditions exists:

(i) The shipment of PCB waste consists solely of PCB wastes with PCB concentrations below 50 ppm, unless the PCB concentration below 50 ppm was the result of dilution, in which case § 761.1(b) requires that the waste be managed as if it contained PCBs at the concentration prior to dilution.

(ii) The PCB waste is accepted by the transporter for transport only to a storage or disposal facility owned or operated by the generator of the PCB waste.

(2) Before transporting the PCB waste, the transporter shall sign and date the manifest acknowledging acceptance of the PCB waste from the generator. The transporter shall return a signed copy to the generator before leaving the generator's facility.

(3) The transporter shall ensure that the manifest accompanies the PCB waste.

(4) A transporter who delivers PCB waste to another transporter, or to the designated commercial storer or disposer of PCB waste, shall:

(i) Obtain the date of delivery and the handwritten signature of the subsequent transporter of PCB waste, or of

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the owner or operator of the designated commercial storage or disposal facility on the manifest.

(ii) Retain one copy of the manifest in accordance with § 761.209(b).

(iii) Give the remaining copies of the manifest to the accepting transporter of PCB waste, or to the designated commercial storage or disposal facility.

(5) The requirements of paragraphs (b) (3) and (4) of this section shall not apply to transporters of bulk shipments by water if all of the following conditions are met:

(i) The PCB waste is delivered by water (bulk shipment) to the designated commercial storage or disposal facility.

(ii) A shipping paper containing all the information required on the manifest (excluding EPA identification number, generator certification, and signatures) accompanies the PCB waste.

(iii) The transporter delivering the PCB waste obtains the date of delivery and handwritten signature of the owner or operator of the designated commercial storage or disposal facility on either the manifest or the shipping paper.

(iv) The person delivering the PCB waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility.

(v) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with § 761.209(b).

(6) For shipments involving rail transportation, the requirements of paragraphs (b)(3) and (b)(4) of this section shall not apply. Instead, the requirements described at § 263.20(f) of this chapter for the rail transportation of hazardous waste apply to such shipments. The rail transporter shall retain one copy of the manifest or rail shipping paper in accordance with § 761.209(b).

(7) The transporter shall deliver the entire quantity of PCB waste accepted from a generator or transporter to either of the following destinations:

(i) The designated commercial storage or disposal facility listed on the manifest.

(ii) The next designated transporter of PCB waste.

(8) If the PCB waste cannot be delivered in accordance with paragraph (b)(7) of this section, the transporter shall contact the generator for further directions and shall revise the manifest and/or return the PCB waste according to the generator's instructions.

(9) 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 Department of Transportation (DOT) and set forth at 49 CFR part 171.

(c)(1) If a commercial storage or disposal facility receives an off-site shipment of PCB waste accompanied by a manifest, the owner or operator, or his agent, shall:

(i) Sign and date each copy of the manifest to certify that the PCB waste covered by the manifest was received.

(ii) Note any significant discrepancies in the manifest (as defined in § 761.210(a)(1)) on each copy of the manifest.

(iii) Immediately give the transporter at least one copy of the signed manifest.

(iv) Within 30 days after the delivery, send a copy of the manifest to the generator.

(v) Retain a copy of each manifest among the facility's records in accordance with § 761.209(d).

(2) If a commercial storage or disposal facility receives PCB waste from a rail or water (bulk shipment) transporter accompanied by a shipping paper containing all the information required on the manifest except the EPA identification numbers, generator's certification, and signatures, the owner or operator, or his agent, shall:

(i) Sign and date each copy of the manifest or shipping paper to certify that the PCB waste covered by the manifest or shipping paper was received.

(ii) Note any significant discrepancies in the manifest or shipping paper on each copy of the manifest or shipping paper.

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(iii) Immediately give the rail or water transporter at least one copy of the manifest or shipping paper, if applicable.

(iv) Within 30 days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator shall send a copy of the shipping paper signed and dated to the generator.

(v) Retain at the commercial storage or disposal facility a copy of the manifest and shipping paper, if signed in lieu of the manifest, in accordance with § 761.209(d).

(3) Whenever an off-site shipment of PCB waste is initiated from a commercial storage or disposal facility, the owner or operator of the commercial storage or disposal facility shall comply with the manifest requirements that apply to generators of PCB waste.

**§ 761.209 Retention of manifest records.**

(a) A generator of PCB waste shall keep a copy of each manifest signed in accordance with § 761.208(a)(1) until the generator receives a signed copy from the designated commercial storage or disposal facility which received the PCB waste. The copy signed by the commercial storer or disposer shall be retained for at least 3 years from the date the PCB waste was accepted by the initial transporter. A generator subject to annual document requirements under § 761.180 shall retain copies of each manifest for the period required by § 761.180(a).

(b)(1) A transporter of PCB waste shall keep a copy of the manifest signed by the generator, transporter, and the next designated transporter, if applicable, or the owner or operator of the designated commercial storage or disposal facility. This copy shall be retained for a period of at least 3 years from the date the PCB waste was accepted by the initial transporter.

(2) For shipments of PCB waste delivered to the designated commercial storage or disposal facility by water (bulk shipment), each water (bulk shipment) transporter shall retain a copy of the shipping paper described in § 761.208(b)(5)(ii) for a period of at least

3 years from the date the PCB waste was accepted by the initial transporter.

(3) For shipments of PCB waste by rail within the United States:

(i) The initial rail transporter shall keep a copy of the manifest and the shipping paper required to accompany the PCB waste for a period of at least 3 years from the date the PCB waste was accepted by the initial transporter.

(ii) The final rail transporter shall keep a copy of the signed manifest, or the required shipping paper if signed by the designated facility in lieu of the manifest, for a period of at least 3 years from the date the PCB waste was accepted by the initial transporter.

(c) The owner or operator of a PCB commercial storage or disposal facility that receives off-site shipments of PCB waste shall retain at the facility for at least 3 years a copy of each manifest or shipping paper that the owner or operator signs in accordance with § 761.208(c)(1) or (c)(3).

(d) The periods of record retention required by this section shall be extended automatically during the course of any outstanding enforcement action regarding the regulated activity.

[54 FR 52752, Dec. 21, 1989, as amended at 58 FR 34205, June 23, 1993]

**§ 761.210 Manifest discrepancies.**

(a) Manifest discrepancies are differences between the quantity or type of PCB waste designated on the manifest or shipping paper and the quantity or type of PCB waste actually delivered to and received by a designated facility.

(1) Significant discrepancies in quantity are:

(i) Variations greater than 10 percent in weight of PCB waste in containers.

(ii) Any variation in piece count, such as a discrepancy of one PCB Transformer or PCB Container or PCB Article Container in a truckload.

(2) Significant discrepancies in type of PCB waste are obvious differences which may be discovered by inspection or waste analysis, such as the substitution of solids for liquids or the substitution of high concentration PCBs (above 500 ppm) with lower concentration materials.

(b) Upon discovering a significant discrepancy, the owner or operator of