

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel, Deputy Commissioner & General Counsel
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JUL 15 2022

To Whom It May Concern:

This is to advise you, that subject to the terms set forth in this letter, the New York State Department of Environmental Conservation ("DEC") will utilize enforcement discretion with respect to certain provisions of the 6 NYCRR Part 372 hazardous waste regulations related to transportation of polychlorinated biphenyl (PCB)-containing wastes on behalf of public utilities.

This enforcement discretion will remain in place until these provisions are adopted into State regulation or this enforcement discretion letter is modified or rescinded, whichever is earlier. All other provisions of the 6 NYCRR Part 370 through 374 and 376 regulations remain in effect and will be enforced.

Contractors acting on behalf of a public utility may manage PCB waste under the exemption for public utilities in 6 NYCRR 372.1(e)(9) provided that they adhere to the procedure set forth below.

For the purposes of this enforcement discretion, the term "contractor" means an entity who performs utility maintenance or waste management activities on behalf of the public utility in accordance with the utility's specifications pursuant to a written contract or other mutual aid agreement.

This enforcement discretion only waives certain State hazardous waste regulatory requirements. All regulatory requirements under 40 CFR Part 761 implementing the Federal Toxic Substances and Control Act for the management of these PCB-containing wastes remain applicable.

Procedure:

1. Hazardous waste generated by a public utility, or a contractor working on the utility's behalf and transported by a vehicle owned or operated by that utility or that utility's contractor, is exempt from regulation under 6 NYCRR Part 372 if the following conditions are met:
 - a. the waste is hazardous solely because it contains PCBs; and
 - b. the waste is generated by or on behalf of the public utility and is brought for storage to a collection facility owned by the same utility prior to treatment or disposal; and
 - c. if the waste is being managed by an entity under a contract to conduct work for a public utility, the entity must conduct work in accordance with that utility's contract and other specifications.
2. A public utility-owned collection facility that receives PCB-containing hazardous waste as described above, and in the manner described in 6 NYCRR 372.1(e)(9)(i), is



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considered the generator of such waste and is subject to all of the requirements of 6 NYCRR Part 372 which are applicable to a generator of hazardous waste.

If you have any questions, please contact Thomas Killeen of the Division of Materials Management at (518) 402-8652.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Berkman', with a long horizontal flourish extending to the right.

Thomas S. Berkman
Deputy Commissioner & General Counsel