

# Boeing Environmental Affairs

WAC 173-303-071 Excluded categories of waste

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes containing dielectric fluid and electric equipment containing such fluid whose disposal is regulated by EPA under 40 C.F.R. 761.60 (Toxic Substances Control Act) and that are dangerous either because:

(A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or

(B) Because they are designated only by this chapter and not designated by 40 C.F.R. Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 C.F.R. Part 266;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as WPCB under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 C.F.R. Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

This change makes this exclusion consistent with 40-CFR 261.8. As discussed on our phone call, there are TSCA regulated PCB waste that are not dielectric fluid or electric equipment containing such fluid that would be state only dangerous waste. For example, a waste containing 100 mg/kg PCBs that is not a hazardous under the federal rule would be regulated under TSCA (PCBs greater than 50 mg/kg) and would also be a WP02 waste under criteria. Is it Ecology's intent to regulate state only dangerous waste that are also regulated under TSCA? We are concern that in changing the regulation that Ecology may have unintentionally caused this waste to be double regulated. Examples of this type of TSCA waste are building materials like caulk and paint and hydraulic fluid.

We appreciate your consideration in this manner and will be happy to discuss the issue further with you at Thursday's meeting in Bellevue.