



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 05 2012

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

RECEIVED

OCT 15 2012

Bart Mihailovich  
Spokane Riverkeeper  
35 West Main, Suite 300  
Spokane, WA 99201

CENTER FOR JUSTICE

Dear Mr. Mihailovich:

Thank you for your letter of September 7, 2012, to the U.S. Environmental Protection Agency's (EPA's) Administrator, Lisa P. Jackson, regarding the Environmental Council of the States resolution which pointed out several points about how to best address levels of PCBs in wastewater discharges.

As your letter mentions, under the Toxic Substances Control Act (TSCA), EPA's PCB regulations define the manufacture or import of PCBs as unintentional impurities an "excluded manufacturing process" subject to certain restrictions (40 CFR § 761.3). This provision imposes an annual average of 25 ppm and a 50 ppm maximum on the concentration of inadvertently generated PCBs manufactured or imported into the United States. Note that in TSCA § 3, "manufacture" is defined to include import into the customs territory of the United States (15 U.S.C. § 2602(7)). Manufacturers with processes inadvertently generating PCBs and importers of products containing inadvertently generated PCBs are additionally required to report to EPA any process or imported product for which the concentration of PCBs is greater than 2 ppm (40 CFR § 761.185(a)). EPA has received a number of notices from pigment and dye manufacturers and importers in compliance with this provision.

On April 7, 2010, EPA published an Advanced Notice of Proposed Rulemaking (ANPRM) entitled: "Polychlorinated Biphenyls: Reassessment of Use Authorizations" (75 FR 17645). Among other issues raised in that notice, EPA solicited public comment on the advisability of revising the definition of "excluded manufacturing process" by eliminating the limit on the annual average concentration of PCBs and reducing the maximum PCB concentration allowed in any manufactured or imported product to less than 1 ppm.

A number of organizations submitted comments on this topic to the rule docket (EPA-HQ-OPPT-2009-0757). Many sources, such as the Northwest Pulp and Paper Association (comment # 0122), commented on the difficulty of meeting applicable PCB water standards when PCBs continue to be present in recycled paper stock, due to inks, dyes, pigments and possibly carbonless copy paper. Substantive comments were also received from the Color Pigments Manufacturing Association (CPMA) (comment # 0195), representing color pigment companies in North America. CPMA commented that a 1 ppm threshold would eliminate three important pigment groups from commerce and would "jeopardize" most color printing as well as the availability of many colors used in paint and plastics. Among many other

concerns discussed, CPMA noted that U.S. pigment and product manufacturers are already suffering from significant international competitive pressure, and that a lower regulatory level would put them at additional competitive disadvantage by imposing significant product development and regulatory compliance costs that pigment and product importers could avoid. EPA is still considering all the information provided in the public comments, as part of our ongoing review of the PCB regulations.

Again, thank you for your letter and I hope the information provided is helpful to you. If you have additional questions or concerns, please contact me at (202) 564-2959.

Sincerely,



Tala R. Henry, Ph.D.

Acting Director

National Program Chemicals Division