



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

JAN 27 2012

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable Mike Simpson  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Simpson:

Thank you for your letter of December 16, 2011, to the U.S. Environmental Protection Agency's (EPA's) Administrator, Lisa P. Jackson, regarding the importation of Polychlorinated Biphenyls (PCBs) at concentrations up to 50 ppm in dyes and pigments. As you know, the EPA is currently considering revisions to the existing PCB regulations and will carefully consider your request as part of this process.

Under the Toxic Substances Control Act (TSCA), the EPA's PCB regulations define both the manufacture and import of unintentional impurities of PCBs as 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 the EPA any process or imported product for which the concentration of PCBs is greater than 2 ppm (40 CFR § 761.185(a)). The EPA has received a number of notices from pigment and dye manufacturers and importers in compliance with this provision.

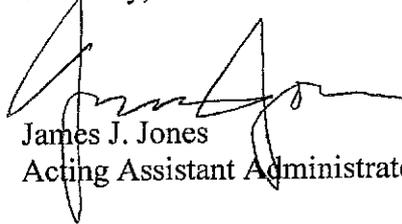
On April 7, 2010, the EPA published an Advanced Notice of Proposed Rulemaking (ANPRM) entitled "Polychlorinated Biphenyls: Reassessment of Use Authorizations" (75 FR 17645). Among other issues raised in that notice, the EPA solicited public comment on the advisability of revising the definition of "excluded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

A number of entities submitted comments on this topic to the rule docket (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. The 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. I hope this information has been helpful to you. If you have additional questions, please contact me, or your staff may contact Mr. Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

A handwritten signature in black ink, appearing to read 'James J. Jones', written over the typed name and title.

James J. Jones  
Acting Assistant Administrator