

PCBs/Toxic Substances Control Act: U.S. Environmental Protection Agency Addresses Washington Department of Ecology Petition



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The United States Environmental Protection Agency (“EPA”) published a response in the April 9th Federal Register to a Petition filed by the Washington State Department of Ecology (“WDE”). See 89 Fed. Reg. 24824.

WDE’s Petition requested that EPA initiate rulemaking related to polychlorinated biphenyls (“PCBs”) in consumer products.

The Petition had been submitted on June 4th pursuant to Section 21 of the Toxic Substances Control Act.

WDE requested that EPA promulgate rules to eliminate what it described as current allowances for PCBs in consumer products. The state agency had stated that some PCB allowances are attributable to regulatory exemptions granted by EPA. Research was cited which argued that when PCBs are found in consumer products:

... they are byproducts known to be associated with pigments, paints, or inks used in the manufacturing process.

Such so-called inadvertent PCBs were alleged to directly expose people and contribute to PCB contamination in the environment.

EPA’s April 9th response denies WDE’s request. While the agency indicated that it shared WDE’s concerns regarding risk to human health and the environment posed by PCBs, it concluded that the Petition failed to:

... point with any specificity to deficiencies in the Agency’s promulgation of the 1984 final rule and determination of no unreasonable risk under TSCA Section 6(e).

Therefore, EPA states that WDE did not provide adequate justification for reassessing the limits on allowable inadvertent PCBs in consumer products:

- Based on the rulemaking process and record for the 1984 rule
- Based on information provided or otherwise available to EPA

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