

## O'Reilly, Talbot & Okun Associates Blog

*An environmental consulting blog;  
digging deeper, seeing further.*

### EPA Issues Major Reinterpretation on Excluded PCB Products

Posted on [April 9, 2013](#) by [Jim Okun](#)

In a [regulatory reinterpretation](#) with far significant implications, the USEPA clarified the definition of “Excluded PCB Products” as used in the PCB regulations and signaled its intention to deemphasize the regulation of low concentration PCBs in commercial products. Excluded PCB products are defined as commercial products containing PCBs originating from Aroclor or non-Aroclor sources where the PCBs are present at less than 50 ppm.

The excluded product reinterpretation was the result of a request by the Institute of Scrap and Recycling Industries, Inc. (ISRI) which was seeking clarification on the management of plastic residue from automobile shredding and recycling. This plastic residue sometimes contains low levels (less than 50 ppm) PCBs. Managing the material as a PCB remediation waste limited the recycling industry’s ability to reuse this plastic and increased the cost of the recycling operations. If it was clearly understood to be an excluded product, then the regulatory burden would be less.

There is often confusion about whether a PCB containing product with less than 50 ppm PCBs should be classified as an Excluded PCB Product or as a PCB Remediation Waste. The responsibility for making this decision rests with the waste generator, but complicating the assessment is the sometimes variable guidance between EPA regions. Remediation waste must be managed in accordance with regulatory requirements, excluded product waste is effectively deregulated. For generators the differences in the management costs and potential long term liabilities between the classifications can be large.

The reinterpretation establishes guidance from EPA headquarters that should assist generators in making the decision. EPA restated its policy that most materials containing less than 50 ppm PCB are not regulated by the PCB regulations. The reinterpretation also seems to lessen the burden of proof for generators who claim their material should be classified as an excluded product. Here is a key quote from the reinterpretation:

“In promulgating the excluded PCB product rule, EPA described the provision as follows:

“EPA is adopting the generic 50 ppm exclusion for the processing, distribution in commerce, and use, based on the Agency’s determination that the use, processing, and distribution in commerce of products with less than 50 ppm PCB concentration will not generally present an unreasonable risk of injury to health or the environment. EPA could not possibly identify and assess the potential exposures from all the products which may be contaminated with PCBs at less than 50 ppm. . . . EPA has concluded that the costs associated with the strict prohibition on PCB activities are large and outweigh the risks posed by these activities. 53 FR 24210 (June 27, 1988).

“EPA has further stated, with respect to the excluded PCB products rule: “These amendments have excluded the majority of low-level PCB activities (less than 50 ppm) from regulation” (Ref. 4). Given the difficulty of determining the precise source of PCBs, EPA believes the purpose of excluding “old” PCBs under the excluded

products rule is best effectuated in these circumstances by treating < 50 ppm materials entering a shredder as excluded PCB products unless there is information specifically indicating that the materials do not qualify”.

The reference to the “excluded PCB product rule” refers to a 1988 PCB regulation amendment that confirmed EPA’s intention to not regulate most PCBs at concentrations less than 50 ppm. The history behind the excluded product rule is a story unto itself (maybe for another post).

Over the past few years the relevance of the 1988 excluded product rule has been cast in some doubt. However, with this new interpretation EPA has affirmed its decision to not regulate most PCBs at concentrations less than 50 ppm and has clearly reiterated its long standing position “that the use, processing, and distribution in commerce of products with less than 50 ppm PCB concentration will not generally present an unreasonable risk of injury to health or the environment”.

For help with PCB waste classifications please contact Jim Okun at [okun@oto-env.com](mailto:okun@oto-env.com).

**Share this:** [Email](#) [Print](#) [Digg](#) [Facebook](#)  2 [Reddit](#) [StumbleUpon](#)  0

This entry was posted in [PCBs in Schools](#), [PCBs not in Schools](#) and tagged [Excluded PCBs](#), [Excluded Products](#), [PCBs](#), [Reinterpretation](#). Bookmark the [permalink](#).

---

**O'Reilly, Talbot & Okun Associates Blog**

*Proudly powered by WordPress.*