

1-21-83

Mr. Mark Christman
E.I. DuPont De Nemours & Co., Inc.
Wilmington, Delaware 19898

Dear Mr. Christman:

This is in response to your recent letter, in which you requested interpretive guidance from EPA on two issues concerning the marking of vehicles that transport PCBs.

As you know, 40 CFR 761.40 (recodified) requires the labeling of transport vehicles that are used to carry PCBs. The first issue identified in your letter is whether forklifts meet the definition of "transport vehicle". You suggest that in-plant movement of PCB items should not be considered the transportation of cargo, and therefore, vehicles such as forklifts should not be considered transport vehicles for purposes of 40 CFR 761.40. Further, you state that since the containers of liquid PCBs themselves must be properly marked, any public notice requirement will be fully satisfied by the labeling of the PCB container that is loaded on the forklift. You see no genuine public health or safety benefit from the labeling of forklifts used to transport PCBs.

Although the Toxic Substances Control Act Inspection Manual: PCB Inspection Manual (PCB Inspection Manual) indicates that forklifts are considered transport vehicles for purposes of 40 CFR 761.40, this is an inadvertent error. EPA does not interpret forklifts that are used on-site to be transport vehicles. EPA intends to correct this error in subsequent editions of the PCB Inspection Manual.

The second issue identified in your letter refers to the number of labels required by 40 CFR 761.40. Specifically, you state that the PCB marking regulations are internally inconsistent and confusing since "they require the application of either one "M_L" label or four "M_L" labels for a "transport vehicle" loaded with PCB containers containing more than 45 kg. of liquid PCBs in concentrations of 50 to 500 ppm." You suggest that EPA "compare 40 CFR 761.20(b) (sic) (requiring four labels "on each end and side") and 40 CFR 761.20(e) (sic) (requiring only one label)."

CONCURRENCES

SYMBOL	ORIGINATOR							
	TS-794	EN-342	EN-342	EP-342	TS-794	TS-794		
SURNAME	Wagner	Paul	Wagner	Wood	Dub	Wagner		
DATE	1/13/83	1/14/83	1/17/83	1/17/83	1/17/83	1/18/83		

TS:794:DKEHNER:dk:Rm343ET:382-2933:01/13/83

EPA interprets 40 CFR 761.40(b) (recodified) to apply to transport vehicles that are loaded with more than 45 kg. of PCBs in the liquid phase in concentrations of 500 ppm or greater, or with one or more PCB transformers. EPA interprets 40 CFR 761.40(e) (recodified) to apply to transport vehicles that are loaded with PCB containers, electric motors, hydraulic systems, and heat transfer systems containing PCBs in concentrations between 50 and 500 ppm, and to transport vehicles that are loaded with PCB containers that contain more than 45 kg. of liquid PCBs in concentrations between 50 and 500 ppm.

Your example of a rail car loaded with two PCB containers containing 100 pounds of liquid PCBs at a concentration of 75 ppm PCBs would only be required to be marked with one M_P label under 40 CFR 761.40(e), the applicable section of 761.40 for this case.

Although the PCB Inspection Manual indicates that four labels are required for transport vehicles used to carry more than 45 kg. of liquid PCBs containing 50 to 500 ppm PCBs, this is an inadvertent error which will be corrected in subsequent editions of the manual. The manual should indicate that only one label is required.

If you have further questions on this matter, please contact Denise Keehner, of the Chemical Regulation Branch at 382-3970.

Sincerely yours,

Don R. Clay, Director
Office of Toxic Substances