

OFFICE OF THE BRONX BOROUGH PRESIDENT
THE BRONX COUNTY BUILDING
851 GRAND CONCOURSE
BRONX, NEW YORK 10451

RUBEN DIAZ, JR.
BOROUGH PRESIDENT

TEL. 718-590-3500
FAX. 718-590-3537
E-MAIL. rdiazjr@bronxbp.nyc.gov

April 23, 2010

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave.
Washington D.C. 20004

Dear Administrator Jackson:

This correspondence is a follow up to the letter we sent you in June 2009, which urged the Environmental Protection Agency (the "Agency") to address the serious problem of PCB contamination in New York City public schools. Since our missive, the Agency has formulated guidance to minimize exposure to caulk-related PCBs in schools; announced future research studies on PCBs in schools to be conducted by the Agency; and executed a settlement agreement which will require the City of New York to study and formulate a city-wide PCB management plan for city public schools. While I expect to discuss these recent Agency actions with Region 2 officials in the near future, I am writing today to express my alarm and utter dismay with the Advance Notice of Proposed Rulemaking published in the Federal Register on April 7, 2010, with respect to amending current federal PCB regulations (the "ANPR").

First, under current federal regulations, any product containing PCBs in 50 parts per million or more and which is not "totally enclosed," including window and door caulking, is prohibited for any use. In light of the fact that the Agency will be conducting research on the issue of PCB-contaminated caulk in schools, and is working with the New York City public school system on formulating a model management plan, I am outraged the Agency has solicited comment in the ANPR on increasing the 50 ppm standard for unenclosed PCB products without any apparent scientific justification and for the purpose of relieving "the expected financial burdens of

remediating PCBs in school buildings.”¹ The implication of this request for comment is obvious for all to see – that the Agency is seeking a justification to increase the PPM limit for PCBs in order to relieve school systems from the financial burden or removing PCB contamination in their schools. Without the benefit of any of your own research, the Agency appears to have predetermined that avoiding the cost of PCB removal is worth more than the health of our children and school employees.

Second, while we applaud the Agency for taking actions to study the sources and concentrations of PCBs in schools and methods of mitigation, these studies lack a crucial element – the quantification of PCB levels in the tissue and blood of school children and employees – that should form the basis for any change in the regulation of PCBs in schools. Without creating a nationwide database on the levels of PCBs present in the bodies of school children and employees in PCB-contaminated school facilities, there is no rational basis for amending the PCB regulations. In buildings with PCB-contaminated caulk, determining transient air levels of PCBs and then projecting human exposure levels is a complicated and grossly inaccurate art at best and can never quantify the actual levels of PCB contamination a child may suffer from, regardless of whether the contamination originated from school facilities and/or off-site sources. There is no reason the Agency shouldn’t be moving towards creating such a database and supporting a regime of testing children for PCB contamination, just as children are tested for lead contamination.

Finally, the Agency published the ANPR with less than adequate outreach to stakeholders and other concerned parties and has not scheduled a sufficient number of hearings on the topic. The issue of PCB contamination of schools is one of growing concern to parents all over the country. Published on April 7, my office did not find out about the ANPR until April 19, leaving us a mere two weeks to prepare testimony on a complicated and contentious subject and to inform other interested parties. Moreover, the scheduling of only four public meetings to deal with the numerous issues addressed in the ANPR, all within 24 days, is totally inadequate for stakeholders to adequately prepare thoughtful comments for the Agency. The lack of a public hearing in Los Angeles is incomprehensible. Public hearings should be held in at least the ten cities with the largest school populations. The overriding sense created by the short notice, the inadequate number of public hearings and the short time frame for the hearings is that the Agency is not very interested in what the public has to say on PCB contamination of public schools or any other issue identified in the ANPR.

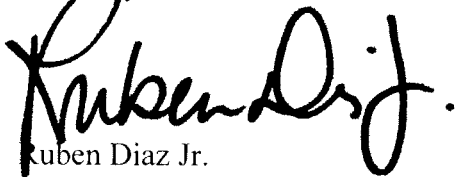
¹“EPA is seeking comment and any supporting data or other information on whether the number 50 ppm should be changed **given the recent realization that the use of PCBs in caulk may be widespread and may be an undue burden for schools if the exclusion continues at 50 ppm.**” ANPR, page 17658, Section X.

I respectfully urge the Agency to take the following actions:

- 1) Amend the ANPR to remove the request for comment on amending the 50 ppm standard for PCB-contaminated substances and all questions related thereto;
- 2) Amend the public meeting schedule to provide for a series of public meetings on each issue identified in the ANPR. With respect to PCB contamination of public schools, I recommend the Agency to schedule public hearings in at least the ten cities with the highest school populations over a period of 12 months; and
- 3) Lead the way in creating a national database on PCB levels in school children and employees to better understand the scope of the problem of PCB contamination while working to institutionalize PCB testing for children in public schools.

Thank you for your time and consideration. I look forward to hearing from you in response to this letter.

Sincerely,



Ruben Diaz Jr.

Cc: Senator Charles Schumer
Senator Kristin Gillibrand
Rep. Jose Serrano
Rep. Joseph Crowley
Rep. Eliot Engel
Nancy Sutley, Chair, Council on Environmental Quality
Adolfo Carrion, White House Office of Urban Affairs
Judith Enk, EPA Region 2 Administrator
Christine Quinn, NYC Council Speaker
Bronx City Council Delegation
Joel Klein, Chancellor, NYC Dept. of Education
Sharon Greenberger, President, NYC School Construction Authority