



November 21, 2012

National Association of Clean Water Agencies  
Attn: Ken Kirk, Executive Director  
1816 Jefferson Place N.W.  
Washington D.C. 20036

SUBJECT: TOXICS SUBSTANCE CONTROL ACT-TSCA

Dear Mr. Kirk:

Attached is a draft Resolution which the Spokane River Regional Toxics Task Force (SRRTTF) requests the Board of Directors of the National Association of Clean Water Agencies to consider passing and sending on to the Environmental Protection Agency (EPA). This draft resolution urges the EPA to move forward with their rulemaking to revise TSCA, and encourages the agency to further limit the concentration of inadvertently generated PCBs in products. Currently, the TSCA allows inadvertently generated PCBs up to 50 parts per million (ppm) maximum, and an annual average of 25 ppm. Even though PCBs were “banned” in 1979, there are significant quantities of PCBs still being introduced into our environment, and therefore our water, from inadvertently generated PCBs in products.

Certain segments of the Spokane River are listed as impaired for PCBs on the State of Washington 2008, Category 5, §303 (d) list. The Washington State PCB human health criterion for surface water is 170 picograms per liter (pg/L) (0.000000170 ppm). The Spokane Tribe of Indians has adopted a tribal water quality standard for the portion of the Spokane River in their jurisdiction of 3.37 pg/L.

To address the water quality concerns related to toxics in the Spokane River, the regulatory community, the NPDES permittees, the tribes, and local conservation groups have formed the Spokane River Regional Toxics Task Force (SRRTTF) to develop an alternative plan to a formal TMDL to reduce toxics in the Spokane River. This is a “Straight to Implementation” approach that is supported by the Washington State Department of Ecology, and EPA.

As the SRRTTF has gained momentum, they have come to understand the PCBs are a legacy pollutant that is ubiquitous in our environment and will be a very challenging pollutant to reduce. The SRRTTF have also come to understand that even though PCBs were “banned” in 1979, TSCA allows significant quantities to continue being introduced into our environment from products that are commonly used in our daily lives.

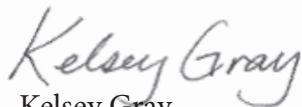
In addition, there are nationwide initiatives by EPA and individual states to modify the fish consumption standards used in the human health risk assessments. The fish consumption standards are generally being modified to consider much higher daily consumption of fish than in previous standards. For example, Oregon has recently adopted a new standard of 175 grams per day in lieu of their previous standard of 17.5 grams per day. The outcome of using much higher fish consumption rates will be much more stringent standards for toxics in our water bodies.

The TSCA regulation for inadvertently generated PCB's may have been appropriate in 1979, given the applicable economic considerations at that time. Now that the health risks to humans are much better understood, and now that water quality standards are being developed that are orders of magnitude lower than applicable water quality standards of that time period, the TSCA regulation allowing inadvertently generated PCBs is no longer adequate.

If TSCA is not revised to lower the allowable threshold for inadvertently generated PCBs, hundreds of millions (perhaps billions) of dollars will be spent on cleanup plans and treatment technologies with the expectation of reducing toxics in our water bodies, yet without any predictable success, given the constant stream of new PCBs being introduced into our environment on a daily basis.

The SRRTTF requests that the National Association of Clean Water Agencies consider adopting this resolution and presenting it to EPA, to support revisions to the 1979 TSCA regulations to make them more relevant to the 21st century. A similar resolution has already been passed by the Environmental Council of the States (ECOS), and the SRRTTF is making this same request to the Water Environment Federation (WEF).

Sincerely,

A handwritten signature in cursive script that reads "Kelsey Gray".

Kelsey Gray

On behalf of the

Spokane River Regional Toxics Task Force

## PCBs in Products Resolution

**WHEREAS;** PCBs cause serious health effects including cancer and non-cancer effects such as effects on the immune system, reproductive system, nervous system, and endocrine system;<sup>1</sup> and

**WHEREAS;** In addition to being toxic, PCBs are persistent and bioaccumulative.<sup>2</sup> This means they remain in the environment for long periods of time and increase in concentration within organisms or within the food chain; and

**WHEREAS;** Under TSCA the U.S. banned the production of PCBs in 1979, with certain exceptions, because they presented “an unreasonable risk of injury to health within the U.S.”;<sup>3</sup> and

**WHEREAS;** PCBs continue to be found in people in the U.S.<sup>4</sup>; and

**WHEREAS;** PCB contaminated fish are the primary source of PCBs for people, and many fish in our waterways are too contaminated to eat safely, leading to fish advisories. In 2010 there were 1,084 fish advisories for PCBs in 40 states<sup>5</sup>; and

**WHEREAS;** The current levels of PCBs in our environment are adversely affecting human health and the environment; and

**WHEREAS;** Millions of dollars are spent each year cleaning up PCBs in the United States of America; and

**WHEREAS;** PCBs were used in many applications, and exposure is ongoing from legacy sources such as transformers and capacitors. PCBs already in the environment continue to be redistributed and dispersed through disposal, recycling, leaking, and other pathways; and

**WHEREAS;** New products may contain PCBs, including inadvertently generated PCBs that are allowed in products at less than an annual average of 25 ppm, with a 50 ppm maximum. There is significant inadvertent production of PCBs during certain manufacturing processes, most notably those processes involving the use of chlorinated solvents; and

---

<sup>1</sup> U.S. Department of Health and Human Services (2000) Toxicological Profile for Polychlorinated Biphenyls (PCBs).

<sup>2</sup> EPA considers PCBs to be PBTs (<http://www.epa.gov/pbt/pubs/cheminfo.htm>). PCBs were one of the 12 original persistent organic pollutants (POPs) under the Stockholm Convention (<http://chm.pops.int/Convention/ThePOPs/The12InitialPOPs/tabid/296/Default.aspx>), which the U.S. signed, but has not ratified.

<sup>3</sup> 40 CFR 761.20.

<sup>4</sup> Centers for Disease Control (CDC) National Health and Nutrition Examination Survey (NHANES) <http://www.cdc.gov/nchs/nhanes.htm>

<sup>5</sup> EPA (2011) National Listing of Fish Advisories: General Fact Sheet 2010 [http://water.epa.gov/scitech/swguidance/fishshellfish/fishadvisories/general\\_factsheet\\_2010.cfm](http://water.epa.gov/scitech/swguidance/fishshellfish/fishadvisories/general_factsheet_2010.cfm)

**WHEREAS;** Individual states cannot effectively regulate PCBs; and the current regulatory limits on PCBs in excluded products were based on economic considerations, rather than exposure or risk assessments.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

National Association of Clean Water Agencies supports EPA's proposed rulemaking to reassess the current use authorizations for PCBs, which currently allows inadvertently generated PCBs in products of less than 50 ppm maximum and less than an average annual 25 ppm.<sup>6</sup> EPA should move forward with this rulemaking to further limit inadvertently produced PCBs to better protect human health and the environment.

National Association of Clean Water Agencies recommends that EPA continue its efforts to reduce PCBs and to work with the international community on the elimination of PCBs<sup>7</sup>.

National Association of Clean Water Agencies recommends that EPA, industries, and states work together on alternatives to manufacturing processes involving the use of chlorinated solvents, to develop manufacturing processes in the next five years that do not generate PCBs, while making sure the alternatives do not themselves cause significant environmental impacts of their own;

National Association of Clean Water Agencies supports a national approach to the problem of inadvertently created PCBs and requests that EPA commit research and development funds to establish the scope of the issue for all inadvertently created PCBs and provide resources to establish a Design for the Environment Project to reduce or eliminate inadvertently created PCBs.

---

<sup>6</sup> Federal Register Vol. 75, No. 66, Wednesday, April 7, 2010. Advance Notice of Proposed Rulemaking (ANPRM).

<sup>7</sup> Stockholm Convention implementation

<http://chm.pops.int/Implementation/PCBs/PCBsEliminationNetworkPEN/tabid/438/Default.aspx>