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RE: Implementation of TSCA to Address PCBs

Dear Mr. Jones and Ms. Giles:

The Spokane River Regional Toxics Task Force (Task Force) ~~thanks~~ appreciates the ~~EPA officials who met for meeting~~ with us on June 17, 2013 to discuss the challenges we face in our watershed. EPA's regulatory role is an important factor in our ability to achieve the water quality standards for polychlorinated biphenyl (PCBs). It is evident from our analysis that a significant contribution of PCBs ~~Not only does PCB exceed water quality standards in several segments of~~ to the Spokane River watershed originate from sources currently allowable by Federal regulations under the Toxics Substance Control Act (TSCA). The Spokane River, as well as other rivers in the U.S. with Clean Water Act 303(d) listings for PCBs, will likely never ~~It remains doubtful that we can ever be successful in meet achieving the~~ Clean Water Act required state and tribal water quality standards as long as this EPA sanctioned allowance remains in place.

This is also ~~a~~ national issue and not just isolated to the Spokane River watershed. There are almost ~~5,600~~ 5,600 water bodies in the United States that are listed for ~~PCBs~~ PCBs ~~PCB~~¹ and more than 1,000 fish advisories for PCBs in 40 states². PCB-contaminated fish are the primary source of PCBs for people in the United States³. PCBs ~~still~~ continue to pose a real threat to human health and the environment⁴.

¹ http://iaspub.epa.gov/waters10/attains_nation_cy.control

² <http://water.epa.gov/scitech/swguidance/fishshellfish/fishadvisories/>

³ <http://www.atsdr.cdc.gov/csem/pcb/docs/pcb.pdf>

⁴ <http://srrttf.org/wp-content/uploads/2012/09/ECOS-Resolution-12-9-PCBs-in-products-Approved-8-28-12.pdf>

The current TSCA allowance for inadvertently generated PCB of 50 ppm (with additional allowances for mono- and di-chlorobiphenyls) is not protective of the environment. ~~Of particular concern~~ An example of the ubiquitous distribution of PCBs resulting from TSCA are the findings that PCB-11, a congener specific to diaryl pigments, has been found in the waters of California, Delaware, Oregon, New York, New Jersey, Texas, and Washington⁵. In addition to this, a recent survey by the Japanese Ministry of Economy, Trade, and Industry shows that imported pigments can contain PCB in levels exceeding the EPA limits of 25 ppm average/50 ppm maximum for inadvertently generated PCB. In one case, the level of PCB in a yellow pigment product was as high as 2000 ppm⁶

EPA's TSCA enforcement strategy⁷ focuses on legacy facilities, but also supports actions that are of national benefit. The Task Force ~~encourages~~ strongly requests that ~~encourages that~~ EPA ~~to consider~~ implement a TSCA compliance monitoring program that addresses the manufacture in and import ~~in and~~ into the United States of products with inadvertently produced PCBs, such as pigments. Specifically, the Task Force requests increased enforcement of the existing TSCA regulations regarding *excluded manufacturing processes* and *excluded PCB products*, as defined in 40 C.F.R. §CFR 761.3 and further described in Subpart J of 40 C.F.R. §CFR 761.

~~The Task Force is developing a comprehensive plan to bring the Spokane River into compliance with water quality standards for PCBs. Excluded PCB products, specifically inadvertently generated PCBs, may be processed, distributed in commerce, and used in a manner other than a totally enclosed manner. Once introduced into the market place as products excluded from regulation, these PCBs then enter the environment through a number of pathways. As discussed above, PCBs are an environmental and health problem in the nation's waters and food supply.~~

~~The current TSCA allowance for inadvertently generated PCB of 50 ppm (with additional allowances for mono- and di-chlorobiphenyls) is not protective of the environment. Violations of these allowances exacerbate the existing situation. Enforcement of the existing TSCA regulations regarding excluded manufacturing processes and excluded PCB products is important and necessary at this time.~~ More importantly, the Task Force requests ~~ires~~ requires requests that EPA ultimately eliminate the provisions under TSCA that allows for the continued manufacturing of products to contain inadvertently produced PCBs in order to ensure that our watershed can achieve State and Tribal ~~the~~ water quality standards required under the Clean Water Act. Lowering the allowable limit under TSCA is not a viable solution when EPA ~~EPA's~~ EPA approved State and Tribal ~~'s~~ EPA's own water quality standards are nearly one billion times lower than the current allowance. Furthermore, this allowance has shifted the cost from those permitted to manufacture these products to our municipal ratepayers and businesses that are ultimately burdened with cleaning up someone else's source of pollution. Our only opportunity for success in achieving stringent water quality standards and providing economic fairness is dependent upon the elimination of these new sources that continue to enter our environment.

~~Thank you once again for taking the time to meet with you.~~ We look forward to hearing from you EPA's response regarding the above and what actions will be taken to resolve the inequity about the status of this request in Federal regulations that are currently not protective of the environment.

⁵ Jia Guo in <http://www.p2.org/wp-content/uploads/june-27-pcbs-webinar.pdf>

⁶ Christie in <http://www.p2.org/wp-content/uploads/june-27-pcbs-webinar.pdf>

⁷ USEPA, *Compliance Monitoring Strategy for the Toxic Substances Control Act (TSCA)*, Office of Enforcement and Compliance Assurance, September 2011.

Sincerely,
Spokane River Regional Toxics Task Force

cc

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