TSCA/iPCB Workgroup Meeting Summary
December 3, 2020

TSCA Members in Attendance:

Scott Braithwaite (ACA)
Joel Breems (Avista)
David Darling (ACA)
Jeff Donovan (City of Spokane)
Ben Floyd (White Bluffs Consulting)
Lauren Heine (NW Green Chemistry)
Gary Jones (Printing United Alliance)
Doug Krapas (IEP)
Robert Mott (Mott Consulting, LLC)
Cheryl Niemi (Ecology)
Mike Peterson (The Lands Council)
Elsa Pond (WA DOT)
Karl Rains (Ecology)
Jay West (American Chemistry Council)
Lisa Dally Wilson (Dally Environmental)

Agenda Items Discussed:

1. **WA HHWQC Lawsuits: Action: D. Krapas and others (i.e.: Ecology) to provide any updates on the following lawsuits:**
   a. **WA State vs. EPA** - WA State filed a lawsuit in federal court challenging reconsideration and approval of state standards on 06/08/19
      - EPA moved for summary judgment in this case in June 2020
      - Motion has been fully briefed and waiting for a decision from the court
      - Washington State and two intervening tribes have files amended complaints to challenge the substantive decision by EPA to withdraw the federal HHC
      - Answers to the amended complaints were filed on 11/9/20
      - A joint status report was filed on 11/12/20 in which the parties agreed to file an additional proposed schedule for any additional briefing in the case. The State of Washington has not made a decision on this question but the two intervening tribes have agreed that they do not need additional briefing to resolve the claims in their amended complaints.

   b. **Puget Soundkeeper Alliance & Makah Indian Tribe vs. EPA** - Action filed on 6/11/20 challenging EPA action to withdraw federal HHWQC
      - Case assigned to same judge as 1.a. above
      - No further action has taken place in this case
      - An answer to the complaint by EPA was filed on 11/9/20
      - A joint status report was filed on 11/12/20 but there has been no agreement on a briefing schedule to resolve the matter. The plaintiffs are reviewing the Administrative Record before they agree to a briefing schedule joint status report is to be filed on 11/12/20

2. **Update on PCB EPA Method 1668 study of TiO_2 Pigments: Action: J. West & M. Ober to continue providing updates on the TDSC project:**
   a. The project has experienced multiple setbacks, including natural disasters (hurricanes) in the southern U.S., COVID delays and holidays. Sampling is expected to be completed by the end of next week (December 11, 2020). The TDSC remains optimistic that laboratory analysis will be completed in January, 2021 with a possible presentation to the SRRTTF at the February meeting (February 24, 2021).

   Previous Meeting Notes:
   b. There are a total of four (4) facilities participating in the sampling: One has completed sampling, two are in process, and one was shut down due to a hurricane and is once again operational and has begun sampling.

c. Approximately twelve to sixteen samples will be collected plus blanks
d. All of the samples that are collected will be analyzed together to minimize the potential for background contamination and variability.
e. SGS-AXYS in NC has estimated a 30 day turn around for analysis of all samples.
f. Data analysis and the final report will be performed by Environmental Standards. They remain hopeful that a draft may be available for iPCB/TSCA workgroup review by the end of 2020.
g. A final report will likely be available for the full SRRTTF during the spring of 2021.
h. Training for sampling of the various TiO_2 pigments used in coatings, plastics and paper was completed in August and sampling is now dependent on manufacturer's availability.
i. There were requests on the format for presenting the data (range of results vs. aggregate), but Michael cautioned that the data must be presented in a manner to protect the confidentiality and proprietary nature of the participating manufacturers.

3. **Education/Outreach:** **Action: M. Peterson to provide updates on the Education & Outreach Workgroup efforts and The Lands Council's national outreach campaign to expand knowledge on the iPCB issue:**
    - The Education and Outreach (E & O) Workgroup is taking the outcomes from the iPCB/TSCA Workgroup and the iPCB Workshops to develop E & O strategies on the iPCB issue. This will include working with other watersheds to implement many of the actions identified from these efforts. The E & O Workgroup intends to present a proposal outlining these strategies to the SRRTTF for consideration at the December meeting.
    - The iPCB/TSCA Workgroup will continue to support the E & O activities as needed.

Previous Meeting Notes:

- Outreach from the Gonzaga research effort on iPCBs in Products to support a data base and a subsequent presentation at the Roanoke River Conference, resulted in numerous contacts in other watersheds that are interested in information exchange with SRRTTF efforts.
- M. Peterson and others (Lisa Daly Wilson, Joel Breems, etc.) will take this request to develop an outreach strategy to the Education & Outreach group that may be better suited for this scope of work.
- We will keep this project as a placeholder on the iPCB/TSCA workgroup to assure that a strategy is developed for outreach to these other watersheds.
- Gonzaga and the Lands Council received an offer to present on the PCB data base development work for the SRRTTF at the virtual Roanoke River Conference on October 21-22.
- A draft of the presentation was sent to iPCB/TSCA workgroup members on September 2nd with a request for comments by September 9th.
- M. Peterson believes that their half hour presentation will be in the morning of October 21st.
- Additionally, sharing the driver behind this need - the discrepancy between what is allowed in products under TSCA vs water quality regulations for PCBs.

4. **iPCB Workshop/2021 Proposed Projects:**
    - D. Krapas provided a revised summary of *2021 iPCB/TSCA Workgroup Project Proposals* for consideration and discussion (attached)
    - In regards to the Technical Considerations, Project 1.b. *Industry List of Pigments*, D. Darling

inquired if the NWGC Whitepaper (pages 7 to 20) sufficiently covered this proposed scope: http://srrttf.org/wp-content/uploads/2019/07/Final20190628_iPCBs-and-Pigments.pdf

While this is a good start and example of what is being proposed, what is envisioned is a more comprehensive list of pigments manufactured with chlorinated and non-chlorinated processes.

- In regards to the Technical Considerations, Project 1.c. *Develop Certification Program for Products and/or Pigments*, Dr. Mott expressed concern that it may be difficult for industry to support since this would be creating a list of products not to buy. C. Niemi and others expressed that this does not need to be the case and that the intent can be a marketing tool to identify environmentally responsible products, similar to the vinyl flooring products RFCI Assure program: https://www.floordaily.net/flooring-news/rfci-scs-global-launch-lvt-certification-program

- **Action: D. Krapas to provide a final summary of potential projects for workgroup prioritization**

Previous Meeting Notes:

- L. Heine suggested adding the development of a chlorinated versus non-chlorinated pigments list under Technical Considerations.
- The group had a robust discussion regarding the "Evaluate fate of PCB-11" under Technical Considerations to better develop potential projects. Suggestions were made to develop a paper/bibliography on PCB-11 related to existing work/developments (NWGC papers, work by the SRRTTF, hatchery study, etc.). D. Krapas suggested that perhaps this might be another good research project for Gonzaga.
- The slide decks and minutes from all of iPCB Working Group Meetings (Technical Considerations, Government/Regulatory, and Advocacy/Policy) were posted on the SRRTTF website: http://srrttf.org/?page_id=10188
- The outcomes and potential next step projects from the iPCB Workshop, the subsequent iPCB Working Group Meetings, and the Road Paint Whitepaper are to be compiled for evaluation by the TSCA/iPCB Workgroup.

5. **Safer Products WA: Action Ecology, C. Niemi to continue updates**
   a. C. Niemi did not have any new updates regarding the Safer Products WA program, so see the *Previous Meeting Notes* below for the most current status:

Previous Meeting Notes:

b. Ecology is currently in Phase 3 develop which is to develop any regulatory actions, including: take no action, require notice, reporting restrictions, or prohibit chemicals of concern.
c. Any chemical restrictions require that safer alternatives are feasible and available, and have included stakeholder consultation (CPMA, ACA, etc.).
d. Ecology determinations will be available for public comment by June 1, 2022 that will be followed by Phase 4 rulemaking.
e. D. Krapas distributed an announcement from C. Niemi regarding a presentation on the SPWA progress by Ecology on September 29th to the House Environment and Energy

Committee Virtual Work Session: https://www.tvw.org/watch/?eventID=2020091019 (starting at time 47:50).

f. Another webinar on Phase 3 development will be held on October 8 at 1:00.A report was submitted to the legislature that includes iPCBs in Paints and Printing Inks: https://fortress.wa.gov/ecy/publications/documents/2004019.pdf

g. Ecology's next steps include a public webinar in August to discuss the report

6. **Funding: Action L. Dally Wilson & K. Rains to provide updates**
   a. **Monsanto Settlement**:
      - The SRRTTF sent letters of support to the Governor's office, House & Senate Leadership, and local legislators.
      - Meetings with legislators are being arranged for the month of December to discuss
   b. **Funding Updates:**
      - A draft Boilerplate for grant applications was developed by L.D. Wilson
      - A 2021 SRRTTF Work Plan has been developed that includes projects and funding options
      - The Funding Workgroup held a ZOOM meeting on November 3
      - Mike Peterson identified a Temper of the Times Foundation grant opportunity that could support the E & O communication efforts.

Previous Meeting Notes:

c. A suggestion was made to remove the funding discussion from the agenda for the iPCB/TSCA Workgroup since it should not be the primary focus of this workgroup and it consumes valuable meeting time. While in general agreement, D. Krapas would prefer to keep as a placeholder for discussion (time permitting) since IEP has primary responsibility lobbying for legislative funding and expressed concerns over the availability of future funding due to the state's budget problems.

d. TTWG and Funding Workgroups to develop a coordinated strategy and consider how best to use available funding to support SRRTTF efforts.

e. Karl will put this request onto the Funding workgroup agenda for discussion and bring recommendations to SRRTTF for consideration.

f. L. Dally Wilson and the TTWG have developed a list of potential future projects

7. **EU Recast of POP Regulations:**
   a. Dr. Mott provided the following written summary regarding various PCB regulations and test methods:

Here are references to the PCB regulations in Canada:

The first reference is to the overriding PCB Regulations which provides the limitations and reporting requirements related to pigments and PCBs:
https://laws-lois.justice.gc.ca/PDF/SOR-2008-273.pdf

The specific sections related to pigments are:
Colouring pigment
11 (1) A person may manufacture, export, import, offer for sale, sell, process and use a colouring pigment containing PCBs produced incidentally if the concentration of the PCBs is less than 50

mg/kg.

Colouring pigment
35 The person who manufactures, exports or imports colouring pigment in accordance with section 11 shall prepare a report that is current to December 31 in each calendar year in which the person manufactures, imports or exports the colouring pigment and that contains the following information:
(a) the name, civic and mailing addresses, telephone number, fax number, if any, and e-mail address, if any, of the person and of any person authorized to act on that person's behalf;
(b) an indication of whether the person manufactures, exports or imports colouring pigment;
(c) the quantity of colouring pigment, expressed in kilograms, the maximum concentration of PCBs in the colouring pigment, expressed in mg/kg, and the average annual concentration of PCBs in the colouring pigment, expressed in mg/kg, that is manufactured, imported or exported in that calendar year;
(d) in the case of importing, the name, telephone number and civic and mailing addresses of the person from whom the colouring pigment is imported and, in the case of exporting, the name, telephone number and civic and mailing addresses of the person to whom the colouring pigment is exported; and
(e) a certification that the information is accurate and complete and that is dated and signed by the person or by a person authorized to act on their behalf.

The second reference is to the Toxic Substances list which contains the definition of PCBs, which is the first chemical substance listed:
https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/substances-list/toxic/schedule-1.html

1. Chlorobiphenyls that have the molecular formula C12H(10-n)Cln in which "n" is greater than 2

Previous Meeting Notes:

b. Dr. Mott provided the following briefing in regards to various PCB regulations and test methods:
   - Not much has changed in the U.S. except for the use of EPA Method 1668
   - Regulations in Canada have recently been updated. Mono- and Di-chlorinated PCBs are not in the scope and there is no test method identified.
   - European Union is confusing with so many amendments and corrections since the original POP regulations in 1976.
   - The most recent recast of POP regulations in July specified all chlorinated congeners of PCBs and the exemption of mono- and di-chlorinated congeners disappeared.

c. Incidental generation of PCBs is no longer in the scope, and only existing regulations from 1984 reference the use of colorants and plastics. L. Heine recalled seeing incidentals addressed in the annex.

d. The regulations reference Analytical Methods APA 981 (<5ppm) and EPA Method 608The recent recast of the European Union regulations regarding persistent organic

pollutants appears to disallow any contamination of PCBs in products.

e. J. West provided the following links to information regarding the POP Regulations:
   - https://www.chemsafetypro.com/Topics/EU/new_changes_recast_POPs_regulation_EU_2019_1021.html
   - https://www.tuvsud.com/en-us/e-ssentials-newsletter/consumer-products-and-retail-essentials/e-ssentials-10-2019/eu-pops-regulation-recast-is-now-published
   - https://www.intertek.com/consumer/insight-bulletins/recast-on-persistent-organic-pollutants-regulation-published/
   - https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1021&rid=3 (the recast language itself)

f. Regarding PCBs, the recast appears to incorporate terms of a 1996 Council Directive concerning management of equipment (transformers, capacitors, etc.) containing PCBs.

g. L. Heine believes that the recast is also applicable to pigments.

h. Dr. Mott explained that in the EU and Canada, "PCBs" means 3 or more chlorination's, so chemical companies do not even look for mono or di-chlorinated congeners.

i. L. Heine believes that the regulation is applicable to all 209 congeners.

j. Dr. Mott to locate the citation that identifies this exclusion and the test methods used in Europe and Canada to evaluate PCBs at the homologue level

8. **EPA research opportunities:** no representatives from EPA were on the call to provide an update to the following projects:

   a. D. Krapas had a follow-up conversation with L. Edmondson on August 20, 2020 regarding the status of EPA projects:
      - Lucy stated that with the COVID situation, projects at EPA have slowed down
      - Lucy had no specific updates on the EPA projects, but will attempt to get for the TSCA/iPCB Workgroup meeting in September which she should be able to attend.
      - Lucy will attempt to track down a contact at NTP for the TSCA/iPCB Workgroup
      - C. Niemi has also been working on locating a contact at NTP for follow-up on the NTP risk study of various Congeners and Aroclors. **Action C. Niemi to track down contact at NTP**

   b. **iPCB Key words for Scholarly Articles:** Michelle stated during our February, 2020 call that EPA is resource limited and is focused on higher priority projects such as site clean- ups and iPCB product testing (see below Children's Product Testing), so this particular project has been assigned a lower priority and is currently on the back burner. **Action EPA, M. Mullin& L. Edmondson**

   c. **Children's Product Testing**: Michelle stated during our February, 2020 call that this remains a work in progress, as EPA attempts to understand the variability of the results and other environmental influences (air emissions, dust adsorption, etc.). **Action EPA, M. Mullin& L. Edmondson**

   d. **NTP risk study of various Congeners and Aroclors**: NTP is evaluating toxicity of PCB congeners 11, 95, 126, 153 and Aroclors 1016 and 1254. **Action EPA, M. Mullin& L. Edmondson**

9. **New – Add Green Chemistry to the iPCB/TSCA Workgroup Efforts**
   - K. Rains suggested adding Green Chemistry considerations to the iPCB/TSCA Workgroup since it appears to be intertwined.
   - B. Floyd expressed support since much of the past tasks by the Green Chemistry efforts have been completed.
   - D. Krapas had been resistant in the past due to the significant workload of the iPCB/TSCA Workgroup, and suggested tabling this for further discussion once the project workload has been identified for 2021. **Action: D. Krapas to add this as a future agenda topic**