

TSCA/iPCB/Green Chemistry Workgroup Meeting Summary September 7, 2022

TSCA Members in Attendance

Hollie Davies (DOH)	Doug Krapas (IEP)
Jeff Donovan (City of Spokane)	Robert Mott (Mott Consulting, LLC)
Ben Floyd (White Bluffs Consulting)	Cheryl Niemi (Ecology)
Lauren Heine (ChemForward)	Amanda Parrish (The Lands Council)
Gary Jones (Printing United Alliance)	Annie Simpson (Ecology)

General: Annie Simpson with the WA Dept. of Ecology joined the workgroup as Karl Rains replacement. Annie has been with Ecology for 4 years in the General Permits and Stormwater program.

iPCB/TSCA Agenda Items Discussed:

1. **WA HHWQC Lawsuits/TMDLs: Action: D. Krapas and others (i.e.: Ecology) to provide any updates on the following lawsuits**
 - a. **EPA proposed HHWQC for WA State:** Public comments to the draft rule were due by May 31, 2022. Submittal of the final HHWQC is due by consent decree by January, 2023
 - b. **Settlement requiring EPA to complete a PCB TMDL for the Spokane River:** EPA to complete a TMDL for PCBs in the Spokane River by September 30, 2024. See the following link for updates to this process: <https://www.epa.gov/tmdl/spokane-river-pcb-tmdls>
2. **Education/Outreach: Action: The Lands Council (TLC) is to provide updates on the iPCB National Outreach Campaign project:**
 - a. A. Parrish & N. Sherazi provided the following update regarding the status of this project (website: www.ipcbfree.org)
 - The bulk of the outreach has been completed with the following response:
 1. Support for EPA reform of TSCA was lower than expected
 2. Many contacts seem indifferent or disenfranchised over the issue, as they don't believe it would make much of a difference
 3. There was a lot of confusion over this issue and the TMDL process
 - A draft report is scheduled for July 15th
 - B. Floyd & D. Krapas recommended review of the draft report first by the iPCB workgroup with approximately 2 weeks to provide a response with comments
 - Final approval by the SRRTTF will be required at the August or September meeting

Action: D. Krapas to distribute the draft report to the iPCB/TSCA workgroup for review and comment
3. **iPCB/TSCA Workgroup Projects, Approved & In Process:**

- a. ***PCB-11: Sources and Pathways to the Spokane River:*** this work is currently under the guidance of the TTWG and is an element of the 2022 low-flow synoptic survey/mass balance that was approved by the SRRTTF at the May meeting and will be conducted in August/September. **Action Item: L.D. Wilson to provide updates on the progress of this project through the TTWG**

- b. ***PCB Policies Evaluation, Phase 1: 3rd Party Research Effort:*** **Action Item: Braided River Consulting to provide updates at the iPCB/TSCA monthly meetings**
 - A. Montgomery was not available for this meeting, but did send D. Krapas an email on July 6th stating that Braided River will have the draft report available for review and comment this workgroup by the end of this week. **Action: D. Krapas to distribute the draft report to the iPCB/TSCA workgroup for review and comment**

- c. ***Develop Industry List of Pigments: Chlorinated vs. Non-Chlorinated:*** **Action Item: ChemForward to provide updates at the iPCB/TSCA monthly meetings**
 - L. Heine presented the update for this project (see attached presentation: **Inadvertent PCBs database update_070622**)
 - Where should the chlorinated pigments data base and website landing be located (SRRTTF, Ecology, EPA, TLC, ChemForward, SpokaneRiverPCBfree.org, etc.). With the future uncertainty of the SRRTTF, this is likely going to apply to a lot of other concerns in addition to this one. D. Krapas suggested discussing this at the SRRTTF meeting in August for a solution. **Action: D. Krapas & B. Floyd landing page location to be discussed at the August SRRTTF meeting**
 - Next steps include a QA/QC review in preparation for a demonstration of the data base tool at the September or October iPCB/TSCA workgroup meeting. **Action: L. Heine to prepare demo for the September or October iPCB/TSCA workgroup meeting**
 - G. Jones once again expressed concerns with the value judgement conveyed by the hazards information and the context in how it might be misinterpreted when applied to mixtures of other products (inks, plastics, paints, etc.)
 - D. Krapas summarized the conclusion raised from the May and June meetings that the majority of the workgroup agreed to remove the “hazard band” which is a grading system developed by ChemForward, but agreed to maintain the “Hazard” tab since this is factual information and consistent with the scope of work for this contract
 - Considering that this workgroup cannot reach consensus, D. Krapas suggested that this issue be brought to the attention of the voting members of the SRRTTF upon consideration and approval of the work product whether to keep or remove. **Action Item: D. Krapas & B. Floyd to include the discussion of the hazards information for consideration by the voting members of the SRRTTF upon report approval.**

4. **2022 Proposed Projects:** The workgroup discussed the following list of projects:

2022 Proposed iPCB/TSCA Workgroup Projects
Request that EPA to perform Cost/Benefit Analysis and reevaluate TSCA
Evaluate existing product testing data to determine if TiO2 specific congeners can be identified
Perform statistical analysis of the TiO2 data provided
Test raw TiO2 and products with nexus to Spokane River to determine PCB concentrations & specific congeners
EPA or Ecology product testing programs to collaborate with the SRRTTF to perform testing of TiO2 products

a. **EPA to perform Cost/Benefit Analysis and reevaluate TSCA:**

- D. Krapas received the following email response on July 11th from R. Zaman regarding this matter and a request to revise the July minutes:

After reviewing the minutes, you may need to revise Section 4a of the minutes, regarding filing a petition under TSCA (Sec. 21 petition). The section is mixing two separate issues in TSCA. I think you are requesting EPA to review and revise its acceptable levels of iPCBs, as stipulated under Sec. 6(e) and rules issued under authority of that section. TSCA has two basic routes of chemical restriction. EPA can conduct a risk evaluation (as you've referenced in the minutes) or it has authority to restrict certain highly hazardous chemicals specified by name in the statute, such as lead, mercury and PCBs. These latter chemicals each have their own section in TSCA and related regulations. As such, they are not regulated through the "risk evaluation" procedure used for chemicals distributed in commerce.

The meeting minutes reference TSCA's Section 6 risk evaluation procedure. You have to be careful not to request EPA to conduct a TSCA Sec. 6 risk evaluation for PCBs. Congress revised these risk evaluation requirement effective June 2016. The PCB restrictions predate this section, going back to the 1970's. That's the section you want to work under. The Section 6 risk evaluation procedure would not be appropriate for a chemical such as PCBs which already have an existing ban in place.

- R. Zaman provided a summary of the above, including that the incorrectly referenced Section 6 risk evaluation procedures (6.a., 6.c.) that would take 3 years for a risk evaluation and an additional 2 years for a risk mitigation plan. Whereas, the correct procedure under 6.e, Section 21 of TSCA would only require 90 days to evaluate the underlying scientific basis of the regulation promulgated in 1976 since PCBs are a chemical currently distributed in commerce.
- The workgroup discussed possible next steps that included forming a small ad-hoc workgroup to further develop this concept, a request to EPA for clarification, or a 3rd party proposal to evaluate this opportunity and to provide direction to the SRRTTF. R. Zaman was aware of various law firms that were knowledgeable in this area as possible 3rd parties.

Action: R. Zaman to provide contacts of various law firms for 3rd party evaluation

Action: D. Krapas to develop actions to pursue a 3rd party RFP for workgroup

consideration

- b. **TiO₂ Projects:** EPA has funding available for additional product testing and may be able to include raw TiO₂ that would be of national interest. Raw TiO₂ tested should use the chloride process that go into products having the potential to enter our water bodies (Paints and Coatings, Plastics, Paper and Paperboard Packaging, etc.) and be consistent with the study that was conducted by the TDSC for the SRRTTF. Websites that identify potential raw TiO₂ products with major suppliers, trade names and contact information:

<https://coatings.specialchem.com/selectors/c-pigments-titanium-dioxide?src=sg-overview-cnx>

<https://www.americanchemicalsuppliers.com/content/page/titanium-dioxide>

- At the direction of the workgroup, D. Krapas sent an email to Michael Ober (TDSC) and Jay West (ACC) on June 29, 2022:

Hello Michael and Jay – I realize that the two of you have not been attending the iPCB/TSCA Workgroup meetings since the presentation of the TiO₂ study results, but am hopeful that you continue to follow the meeting minutes that I continue to provide to you. On that note, it appears that EPA may have some funding available for additional product testing and may be able to include raw TiO₂ testing to supplement the study performed by the TDSC on raw TiO₂ associated with Paints and Coatings, Plastics, Paper and Paperboard Packaging. I expressed concern with the protection of this information that would become publicly available since it is being conducted through EPA, but the Workgroup members didn't believe that there would be significant concerns considering that the results would be based on a single sample/analysis. Other members suggested reaching out to you to see if the TDSC would be willing to share additional information of interest to the SRRTTF from the study (i.e.: address the questions we exchanged in this email) to preclude further sampling and analysis by the SRRTTF and EPA.

I wanted to reach out to you to see if there is any interest in providing this additional information and to get your feedback regarding any concerns with EPA performing further testing of TiO₂.

Thanks and hope you both are doing well.

- No response was received from either M. Ober or J. West to the above inquiry, so the workgroup should proceed with EPA's offer to test raw TiO₂ samples to further our knowledge of the fingerprints and profiles of various sources. **Action D. Krapas to coordinate with Ecology and EPA to perform this testing**

5. Safer Products WA: **Action Ecology, C. Niemi and C. Manahan to continue updates**

The overall website for SPWA: <https://ecology.wa.gov/Waste-Toxics/Reducing-toxic-chemicals/Safer-products>

The EZ View site for those who are interested in following the process:

https://www.ezview.wa.gov/site/alias_1962/37555/safer_products_for_washington.aspx

- a. C. Niemi was not present for this meeting, but did forward Ecology's draft report to the legislature:

https://apps.ecology.wa.gov/publications/summarypages/2204018.html?utm_medium=email&utm_source=govdelivery

- b. Of interest to the iPCB/TSCA workgroup is the following statement by Ecology:

We are not taking action on PCBs in paints or printing inks. We believe we are federally preempted by Toxic Substances Control Act (TSCA) regulations.

- c. The workgroup discussed Ecology's determination, but did not come to any conclusions on next steps to address this concern. **Action: Workgroup to consider what actions may be taken for the legislature or Ecology to reconsider its decision**

6. TTWG and Funding Groups: Action: L. Dally Wilson & K. Rains to provide updates

- a. See item 4.a. above for an update on the iPCB/TSCA project *PCB-11: Sources and Pathways to the Spokane River*
- b. K. Rains is no longer involved with the SRRTTF and any workgroups, so no update was provided for the Funding Workgroup as it pertains to iPCB/TSCA work. With the loss of K. Rains due to his new assignment within Ecology, D. Krapas suggested that B. Floyd add the future of the Funding workgroup and leadership to the agenda for the SRRTTF meetings due to the importance of tracking future funding opportunities. **Action: B. Floyd to add the Funding workgroup discussion to future SRRTTF meetings**

7. EPA research opportunities: Action: EPA updates by M. Mullin & L. Edmondson

No EPA representatives were present for the meeting, but D. Krapas received the following email update from M. Mullin on May 5, 2022:

- a. **iPCB Key words for Scholarly Articles:** The Region 10 librarian is working to create an EndNote database for us, which we should be able to update on a regular basis pretty easily. This first cut of the database should be available in a few weeks. However, we may keep it internal for the time being because we want to have some summer interns review it for QA. We are also looking into possibly publishing this on our iPCB web page. The good news is that after a long hiatus from working on this, we are making progress.
- b. **Children's Product Testing:** We applied for ROAR funding (an internal funding mechanism) in Region 10 and Region 1. We were not selected in Region 10. We have not yet heard if Region 1 has selected our project for funding. We do have some money from HQ that we are trying to spend on product testing right now and those tests will include some inks that WA Ecology sent us. The manuscript from our last round of product testing and exposure pathway analysis has undergone internal review and was submitted for publication. I think we will have an update in the fall on our progress.
- c. **NTP risk study of various Congeners and Aroclors:**
- D. Krapas sent an email inquiry to EPA on 08/10/22 and received a reply from M. Mullin of EPA on 08/11/22 that no update has been provided to date.