UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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OFFICE OF THE REGIONAL ADMINISTRATOR

February 24, 2015

Ms. Adriane Borgias
Spokane River Regional Toxics Task Force
Washington State Department of Ecology
4601 North Monroe Street
Spokane, Washington 99205-1295

Dear Ms. Borgias:

Thank you for your October 23, 2013, letter on behalf of the Spokane River Regional Toxic Task Force to Jim Jones, Assistant Administrator for the Environmental Protection Agency's Office of Chemical Safety and Pollution Prevention, and Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance, regarding the water quality challenges presented by polychlorinated biphenyls. I apologize for the delay in my response on behalf of the Agency, but your letter raises some particularly challenging issues for us. Specifically, your letter notes the potential problems from the release of inadvertently generated PCBs from products such as pigments, and requests that the EPA take two actions to address the problems. First, you ask that the EPA initiate enforcement of the existing prohibition on the imports of inadvertently generated PCBs at concentrations at or above 50 parts per million and, second, that EPA revise its regulations to eliminate all manufacture or import of inadvertently generated PCBs.

The EPA agrees with the Task Force on the importance of reducing PCBs in the environment and the need to look at all potential sources. The EPA participates on the Task Force and supports the collaborative approach being taken to reduce PCB sources in advance of completing a TMDL. Having approved the Spokane Tribe's water quality standards, the EPA understands the issues of concern associated with very low levels of PCBs and the challenges of meeting those standards.

Your request that the EPA initiate enforcement of the regulations regarding inadvertently generated PCBs raises very complex issues. Excluded Manufacturing Processes and the resulting products are excluded from the otherwise applicable statutory bans as long as certain requirements are met, including reporting those processes and products to the EPA and maintaining concentrations under specified limits. Given your request, we examined the potential for increased compliance and enforcement activity to address possible violations of these regulations and found a number of significant challenges. These challenges include the nature of the regulations, the EPA's ability to identify possible non-compliers, the resources necessary to implement an effective enforcement initiative, and the potential of any such initiative to effectively reduce PCB levels to meet water quality standards. Thus, an enforcement initiative targeted specifically at the regulations for inadvertently generated PCBs is not a promising approach.

Revising current regulations to reduce inadvertently generated PCBs presents both policy and scientific challenges. Before proposing more stringent regulations on the inadvertent generation of PCBs in pigments, the EPA would seek to further understand the complexities and contributions of not only PCB-11, but also other congeners that may be present in the Spokane River. At present, there are not sufficient data to assess such PCB congeners. However, in a step toward addressing this deficiency, the EPA has requested that toxicity testing on PCB-11, a congener identified to be incorporated into yellow

pigments, be conducted through the National Toxicology Program at the National Institute of Environmental Health Sciences.

Excluded Manufacturing Processes and associated products may generate or contain a variety of inadvertently generated PCB congeners other than PCB-11. There are Toxicity Equivalence Factors (TEFs) established for the dioxin-like congeners, but, prior to revising TSCA regulations or the EPA's recommended water quality criteria for PCBs, the EPA would want to rely on additional toxicity information for many of the non-dioxin-like individual congeners. The aggregation of PCB congeners may in some instances be problematic for risk assessment because the toxicity of different PCB congeners varies and a fixed water quality concentration for total PCBs may not adequately represent the variable toxicity of the various congeners actually present in a particular water body. While the EPA is not proposing to undertake a comprehensive analysis of the remaining PCB congeners, we are examining the characterization of PCBs in water bodies. As stated above, characterizing individual PCB congeners' contribution to risk presents challenges. Therefore, the aggregation of all PCBs in the EPA's recommended water quality criteria for PCBs (i.e., expressed as total PCBs) is one topic we are discussing.

We note that states have taken the initiative to assess toxicity of specific chemicals in the past. One example is the toxicity criteria program managed by California's Office of Environmental Health Hazard Assessment. This process may be a reasonable approach that Washington can take to address the allowable amounts of specific PCB congeners generated inadvertently.

As you know, the EPA intends to propose to restrict and/or eliminate many of the remaining authorized uses of higher-concentration liquid PCBs. These remaining uses are the largest reservoir of commercial mixtures (Aroclors) that contain the dioxin-like PCBs for which there have been health concerns for decades. While these proposed changes will not address the inadvertently generated non-dioxin-like PCBs identified in your letter, the EPA believes this effort will help to reduce potential exposure and risk from remaining dioxin-like PCB uses.

One potentially promising strategy to address PCBs inadvertently produced in products is Green Chemistry. The EPA has provided funding to Ecology to establish a Green Chemistry Center and is a member of the Advisory Board for the Center. The Green Chemistry Center plans to host a workshop later this year on PCBs inadvertently produced in inks and pigments, perhaps leading to improvements in the production and use of PCB-free inks and pigments.

I understand that, having not heard back from the EPA in so long, you recently requested a meeting with the EPA senior managers to discuss these issues. If you still would like to meet after you and the other members of the Task Force have had a chance to review this response, I would be happy to assist in getting the meeting organized. Please feel free to contact me or have your staff contact Tom Eaton, Director of our Washington Operations Office at (360) 753-8086 or by email at eaton.thomas@epa.gov if you still wish to proceed with the meeting.

Thank you again for your letter, and again, I apologize for the delay. I look forward to continuing our work together and protecting human health and the environment.

Sincerely,

Dennis J. McLerran
Regional Administrator

cc: Wendy Cleland-Hamnett, Director, OPPT
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