Petition Demands EPA Rules to Regulate the Discharge of Unregulated Toxic Chemicals to Water

What is the Petition?

Northwest Environmental Advocates and the Center for Biological Diversity have petitioned the U.S. Environmental Protection Agency (EPA) to update the Clean Water Act's Toxic Pollutant List to which no pollutants have been added for 47 years. This, despite a Congressional directive that EPA add chemicals to the list from "time to time." The Toxic Pollutant List drives the law's pollution control requirements to curtail toxics in the nation's waters. But, as the result of EPA's failure to update the list, most of the thousands of chemicals used in today's manufacturing, offices, and homes—that end up in lakes, rivers, and streams—are not regulated.

Why is this Petition important?

Decades after passage of the Clean Water Act, toxic contamination in the nation's waters remains high and is growing worse, harming human health and aquatic life, including threatened and endangered species. Much of this contamination is from "contaminants of emerging concern," including known hazards such as endocrine disruptors, pharmaceuticals, personal care products, and pesticides. Even so, no new pollutants have been added to the original, and now 47-year-old, Toxic Pollutant List. Inclusion on the list is a first step under the Clean Water Act towards regulating discharges of toxic contaminants.

How does the Toxic Pollutant List reduce toxic contamination?

When a pollutant is placed on the Toxic Pollutant List, the Clean Water Act requires EPA to develop, and regularly update, minimum treatment requirements for industrial dischargers of the pollutant to the nation's waters, as well as for those that discharge indirectly through sewage treatment plants. Additionally, for all pollutants on the Toxic Pollutants Lists, states must adopt criteria in their water quality standards if EPA has published recommendations for them.

What kinds of toxic pollutants are included in the Petition?

The Petition describes multiple categories of toxic pollutants not presently included on the Toxic Pollutant List. These include pollutants:

- for which EPA has developed criteria
- found at Superfund sites
- microplastics
- currently used pesticides
- endocrine disruptors
- contaminating private drinking wells
- for which releases are monitored and reported
- are pharmaceuticals and personal care products
- causing environmental injustice
- regulated under other programs
- produced and used in large quantities
- toxic tire residue

What are some examples of how EPA's failure harms human health and species?

- ***Manganese*** has been found in concentrations "way off the scale" in drinking water in Appalachian states. Manganese causes neurological effects—affecting memory, intelligence, attention, and motor skills—and yet has never been added to the Toxic Pollutant List. Measured by pounds, manganese is one of the chemicals with the largest releases to water. Manganese is one example of how EPA's failure to update the Toxic Pollutant List results in a failure to regulate toxics that disproportionally affects socioeconomically disadvantaged people, in particular children.

- ***PFAS "Forever" Chemicals*** have been spotlighted by EPA as an "urgent public health and environmental issue" because of myriad health effects on fertility, blood pressure, cancer, immune response, and adverse impacts to children. But PFAS are not on the Toxic Pollutant List, where placement would guarantee future regulatory action. Even as some states, such as Michigan, have developed programs to restrict PFAS discharges, and EPA is taking important actions, it has no plans to add PFAS to the Toxic Pollutant Lists.

- ***Nonylphenol*** is a predominant chemical in killer whales—the most toxic contaminated marine species on the planet—and has the highest rate of transfer from mothers to fetuses in the species. In 2005, EPA recommended states adopt nonylphenol in water quality standards because of its vast and increasing production and the high concentrations of nonylphenol found near sewage treatment plants. But by not adding nonylphenol to the Toxic Pollutant List, EPA has ensured this widely pollutant is virtually unregulated.

- ***Atrazine*** is a currently used pesticide—and likely a hormone disruptor—that has worried federal expert fish and wildlife agencies for over 30 years. These agencies have raised concerns about atrazine in the Chesapeake Bay, this pesticide's threat to fish reproduction and behaviors, its effects on amphibians, and potential for bioaccumulation. Despite these and other concerns, EPA has not placed atrazine on the Toxic Pollutant List.

What does the Petition ask EPA to do?

The petition requests that EPA take three general actions. First, it asks EPA to add hundreds of named toxic pollutants to the Toxic Pollutant List. Second, it asks EPA to establish a rule to keep the Toxic Pollutant List updated in the future. Last, it asks EPA to make formal determinations on what toxic pollutants must be covered by the pretreatment program for indirect discharges.

What is the Pretreatment Program and why is it important?

While some industries discharge directly to waterways, regulated under a discharge permit, many other sources discharge to sewage collection systems. These indirect discharges may or may not be regulated under outdated "pretreatment" programs administered by cities. As with direct dischargers, the integrity of the pretreatment program relies heavily on the Toxic Pollutant Lists. For toxics that sewage treatment cannot remove, pretreatment is essential. For example, not only does sewage treatment nor remove PFAS chemicals but, instead, PFAS often increases.