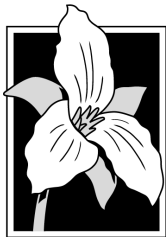


NORTHWEST ENVIRONMENTAL ADVOCATES



July 31, 2023

Michael S. Regan, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code 1101A
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

*Via email: Regan.Michael@epa.gov; Via
Certified Mail, Return Receipt Requested*

Re: Petition for Rulemaking Under the Clean Water Act to Update the Toxic Pollutant List Designated Under Section 307(a)(1) in 40 C.F.R. § 401.15; the Priority Pollutant List Published at 40 C.F.R. Part 423, Appendix A; and Pretreatment Determinations Pursuant to Section 307(b)(1)

Dear Administrator Regan:

Please find enclosed a petition from Northwest Environmental Advocates and the Center for Biological Diversity requesting the U.S. Environmental Protection Agency engage in rulemaking to update the Toxic Pollutant List and Priority Pollutant List (“Lists”), and to make new determinations on the need for pretreatment of toxic pollutants discharged indirectly to the nation’s waters through municipal sewage collection systems. EPA’s failure to update these two lists of toxic contaminants—to which no pollutants have been added for 47 years—cripples effective implementation of the Clean Water Act by undermining both the technology-based and the water quality-based approaches to toxics pollution control established by the law and carried out by the states and EPA.

As the petition details, Congress has repeatedly exhorted EPA and the states to move swiftly to improve and carry out regulatory programs to keep toxic pollutants out of the nation’s waters. Instead, EPA’s program has become obsolete, languishing for decades and in many instances without any improvements. Adding toxic chemicals to the Lists is an essential first step to enable EPA to meet its statutory duties to update and adopt new requirements to control the discharge of these pollutants. The petition also explains why adding pollutants to the Lists is an essential step in meeting EPA’s environmental justice goals. Likewise, placing “contaminants of emerging concern”—including such known hazards as endocrine disruptors, pharmaceuticals,

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personal care products, and pesticides—on the Lists will allow EPA to begin regulating them, in some cases decades after they were first identified as “emerging.”

The illogical result of EPA’s failure to update the Lists is, in part, demonstrated by EPA’s own actions. As set out in the petition, for some chemicals EPA has developed recommended water quality criteria for adoption in state water quality standards because it considers them sufficiently widespread and a threat to human health and the environment, and yet it has failed to add them to the Lists. Likewise, EPA is tackling the PFAS “forever” pollutants in many regulatory programs but instead of adding them to the Lists, it has chosen to assert these highly toxic pollutants are “nonconventional” rather than toxic. And PFAS provides an example of why EPA must conduct new determinations on pollutants that must be addressed through pretreatment programs: as the petition demonstrates, effluent discharged from sewage treatment plants often contains *higher* levels of PFAS than their influent. Pretreatment is an essential—and vastly underused—tool to keep toxics out of the nation’s waters.

EPA itself has said that “[p]ortions of both lists are outdated.” In this light, we urge you to grant the petition at the earliest possible date. Our petition gives EPA the opportunity to update the Lists, to develop rules to ensure that the Lists do not become outdated again in the future, and to bring the pretreatment program into the 21st century.

We look forward to hearing that EPA will avail itself of this opportunity and grant the petition, a decision that will benefit the nation’s waters for many decades to come.

Sincerely,



Nina Bell
Executive Director

cc: Radhika Fox, Assistant Administrator for Water, Fox.Radhika@epa.gov
Deborah Nagle, Director, Office of Science and Technology, Nagle.Deborah@epa.gov
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Matthew Tejada, Deputy Assistant Administrator for Environmental Justice,
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Attachments:

Petition for Rulemaking Under the Clean Water Act to Update the Toxic Pollutant List Designated Under Section 307(a)(1) in 40 C.F.R. § 401.15; the Priority Pollutant List Published at 40 C.F.R. Part 423, Appendix A; and Pretreatment Determinations Pursuant to Section 307(b)(1)

Attachment A – List of Pollutants and Chemical Families

Attachment B – TEDX List

Attachment C – USGS Tier 1 Constituents

Attachment D – List of Attachments on the CD

Compact disk with attachments (by certified mail only)