National Tribal Toxics Council

"A world where Tribal peoples are safely practicing their Tribal lifeways"

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1200 Pennsylvania Ave. NW
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RE: Risk Evaluation under the Toxic Substance Control Act for Octamethylcyclotetrasiloxane (D4)

The National Tribal Toxics Council (NTTC) is the EPA Tribal Partnership Group with the Office of Pollution Prevention and Toxics (OPPT). Since the 2016 TSCA amendments, one of the Council's primary goals has been to propose improvements to the TSCA risk evaluation process so that risks to Tribes are accurately characterized and tribal people can be assured, as Congress intended, that their health is protected in all chemical risk management decisions. The NTTC appreciates the opportunity to provide comments on the Draft Risk Evaluation of Octamethylcyclotetrasiloxane (D4) under TSCA.

After many years of advocating for the consideration of unique tribal exposures and risks in EPA risk assessments, the NTTC appreciates and strongly supports EPA's identification of Tribes and subsistence fishers as a potentially exposed and susceptible subpopulation (PESS) in the D4 risk evaluation. We support EPA's efforts to quantify the greater potential exposures via higher fish consumption that tribal people experience. We believe that plausible estimates of upper end exposures experienced by tribal people can inform risk management actions that will lead to improved outcomes for the general population. To quote from the D4 Risk Evaluation "If risk is not found for thse indivuals with high-end exposure, no risk is anticipated for central tendency exposures" (page 156).

1 Risk is Possible from a Fish Ingestion Pathway for Tribal Populations

EPA's screening level of fish ingestion for subsistence fishers found that for chronic exposures at the 95th percentile ingestion rate, risk estimates were below the margin of exposure (MOE) benchmark near the direct discharge facility with the highest reported maximum fish tissue concdntration (page 205). EPA's subsequent refinement of this screening level analysis required several assumptions: that wastewater treatment is incorporated at direct discharge facilities, that there is a reduction in production volume, and that higher water flow rates are required for conditions where the fish ingestions pathway is not of concern. In addition, EPA suggests that the maximum concentration in fish tissue collected from that facility may have been an outlier.

The NTTC recommends that subsequent D4 risk management actions explicitily require wastewater treatment controls and that additional fish tissue sampling near these types of facilities be conducted to ensure no unacceptable risks for tribal subsistence populations.

2 Aggregate Exposures for Tribal Populations

While NTTC appreciates the inclusion of tribal fish consumption in the D4 draft risk evaluation as a tribal exposure pathway, it is important to recognize that there are many additional pathways that can greatly increase tribal risks from D4. Higher fish consumption also means higher exposure harvesting fish—via inhalation and dermal absorption, for example. Additionally, tribal populations are exposed to contaminants in the environment in different ways than all other populations considered under TSCA—for example, by consuming many subsistence foods (e.g. aquatic species other than fish, as well as game, marine mammals, birds, plants), via cultural resources and increased inhalation rates from outdoor activities (e.g. harvesting and gathering of plants and berries for food and medicine, mastication of plants for basket weaving), by hauling local water, by living proximate to landfills and unlined, uncovered community dumps with open burning of trash, by residing in remote communities with no other sources of food than local fish and wildlife, via daily steam bathing or sauna use, and by typically residing in older and substandard housing with poor ventilation.

In most situations, tribal people are exposed via many of these pathways at the same time, while also experiencing additional exposure to D4 in the same manner as the general populations – that is as workers, as occupational non-users (ONUs),and as consumers. For example, several D4 facilities are near tribal lands and likely employ tribal members. The Dow Silicones facility in Midland, MI is approximately 25 miles from the Saginaw Chippewa tribal lands and the Elkern Silicones facility in York, SC is approximately 10 miles from Catawba Indian Nation lands.

EPA acknowledges the possible aggregate exposures that individuals may experience from multiple exposure scenarios through work and through the use of everyday consumer products but given the wide range of possible combinations and lack of specific information did not conduct a quantitative analysis (page 214). However, to better inform risk management actions, we recommend that EPA quantify at least one plausible combination that is both foreseeable and reasonable. The NTTC suggests that EPA consider the risk of a tribal high-fish consuming worker from one of the 22 conditions of use (COUs) that were found to present unreasonable risk. In this way EPA could have greater confidence in developing appropriate risk management actions to lower risk for all workers.

3 Fish Ingestion is a Pathway of Concern for Tribal Populations

EPA concludes, based on a spatial analysis, that fish ingestion using empirical fish tissue data from the Enforceable Consent Agreement (ECA) report is not a pathway of concern for tribal populations (pg 205, 234, Figure Apx G-1) because there are no federally recognized tribes near the location of facility DD3 (Momentive Silicones in Friendly, West Virginia). Facility DD3, the Momentive Silicones facility is one of four direct discharge facilities whose data are reported in the ECA. The facilities that were sampled as part of the ECA are purported to be “nationally representative of sites that process or manufacture D4” (page 205). However, they are not the only processing facilities in the nation and other facilities, as discussed above, are located proximate to tribal lands (e.g. the Dow Silicones Facility in Midland, MI and the Elkern Silicones facility in York, SC).

The *Draft Environmental Release and Occupational Exposure Assessment for Octamethylcyclotetrasiloxane D4,* Table 2-6 on page 41 reports that there are 25-31 facilities

that process D4, more than 200 formulating facilities, and 1,085-2,096 facilities that formulate products with greater than residual D4, etc. Clearly, mapping only the ECA facilities and concluding that high fish ingestion is not a concern to tribal populations is, at best, incomplete and potentially misleading.

The spatial analysis (Figure Apx G-1), in the risk evaluation could be improved by including all of the facilities reported in Table 2-6 of the *Draft Environmental Release and Occupational Exposure Assessment for Octamethylcyclotetrasiloxane D4* report. This would better reflect the reality that high-fish consuming tribal populations live near, and are likely to be exposed to D4 released from many additional facilities beyond those in the ECA.

4 Concerns Regarding Biogas and Fenceline Populations

EPA expects D4 to be present in biogases produced in landfills and via wastewater/sludge treatment processes (page 158). Because general population access to these facilities is expected to be restricted, EPA concludes that further assessment of the general population to D4 in biogas is not needed (page 158).However, inhalation exposure for fenceline populations living near landfills and wastewater treatment facilities should be included in the riak evaluation. These fenceline communities could also include tribal communities with their associated unique exposure pathways.

EPA's *Draft Environmental Media and General Population for Octamethylcycltetrasiloxane (D4) Technical Support Document*, Table 3-3, provides a summary of D4 Concentrations in Biogas from Monitoring Studies. The reported biogas concentrations reach concerning levels – up to 10,100 µg/m^3 in sludge from wastewater treatment plants and up to 29,100 µg/m^3 from landfills. While ambient concentrations were much lower, analysis of the inhalation pathway to disposal facility fenceline communities is warranted since the HEC for chronic exposure is 4.6 ppm. Disposal is a condition of use under TSCA and risks to fenceline communities living near disposal sites must be better understood

NTTC's aim is simple, a world where tribes may safely practice their lifeways. We appreciate our partnership and your consideration of this letter along with any questions that you might have. We look forward to your response. Please contact Dianne Barton, NTTC Chair, at (503) 731-1259 / bard@critfc.org or Susan Hanson, NTTC Co-Chair, at susanthanson9@icloud.com.

Sincerely,

Dianne C. Barton, Ph.D.