National Tribal Toxics Council

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Assistant Administrator Michal Freedhoff
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460-001

Submitted via Regulations.gov; Docket Number EPA-HQ-OPPT-2024-0073

Re: Di-isodecyl Phthalate (DIDP) and Diisononyl Phthalate (DINP); Science Advisory Committee on Chemicals (SACC) Peer Review of Draft Documents; Notice of SACC Meeting; Availability; and Request for Comment

The National Tribal Toxics Council (NTTC) is an 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 suggest improvements to the TSCA risk evaluation process such that risks to tribes are accurately characterized and tribal peoples can be assured that, as Congress intended, their lifeways, environment, and health are protected in all chemical risk management decisions. The NTTC appreciates the opportunity to provide comments on the Draft Risk Evaluation of DIDP 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 in taking the step to correctly identify tribal populations who consume fish as a potentially exposed and susceptible subpopulation (PESS) in the DIDP draft risk evaluation. We strongly support EPA's efforts to quantify the greater exposures via higher fish consumption that tribal people experience and support the use of both current and heritage fish consumption rates in EPA's analyses. The NTTC's position on previous risk evaluations for chemicals that release to the environment has been that tribal populations likely experience the highest exposures of all the populations considered under TSCA when it comes to exposure via fish consumption and we strongly support EPA's recognition that tribal populations represent the sentinel fish consumption exposure scenario in this draft risk evaluation.

While the NTTC appreciates and supports the inclusion of tribal fish consumption in the DIDP draft risk evaluation, it is worth noting that fish consumption is only one exposure pathway that could lead to potentially higher exposures for tribal people. EPA's Technical support document "Environmental Media and General Population Exposure" finds that:

> "Based on the environmental concentrations, a screening level assessment for exposure to the general population through incidental ingestion to surface water from swimming, dermal contact to surface water from swimming, drinking water, fish ingestion, incidental soil ingestion from ambient air to soil deposition, and soil contact from ambient air to soil deposition was conducted and EPA concluded that there were no pathways of concern for the general population."[1]

Tribal populations are exposed to contaminants in the environment in different ways than all other populations considered under TSCA. Tribal lifeways lead to potential exposures via surface water, sediment, soil, drinking water, air, and diet that are not "incidental" but occur multiple times daily over a lifetime. If environmental exposures are not considered in this draft risk evaluation, then tribal exposures are not considred. Unique tribal exposures include consuming many subsistence foods (e.g. fish and other aquatic species, game, marine mammals, birds, plants), harvesting subsistence foods (which often includes being submerged in water or sediment for long periods of time for many days in a row), cultural resources and activities (e.g. harvesting and gathering of plants and berries for food and medicine, which often includes exposure to sediment, water, and soil; mastication of plants for basket weaving), hauling local water, living proximate to unlined, uncovered community dumps with open burning of trash, and residing in older and substandard housing with poor ventilation, which is more likely to include exposure to DIDP via wallpaper. In most situations, tribal people are exposed via many of these pathways at the same time, while also experiencing additional exposures in the same way as the general population, as workers, as occupational non-users (ONUs), and as consumers. In order to evaluate real-world exposures of and risks to tribal populations, EPA needs to consider all of these exposure pathways, aggregate exposures across pathways and COUs, including background exposures from non-TSCA uses, account for increased tribal susceptibility and not only greater exposures, and consider cumulative impacts on tribal people from DIDP exposure.

Even exposures of tribal people via fish ingestion are underestimated in the risk evaluation by:

1) using a mean current fish consumption rate vs. a 95th percentile rate for tribal populations, when 95th percentile values are available for many different tribes and they are much higher than 216 g/day[2,3]
2) using a fish consumption rate from only one tribe, when much higher rates and for many different tribes are available in peer-reviewed literature[4,5], WA State

[1] DIDP. Draft Environmental Media and General Population Exposure. Public Release. HERO. May 2024. https://www.regulations.gov/document/EPA-HQ-OPPT-2024-0073-0027

[2] Department of Ecology, State of Washington. Fish Consumption Rates, A Review of Data and Information About Fish Consumption in Washington (2013). https://apps.ecology.wa.gov/publications/documents/1209058.pdf

[3] Harper, B. L., Flett, B., Harris, S., Abeyta, C., & Kirschner, F. (2002). The Spokane Tribe's multipathway subsistence exposure scenario and screening level RME. *Risk Analysis*, *22*(3), 513-526.

[4] Delistraty, D., Van Verst, S., Rochette, EA (2010). Radiological risk from consuming fish and wildlife to Native Americans on the Hanford Site (USA). Environemntal Research 110 (169-177).

[5] Barbara L. Harper, Stuart G. Harris (2008). A possible approach for setting a mercury risk-based action level based on tribal fish ingestion rates (2008), Environmental Research, Volume 107, Issue 1, (60-68)

publications[2], and in EPA's own Exposure Factors Handbook (Chapter 10) and other publications[6];

3) disregarding the higher mean current fish consumption rate of 770 g/day for Alaskan communities published in Chapter 10 of the EPA Exposure Factors Handbook with no explanation; and
4) not accounting for potentially higher susceptibility of tribal people to the impacts of chemical exposure

The NTTC has also been advocating for the consideration of the unique disposal circumstances in tribal communities as a source of chemical exposure in EPA risk evaluations for quite some time. Not considering environmental releases to air and water from unlined and uncovered open dumps, located in very close proximity to schools and houses and employing open burning as waste management, leaves tribal populations and tribal land, air, water, fish, and wildlife unprotected from the impacts of exposure to this chemical.

In this draft risk evaluation, EPA once again cites lack of information as a reason for not evaluating all DIDP exposures and impacts. It is not clear why EPA did not use any of the authorities it was granted under TSCA to collect or generate the data it was missing, or why the manufacturer requesting this risk evaluation was not asked to provide that information. The NTTC continues to urge EPA to use its data gathering authorities to collect the information it requires to carry out chemical risk evaluations, in order to avoid determining a chemical does not present unreasonable risk based on lack of data.

As always, we welcome any opportunity to collaborate with EPA in advancing the protection of tribal people and lifeways from the impacts of toxic chemicals. Should you or your staff have questions or comments regarding this letter, please contact myself, Dianne Barton, NTTC Chair, at (503) 731-1259 / bard@critfc.org.

Sincerely,

Dianne C. Barton, Ph.D.
Chair, National Tribal Toxics Council

[6] D.E. Walker and L.W. Pritchard, Estimated Radiation Doses to Yakama Tribal Fishermen: An Application of the Columbia River Dosimetry Model for the Hanford Environmental Dose Reconstruction Project (1999)