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Toxic Pollutant/Priority Pollutant Lists/Pretreatment Determinations: Environmental Organizations Petition U.S. Environmental Protection Agency Requesting Updated Lists

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The Northwest Environmental Advocates and Center for Biological Diversity (collectively “NEA”) submitted a July 31st document to the United States Environmental Protection Agency (“EPA”) styled:

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) (“Petition”)

The *Petition* requests that EPA update three Clean Water Act lists which include:

- Pollutant List designated under Section 307(a)(1) and 40 C.F.R. § 401.15
- Priority Pollutant List published at 40 C.F.R. Part 423, Appendix A
- Pretreatment Determinations Pursuant to Section 307(b)(1)

NEA argues that:

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.

The Toxic Pollutant List was developed in 1976 and added to the Clean Water Act by the United States Congress in 1977 amendments. It is intended to be used by EPA and the states as a starting point to ensure that Effluent Guidelines, water criteria and standards and National Pollutant Discharge Elimination System permit requirements address toxics in waters of the United States.

Because the list consisted of broad categories of pollutants, EPA then developed what is named the Priority Pollutant List in 1977. The intent was to make the implementation of the Toxic Pollutant List more practical for water testing and regulatory purposes.

The overall arguments the *Petition* makes include:

- Toxic contamination plagues the nation’s waters
- Clean Water Act failures cause environmental injustice and harm children

- EPA's failure to update the Toxic Pollutant List undermines regulation of both direct and indirect toxic dischargers
- The NPDES discharge permitting program is failing to control toxics
- The outdated Toxic Pollutant List results in regulatory failure

The *Petition* requests that EPA add over 780 named pollutants and pollutant families to the Toxic Pollutant List and Priority Pollutant List. It also specifies certain rulemaking actions that it believes EPA should undertake.

A link to the *Petition* and its various appendices can be found [here](#).