



June 2, 2015

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Dear Sir or Madam:

This letter contains comments from the Council of Great Lakes Industries (CGLI) regarding the Draft Binational Summary Reports relating to candidate chemical substances under consideration for designation as Chemicals of Mutual Concern (CMC or CMCs), pursuant to the Great Lakes Water Quality Agreement Protocol Amending the Agreement Between the United States of America and Canada amended and signed September 7, 2012 (GLWQA). CGLI is a binational non-profit organization representing the common policy interests of Canadian and US industrial organizations from the manufacturing, utilities, transportation, natural resources, and trade sectors that have investments in the Great Lakes region. The mission of CGLI is to promote the growth and vitality of the region in harmony with its human and natural resources (sustainable development). Representatives of CGLI have served as members of the GLWQA Annex 3 Extended Subcommittee (EC3) and the Identification Task Team (ITT). The ITT members have participated in the production of the Binational Summary Reports and EC3 members have commented on previous drafts. CGLI much appreciates the opportunity to have participated in the CMC candidate chemical review process. These comments highlight points that we would like the Annex 3 Committee (C3) co-chairs and members of the Great Lakes Executive Committee (GLEC) to consider as they conclude the process of reviewing the first set of candidate substances for possible listing as CMCs.

**Binational Summary Report: Polychlorinated Biphenyls (PCBs)**

Certainly continued efforts regarding the management of PCBs within the Great Lakes basin are appropriate. However, the PCB Binational Summary Report has not established that continuing on the track of seeking more and more PCB reductions from conventional in-basin sources will produce any real results in terms of reduced environmental PCB levels. For this reason, pursuing the recommendation that "PCBs be designated as a CMC" is not likely to result in the achievement of GLWQA General and Specific Objectives. Given the U.S. TSCA ban on PCBs and the limited use authorizations for PCBs in electrical equipment, as well as the detailed regulations addressing the management and disposal of equipment so authorized, the Summary Report's conclusion provided as an answer to question 5 in the identification of gaps in management and/or science activities

provided on page 27, appears to be an overstatement. A more appropriate characterization of legacy PCB sources would be, "As discussed herein, the primary source of PCBs in the Great Lakes Basin is understood to relate to environmental cycling from PCB reservoirs that have resulted from past releases. PCBs may be contained in sediments in the Great Lakes Basin that could serve as sinks from which the PCBs could continue to be released over a long period of time."

Additionally an important gap in science activities has not been adequately addressed within the Summary Report. Atmospheric PCB deposition from far outside of the Great Lakes region needs to be better understood and accounted for. The cycling of PCBs from the Lakes to the atmosphere, the atmosphere to the Lakes, and the recharge of the atmospheric PCB inventory from Asia and other parts of the globe need to be accounted for if science is to be able to guide future Great Lakes regional management actions.

If a CMC designation would provide needed incentives to drive the atmospheric contribution science evaluation needed, perhaps such a designation would be worthwhile. However, the case has not been made in this report that continuing the track of seeking more and more PCB reductions from conventional in-basin sources will produce any real results in terms of reduced environmental PCB levels.

### **Binational Summary Report: Nonylphenol and its Ethoxylates**

Using the Binational Considerations that are to support recommendations regarding whether or not to list a candidate substance as a CMC, the Binational Summary Report for nonylphenol and its ethoxylates (NP/NPE) clearly establishes that NP/NPE does not meet the criteria of a CMC. This conclusion is clearly supported given findings from the rigorous substance review conducted under Canada's Chemical Management Plan. GLWQA Annex 3, Section B states that "[t]he parties shall mutually (emphasis added) determine those chemicals that are potentially harmful to human health or the environment." Additionally, while significant data gaps regarding surface water NP/NPE concentrations were identified in the report (especially within the U.S.) CMC designation is not needed to attract or justify resources needed to fill these data gaps. Nor, would a finding that NP/NPE is "not a CMC" impede collection of data needed to fill identified gaps. Both Canada and the U.S. have regulatory measures in place (some just now coming on-line) that will require additional NP/NPE release and environmental data collection. Therefore, as stated on pages 25-26 of the Binational Summary Report, "[t]herefore, as in Canada, additional risk management actions for these compounds in the U.S. do not appear warranted in the Great Lakes Basin."

### **Binational Summary Report: Mercury**

The primary concern with this draft report is that mercury emissions data presented are markedly out of date. The power plant emissions numbers cited are 10 years old. Substantial reductions have occurred since these data were reported. Most power plant controls were in place by 2014, and all will be by the end of this year. Additionally the draft Binational Summary Report includes many charts that show significant downward trends in both mercury emissions and environmental mercury levels, yet these decreases have only been slightly acknowledged in the report text and analysis. For these reasons, the draft Binational Summary Report does not support the conclusions and recommendations reached regarding further management actions. Given the reductions in emissions, enhanced controls, and other measures that have been employed through mercury management actions both within and outside of the Great Lakes basin within the last few decades, we have already moved beyond the "opportunities" listed in the draft report. What is needed is an up-date of mercury source data and enhanced understanding of current mercury cycling dynamics that can better define management approaches. Certainly, as the draft report states, mercury is "present a concentrations of concern." However, as also pointed out in the draft, natural occurring mercury in the parent

rock of the Lake Superior Basin is a likely origin of mercury in Lake Superior fish. Little has been associated with anthropogenic sources. The draft report also establishes that little sediment in the Great Lakes basin exceeds standards. These points suggest that much of the mercury which remains in the basin is historical and natural. The needs, therefore, seem to be a definition of current trends and improved public communications. Further controls, as urged by the draft report, are not likely to reduce environmental mercury levels. We need to understand the remaining dynamics that are responsible for those levels. Listing mercury as a CMC is likely to divert attention away from these important Great Lakes basin needs.

#### **Binational Summary Report: Chlorinated Paraffins (Short, Medium and Long Chain)**

The draft Binational Summary Report for these compounds includes much speculation and expression of concerns. Though the report characterizes information regarding these compounds as extremely limited, Canada has completed a comprehensive assessment of these materials through the CMP assessment program. The information presented in the report supports a conclusion that chlorinated paraffin compounds have not been found to be of major concern in the Great Lakes basin. Furthermore, management approaches that are described in the draft report, and are to be pursued in both Canada and the U.S., will apply to and provide protection for the Great Lakes. No indication is provided for further CMC determination work on these compounds.

#### **Binational Summary Report: Bisphenol A**

The bisphenol A (BPA) draft Binational Summary Report supports a conclusion that BPA should not be listed as a CMC. Environmental concentrations of BPA are, except for a few specific cases, below benchmarks/guidelines and do not differ substantially from those found elsewhere in North America. The draft report also establishes that Canadian and U.S. management actions in place or pending can be expected to be compatible with and protective of Great Lakes regional needs. Draft report conclusions include:

- Typical reported sediment concentrations of BPA are generally very low in North America.
- There does not appear to be any significant increasing environmental levels.
- The BPA market in North America is not expected to grow.

Though desires for additional data will always remain, BPA has been well studied in North America and available information leads to the understanding that additional or Great Lakes specific management actions are unlikely to result in reduced BPA levels in the Great Lakes basin.

#### **Binational Summary Report: Perfluorinated Chemicals (PFOS, PFOA and Long-Chain PFCAs)**

The draft binational summary report characterization of PFOS, PFOA, and long-chain PFCA compounds often incorrectly correlate one substance's behavior or presence with that of another. It is important that these chemicals and their relevant data be discussed and assessed independently. PFOA, other long-chain PFCAs and PFOS are distinctly different chemicals with their own unique chemical properties and uses. As such, each chemical should be evaluated separately based on the individual properties and data pertaining to that chemical. In the case of PFOA, the draft report does not include all relevant, available data, and the data included in the report is not properly interpreted. An appropriate examination of the full body of data does not support the recommendation to designate PFOA as a CMC. The binational considerations call for an examination of data regarding both the presence of a substance and the potential threat it poses to ecological and human health in the GLB, along with current and future management efforts. Based on a review of the data, and when the binational considerations are applied, PFOA should not be recommended as a CMC.

Additionally, potential management measures mentioned in the report do not substantiate designation of PFOA as a CMC. The major sources of PFOA and related long-chain PFCAs have already been or will be eliminated by the end of 2015. The EPAs in Canada and the Stewardship Program in the U.S. have already proven successful in reducing emissions by more than 95% and levels of PFOA in human serum (by 60% from 1999/2000 to 2011/12) and the environment. The 2015 U.S. UCMR3 data for PFOA show none of the 22,941 results from 3,604 Public Water Systems reported exceed the Reference Concentration of 0.4µg/L for PFOA. Data for key species presented in the report show that levels of PFOA are either not detected or do not exceed relevant guidelines and are predicted to decline for top predators. By the end of 2015, per the programs described above, there will be no existing uses of these substances.

**Binational Summary Report: Brominated Flame Retardants (PBDEs and HBCD)**

A primary concern regarding these compounds is the use of draft guidelines or benchmarks, anticipation of forthcoming management actions, and wording or language for which either there are no established regulatory definitions or for which those definitions that do exist have not been utilized. The primary concern expressed appears to be around the management of products currently in use that contain BFRs and/or are at the end of their product life. This issue is not unique to the Great Lakes region. The draft report does not establish that Great Lakes regional specific management actions, beyond those that are likely to be applied nationally within both Canada and the U.S. will make any difference in resulting levels or exposures. It is unclear how a CMC designation would assist in generating actions regarding BFRs. Concerns expressed regarding assessment of alternative compounds should not sway the CMC listing decision either. These materials will have to be screened in both Canada and the U.S. under existing federal programs.

CGLI would like to thank the Annex 3 Co-chairs for the opportunity to provide these comments. Please direct any questions or requests for additional information to Dale Phenicie, Technical and Programs Director.

Sincerely

A handwritten signature in black ink that reads "Dale K. Phenicie". The signature is written in a cursive style with a large, stylized initial "D".

Dale K. Phenicie