



## Toxics Update

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National Tribal Toxics Council, Chair

*Columbia River Inter-Tribal Fish Commission*



# What/Who is the NTTC?



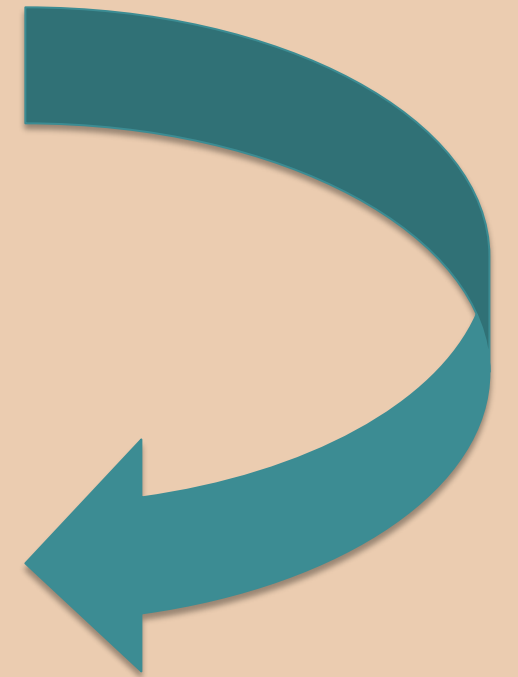
- An EPA Tribal Partnership group established in January 2012 that works with EPA Office of Chemical Safety and Pollution Prevention – Office of Pollution Prevention and Toxics (TSCA Programs)
- Focused on providing Tribes with an opportunity for greater input on issues related to toxic chemical and pollution prevention





## National Tribal Toxics Council

Influence at a **National** level to change policy and advocate for tribal perspectives in decision making



**GOAL – Toxics Free Environment**



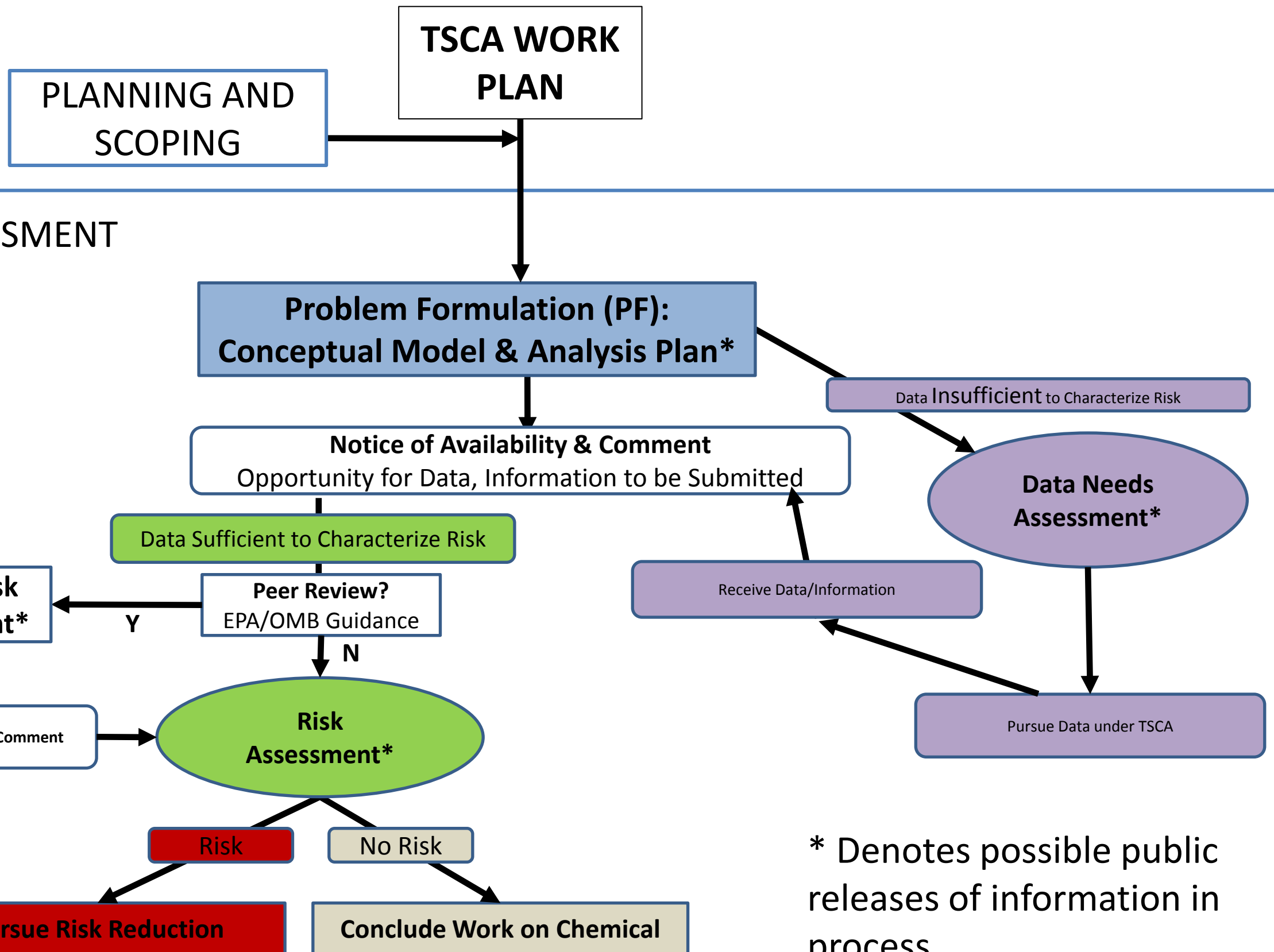
# Updates

- National Issues
  - Flame Retardant Consultation
  - Toxic Substances Control Act (TSCA) Reform
- Regional Issues
  - Mixing Zones
  - Mercury





# TSCA Work Plan Assessment Process





# FLAME RETARDANTS:

- **Data Needs Assessment 2015**
  - Brominated Phthalates Cluster (TBB/TBPH)
  - Public comment closes December 16, 2015
- **Problem Formulation 2015:**
  - TBBPA (Tetrabromobisphenol A)
  - CPEs (Chlorinated Phosphate Esters Cluster (TCEP))
  - HBCD (Hexabromocyclododecane)
  - Public comment closes November 18/Tribes December 10
- Listed additional non-halogenated flame retardants on TSCA work plan in 2015 --TPP and ITPP
- Rollout: 2015
  - Opportunity to comment or provide input on each of these chemicals or clusters through consultation.

# FLAME RETARDANTS - OVERVIEW

“General population” exposure to different flame retardants clusters includes assessment of oral exposure.

- Oral exposures will include estimates of central tendency and high end (95<sup>th</sup> percentile)
- OPPT will use Agency guidance on fish consumption for different populations
- **High end exposure scenarios are derived to represent subsistence fish eaters.**
- In addition to fish consumption OPPT plans to aggregate exposure from drinking water, incidental dust ingestion taking into account hand to mouth behavior and for children also aggregating mouthing of potential FR containing foam products.



# EPA Assessment for TSCA

- Seeking public comment on **Data Needs Assessment** – data gaps so significant as to prevent conducting meaningful risk assessment:
  - Brominated Phthalates (TBB and TBPH)
    - Chlorinated Phosphate Esters – in furniture foams, textiles, paints and coatings
    - Cyclic Aliphatic Bromides – polystyrene foams, products, textiles, paints, coatings
    - Tetrabromobisphenol A (TBBPA) flame retardant in plastics and electronics
  - Comments due December 10, 2015 – Irina Myers  
myers.irina@epa.gov



# Toxics Substances Control Act (TSCA)

- Purpose – to control toxic substances from entering the environment
- Became law in 1976 – all other major environmental laws have been significantly revised/improved except for TSCA
- Weaknesses
  - 62,000 chemicals entered “TSCA Inventory” without review and no safety information is required
  - Lacks authority to ban – since 1976 five chemical classes have been banned or restricted
    - PCBs, halogenated chlorofluoroalkanes, dioxin, asbestos, hexavalent chromium



# TSCA

- EPA reviewed >40,000 additional chemicals and put 22,000 into “Inventory” and limited 4,000 since TSCA was signed
- TSCA and States
  - States can authorize toxics programs
  - Receive funds under TSCA Section 28
- TSCA and Tribes
  - Tribes are not recognized in the statute
  - Receive TSCA Section 28 funds only through special provisions (lead program)



# TSCA Reform

- S. 697: Frank R. Lautenberg Chemical Safety for the 21st Century Act. Senator Tom Udall.
- As of October 5, 2015 the bill has 57 cosponsors (35 Republicans, 22 Democrats).
  - Jeff Merkley
- H.R. 2576: TSCA Modernization Act of 2015  
Rep. John Shimkus [R-IL15]
- Introduced: May 26, 2015
- Passed House: Jun 23, 2015
- 16 Co-sponsors – Kurt Schrader (5<sup>th</sup> District)





# TSCA Reform

- Neither bill amends the definition of states to include tribes
- Preemption of state authority
  - HB 2576/SB 725 – removes state authority once federal rules are in place
  - ECOS comments – improved Section 28 program funding
- States but not Tribes (SB 2576)
  - Can recommend chemical prioritization, CBI, enforcement authority, Section 28 program funds



# NCAI Resolution #MSP-15-013



EXECUTIVE COMMITTEE

PRESIDENT  
Brian Cladoosby  
Swinomish Tribe

NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #MSP-15-013

**TITLE: Urging Congress to Modify Proposed Federal Toxic Substances Control Act Legislation to Incorporate “Treatment-As-A-State” Status for Tribes**

**WHEREAS,** other federal laws include provisions designating “Treatment-As-A-State” (TAS) status for qualified federally-recognized Indian tribes, such as the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, the Federal Insecticide, Fungicide, and Rodenticide Act; yet none of the proposed TSCA reform bills pending in the current Congressional session contain such language; and

**WHEREAS,** the various TSCA reform bills reserve the rights of States (1) to recommend chemical substances in chemical prioritization criteria, (2) to receive confidential business information if needed for the protection of the environment, emergency response or law enforcement purposes, (3) to enforce federal standards within state boundaries, and (4) to participate in and receive grant monies under TSCA Section 28 State Programs, yet the bills fail to reserve all of these same or similar rights and authorities to tribes; and

**WHEREAS,** tribal governments are ready, willing and able to fully participate in the control, oversight and regulation of toxic chemicals that uniquely impact the health and well-being of tribal members.

**NOW THEREFORE BE IT RESOLVED,** that NCAI urges Congress to pass legislation to amend the 1976 Toxic Substances Control Act to convey “Treatment-As-A-State” (TAS) status to qualified federally recognized Indian tribes similar to that found in other federal statutes, in recognition of the tribes’ status as sovereigns and in furtherance of the tribal right of self-determination; and



# Mixing Zones

- States have delegated authority from EPA to issue NPDES permits that include allowable exceedances in mixing zones
- Consultation on endangered species is not required on individual or multiple discharge points
- NMFS should evaluate whether state issued NPDES permitted mixing zones for ESA species take and level of jeopardy
- December 3, 2015 meeting with Federal Caucus, WA state, and tribes





# Columbia River Mercury Methylation

- NSF Science and Technology Center funds – Coastal Margins Observation Prediction partnership
- Outreach to tribes on methylation – food web impacts
  - Food web conceptual model
  - Nez Perce – sturgeon, crayfish
  - Columbia River – sampling
- Summer 2015 internship

