Local Government Advisory Committee

October 29, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator McCarthy:

The Local Government Advisory Committee (LGAC) appreciates the opportunity to work with you and the Environmental Protection Agency on important local government concerns such as protecting our environment and our citizens. As state, local and tribal officials, we work in partnership with the EPA to address these issues. And in that capacity, we are writing in support of the EPA's proposed regulatory framework to reduce the risk of citizen exposure to polychlorinated biphenyls (PCBs) emitted from ballasts in light fixtures made before 1979. Generally, the LGAC supports the revocation of use authorizations for PCBs originally promulgated in 1979 in any context feasible.

PCB containing ballasts are a primary source of PCBs in schools and public daycare facilities, but are also present in other public buildings. The LGAC would encourage any option that requires removal of PCB ballasts from public buildings, but would appreciate further specifications regarding the breadth of public building coverage under this proposed rule. There are specific public buildings that do not clearly fall into the category of options (e. g. nursing homes, adult day care facilities, hospitals and prisons). As local elected and appointed leaders of our communities we support the most comprehensive and timely removal of the PCB-laden ballasts to protect all citizens in all communities.

Executive Order 13132 states that most issues outside of national scope are best addressed at the state and/or local level. Issues that are in national scope may require federal law or regulation to override state law. This particular order requires coordination between the federal, state and local governments and organizations, if the action has federalism implications. This proposed ruling would likely have implications since it may have state and local

compliance costs that exceed $25 million dollars nationally in one year. We appreciate having the opportunity to be a part of your efforts to foster intergovernmental cooperation and coordination.

Public Health Concerns

PCBs have been linked with cancer in animals and long term exposure for humans can lead to human health impacts on the immune system, reproductive system, nervous system and endocrine system.[1] The LGAC appreciates the efforts from the EPA's Toxic Substance Control Act to prevent the use of PCB's and to limit risk of injury to the public and the environment. The LGAC agrees with the EPA that some of the authorized uses for PCBs from 1979 need to be reevaluated. Reducing citizen exposure to environmental toxins is a critical issue and PCBs are still highly persistent in the environment, particularly in older schools and public buildings. A study conducted across five schools estimates the prevalence of schools with PCB-containing ballasts to be 24 to 95%.[2] PCB containing capacitors are a primary source of PCBs and leaking ballasts can elevate indoor PCB levels.[3]

Recommendation: EPA should work with states to determine the areas in which public buildings have ballasts with PCBs, as well as the extent of PCB exposure from the ballasts. The LGAC also recommends outreach with EJ communities regarding the negative public health impacts from PCB laden ballasts.

Economic Impacts

The cost for ballast replacement in a school of 75,000 square feet varies widely, from $17, 032 to $77,114, based on the number of ballast that are leaking. [4]

Recommendation: Due to the number of unfunded mandates, the LGAC recommends that before any regulation is final, the costs to communities from this proposed rule should be analyzed further. The EPA should ensure that communities have access to the resources they need to comply with any agency proposed action, as well as limit state compliance costs.

Recommendation: The EPA should also work to disseminate information regarding potential financial mechanisms to cover PCB removal, as well as emphasize the energy cost savings for such actions. For example, the Energy Savings Performance Contracts (ESPCs) are agreements between an energy service company and a building owner which guarantees a level of savings for a building owner. If the energy improvement project does not attain the estimated level of savings, the service company will pay that difference to the owner, reducing economic strain on our constituents.[7] Obtaining funding for retrofits that enable a payback for capital expenditures over time through energy efficiency savings would reduce

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[1] Herrick, Robert; Meeker, John; Baxter, Lisa and Weymouth, George. An Unrecognized Source of PCB Contamination in Schools and Other Buildings. Environmental Health Perspective. July 2004, Vol. 112, Issue 10, 1051–1053

[2] Thomas, Kent; Xue, Jianping; Williams, Ronald; Jones, Paul and Whitaker, Donald. Polychlorinated Biphenyls (PCBs) in School Buildings: Sources, Environmental Levels, and Exposures. The Environmental Protection Agency. September 2012.

[3] Thomas, Kent; Xue, Jianping; Williams, Ronald; Jones, Paul and Whitaker, Donald. Polychlorinated Biphenyls (PCBs) in School Buildings: Sources, Environmental Levels, and Exposures. The Environmental Protection Agency. September 2012.

[4] Environmental Protection Agency. PCB Use Authorizations Update Rule: E.O 13132: Federalism Consultation Presentation. November, 2013.

[7] Borgeson, Merrian and Zimring, Mark. Financing Energy Upgrades for K-12 School Districts: A Guide to Tapping into Funding for Energy Efficiency and Renewable Energy Improvements. US Department of Energy. April 2013

replacement expenses and encourage energy efficiency as well as public health and safety benefits. The EPA should work to facilitate mutually beneficial partnerships between the public and private sectors.

Recommendation: Creating a concise summary of financing options for local governments would increase their ability to address this issue in a cost efficient manner. Therefore, the LGAC recommends that EPA develop outreach materials tailored for local governments which should include a one-page Fact Sheet with relevant links to resources. These outreach materials should be widely disseminated and provided in other languages for easy accessibility.

Safe Disposal

Safe disposal mechanisms for PCBs are not common public knowledge, yet are necessary to ensure the safety of our communities. If the EPA moves forward with a proposed rule supporting the removal of PCB-containing ballasts from buildings, there is the possibility of accidental reintroduction of PCBs into the environment.

Recommendation: The EPA should disseminate information regarding safe disposal of PCB-containing ballasts through outreach efforts with local communities. Ensuring that local communities have adequate resources for planning PCB removal is critical. Increasing the time for public comment on this proposed rule would give communities the opportunity to better understand options for removal and proper disposal.

In summary, the LGAC stands ready to work with the EPA as your local government partners to eliminate known toxins from our schools and public buildings as part of that commitment. Local governments have the responsibility to protect the health and welfare of our citizens. The LGAC appreciates the opportunity to provide commentary to the EPA on this issue and to continue dialogue about keeping the public and the environment safe from environmental contaminants.

Sincerely,

Robert A. Dixson

Mayor Bob Dixson
Chair, LGAC

Jill C. Duson

Councilor Jill Duson
Chair, Cleaning Up Our
Communities Workgroup