



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

Dear Intergovernmental Association Colleague:

The U.S. Environmental Protection Agency is developing a proposed rule that would prohibit the use of polychlorinated biphenyl-containing fluorescent light ballasts in schools and daycares. This rule would take effect in 2020 and revise regulations under Section 6(e) of the Toxic Substances Control Act, which authorizes certain uses of PCBs, and is seeking to follow up with previously engaged stakeholders to present the current direction of the proposed rule.

Your association, represented officials, members, and staff are invited to participate in a consultation briefing on July 28, 2016, from 2:00 p.m. to 4:00 p.m., EDT, in Room 5227 of the William Jefferson Clinton Federal Building East, 1201 Constitution Avenue, N.W., Washington, DC 20460. To facilitate the participation of your associations' members, the briefing will also be offered in the form of a webinar that they can access remotely. Webinar information will be provided in a subsequent communication. Participants will have the opportunity to provide input during the consultation and may submit written comments to the EPA within 60 calendar days following the meeting.

As background, the EPA provided notice of potential rulemaking related to certain authorized PCB uses through an advanced notice of proposed rulemaking posted in the Federal Register on April 7, 2010 (75 FR 17645). As part of the efforts at that time to draft a proposed rule, the EPA on November 21, 2013, hosted an Executive Order 13132 "Federalism" consultation. The ANPRM, as well as supplemental information including materials and comments from the 2013 Federalism consultation, can be found at [www.regulations.gov](http://www.regulations.gov) under Docket ID: EPA-HQ-OPPT-2009-0757.

Since the 2013 consultation, the EPA has changed what is being proposed; specifically, the agency is focusing this rule on the use of PCB-containing small capacitors in FLBs in school and daycare facilities. This is based in part on information indicating that PCB-containing FLBs are well beyond their design life and are prone to catastrophic failure, which can release PCBs directly into a building environment. In addition, recent data indicate that even intact PCB-containing FLBs can off-gas PCBs under normal use. Given that information, the EPA believes it is important to move forward with a rule to protect children and adults in schools and daycares from exposures to PCBs potentially released from FLBs. Thus, we have split the rulemaking effort. This first, proposed rule will end the lawful use of PCB-containing FLBs in daycares and in primary and secondary schools. A second, later rule will address the other PCB use authorizations presented at the 2013 consultation.

Because of its cost, the EPA has determined that this proposed rule may have Federalism implications for state and local governments, and meets consultation requirements of the Unfunded Mandates Reform Act. Thus, in addition to continuing the consultation with Federalism stakeholders, the EPA has elected to engage the UMRA stakeholders in the same consultation as there are many overlapping interests between the groups, and a discussion of the proposed rule can be more effectively communicated in a

joint meeting. A short summary of the requirements of EO 13132 and UMRA, along with a brief overview of PCB uses under Section 6(e) of TSCA are provided in the enclosure.

The EPA requests that national associations representing state and local government officials, including the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, the County Executives of America, and the Environmental Council of States, participate in this consultation briefing/webinar. In addition, the EPA would like to extend this consultation invitation to national associations representing public school interests and their technical advisors, including the National School Board Association and the American Association of School Administrators. Furthermore, the EPA requests that these organizations encourage the officials they represent, as well as their staff, to participate. At the briefing, the EPA will present background information on the proposed rulemaking and answer questions.

Please feel free to forward this letter to your associations' members and encourage them to participate in the briefing. Those interested in participating in the July 28, 2016, webinar may pre-register by contacting Todd Coleman in the Office of Pollution Prevention and Toxics at 202-564-1208, or by emailing Coleman.Todd@epa.gov. If you or your members have questions about the Federalism/UMRA consultation process, please contact Andrew Hanson in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-3664 or by emailing Hanson.Andrew@epa.gov.

Sincerely,



Tanya Hodge Mottley, Director  
National Program Chemicals Division  
Office of Pollution Prevention and Toxics

Enclosure

## **Enclosure**

### **EO 13132 and UMRA**

Executive Order 13132 requirements can be met by consulting with intergovernmental associations representing elected officials prior to proposing regulations likely to exceed \$25 million, nationally, in state and local costs in any one year. UMRA, however, requires the EPA to consult with elected officials, "or their designated employees with authority to act on their behalf," when developing regulations which may exceed the inflation-adjusted threshold of \$154 million in state and local costs, nationally, in any one year.

### **Section 6 (e) of TSCA**

Section 6 (e) of TSCA bans the manufacture, processing, distribution in commerce, and use of PCBs, except when the EPA determines such uses would pose no unreasonable risk of injury to health or the environment. The EPA promulgated the first of several regulations that established authorizations for certain ongoing uses of PCBs more than 30 years ago. Among other uses, the EPA authorized the use of PCBs in certain electrical equipment, including small capacitors that are prevalent throughout pre-1979 lighting fixtures containing FLBs. The full text of use authorizations are codified at 40 CFR 761.30.