**Fatal Flaw Comments from Management Board Review**

**Policy and Prevention Strategy**

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| **Jurisdiction or Agency** | **Fatal Flaw Comment** |
| USGS | Should be more concise for public review. |
| DOD Navy | 1. The current Toxics Policy and Prevention MS on page 5 states:  The predominant source of PCBs in NPDES regulated and unregulated stormwater is contaminated soils from historical and ongoing activities involving PCB containing equipment or materials. PCB contaminated soils may be present in contaminated sites regulated under Comprehensive Environmental Response Compensation and Liability Act (CERCLA/Superfund), active industrial and commercial facilities, illegal dumpsites, and construction sites as well as sites controlled by the Department of Defense (DOD).  Comment: Remove "as well as sites controlled by the Department of Defense (DoD)."  The DoD maintains an active Environmental Restoration program as part of our compliance with CERCLA.  There are many entities operating clean-up programs/activities under the CERCLA program outside of the DoD.  We should not be the only agency identified. Changed to “owned by federal agencies” page 5 |
| 1. On Page 18 remove reference to the Washington Navy Yard: The Washington Navy Yard is a site listed on the National Priorities List (NPL) and is located on the banks of the Anacostia River. The site is currently undergoing evaluation and cleanup by the Navy with EPA oversight. Several removal actions have occurred onsite in areas that have been evaluated and were found to contain PCBs. Evaluation and remediation of other areas on the Navy Yard is ongoing. The Navy is scheduled to perform sediment sampling in the Anacostia River adjacent to the Washington Navy Yard in September 2015. The sampling will include fingerprinting analysis of the PCBs in the river to determine whether a specific signature of the contamination can be traced back to the Navy Yard.  Comment:  Remove.  The Management Strategy should keep the efforts broad and again, DoD/Navy should not be a targeted agency.   Removed |
| 1. Page 21 Reference to DERP/FUDS: The Department of Defense under the auspices of the Defense Environmental Response Program remediates PCB contamination at its eligible Formerly Used Defense Sites and installations where PCBs are found to present an unacceptable risk within the Chesapeake Bay Watershed.  Comment: Remove.  Removed   Page 32: Reference to Washington Navy Yard. |
| EPA | p. 3. I believe the statement that PA has not established any PCB TMDLs is incorrect – recommend deletion of that sentence on that page and elsewhere.  Corrected. PA does have a TMDL for a portion of the Susquehanna  p. 7 – the following sentence is incorrect and should be deleted: “TMDL implementation is the only existing regulatory mechanism that can require a discharger to reduce their load.” This implies TMDLs are implementation tools – they are plans. NPDES permits are the tools for TMDL implementation. There are numerous (and not always consistent) statements of how the TMDL program drives the water quality– they are not the only tools. NPDES permits may have numeric water quality based effluent limits based only on the numeric criteria of the receiving stream (without reference to TMDLs). There is too much discussion of nonnumeric PMPs throughout document as NPDES permit limits – also problematic.  “~~TMDL implementation is~~ NPDES permits are the only existing regulatory mechanisms that can require a discharger to reduce their load.” |
| Would gladly welcome a voluntary initiative to remove all PCBs form transformers on federal property but we would probably have to work up some data on the scale of the issue and costs of retrofitting transformers before being able to make a complete pitch.  Discuss with FOD as part of 2016-2017 federal milestones. |
| General comment – Strategy, disorganized, too detailed and seems to have multiple accounts of various federal programs (CWA, TMDL, RCRA, CERCLA, TSCA, etc) that overlap and contradict how they relate or do not relate to each other. I know this Workgroup was just formed and probably reason for this. Does not really follow the format or structure of any other strategy. This strategy is not ready for release but needs more work beyond the scope of a fatal flaw.  P. 3: The following sentence, while technically true for “discharge”, misrepresents the much broader scope of federal statutes regulating PCBs including but not limited to TSCA; CERCLA and RCRA as discussed further on in Strategy. Suggest edits in red italics. The CWA,A TSCA and other federal statutes establish the framework for federal regulatory control of PCBs including the discharge of PCBs into the nation’s waterways |
| following comments are provided as “fatal flaws”.  1. Page 7: Suggest incorporating “may” (redlined below) in this statement because the highlighted statements are contradictory:  “Biosolids which may contain PCBs are often land applied in agricultural and commercial practices as an alternative to chemical fertilizers. Limited information is available on whether land application of biosolids is a source of PCBs in unregulated and NPDES regulated stormwater.”  Changed to “Biosolids, which may contain PCBs, are often land applied in agricultural and commercial practices as an alternative to chemical fertilizers.  Limited information is available on whether land application of biosolids containing PCBs are a source of PCBs in unregulated and NPDES regulated stormwater.”  The point of the second sentence is that, when PCBs are present in biosolids, there is little information on whether PCBs leach from the material and contaminate stormwater.  2. Page 11:  The section on air deposition is currently under the “Wastewater Gaps” section and, because it references gaps in the stormwater permit- derived limits, it should be moved to a different section.  It also mentions a wastewater concern but agree it is better in Atmospheric Gaps.  Moved.  3. Page 12:  This sentence should be modified:” These unregulated contaminants may be a ~~are of~~ health concern~~s~~ and EPA needs to obtain their occurrence in order to decide if they should be regulated in the future.”  Also, the current sentence should be restructured into two sentences, as the “post-treatment” reference relates to the MCL discussion:    “Monitoring is conducted post-treatment.  Detections of unregulated contaminants under the Unregulated Contaminant Monitoring Rule (UCMR) cycle 1, 2 and 3 from public water supplies are available.”  First noted sentence changed to “These unregulated contaminants may be health concerns and EPA should consider obtaining better data on occurrence in order to decide if they should be regulated in the future.”  Second suggested change made.  4. Page 13:  Statement not relevant to CB watershed:  “ From 1990 through 2002, over 1000 PCB releases were reported in the Great Lakes states.”  Does this change make it relevant enough to include?  “To emphasize the point that PCBs are not simply related to past releases (i.e., legacy contamination), data indicates that from 1990 through 2002, over 1000 PCB releases were reported in the Great Lakes states.”  5. Page  14:  This phrase should be edited as suggested.  PCBs are not regulated under the 170 source categories to my knowledge.   They COULD be regulated under the 170 source categories, but EPA did not include any PCB limits in these “NESHAP”/”MACT” regulations.  PCB incinerators are regulated under TSCA, not CAA.  Jacqueline Guerry can confirm.  PCBs are listed as a group as one of 188 hazardous air pollutants (HAPs) listed under section 112(b) of the 1990 Clean Air Act Amendments ~~and is regulated from more than 170 industrial source categories~~. ~~PCB incinerators and other authorized PCB activities must be in compliance with the requirements of the CAA.~~  Paragraph now reads “PCBs are listed as a group as one of 188 hazardous air pollutants (HAPs) under section 112(b) of the 1990 Clean Air Act Amendments. PCB incinerators are regulated under TSCA. The EPA also established National Emissions Standards for Hazardous Air Pollutants (NESHAP) under the CAA to protect the public and lists PCBs as one of 33 Hazardous Air Pollutants (HAPs) presenting the greatest threat to public health in urban areas.” |
| NOAA | Surprising not to see more on agricultural runoff (pesticides) and potential impacts on near shore environments, benthos, invertebrates, fin fish and shellfish. Suggest including what is known and gaps on this issue.  Consider for Research strategy? Policy and Prevention is only focusing on PCBs at this time. |