



# 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**

#### **EXECUTIVE COMMITTEE**

**PRESIDENT**  
**Brian Cladoosby**  
*Swinomish Tribe*

**FIRST VICE-PRESIDENT**  
**Randy Noka**  
*Narragansett Tribe*

**RECORDING SECRETARY**  
**Aaron Payment**  
*Sault Ste. Marie Tribe of Chippewa Indians of Michigan*

**TREASURER**  
**Arlan Melendez**  
*Reno Sparks Indian Colony*

#### **REGIONAL VICE-PRESIDENTS**

**ALASKA**  
**Jerry Isaac**  
*Native Village of Tanacross*

**EASTERN OKLAHOMA**  
**S. Joe Crittenden**  
*Cherokee Nation*

**GREAT PLAINS**  
**Leander McDonald**  
*Spirit Lake Nation*

**MIDWEST**  
**Roger Rader**  
*Pokagon Band of Potawatomi*

**NORTHEAST**  
**Lance Gumbs**  
*Shinnecock Indian Nation*

**NORTHWEST**  
**Fawn Sharp**  
*Quinalt Indian Nation*

**PACIFIC**  
**Rosemary Morillo**  
*Soboba Band of Luiseno Indians*

**ROCKY MOUNTAIN**  
**Ivan Posey**  
*Shoshone Tribe*

**SOUTHEAST**  
**Ron Richardson**  
*Haliwa-Saponi Indian Tribe*

**SOUTHERN PLAINS**  
**Stephen Smith**  
*Kiowa Tribe*

**SOUTHWEST**  
**Manuel Heart**  
*Ute Mountain Ute Tribe*

**WESTERN**  
**Len George**  
*Fallon Paiute Shoshone Tribe*

**EXECUTIVE DIRECTOR**  
**Jacqueline Johnson Pata**  
*Tlingit*

#### **NCAI HEADQUARTERS**

1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
[www.ncai.org](http://www.ncai.org)

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, healthy and safe ecosystems provide numerous natural resources that sustain tribal cultural practices including clean water, healthy traditional food sources, natural medicines, pesticide- and herbicide-free native plants for weaving, and contaminant-free clay for pottery; and

**WHEREAS**, tribes are increasingly vulnerable to the substantial impacts of toxic chemical exposure from ecosystems that have been degraded by legacy contaminants, by ongoing authorized contaminant discharges, and by the continued release of recognized but unregulated chemicals such as flame retardants and endocrine disrupting compounds; and

**WHEREAS**, the U.S. Environmental Protection Agency has lacked the ability to adequately and effectively regulate even dangerous chemicals through the existing limited authority established by the Toxic Substances Control Act of 1976 (TSCA); and

**WHEREAS**, the NCAI membership continues to support implementation of NCAI Resolution #ANC-14-005, “*Urge Congress to Pass Meaningful Federal Chemicals Policy Reform to Protect Our Present and Future Generations*,” and legislative reform appears to be imminent; and

**WHEREAS**, multiple bills have been introduced in both houses of Congress in the current session that propose various versions of language that would reform certain provisions of TSCA; and

**WHEREAS**, TSCA previously and currently defines the term “State” to mean “any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States;” and

**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

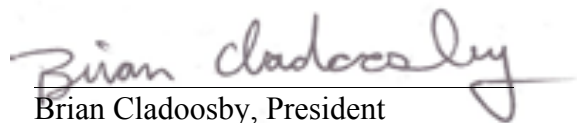
**WHEREAS**, tribal governments are ready, willing and able to fully participate in the control, oversight and regulation of toxic chemicals that uniquely impact the health and well-being of tribal members.

**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

**BE IT FURTHER RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2015 Midyear Session of the National Congress of American Indians, held at the St. Paul River Centre, St. Paul, MN, June 28 to July 1, 2015, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary