ASSOCIATION OF METROPOLITAN WATER AGENCIES

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November 12, 2019

The Honorable Alexandra Dapolito Dunn
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency
1201 Constitution Avenue, N.W.
Washington, DC 20460

Re: Docket ID: EPA–HQ–OPPT–2019–0228, *Significant New Use Rules on Certain Chemical Substances (*19-3.F*)*

Dear Assistant Administrator Dunn,

The Association of Metropolitan Water Agencies (AMWA) is an organization representing the largest publicly owned drinking water utilities in the United States. Pollution prevention is paramount in protecting water sources for public water supply. For this reason, AMWA feels it is imperative to emphasize the importance of protecting drinking water sources through programs like the Toxic Substances Control Act (TSCA). These programs are the first line of defense against the growing number of contaminants that could pose a risk to drinking water supplies and the public.

Our ability to test for chemicals in our environment has grown exponentially, and we are now aware of the persistent, bioaccumulative, and possible toxic characteristics of chemicals we once thought inert or non-problematic. The most recent and dramatic examples of this are the complex issues surrounding per- and polyfluoroalkyl substances (PFAS). These chemicals have been used for decades, but as our knowledge of these substances has grown, PFAS have been shown to be increasingly problematic. PFAS have highlighted the overwhelming need to better evaluate the potential adverse environmental and human health effects of chemicals before allowing them to be used in commerce in order to prevent chemicals that may pose health risks from entering the environment and contaminating source waters.

Preventing pollutants from entering drinking water supply sources is a complex task. It is easier, more effective and more equitable to control pollutants at the source, where they are highly concentrated, than it is to remove them at the consumer's expense after they have entered a water body or supply source. Controlling pollutants at the source – in this case at the point of manufacture, import or process – also helps ensure that those who pollute our natural resources are not allowed to pass the cost of correcting the problem onto others.

AMWA would like to bring attention to one group of substances listed in the latest Significant New Use Rule (SNUR) (84 *FR* 54816).

PMN Number(s): P–16–151; P–16– 152; P–16–153; P–16– 154; P–16– 155
Chemical Name(s): Perfluoropolyether halide (generic); Perfluoropolyether aryl (generic); Substituted aryl-perfluoropolyether (generic); Sulfonated perfluoropolyether aromatic transition metal salt (generic); and Sulfonated perfluoropolyether aryl alkali metal salt (generic).

AMWA would like to bring attention to this group of chemicals as a great example of how the agency is using the TSCA process to prevent possibly harmful chemicals from entering the nation's waters. EPA has identified the above substances as "potentially persistent, bioaccumulative, and toxic (PBT) chemicals," as well as identified concerns for liver toxicity, kidney effects, pancreatic and testicular cell tumor formation, and reproductive and developmental effects. Due to these concerns, the agency included within this SNUR a restriction on any releases to surface waters.

Along with these serious concerns, it appears that these substances might be within the family of PFAS. As stated earlier, these substances have proven to be increasingly problematic. AMWA appreciates and supports EPA's conclusion to not allow releases of this substance into surface waters. Surface waters are often the source waters for drinking water utilities and toxic, persistent, and bioaccumulative characteristics are of high concern for drinking water sources. Therefore, any allowance of chemical discharges to these waters should be made with this in mind. AMWA encourages EPA to continue to use the authorities granted to the agency under TSCA to prevent the release of similar chemicals into surface waters.

Comments Related to the Process as a Whole

For future SNURs, AMWA recommends that EPA reconsider approvals for chemicals that are known to have an acute toxicity to human health and have been identified as a potential contaminant of concern in drinking water supplies. The Office of Pollution Prevention and Toxics (OPPT) should coordinate with the EPA Office of Ground Water and Drinking Water (OGWDW), which not only oversees the Safe Drinking Water Act implementation but also may have on its radar many of the chemicals being considered in this and future SNURs as potential drinking water contaminants. Furthermore, AMWA strongly encourages OPPT to utilize the knowledge base of the drinking water program at EPA's OGWDW to better inform decision making for future SNURs.

AMWA also recommends that EPA include the agency's PMN determination for each chemical included in future SNURs. It is necessary for the public to have access to these decision documents so that they might better understand the reasoning for EPA's decision and provide the most useful and appropriate information. AMWA also requests that EPA clearly mark these documents within the docket. Currently, these documents are either not included or are not clearly marked forcing the public to parse through dozens, if not hundreds, of supporting documents included within the docket in order to find them. Dealing with this volume of documents is a cumbersome task and undermines the intent of the comment period by impeding the public's access to information necessary to provide the agency with meaningful comments.

AMWA appreciates the agency's application of searchable tables for both PMNs and Significant New Use Notices, as well as for chemicals determined not likely to present an unreasonable risk following PMN

review. AMWA requests that the location of these tables be made more apparent and easily accessible off the main SNURs webpage. Currently they are very difficult to locate without knowing the direct link.

AMWA is also concerned with EPA's method of obtaining "Potentially Useful Information". The agency states that the orders do not require testing to help determine potential health and/or environmental effects. The only incentive for manufacturers or users of these chemicals to obtain and submit this information is so that a modification or revoking of the PMN would be allowed. This approach provides a disincentive for additional study that could reveal more harmful health effects since disclosure of new information to the agency could prompt further study by EPA. Additional study would likely not remove the PMN and could possibly result in more federal restrictions on the chemical.

TSCA provides significant tools to help prevent harmful pollution. In addition to TSCA, the agency should consider how our current system of environmental regulation can be leveraged to protect human health and the environment across multiple media. Preventing pollution at the source is a more cost-effective option for protecting public health rather than relying solely on end-of-pipe treatment to ensure safe drinking water. Additional loadings into the environment of minimally studied chemicals, such as the ones identified in this letter, could result in future problems for source water protection and ultimately necessitate additional drinking water treatment at a high cost to the public.

It is crucial to strive towards the prevention of pollutants entering drinking water sources. TSCA provides us with a unique opportunity to protect the environment and public health. AMWA thanks EPA for the opportunity to comment and looks forward to working with the agency to protect drinking water sources in the future.

If you would like to further discuss our concerns, please call Stephanie Hayes Schlea, Regulatory and Scientific Affairs Manager, at 202-331-2820.

Sincerely,

Diane VanDe Hei
Chief Executive Officer

cc: David Ross, Assistant Administrator, OW
Eric Burneson, OGWDW
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