ASSOCIATION OF METROPOLITAN WATER AGENCIES

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September 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–2019–0442, *Significant New Use Rules on Certain Chemical Substances (19-4.B)*

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 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 has numerous concerns with multiple substances listed in the latest Significant New Use Rule (SNUR) (84 *FR* 40371). These chemicals are listed below along with details as to the specific concerns the association has for each.

PMN Number(s): P–17–346
Chemical Name(s): Triarylalkyl phosphonium halide salt (generic)

Within the notice EPA identified concerns for "acute toxicity, irritation/corrosion effects to the skin, eyes, and respiratory tract, systemic toxicity, and environmental toxicity" based on data from analogous chemicals. The notice goes on to require that there be no releases to surface waters that would exceed 5 ppb. After reviewing the information included within the docket, AMWA is concerned with EPA's intent to permit the release of this chemical into surface waters.

AMWA is particularly concerned with information found within the docket related to migration to groundwater and wastewater treatment removal. According to the docket, migration of this chemical to groundwater is moderate. As groundwater may be used as a source for drinking water, EPA should be especially cautious with chemicals that have this particular attribute. Even more concerning is the fact that removal of this substance during wastewater treatment is expected to be between 0 and 25%. AMWA is concerned with the allowance of this chemical into surface waters when there is information stating that removal from wastewater will be so difficult. Surface waters are often the source waters for drinking water utilities. Therefore, any allowance of chemical discharges to these waters should be made with this in mind and using scientifically sound data that is made readily available to the public for review and comment.

PMN Number(s): P–17–395
Chemical Name(s): Alkyl tri dithiocarbamate tri salt (generic)

Within the notice EPA has identified concerns for "developmental toxicity, neurotoxicity, carcinogenicity, and skin sensitization, and toxicity to aquatic organisms." The notice goes on to require that there be no releases to surface waters that would exceed 1 ppb. After reviewing the information included within the docket, AMWA is concerned with EPA's intent to permit the release of this chemical into surface waters.

AMWA is very concerned with information found within the docket related to migration to groundwater and wastewater treatment removal. According to the docket, migration of this chemical to groundwater may be anywhere from slow to rapid. If EPA is unable to determine how readily this substance may migrate to groundwater the agency should obtain more information before proposing a SNUR. As groundwater may be used as a source for drinking water, EPA should be especially cautious with chemicals that have this particular attribute. Similarly, and even more concerning is the fact that removal of this substance during wastewater treatment is expected to be anywhere between 0 and 90%. As stated above, if EPA is unable to determine how effective removal from wastewater might be, the agency should obtain more data before issuing a SNUR. AMWA is concerned with the allowance of this chemical into surface waters when there is information stating that removal from wastewater will be difficult. Surface waters are often the source waters for drinking water utilities. Therefore, any allowance of chemical discharges to these waters should be made with this in mind and using scientifically sound data that is made readily available to the public for review and comment.

Within the docket, it appears that some health effects data has been redacted, particularly within the document "P-17-0395 Eng Report Sanitized." While AMWA understands the need to maintain confidential business information (CBI) the association would like to point out that, according to 15 U.S.C. § 2613(b)(2)(A), TSCA "does not prohibit

the disclosure of – any health and safety study which is submitted under [TSCA] with respect to – any chemical substance or mixture which, on the date on which such study is to be disclosed has been offered for commercial distribution." AMWA requests that EPA make this information available and refrain from allowing redacted health effects information in future SNURs. Withholding valuable health effects information used by the agency undermines the intent of the comment period and gives no insight as to why EPA has chosen this particular protective measure.

PMN Number(s): P–19–29
Chemical Name(s): Phosphonium, tributylethyl-, diethyl phosphate (1:1)

Within the notice EPA has identified concerns for "irritation, corrosion, neurotoxicity, reproductive toxicity, liver toxicity, and toxicity to aquatic organisms." The notice goes on to require that there be no releases to surface waters that would exceed 51 ppb. AMWA is concerned by EPA's apparent determination that this chemical may be released to surface waters at a level which appears to have no scientific basis. A search of the docket did not appear to have any information regarding the agency's decision. If there is empirical support for this determination, AMWA requests that EPA make such information readily available.

Although information within the docket states that "oral toxicity hazards to the general population are not expected via drinking water… due to dilution of the chemical substance in the media," the safety data sheet included in the docket regarding this substance states the chemical is "very toxic to aquatic life with long lasting effects." AMWA cautions against allowing for releases of this chemical into surface waters due to possible unforeseen risks in the future. Surface waters are often the source waters for drinking water utilities. Therefore, any allowance of chemical discharges to these waters should be made with this in mind and using scientifically sound data that is made readily available to the public for review and comment.

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.

These documents can often times be found within searchable tables provided by EPA 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 appreciates the agency's application of these searchable tables and encourages EPA to continue making these documents available before issuing any corresponding SNURs. AMWA also 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 for preventing 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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