ASSOCIATION OF METROPOLITAN WATER AGENCIES

LEADERS IN WATER

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May 17, 2019

Mr. Kenneth Moss
Office of Pollution Prevention and Toxics
Document Control Office (7407M)
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Re: Significant New Use Rules on Certain Chemical Substances
Docket ID: EPA–HQ–OPPT–2018–0772

Dear Mr. Moss:

The Association of Metropolitan 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* 16432). These chemicals are listed below along with details as to the specific concerns the association has for each.

*PMN Number: P-16-422*
*Chemical Names: 1,2- Cyclohexanedicarboxylic acid, 1- (phenylmethyl) ester, ester with 2,2,4- trimethyl-1,3-pentanediol mono (2- methylpropanoate)*

Within the notice, EPA identified concerns for "irritation and sensitization, developmental toxicity, and aquatic toxicity at surface water concentrations exceeding 12 parts per billion (ppb)." The notice goes on to require that there be no releases to surface waters that would exceed 12ppb.

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. If there is empirical support for this determination, AMWA requests that EPA make such information readily available. The only information available for this chemical within the docket has been "sanitized", meaning that the actual text has been redacted and in some cases an entire document is unavailable for the public to view. While AMWA understands the need to maintain confidential business information, withholding all information on certain aspects of a chemical, in this case acute toxicity, gives no insight as to why EPA has chosen this particular protective measure.

There is also a lack of data for this particular chemical when doing a cursory search through scientific literature. AMWA encourages EPA to make this data more transparent or to gather more data to better inform this decision. EPA should also make these findings available to the public. 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: P-17-152*
*Chemical Name: Poly-(2-methyl-1- oxo-2-propen-1-yl) ester with ethanaminium, N,N,N-trialkyl, chloride and methoxypoly (oxy-1,2-ethanediyl) (generic)*

Within the notice, EPA identified concerns for aquatic toxicity and lung effects, and goes on to require a protective measure that there be no releases to surface waters that would exceed 1ppb. 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. If there is empirical support for this determination, AMWA requests that EPA make such information readily available.

Almost all of the information available for this chemical within the docket has been "sanitized", meaning that the actual text has been redacted and, in some cases, an entire document is unavailable for the public to review. While AMWA understands the need to maintain confidential business information,

withholding all information on certain aspects of a chemical gives no insight as to why EPA has chosen this particular protective measure.

There is also a lack of data for this particular chemical when doing a cursory search through scientific literature. AMWA encourages EPA to make this data more transparent or to gather more data to better inform this decision. EPA should also make these findings available to the public. 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: P-17-239*
*Chemical Name: Substituted carboxylic acid, polymer with 2,4- diisocyanato-1-methylbenzene, hexanedioic acid, alpha-hydro-omega- hydroxypoly[oxy(methyl-1,2- ethanediyl)], 1,1′ -methylenebis[4-isocyanatobenzene], 2,2′ - oxybis[ethanol], 1,1′ -oxybis[2-propanol] and 1,2-propanediol, (generic)*

Within the notice, EPA identified concerns for irritation, sensitization, and oncogenicity, and goes on to require a protective measure that there be no releases to surface waters that would exceed 33ppb. 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. If there is empirical support for this determination, AMWA requests that EPA make such information readily available.

The only information available for this chemical within the docket has been "sanitized", meaning that the actual text has been redacted and, in some cases, an entire document is unavailable for the public to review. While AMWA understands the need to maintain confidential business information, withholding all information on certain aspects of a chemical gives no insight as to why EPA has chosen this particular protective measure.

There is also a lack of data for this particular chemical when doing a cursory search through scientific literature. AMWA encourages EPA to make this data more transparent or to gather more data to better inform this decision. EPA should also make these findings available to the public. 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: P-18-122*
*Chemical Name: Alkylamide, polymer with alkylamine, formaldehyde, and polycyanamide, alkyl acid salt (generic)*

Within the notice, EPA identified concerns for aquatic toxicity and irritation to skin, eyes and lungs, and lung toxicity. The notice goes on to require that there be no releases to surface waters that would exceed

1ppb. 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. If there is empirical support for this determination, AMWA requests that EPA make such information readily available.

The only information available for this chemical within the docket has been "sanitized", meaning that the actual text has been redacted and, in some cases, an entire document is unavailable for the public to review. While AMWA understands the need to maintain confidential business information, withholding all information on certain aspects of a chemical gives no insight as to why EPA has chosen this particular protective measure.

There is also a lack of data for this particular chemical when doing a cursory search through scientific literature. AMWA encourages EPA to make this data more transparent or to gather more data to better inform this decision. EPA should also make these findings available to the public. 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*

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 SNUR 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 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 Premanufacture Notice (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: Alexandra Dapolito Dunn, Assistant Administrator, Office of Chemical Safety and Pollution Prevention
David Ross, Assistant Administrator, Office of Water
Eric Burneson, Director of Standards and Risk Management, Office of Ground Water and Drinking Water
Jennifer McLain, Acting Director, Office of Ground Water and Drinking Water