



August 29, 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-2018-0777, *Significant New Use Rules on Certain Chemical Substances (19-I.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 that relies upon them.

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.

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AMWA has numerous concerns with multiple substances listed in the latest Significant New Use Rule (SNUR) (84 FR 37199). These chemicals are listed below along with details as to the specific concerns the association has for each.

PMN Number(s): P-17-329

Chemical Name(s): Ethanone, 1-[4-(4- chlorophenoxy)-2- (trifluoromethyl)phenyl]-

Within the notice, EPA made the conclusion that based on the absence of sufficient information to permit a reasoned evaluation, “the substance may present an unreasonable risk to human health or the environment.” The agency goes on to identify concerns for “sensitization, liver, blood, spleen, reproductive, and aquatic toxicity at concentrations that exceed 7 ppb based on hazard data submitted for the [premanufacture notice].” Knowing all this, EPA requires that there be no releases to surface waters that would exceed 7 ppb.

AMWA is extremely concerned by EPA’s apparent determination that this chemical may be released to surface waters at a level which appears to have limited scientific basis. Although some data has been submitted apparently supporting 7 ppb, as mentioned above the agency is lacking sufficient information to make an evaluation. AMWA requests that EPA explain the reasoning behind this determination and that if there is empirical support for this determination, AMWA requests that EPA make such information readily available.

Within the docket, it appears that some health effects data has been redacted. 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.

AMWA is concerned with information found within the docket related to migration of this substance into groundwater. 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. AMWA is equally concerned that wastewater removal levels appear to have been redacted throughout multiple documents within the docket. One document does state that the removal rate is 35%, indicating removal is difficult. AMWA is concerned with the allowance of this chemical into surface waters when removal rates from wastewater are so low. AMWA also requests that EPA leave all instances of wastewater treatment removal unredacted in order to maintain consistency and transparency.

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In summary, AMWA urges the agency to obtain sufficient information before allowing chemicals into surface waters. AMWA also encourages EPA to make this data more transparent or to gather more data to better inform this decision and to 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(s): P-17-382

Chemical Name(s): Amides, tallow, N,N- bis(2-hydroxypropyl)

Within the notice, EPA identified concerns for “sensitization, specific organ toxicity, lung toxicity, and aquatic toxicity at concentrations that exceed 11 ppb.” The notice goes on to require that there be no releases to surface waters that would exceed 11 ppb.

Given additional information in the docket, AMWA is concerned about EPA’s intent to permit the release of this chemical into surface waters. Supporting documents within the docket list drinking water as an exposure route and document “P17-0382 Hazard And Risk Assessment Report 2” lists numerous “uncertain” health concerns including spleen and liver toxicity, developmental toxicity, and developmental neuro concerns. The document states that further assessment is needed, and many portions are redacted. A second document, “P17-0382 Hazard And Risk Assessment Report 1”, does state that there is no risk to drinking water, but also mentions that the chemical has a high hazard concern for ecotoxicity based on acute and chronic concentrations of concern (COCs) of 28 ppb and 1.4 ppb, respectively.”

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 redacting 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.

Although EPA made the determination that the chemical substance “is not likely to present an unreasonable risk of injury to health or the environment,” 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.

PMN Number(s): P-18-88

Chemical Name(s): Di(substituted-1,3- trialkylammonium) dialkylammonium salt (generic)

Within the notice, EPA identified concerns for “neurotoxicity, hepatotoxicity, and aquatic toxicity.” The notice goes on to require that there be no releases to surface waters that would exceed 1000 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 these health effect concerns. If there is empirical support for this determination, AMWA requests that EPA make such information readily available.

AMWA encourages EPA to make this data more transparent or to gather more data to better inform this decision and to 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(s): P-18-136

Chemical Name(s): 1- Butanaminium,N,N,N-tributyl-,2(or 5)- [[benzoyldihydrodioxo[(sulfophenyl) amino]heteropolycycle]oxy]-5(or 2)-(1,1- dimethylpropyl)benzenesulfonate (2:1) (generic)

Within the notice, EPA identified concerns for “systemic toxicity, and aquatic toxicity at surface water concentrations exceeding 19 parts per billion (ppb),” and then goes on to require that there be no releases to surface waters that would exceed that 19 ppb threshold.

AMWA is concerned with certain information found within the docket, particularly the document titled, “P18-0136 Additional PMN Attachment 3.” Within this report, the submitter highlights numerous problematic characteristics of this chemical. The most concerning of these are listed below and taken directly from the report, emphasis added.

- *Migration to groundwater is estimated to be moderate to rapid based on the measured octanol-water partition coefficient that was submitted with the PMN and data on analogous chemicals. Overall, these estimates are indicative of low potential for this chemical substance to volatilize into the air and a moderate to high potential for this chemical to migrate into groundwater. Removal of the substance in wastewater treatment is unlikely due to low biodegradability, low sorption, and low stripping.*
- *The chemical substance is estimated to be removed with an efficiency of 0-25 % during wastewater treatment due to low biodegradation, low sorption, and low stripping.*

- These estimates for biodegradation indicate that *the chemical substance may be very persistent in aerobic environments (e.g., surface water)* and anaerobic environments (e.g., sediment).

Risk of absorption via ingestion is listed as “nil”, but with concerns for rapid migration to groundwater, persistence in surface water, and little to no removal during wastewater treatment these health effects must be researched carefully and thoroughly. The document states that risks to the environment were not identified because the submitter is not expecting any releases to water. However, if EPA is allowing releases under this SNUR, more data should be collected regarding these risks.

With characteristics such as these, it is important that EPA explain the reasoning behind allowing this substance into surface waters at all. 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-18-137

Chemical Name(s): Alkylsilsesquioxane, ethoxy-terminated (generic)

Within the notice, EPA identified concerns for “liver toxicity, lung toxicity by waterproofing of lung membranes, irritation, developmental toxicity, and aquatic toxicity at surface water concentrations exceeding 58 parts per billion (ppb).” The notice goes on to require that there be no releases to surface waters that would exceed that 58 ppb threshold.

The supporting documents within the docket state that the “new chemical substance is not likely to present an unreasonable risk to the general population for developmental effects from oral exposure to drinking water” and provide data to support this claim (P-18-0137 Additional PMN Attachment 3). This document also states that removal via wastewater treatment is 90% and that the chemical has low potential for migration into groundwater. AMWA appreciates the inclusion of this information which appears to be EPA’s PMN determination for this chemical. Although AMWA is concerned with the allowance of this chemical into surface waters, the document presents a substantial amount of information which provide compelling arguments supporting the above position.

Within the docket, it appears that some health effects data has been redacted. 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 redacting 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.

It is important that EPA explain the reasoning behind allowing this substance into surface waters. 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.

AMWA appreciates the agency's inclusion 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. However, AMWA would like to note that it seems not all chemicals included in this most recent SNUR are found within these tables. If this is inaccurate, AMWA requests that EPA make this more apparent and easily accessible. Otherwise, AMWA suggests EPA complete this for each chemical before including them in any 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 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.

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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
Jennifer McLain, OGWDW
Kenneth Moss, OPPT