



September 4, 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–2019-0359, *Significant New Use Rules on Certain Chemical Substances (19-2.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 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* 38158). These chemicals are listed below along with details as to the specific concerns the association has for each.

PMN Number(s): (P-18- 7) and (P-18-8)

Chemical Name(s): Glycerides, soya mono- and di-, epoxidized, acetates (P- 18-7) and Glycerides, C16-18 and C18- unsatd. mono- and di-, epoxidized, acetates (P-18-8)

Within the notice, EPA identified kidney and liver hazards based on properties of analogous chemicals. The notice goes on to require that there be no releases to surface waters that would exceed 9000 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 justifying the agency's decision. If there is empirical support for this determination, AMWA requests that EPA make such information readily available.

AMWA is concerned with information found within the docket related to migration to 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.

Although the information within the docket shows wastewater removal to be high at 90% and the absorption through the gastrointestinal (GI) tract to be minimal, 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, using scientifically sound data that is made readily available to the public for review and comment.

PMN Number(s): P-18-123 and P-18-124

Chemical Name(s): Lithium nickel hydride oxide (P-18-123) and Lithium nickel potassium oxide (P-18-124)

Within the notice, EPA made the conclusion that based on the absence of sufficient information to permit a reasoned evaluation, "the substances may present an unreasonable risk to human health or the environment." The notice also states that these substances "are or will be produced in substantial quantities and that the substances either enter or may reasonably be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the substances." The agency goes on to identify concerns for "pulmonary effects, neurotoxicity, developmental toxicity, kidney toxicity, carcinogenicity, skin and respiratory sensitization, and irritation to the eye, skin, and respiratory tract." To address all of these concerns, EPA requires that there be no releases to surface waters that would exceed 32 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 32 ppb, as mentioned above the agency determined that it 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.

Although information within the docket states that absorption through the GI tract is low and that the substance may be removed from wastewater at a rate of close to 90%, the docket also identifies the substance as a high environmental hazard. AMWA cautions against allowing for releases of this chemical into surface waters due to possible unforeseen risks in the future.

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-18-152

Chemical Name(s): Hydrolyzed functionalized di-amino silanol polymer (generic)

Within the notice, EPA identified concerns for "irritation and corrosion to all tissues, sensitization, lung toxicity, and aquatic toxicity at surface water concentrations exceeding 3 parts per billion (ppb)" based on properties of analogous chemicals. The notice goes on to require that there be no releases to surface waters that would exceed 3 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.

The document titled "P-18-0152 Hlth Post Focus Report QC CGRJA Sanitized" states that risk for health effects such as irritation, corrosion and sensitization via consumption of drinking water were not identified since "these hazards are not a concern for these routes of exposure due to the effect of dilution." Although other documents within the docket state absorption through ingestion is likely to be minimal, 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, using scientifically sound data that is made readily available to the public for review and comment.

PMN Number(s): P-18-200 and P-18-201

Chemical Name(s): Waste plastics, poly(ethylene terephthalate), polymers with diethylene glycol, glycerol, polyerythritol, triethylene glycol, trimethylolalkane and polypropylene glycol (P-18-200) (generic) and Waste plastics, poly(ethylene terephthalate), polymers with diethylene glycol, glycerol, polyerythritol glycol, trimethylolalkane and polypropylene glycol (P-18-201) (generic)

Within the notice, EPA identified concerns for “bladder and kidney effects” and that the substances “are or will be produced in substantial quantities and that the substances either enter or may reasonably be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the substances.” The notice goes on to require that there be no releases to surface waters that would exceed 280 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 rapid. 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 very concerned with the allowance of this chemical, particularly “substantial quantities”, into surface waters when there is information stating that removal from wastewater will be so difficult.

The docket includes information which states these substances are absorbed readily through the GI tract and may cause damage to organs. Finally, the document titled “Substance SDS v1.1 180727 Redacted” which appears to be a safety data sheet lists the chemical as being suspected of causing cancer as well as seemingly stating that 1,4-dioxane is a primary component of the mixture. As EPA is aware, the agency has classified 1,4-dioxane as “likely to be carcinogenic to humans by all routes of exposure” and has included the chemical in EPA’s third and fourth drinking water contaminant candidate lists (CCL) and the Third Unregulated Contaminant Monitoring Rule (UCRM3)¹. Chemicals on the UCRM are anticipated to occur in public water systems and may warrant regulation under the SDWA because of potential risks of these chemicals to public health. Therefore, a chemical containing 1,4-dioxane should not be approved under this SNUR. By nature of its inclusion on UCRM3 there is evidence that the environmental burden is already great enough to warrant concern for our nation’s drinking water systems. AMWA urges EPA to consider both the CCL and UCRM when developing future SNURs and to refrain from allowing discharge of any of those chemicals into surface waters.

¹ https://www.epa.gov/sites/production/files/2014-03/documents/ffrro_factsheet_contaminant_14-dioxane_january2014_final.pdf

PMN Number(s): P-19-26

Chemical Name(s): Alkanoic acid, compds. with substituted carbomonocycle-dialkyl-alkanediamine-halosubstituted heteromonocycle- polyalkylene glycol polymerdialkanolamine reaction products (generic)

Within the notice, EPA identified concerns for “irritation, lung effects, and aquatic toxicity at concentrations greater than 15 ppb.” The notice goes on to require that there be no releases to surface waters that would exceed 15 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.

Although information within the docket states that the substance may be removed from wastewater at a rate of close to 90%, the docket also identifies the potential for high environmental hazard. 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-17-419

Chemical Name(s): Unsaturated polycyclic hydrocarbon (generic)

AMWA would like to bring attention to this chemical 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 identified this substance as “a potentially persistent, bioaccumulative, and toxic (PBT) chemical,” as well as identified concerns for reproductive and developmental toxicity. Due to these concerns, the agency included within this SNUR a restriction on any releases to surface waters as well as requirements to submit to EPA “certain toxicity testing within 9 months from the effective date of the Order” and “certain toxicity testing for within 12 months from EPA’s direction to proceed with that testing.”

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 PBT 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 also greatly supports EPA’s requirements for providing additional toxicity testing for chemicals of concern. The association encourages EPA to include these conditions with other chemicals, such as those listed above.

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. 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 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

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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