ASSOCIATION OF METROPOLITAN WATER AGENCIES

LEADERS IN WATER

1620 I Street, NW, Suite 500
Washington, DC 20006

P 202.331.2820 F 202.785.1845
amwa.net

July 14, 2020

The Honorable Alexandra Dapolito Dunn
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency

Re: Docket ID: EPA–HQ–OPPT–2020–0251, *Significant New Use Rules: Certain Chemical Substances (20-6.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 to prevent those 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 concerns with multiple substances listed in the latest Significant New Use Rule (SNUR) (85 *FR* 36175) and have expanded on these concerns below.

PMN Number(s): P–18–151
Chemical Name(s): Formaldehyde, reaction products with 1,3- benzenedimethanamine and p-tert-butylphenol

Within the notice, EPA identified concerns for aquatic toxicity, reproductive/developmental toxicity. The notice goes on to require that there be no releases to waters of the United States that would exceed 1 ppb.

The information included in the docket states that migration of these chemicals to groundwater is expected to be moderate. As groundwater may be used as a source for drinking water, EPA should be especially cautious with chemicals that have this particular attribute. More concerning is the fact that removal of these substances during wastewater treatment is expected to be between 25-50%. AMWA is concerned with the allowance of this chemical into surface waters when there is information stating that removal from wastewater will be difficult.

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-19-88
Chemical Name(s): Ethanamine, N- ethyl-, 2-hydroxy-1,2,3-

Within the notice, EPA identified concerns for acute toxicity, reproductive toxicity, and specific target organ toxicity. The notice goes on to require that there be no releases to waters of the United States that would exceed 46 ppb.

Supporting documents within the docket state that exposures to the general population via drinking water were not assessed because releases to surface water were not expected. If EPA determines that, as part of a SNUR, a chemical may be released into surface waters, in any amount, either EPA or those entities submitting data should be required to assess exposures to the general population.

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-19-109
Chemical Name(s): Copper, [[2,2′ ,2″ -(nitrilo-.kappa.N)tris[ethanolato- .kappa.O]](2-)]- (P-19-109, chemical A) and copper, bis[2-(amino- .kappa.N)ethanolato-.kappa.O]- (P-19- 109, chemical B)

Within the notice, EPA identified concerns for acute toxicity, aquatic toxicity, eye irritation, reproductive toxicity, skin irritation, and specific target organ toxicity. The notice goes on to require that there be no releases to waters of the United States that would exceed 3 ppb.

Supporting documents within the docket state that exposures to the general population via drinking water were not assessed because releases to surface water were not expected. If EPA determines that, as part of a SNUR, a chemical may be released into surface waters, in any amount, either EPA or those entities submitting data should be required to assess exposures to the general population. AMWA recommends that EPA seriously reconsider the allowance of chemicals into surface waters in future SNURs for those substances which are known to have an acute toxicity to human health.

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-20-36
Chemical Name(s): Carbonic acid, di(lithium-6Li) salt

Within the notice, EPA identified concerns for acute toxicity, aquatic toxicity, eye irritation, reproductive toxicity, skin irritation, and specific target organ toxicity. The notice goes on to require that there be no releases to waters of the United States that would exceed 35 ppb.

The information included in the docket states that although the migration of these chemicals to groundwater is negligible, the hydrolysis product is expected to be moderate to rapid. As groundwater may be used as a source for drinking water, EPA should be especially cautious with chemicals that have this particular attribute. AMWA also has concerns with the release of this chemical into surface waters due to information found within the docket. The supporting documents state that the chemical itself is easily removed from wastewater, at an efficiency of 99% due to rapid hydrolysis, but the hydrolysis product is only removed with an efficiency of 0% to 50%. AMWA is concerned with the allowance of this chemical into surface waters when there is information stating that removal from wastewater will be difficult.

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.

Supporting documents within the docket state that health hazards related to exposures via drinking water were not assessed because there are no releases to water. If EPA determines that, as part of a SNUR, a chemical may be released into surface waters, in any amount, either EPA or those entities submitting data should be required to assess exposures to the general population. AMWA recommends that EPA seriously reconsider the allowance of chemicals into surface waters in future SNURs for those substances which are known to have an acute toxicity to human health.

Comments Related to the Process as a Whole

AMWA appreciates EPA's continued assertion that the conditions included within each SNUR are "necessary and sufficient to protect against potential unreasonable risk to health and the environment" based on the agency's evaluation of each pre-manufacture noticed (PMN) substance under the TSCA new chemicals program. However, AMWA disagrees with the agency that chemicals which have problematic characteristics such as being highly persistent, easily migrating to groundwater, or are difficult to remove from waste waters should be allowed to be discharged into waterways regardless of the agency's analysis. If later EPA's analysis proves to not be protective enough there would likely be no way of knowing where these releases took place or for how long since they would not have needed to inform the agency before releasing these chemicals at levels below what is included in the SNUR. While AMWA is confident in EPA's abilities to conduct reliable risk assessments, the possibility that these analyses may not be protective enough, no matter how slim this chance may be, is an unnecessary risk.

If later analyses determine these substances are problematic and must be addressed under other regulatory frameworks, such as the Safe Drinking Water Act, water utilities will be put into an undesirable position of having to take out contaminants that are not readily removed using standard wastewater treatment. Other methods for drinking water treatment, such as granular activated carbon or reverse osmosis, may be used to remove problematic contaminants, but these are costly and pass the economic burden onto the water system's customers. If EPA continues to allow chemicals such as these to be released into surface waters, at a minimum AMWA recommends that the agency require entities submitting significant new use notices to provide more specific data related to wastewater treatment. In particular, the agency should require entities to report on exact removal rates of these chemicals from wastewater with each particular treatment, not just ranges as is currently used. This will help to ensure that the agency and the public are fully aware of the treatment difficulties surrounding these chemicals and could help prioritize the risk concerning whether to allow these chemicals to be released into surface waters. EPA should also require that these entities improve their wastewater treatment to ensure that the least amount of contaminant makes it into surface waters.

AMWA greatly appreciates the agency's procedure of grouping all documents related to an individual chemical covered under a single SNUR within one folder in the docket. AMWA encourages the agency to continue this practice with future SNURS. Previous notices have not used this procedure and it forced those wishing to review specific data related to a single chemical to sift through dozens, if not hundreds, of documents. Reviewing a volume of documents this large 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 also recommends that EPA continue to include the agency's PMN determination for each chemical included in future SNURs and clearly mark them within the docket. These decision documents provide a quick and more easily digestible overview of the available information for each chemical within a SNUR and allow the public an opportunity to better understand the reasoning for EPA's decision and provide the most useful and appropriate comments. In a recent response document from EPA, the agency stated that "[in EPA's] efforts to increase transparency, the Agency is working to provide the public with electronic access to PMNs for new chemicals, including health and safety studies and other information relevant to EPA's safety review. EPA is continuing to expand such content within ChemView, the Agency's electronic chemicals database." AMWA greatly appreciates this work and looks forward to having access to this information.

AMWA is 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. This is problematic as 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 investigation by EPA. Additional study would likely not remove the PMN and could possibly result in more federal restrictions on the chemical.

In AMWA's previous comment letters to EPA regarding SNURs, the association has continually asked the Office of Pollution Prevention and Toxics (OPPT) to coordinate with the EPA Office of Ground Water and Drinking Water (OGWDW). In a recent response document from EPA, the agency points out that the Safe Drinking Water Act typically "addresses comparatively data-rich existing substances now in commerce, while the TSCA new chemicals program reviews chemicals prior to entering the marketplace" and that the "two programs do coordinate, where applicable, but conduct risk assessments and take risk management actions consistent with the requirements of their respective laws." AMWA appreciates the work that both offices have done thus far to coordinate their efforts to address drinking water concerns and encourages the two offices to continue.

However, AMWA is concerned that OPPT may not be coordinating with OGWDW to the degree necessary to ensure the office's risk assessments are as robust as possible. While these programs do work within different regulatory constructs, EPA can and should strive to look holistically at the entire system of statutes when conducting risk assessments. For example, many of the SNURs use data from "analogous chemicals" which would likely not be brand new to the marketplace seeing as they have data available. If these analogous chemicals are more established then it is possible that work on these chemicals are currently being undertaken, or have previously been addressed, by OGWDW under various SDWA programs. AMWA encourages OPPT to engage OGWDW on those analogous chemicals which the agency is using to inform new SNURs and to continue to work to find ways in which these statutes may function together to better protect our water resources.

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, AMWA's Director of Regulatory and Scientific Affairs, at schlea@amwa.net.

Sincerely,

Diane VanDe Hei
Chief Executive Officer

cc: David Ross, Assistant Administrator, Office of Water
Jennifer McLain, Office of Ground Water and Drinking Water
Eric Burneson, Office of Ground Water and Drinking Water
Kenneth Moss, Office of Pollution Prevention and Toxics