



June 3, 2020

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

Re: Docket ID: EPA–HQ–OPPT–2019–0596, *Significant New Use Rules on Certain Chemical Substances (20–1.5e)*

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 concerns with multiple substances listed in the latest Significant New Use Rule (SNUR) (85 *FR* 26419) and have expanded on these concerns below.

BOARD OF DIRECTORS

PRESIDENT

Steve Schneider
Saint Paul Regional Water
Services

Mike Armstrong
WaterOne

Richard Harasick
Los Angeles Department of
Water and Power

Ron Lovan
Northern Kentucky Water
District

VICE PRESIDENT

Angela Licata
New York City Department of
Environmental Protection

Shane Chapman
Metropolitan Water District of
Southern California

Robert Hunter
Municipal Water District of
Orange County

Sue McCormick
Great Lakes Water Authority

TREASURER

John Entsminger
Las Vegas Valley Water
District

Robert L. Davis
Cleveland Department of Public
Utilities

Ghassan Korban
New Orleans Water and Sewer
Board

Jeffrey Szabo
Suffolk County Water Authority

SECRETARY

Kathryn Sorensen
Phoenix Water Services

Scott Dewhirst
Tacoma Water

Carrie Lewis
Portland Water District

John P. Sullivan, Jr.
Boston Water and Sewer
Commission

**CHIEF EXECUTIVE
OFFICER**

Diane VanDe Hei

Steve Edgemon
Fairfax Water

James S. Lochhead
Denver Water

Douglas Yoder
Miami-Dade Water and Sewer
Department

Yvonne Forrest
Houston Public Utilities
Division

PMN Number(s): P-17-193

Chemical Name(s): Pentaerythritol ester of mixed linear and branched carboxylic acids and Dipentaerythritol ester of mixed linear and branched carboxylic acids (generic)

Within the notice, EPA concludes 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 notice also states the agency has identified concerns reproductive and developmental effects. Most concerning is EPA’s prediction that drinking water toxicity may occur at concentrations that exceed 330 parts per billion (ppb) and system toxicity. The notice goes on to require that there be no releases to waters of the United States that would exceed a surface water concentration of 330 ppb.

AMWA is extremely concerned by EPA’s determination, which appears to have limited scientific basis, that these chemicals may be released to surface waters. Although some data has been apparently submitted supporting 330 ppb, as mentioned above the agency determined that it is lacking sufficient information to make an evaluation. AMWA requests that EPA further explain the reasoning behind this determination and if there is additional empirical support for this determination, AMWA requests that EPA make such information readily available.

This is the first time that AMWA has noticed EPA’s inclusion of a chemical substance where the agency has predicted that drinking water toxicity may occur since the association began engaging EPA on SNURs. AMWA believes that any chemical which the agency deems could be particularly problematic in drinking water should be completely prohibited from being intentionally disposed of within surface waters which may be, or may eventually lead to, potential sources of drinking water. Although EPA has determined that there will not be risks to the general public at levels below 330 ppb, AMWA fails to see why the agency would not establish that entities producing this chemical should find other methods of disposal. AMWA is concerned that, in time, new data could be discovered showing that 330 ppb was in fact not protective enough. The association feels discharges present an unnecessary risk and strongly urges EPA to consider revoking this provision.

PMN Number(s): P-17-0282

Chemical Name(s): Isocyanic acid, polymethylenepolyphenylene ester, caprolactam- and phenol-blocked

Within the notice, EPA concludes 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.” EPA also identified concerns for developmental toxicity and predicts aquatic toxicity at concentrations exceeding 1 ppb. The notice goes on to require that there be no releases to waters of the United States that would exceed a surface water concentration of 1 ppb.

AMWA is extremely concerned by EPA’s determination, which appears to have limited scientific basis, that these chemicals may be released to surface waters. Although some data has been apparently submitted supporting 1 ppb, as mentioned above the agency determined that it is lacking sufficient information to make an evaluation. AMWA requests that EPA further explain the reasoning behind this determination and if there

is additional empirical support for this determination, AMWA requests that EPA make such information readily available.

Within the final Health Risk Assessment included in the docket, it is stated that “exposure to the general population was not assessed via drinking water and fish ingestion because there are no releases to water”. AMWA requests clarification on this statement. If entities are allowed to release this substance into surface waters at any level, even if those concentrations do not exceed 1 ppb, then exposure to the general public should still be assessed. AMWA encourages EPA to require more study and/or data on exposure to the general public, particularly via drinking water.

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-17-0334

Chemical Name(s): Benzamide, 2-(trifluoromethyl)-

Within the notice, EPA states that this substance “may present an unreasonable risk of injury to human health or the environment.” EPA identified concerns for reproductive, developmental and neurotoxicity effects. The agency also predicts environmental effects at surface water concentrations that exceed 39 ppb. The notice goes on to require that there be no releases to waters of the United States that would exceed 39 ppb.

The information included in the docket states that migration of these chemicals to groundwater is expected to be 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 these substances during wastewater treatment is expected to be between 0-25%. 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.

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-18-0062

Chemical Name(s): Oxirane, 2,2' -[cyclohexylidenebis(4,1-phenyleneoxymethylene)]bis-

Within the notice, EPA concludes 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.” EPA also identified concerns for carcinogenicity and reproductive effects, and predicts aquatic toxicity at

concentrations exceeding 1 ppb. The notice goes on to require that there be no releases to waters of the United States that would exceed 1 ppb.

AMWA is extremely concerned by EPA's determination, which appears to have limited scientific basis, that these chemicals may be released to surface waters. Although some data has been apparently submitted supporting 1 ppb, as mentioned above the agency determined that it is lacking sufficient information to make an evaluation. AMWA requests that EPA further explain the reasoning behind this determination and if there is additional empirical support for this determination, AMWA requests that EPA make such information readily available.

Within the Consent Order included in the docket, it is stated that "exposure to the general population was not assessed via drinking water and fish ingestion because there are no releases to surface water". AMWA requests clarification on this statement. If entities are allowed to release this substance into surface waters at any level, even if those concentrations do not exceed 1 ppb, then exposure to the general public should still be assessed. AMWA encourages EPA to require more study and/or data on exposure to the general public, particularly via drinking water.

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.

Comments Related to the Process as a Whole

AMWA greatly appreciates the agency's procedure of grouping all documents related to a single chemical 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.

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.

Assistant Administrator Dunn

June 3, 2020

Page 5

AMWA also recommends that EPA reconsider approvals in future SNURs 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.

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