



PRESIDENT

Donnie R. Wheeler
General Manager
Hampton Roads
Sanitation District
Virginia Beach, VA

VICE PRESIDENT

Dick Champion, Jr.
Director
Water Pollution
Control Department
Independence, MO

TREASURER

Christopher M. Westhoff
Assistant City Attorney
Public Works General Counsel
City of Los Angeles
Los Angeles, CA

SECRETARY

Marian Orfeo
Director of Planning & Coordination
Massachusetts Water
Resources Authority
Boston, MA

EXECUTIVE DIRECTOR

Ken Kirk

October 11, 2005

Public Information and Records Integrity Branch (7502C)
Office of Pesticide Programs (OPP)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Attn: Docket No. OPP-2004-0404
Via Electronic Mail

Re: *Docket ID Number OPP-2004-0404; Pesticides; Procedural Regulations for Registration Review*

Dear Sir or Madam:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on the proposed rule regarding procedural regulations for pesticide registration review (July 13, 2005; 70 *Fed. Reg.* 40251). Founded in 1970, NACWA represents the interests of nearly 300 of the nation's publicly owned wastewater treatment utilities. NACWA's members continue to face challenges as they strive to meet increasingly stringent effluent limitations while having little control over many of the sources of toxic pollutants and other substances in the wastewater they treat. Effective evaluation of pesticides that may pose environmental and human health risks during the registration review process will help the nation's wastewater treatment utilities protect water quality.

NACWA requests that the U.S. Environmental Protection Agency (EPA) thoroughly evaluate the potential for adverse water quality impacts caused by pesticides entering sewers during registration review. In addition, the registration review process should allow ample opportunity for stakeholder comments.

Pesticide Impacts on Wastewater Treatment Plants and Water Quality Should Be Assessed

Wastewater treatment plants are not designed to treat pesticides. However, pesticides may be discharged to treatment plants as a result of both indoor and outdoor pesticide applications. Pesticides can potentially interfere with treatment plant operation and the ability to recycle reclaimed water and biosolids, and affect compliance with National Pollutant Discharge Elimination System (NPDES) or Clean Water Act permit effluent limits. The potential for these impacts should be assessed in pesticide risk assessments.

Pesticides can enter sewer systems in many different ways. When a pesticide is used indoors, for example, it will often be discharged to a sewer, either because the use produces wastewater (e.g., flea shampoos and dips), or because an indirect pathway for sewer discharge exists (e.g., the treated surface is eventually cleaned with water or a treated garment is laundered). Some outdoor uses of pesticides also lead to sewer discharges of pesticides (e.g., filter backwash from swimming pools containing antimicrobial agents). Since municipal wastewater treatment plants are not designed to treat or remove pesticides, they are likely to pass through the treatment process and enter the effluent or waste solids. Pesticides in treatment plant effluent have caused aquatic toxicity and exceedances of permit effluent limits for some treatment plants.

EPA needs to recognize that pesticide uses can adversely impact sewerage systems. The Agency's previous pesticide risk assessments do not adequately address these impacts, with the exception of the recently released risk assessments for permethrin.¹ NACWA believes that during registration review, EPA should run the sewer discharge model used in the permethrin risk assessments on all pesticides with pathways to sewers. The model should be used to determine effects on POTW compliance and downstream receiving water quality.

Adequate Risk Management Strategies Should Be Developed

When any potential water quality impacts are identified by EPA during its registration review for a pesticide, it is essential that EPA implement adequate risk management strategies. The risk benefit standards of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) require EPA to ensure that a pesticide is used in such a manner that mitigation under the Clean Water Act is minimal or unnecessary. Risk management strategies should be required by EPA for all exceedances of water quality criteria (or equivalent values calculated for the purpose of the risk assessment) and all expected incidents of non-compliance by NPDES permit holders due to pesticides.

If risk management strategies include phase-out of the use of a pesticide, EPA needs to develop procedures to ensure the phase-out itself does not lead to adverse water quality impacts. These impacts can be caused by replacement of the phased-out pesticide with another pesticide causing water quality problems. Improper disposal of phased-out pesticides is also a serious concern. For example, during the phase-out of most urban uses of diazinon, a NACWA member agency experienced a toxicity incident downstream of a water reclamation facility that appeared to be caused by illegal disposal of a diazinon-based pesticide.

Registration Reviews Should be Prioritized by Known Impacts on Water Quality

In determining its schedule for future pesticide registration reviews, EPA should prioritize reviews of pesticides known to impair or threaten water quality. As part of the prioritization process, EPA should create a formal list of all pesticides having the potential to exceed environmentally relevant concentrations in surface water. The list should include all pesticides that have been determined to impair surface waters under the Clean Water Act Section 303(d), as well as pesticides that have caused or contributed to NPDES permit violations.

Registration Reviews Should Consider Potential POTW Costs

Non-compliance with the Clean Water Act requirements can be extremely costly for POTWs. Costs are incurred for identifying the source of the pollutants causing non-compliance, source control to reduce impacts of the pollutants, and construction, operation, and maintenance costs to upgrade wastewater treatment plants with advanced treatment to remove pollutants that cannot be adequately reduced with source control. These potential costs should be taken into account when structuring the registration review program.

¹ 70 FR 51790

October 11, 2005

Page 3

In its public meetings on the registration review program, EPA has stated that its goal is to make the registration review program cost efficient for EPA and industry. EPA should recognize that its registration decisions can also result in significant costs for state and local government agencies. The goal of the registration review program needs to be expanded to include cost efficiency for state and local government agencies.

Stakeholder Participation

NACWA supports EPA's efforts to create meaningful stakeholder participation opportunities during registration review. However, the proposed procedures should be modified to ensure stakeholder participation at key decision points. In addition to the stakeholder participation opportunities in the proposed rule, EPA should formally request stakeholder input on the decision whether to do new risk assessments and the scope of any new risk assessments.

NACWA is concerned that draft risk assessments may not always be circulated for stakeholder comment. The proposed rule states, "The Agency will generally make available for public review and comment a draft risk assessment for a pesticide if a new risk assessment has been conducted." While NACWA recognizes EPA's desire to streamline the registration review process, we believe that draft risk assessments should always be circulated for public/stakeholder review. This would ensure that POTWs are given adequate opportunity to verify that sewer discharges of pesticides have been appropriately evaluated. This is especially important because previously written risk assessments did not consider water quality impacts from sewer pathways.

In addition, risk mitigation options should be available for stakeholder comment. For re-registrations, EPA has always formally requested public input into risk management measures. The proposed rule states that "the Agency may consult with registrants, pesticide users, or public interest groups during the pesticide's registration review with regard to developing risk management options for a pesticide." However, the proposed rule does not guarantee that the public will be given an opportunity to comment on the risk mitigation measures; it instead states that U.S. EPA "may consult" with stakeholders. NACWA is concerned that POTW stakeholders may not be consulted regarding risk management options.

Finally, NACWA requests that all public comment periods be at least 60 calendar days. NACWA has found in the past that 30 calendar days is often insufficient. At least 60 calendar days are necessary to ensure that POTWs can review the relevant documents, coordinate with other agencies and scientific experts, obtain scientific information, and prepare meaningful comments.

NACWA appreciates the opportunity to comment on the proposed rule. If you have any questions or require additional information, please contact me at 202/833-9106.

Sincerely,



Chris Hornback
Director, Regulatory Affairs