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Docket No. OPP-2003-0248

Preliminary Risk Assessment for the Creosote Reregistration Eligibility Decision

The purpose of this letter is to comment on the Preliminary Risk Assessment for the Creosote Reregistration Eligibility Decision. Tri-TAC is concerned that the draft risk assessment does not adequately evaluate the environmental risks associated with the use of creosote, and recommends that the U.S. EPA not proceed further with reregistration for creosote until the potential environmental impacts of its usage can be more thoroughly evaluated.

As background, Tri-TAC is a technical advisory group for Publicly Owned Treatment Works (POTWs) in California. It is jointly sponsored by the California Association of Sanitation Agencies, the California Water Environment Association, and the League of California Cities. The constituency base for Tri-TAC collects, treats, and reclaims more than two billion gallons of wastewater each day and serves most of the sewered population of California.

Creosote Linkage to Water Quality Issues

First registered in 1948, creosote is a coal tar-based wood preservative. While creosote mixtures vary, they consist generally of a large number of polyaromatic hydrocarbons (PAHs), many of which are highly toxic to both humans and aquatic life. It is estimated that creosote mixtures are 85 percent PAHs.¹ The creosote products of

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¹ United States Environmental Protection Agency, Creosote – Environmental Fate, OPP-2003-0248-0011, November 26, 2003.

greatest concern to us are applied to wood installed in or near aquatic environments, such as creosote-treated wood piers and pilings. These products directly release toxic chemicals into the nation's surface waters and may contribute to impairments and threatened impairments to beneficial uses of certain surface waters.

The primary active ingredients in creosote – PAHs – are listed as constituents causing listing of twenty water bodies on the State's 2002 Section 303(d) List in California. While the sources of these impairments are not known at this time, it is reasonably likely that creosote-treated wood – particularly wood submerged in these water bodies – has caused or contributed to these listings, particularly given the near-shoreline, near-pier location of many of the listed locations. As a result of the development and implementation of the Total Maximum Daily Loads required to be developed for waters included on the State's 303(d) List, POTWs discharging to these waterbodies may be required to undertake expensive efforts to reduce discharges of PAHs to these water bodies, even if they are not significant contributors to the PAH contamination. To ensure that other controllable sources are appropriately evaluated and, if necessary, controlled, we believe that through its pesticide reregistration program, EPA should perform a careful risk assessment of all products that may potentially be contributing to water quality problems, particularly those documented through Section 303(d) listings.

Draft Risk Assessment Shortcomings

The purpose of the creosote reregistration risk assessment is to evaluate the potential human health and environmental effects associated with use of creosote products. We recognize that the variability and complexity of creosote composition make toxicity and risk assessments difficult. Proper risk assessment will rely on data for creosote mixtures, as well as data for individual PAHs listed under the Clean Water Act as priority pollutants (Clean Water Act Section 307, 33 *United States Code* 1317).

According to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the regulations that implement it, the producers of each pesticide being reregistered must provide data from chemical and biological tests done according to EPA guidelines. According to EPA materials, "These tests evaluate whether a pesticide has the potential to cause harmful effects on humans, wildlife, fish, and plants, including endangered species and nontarget organisms, as well as possible contamination of surface water or ground water from leaching, runoff, and spray drift."²

These tests performed by the pesticide producers—together with high-quality information from published scientific literature—form the essential scientific basis for EPA reregistration risk assessments. Given this strong regulatory requirement, the scientific need for this information, and the fact that creosote has been registered for more than fifty years, we find it surprising that the draft risk assessment states, "No ecotoxicity studies have been submitted to the Agency in support of the reregistration of creosote."³ It additionally states, "None of the creosote ecotoxicity data identified in the open literature fully address FIFRA guideline requirements."⁴ It thus appears that EPA performed its Ecological Effects and Environmental Risk Characterization without a single study for any species that meets FIFRA guidelines. The risk characterization was based on inferences from inadequate data where possible. Due to a lack of data, EPA was unable to make any determination as to the chronic risk creosote may present to freshwater invertebrates and marine/estuarine aquatic organisms, including endangered species. We are particularly concerned about the lack of data on shellfish, which, due to their relative lack of mobility, may have higher exposure to creosote than other types of aquatic life.

² <http://www.epa.gov/pesticides/regulating/data.htm>.

³ United States Environmental Protection Agency, Creosote – Ecological Effects and Environmental Risk Characterization,

OPP-2003-0248, November 26, 2003.

⁴ *Ibid.*

Other essential types of data are also missing, such as environmental fate data to estimate whole creosote and individual PAH leaching from treated wood in aquatic environments.

Recommendation for More Complete Risk Assessment

According to EPA materials, "When EPA approves a particular pesticide for registration, the Agency has assessed the chemical and found that, when used according to label directions, it does not pose unreasonable risk to public health and the environment."⁵ We call on U.S. EPA to fulfill this promise and its mandates under FIFRA by obtaining the information necessary to conduct complete and scientifically valid risk assessments, and then completing such assessments, prior to approving creosote for reregistration.

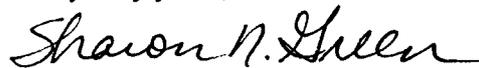
Tri-TAC's members rely on EPA's assistance to carry out their continuing responsibility to protect water quality. POTWs generally do not have the authority to restrict uses of pesticides at the local level; this responsibility lies with the EPA. Properly implemented, U.S. EPA's pesticide registration process can ensure that water quality standards established pursuant to the Clean Water Act are maintained and aquatic species, including endangered and threatened species, are protected. Proper implementation includes obtaining the necessary data to conduct meaningful environmental risk assessments. We recommend that EPA's Office of Pesticide Programs (OPP) coordinate with the EPA Office of Water to ensure that the registered uses of creosote will not impair the nation's surface waters.

We further recommend that the EPA act to prevent Clean Water Act compliance problems, rather than requiring local governments to make substantial expenditures to manage pesticide releases authorized by the EPA. We must rely on the EPA to prevent pesticide-related water quality problems at a national level.

Conclusions

In summary, Tri-TAC recommends that the EPA amend its draft risk assessment for creosote to more thoroughly assess risks to aquatic environments, and not proceed with the creosote reregistration until a more complete risk assessment has been completed. Thank you for your consideration in this matter. If you have any questions or require additional information, please contact Ann Heil at 562/699-7411, extension 2950 or aheil@lacsdsd.org.

Very truly yours,



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Chair, Tri-TAC

⁵ <http://www.epa.gov/pesticides/regulating/data.htm>.