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Attn: Docket No. OPP-2004-0404

Submitted Electronically

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

Tri-TAC appreciates the opportunity to comment on the proposed rule regarding procedural regulations for pesticide registration review. Tri-TAC requests that U.S. 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.

Tri-TAC is a technical advisory group for Publicly Owned Treatment Works (POTWs) in California. The California Association of Sanitation Agencies (CASA), the California Water Environment Association, and the League of California Cities jointly sponsor Tri-TAC. 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.

Sewer System Impacts

POTWs are not designed to treat pesticides. However, pesticides may be discharged to POTWs in conjunction with both indoor and outdoor pesticide applications. Pesticides can potentially interfere with treatment plant operation, ability to recycle reclaimed water and biosolids, and compliance with National Pollutant Discharge Elimination System (NPDES) permit effluent limits. When surface water bodies become impaired by pesticides, POTWs discharging to the water bodies can be impacted through requirements established as part of

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Total Maximum Daily Loads (TMDLs) set for the water bodies. The potential for these impacts should be assessed during pesticide registration review.

When a pesticide is used indoors, it can 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 pesticide-impregnated garment is laundered). Some outdoor uses of pesticides also lead to sewer discharges of the pesticides (e.g., filter backwash from swimming pools containing antimicrobial agents). Since POTWs are not designed to treat pesticides, treatment plant effluent and biosolids may contain the pesticide. Such pesticide releases can cause aquatic toxicity and exceedances of NPDES permit effluent limits.

U.S. EPA needs to recognize that pesticide uses can adversely impact sewerage systems. U.S. EPA's previous risk assessments do not adequately address these impacts, with the exception of the recently released risk assessments for permethrin.¹ During registration review, U.S. 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.

Risk Management

When any potential water quality impacts are identified by U.S. EPA during its registration review for a pesticide, it is essential that U.S. EPA implement adequate risk management strategies. The risk benefit standards of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) require U.S. 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 U.S. 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.

If risk management strategies include phase-out of the use of a pesticide, U.S. 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 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.

¹ 70 FR 51790

Scheduling

In determining its schedule for future pesticide registration reviews, U.S. EPA should prioritize reviews of pesticides known to impair or threaten water quality. As part of the prioritization process, U.S. 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.

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.

In its public meetings on the registration review program, U.S. EPA has stated that its goal is to make the registration review program cost efficient for U.S. EPA and industry. U.S. EPA should recognize that its registration decisions could entail 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.

Public Participation

Tri-TAC supports U.S. EPA efforts to create meaningful public participation opportunities for all stakeholders during registration review. However, the proposed procedures should be modified to ensure public participation at key decision points. In addition to the public participation opportunities in the proposed rule, U.S. EPA should formally request public input on the decision whether to do new risk assessments and the scope of any new risk assessments.

Tri-TAC is concerned that draft risk assessments may not always be circulated for public 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 Tri-TAC recognizes U.S. EPA's desire to streamline the registration review process, we believe that draft risk assessments should always be circulated for public 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 public comment. For re-registrations, U.S. EPA has always formally requested public input into risk management measures. The proposed rule states *"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. Tri-TAC is concerned that POTW stakeholders may not be consulted regarding risk management options.

Finally, Tri-TAC requests that all public comment periods be at least 60 calendar days. Tri-TAC has found in the past that 30 calendar days can often be 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.

Contact Information

Tri-TAC appreciates the opportunity to comment on the proposed rule. If you have any questions or require additional information, please contact Ms. Preeti Ghuman by phone at (562) 699-7411, extension 2904, or by email at pghuman@lacsdsd.org.

Sincerely,



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Chair, Tri-TAC

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