November 2, 2020

Megan Snyderman
OPP Docket
Environmental Protection Agency Docket Center (EPA/DC)
(28221T)
1200 Pennsylvania Ave., NW.
Washington, DC 20460–0001

Subject: 10,10'-oxybisphenoxarsine (OBPA) – Draft Risk Assessment (EPA–HQ–OPP–2009–0618)

Dear Ms. Snyderman:

On behalf of the Bay Area Clean Water Agencies (BACWA), we thank you for the opportunity to comment on the Draft Risk Assessment for the arsenic-containing antimicrobial 10,10'-oxybisphenoxarsine (OBPA), which is used in coatings for the interiors of swimming pools, spas, hot tubs, and fountains—as well as textiles, upholstery, other coatings, floor and wall coverings, plastic products, shower curtains, mattress covers, ink, latex and other uses. BACWA's members include 55 publicly owned wastewater treatment facilities and collection system agencies serving 7.1 million San Francisco Bay Area residents. We take our responsibilities for safeguarding receiving waters seriously.

BACWA is concerned that the Draft Risk Assessment did not examine risks associated with discharges from swimming pools, spas, hot tubs, and fountains with OBPA-treated liners. EPA's risk assessment estimates that the arsenic concentration in this water would exceed OPP-identified aquatic toxicity endpoints for OBPA, as well EPA water quality criteria for arsenic in waters that are sources of organisms for human consumption. Our comments focus on two issues: (1) the implications of the presence of arsenic in water in discharged from swimming pools, spas, hot tubs, and fountains with OBPA-treated liners and (2) the issue of draining location and flow rates when draining antimicrobial-containing water to the wastewater collection system.

Due to the presence of chemicals that are toxic to aquatic organisms, water regulators and municipal urban runoff programs are working to prevent discharges of antimicrobial-containing swimming pool, spa, hot tub, and fountain water to the storm drain system, instead shifting discharges to the wastewater collection (sewer) system. In the paragraphs below, we outline why these discharges are a concern and request risk management through updated label language for this pesticide.

With regard to the second issue, we are writing to request that the OBPA Registration Review decision follows the precedent for improved labels for swimming pool, spa, and hot tub products that was established by the decisions for other antimicrobials with these uses, such as lithium hypochlorite and copper. In those Registration Review decisions, EPA worked carefully through the various issues to develop practical label language that mitigates possible aquatic impacts from discharge of treated water while preventing excess flows into sewer collection systems.

BACWA's Interest in Pool, Spa, Hot Tub, and Fountain Pesticides

Pools may be emptied for cleaning every two to seven years and spas may be drained as often as every three months.[1] The water is discharged to storm drain systems, to sanitary sewer lines flowing to wastewater treatment facilities, or to surrounding landscaped areas. However, neither storm drain systems nor wastewater treatment facilities are necessarily prepared to handle antimicrobials and conventional pesticides in water.

Due to concerns about these constituents flowing untreated to surface waters and Clean Water Act NPDES permit requirements, many California stormwater agencies are directing pool, spa, hot tub, and fountain owners to discharge to their local sanitary sewer. Many wastewater agencies support this practice because some constituents, such as pH and suspended solids, may be effectively reduced through treatment; however, wastewater treatment plants are not specifically designed to remove pesticides. Some antimicrobials, if discharged in sufficient quantities, have potential to interfere with the biological treatment processes at municipal wastewater treatment plants. Additionally, while some agencies have the resources to work with institutional, public and commercial swimming pool operators regarding swimming pool best management practices and the types of pool chemicals they use, the vast majority of swimming pools are privately owned residential pools, the owners of which are not easily reached. With approximately 1.2 million in-ground pools in California and 5 million pools nationwide[2], and countless more spas and hot tubs, wastewater agencies have limited authority and resources to regulate the frequency, volume and constituents of discharges.

EPA has calculated the concentration of OBPA in treated swimming pools to be 56 µg/L, based on the 10% leaching rate from the manufacturers' study.[3] EPA also notes that the OBPA toxicity endpoint for freshwater invertebrates is 4.8 µg/L and the toxicity endpoint for saltwater invertebrates is 50 µg/L.[4] BACWA is concerned that the concentration of OBPA in treated swimming pools exceeds the OBPA toxicity endpoints for both freshwater and estuarine/marine invertebrates. During dry conditions where there is little dilution, the OBPA toxicity endpoints for invertebrates could be exceeded by the draining of a single pool.

Further, while this is not a pesticide regulatory issue, high-flow swimming pool discharges to the sanitary sewer can cause a sewer back-up, potentially spilling untreated sewage onto streets and into storm drains, which could also create an acute hazard. Maintaining low flow rates (e.g., discharge through a garden hose rather than a fire hose) prevents such problems.

---

[1] Pool Corp (2016). Frequently Asked Questions. Available at http://www.swimmingpool.com/faq.
[2] P.K. Data, Inc. (2012). Phone conversation with staff member Joshua Darling, August 15, 2016.
[3] Registration Review Draft Risk Assessment for 10,10'-Oxybisphenoxarsine (OBPA) (2020) p. 23
[4] Ibid. p. 36

BACWA Requests that EPA address the Clean Water Act implications of the arsenic content of OBPA

OBPA contains arsenic, a priority pollutant under the Clean Water Act, for which EPA has developed water quality criteria.[5] Prior to completing OBPA Registration Review, EPA needs to consider these water quality criteria, implications for NPDES permit compliance, and potential contribution to the >17,000 miles of arsenic listings under section 303(d) of the Clean Water Act and Total Maximum Daily Loads (TMDLs).[6]

BACWA Requests Revised Labeling as a Mitigation Measure

BACWA requests that the current OBPA label language for any pool, spa, hot tub, and fountain coating products be amended to require that end use products have label language that matches the lithium hypochlorite and copper compounds labels, which would also provide consistent label language across pool, spa, hot tub, and fountain chemicals.

> *"**Discharge Directions for [Commercial] and [Residential] [Pool,] [Spa,] [Hot Tub,] and [Fountain] Uses:** Before draining a treated [pool,] [spa,] [hot tub,] or [fountain] contact your local sanitary sewer and storm drain authorities and follow their discharge instructions. Do not discharge treated [pool,] [spa,] [hot tub,] or [fountain] water to any location that flows to a gutter, storm drain or natural water body unless discharge is allowed by state and local authorities."*

We have attached our comment letter on the proposed Registration Review decision for lithium hypochlorite, which details the importance of the discharge control label language – including the discharge prohibition in the second sentence.

Thank you for your consideration of our comments. If you have any questions, please contact BACWA's Project Managers:

Karin North
City of Palo Alto
(650) 329-2104
Karin.north@cityofpaloaloalto.org

Autumn Cleave
San Francisco Public Utilities Commission
(415) 695-7336
acleave@sfwater.org

Respectfully Submitted,

Lorien Fono, Ph.D., P.E.
Executive Director
Bay Area Clean Water Agencies

---

[5] Please see https://www.epa.gov/wqc

[6] https://ofmpub.epa.gov/waters10/attains_nation_cy.cause_wbtype_detail?p_cause_group_name=METALS (OTHER THAN MERCURY)&p_wbtype=STREAM/CREEK/RIVER&p_wtype_display=Rivers and Streams&p_sz_column= size_1&p_sz_unit=miles

cc: Edward Messina, Acting Director, EPA OPP
Anita Pease, Director, Antimicrobials Division, EPA OPP
Elissa Reaves, Acting Director, Pesticide Re-Evaluation Division
Rose Kyprianou, RMB II, Antimicrobials Div.
Rick Fehir, RMB II, Antimicrobials Div.
Melissa Panger, Acting Branch Chief, Antimicrobials Div., Risk Asses. & Science
David Bays, Risk Assess. and Science Support Branch, Antimicrobials Division
Jim Breithaupt, Risk Assess. and Science Support Branch, Antimicrobials Division
Alicia Denning, Risk Assess. and Science Support Branch, Antimicrobials Division
Deborah Burgin, Risk Assess. and Science Support Branch, Antimicrobials Division
Timothy Leighton, Risk Assess. and Science Support Branch, Antimicrobials Division
Judy Facey, Antimicrobials Division, Risk Asses. & Science
Andrew Sawyers, Director, EPA Office of Water, Office of Wastewater Management
Tomas Torres, Director, Water Division, EPA Region 9
Debra Denton, EPA Region 9
Patti TenBrook, EPA Region 9
Karen Mogus, California State Water Resources Control Board
Philip Crader, California State Water Resources Control Board
Rich Breuer, California State Water Resources Control Board
Tom Mumley, California Regional Water Quality Control Board, San Francisco Bay Region
Janet O'Hara, California Regional Water Quality Control Board, San Francisco Bay Region
James Parrish, California Regional Water Quality Control Board, SF Bay Region
Debbie Phan, California Regional Water Quality Control Board, SF Bay Region
Jennifer Teerlink, California Department of Pesticide Regulation
Aniela Burant, California Department of Pesticide Regulation
Kelly D. Moran, Urban Pesticides Pollution Prevention Partnership
Chris Hornback, National Association of Clean Water Agencies
Cynthia Finley, National Association of Clean Water Agencies
BACWA Pesticides Workgroup
BACWA Executive Board