



November 2, 2020

Jessie Bailey
Office of Pesticide Programs (OPP)
c/o Regulatory Public Docket Center (28221T),
U.S. Environmental Protection Agency (EPA)
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

Subject: Hypochlorous Acid Registration Review – Combined Preliminary Work Plan and Proposed Interim Registration Review Decision (Docket EPA-HQ-OPP-2020-0244)

Dear Ms. Bailey:

On behalf of the Bay Area Clean Water Agencies (BACWA), we thank you for the opportunity to comment on the Hypochlorous Acid Registration Review – Combined Preliminary Work Plan and Proposed Interim Registration Review Decision, which includes products with Potassium Peroxymonosulfate and Potassium Peroxymonosulfate Sulfate that are used in pools, spas, and hot tubs. 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 EPA did not examine risks associated with discharges of swimming pool, spa, and hot tub water treated with Potassium Peroxymonosulfate and Potassium Peroxymonosulfate Sulfate. The use of these products is widespread—for example, almost all of the 97 California-registered Potassium Peroxymonosulfate products are labeled for use in swimming pools, spas, and hot tubs.

BACWA is concerned that the Federal Register notice did not include the names of all the chemicals in the case. We would not have realized that Potassium Peroxymonosulfate and Potassium Peroxymonosulfate Sulfate are part of this case had we not downloaded and carefully reviewed the Combined Preliminary Work Plan and Proposed Interim Registration Review Decision. Furthermore, the Work Plan and Proposed Interim Decision does not enumerate the primary uses or examine risks associated with the primary uses of Potassium Peroxymonosulfate and Potassium Peroxymonosulfate Sulfate, which, based on number of products registered, appears to be swimming pool, spa, and hot tub treatments.

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-treated

swimming pool, spa, and hot tub 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. Our comments focus on the issue of draining location and flow rates when draining treated water to the wastewater collection system. We are writing to request that EPA identify the significant risks of discharging swimming pool, spa, and hot tub water after use of these chemicals, as well as follow 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, and Hot Tub 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 treated pool, spa, and hot tub 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, and hot tub 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. Pesticides either pass through into receiving waters or adhere to solids and affect their beneficial reuse.

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 nationwide², and countless more spas, and hot tubs, wastewater agencies have limited authority and resources to regulate the frequency, volume and constituents of discharges.

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.

BACWA Requests Revised Labeling as a Mitigation Measure

BACWA requests that the current label language for any pool, spa and hot tub products be changed to match the lithium hypochlorite and copper compounds labels, which would also provide consistent label language across pool, spa, and hot tub 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@cityofpaloalto.org

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

Respectfully Submitted,



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

cc: Edward Messina, Acting Director, EPA OPP
Elissa Reaves, Acting Director, Pesticide Re-Evaluation Division
Anita Pease, Director, Antimicrobials Division, EPA OPP
Rose Kyprianou, Branch Chief, Antimicrobials Div., Reg. Management II
Melissa Panger, Acting Branch Chief, Antimicrobials Div., Risk Asses. & Science
Richard Fehir, Risk Management Branch (RMB) II, Antimicrobials Div.
Timothy Leighton, Antimicrobials Division, Risk Asses. & Science
Judy Facey, Antimicrobials Division, Risk Asses. & Science
Demson Fuller, Risk Management, Antimicrobials Division
Andrew Sawyers, Director, EPA Office of Water, Office of Wastewater Management
Tomas Torres, Director, Water Division, EPA Region 9
Tracy Perry, EPA OPP Pesticide Re-Evaluation Division

Patti TenBrook, EPA Region 9

Debra Denton, EPA Region 9

Karen Mogus, Deputy Director, California SWRCB

Philip Crader, Assistant Deputy Director, California SWRCB

Rich Breuer, California SWRCB

Tom Mumley, California RWQCB SF Bay Region

Janet O'Hara, California RWQCB, SF Bay Region

James Parrish, California RWQCB, SF Bay Region

Debbie Phan, California RWQCB, SF Bay Region

Jennifer Teerlink, California Department of Pesticide Regulation

Aniela Burant, California Department of Pesticide Regulation

Chris Hornback, Chief Technical Officer, National Association of Clean Water Agencies

Cynthia Finley, Director, Reg. Affairs, National Association of Clean Water Agencies

Kelly D. Moran, Urban Pesticides Pollution Prevention Partnership

BACWA Executive Board

BACWA Pesticides Workgroup