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March 8, 2012

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Betsy Behl

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Via Electronic Mail: behl.betsy@epa.gov

Dear Don and Betsy,

The National Association of Clean Water Agencies (NACWA) has closely followed the cooperative effort between the U.S. Environmental Protection Agency's (EPA) Office of Water (OW) and Office of Pesticide Programs (OPP) to "harmonize" the Agency's approach to assessing the impacts of pesticides. Recognizing the gap between the numbers and endpoints OW uses to regulate dischargers and protect receiving waters and the numbers used by OPP to regulate pesticides, this critical effort has focused on developing a balanced approach that establishes an acceptable set of numbers that are protective of water quality, while ensuring that appropriate pesticide use remains feasible.

NACWA clean water agency members are acutely aware of the potential Clean Water Act (CWA) compliance implications and water quality impacts due to the presence of pesticides and pesticide residues in wastewater. NACWA wants to underscore the importance of this effort for the clean water community and urges you to continue this critical initiative.

As NACWA stressed in its January 14, 2011 comments on the harmonization effort, the CWA is not the appropriate statute for addressing the water impacts of pesticides. The Agency's ongoing work is making tremendous progress toward addressing the discrepancies between the water and pesticide programs:

While POTWs [publicly owned treatment works] are responsible for meeting toxicity test requirements and tracking down the source of toxic pollutants, they have little or no control over the pesticides that may contribute to toxicity test failures. It is, therefore, essential that EPA use the full extent of its authority under the Federal Insecticide, Fungicide, and Rodenticide (FIFRA) Act to prevent adverse aquatic life impacts from pesticides. The CWA's regulatory programs are not the appropriate mechanisms for addressing problems from pesticides in effluent or surface waters.

For the last two years, the focus of the harmonization project has been on developing methods to derive numbers that are scientifically similar to water quality criteria, but are developed only with the data that are typically available for evaluating most pesticides – which as you know requires a much smaller aquatic toxicity data set than would be required to develop water quality criteria. Based on this work, EPA published three white papers, which were recently peer-reviewed, examining various facets of this topic. NACWA understands that EPA is now awaiting a report from the scientific advisory panel that reviewed the papers before it decides on next steps. As you work to evaluate the feedback from the peer review panel, please do not hesitate to contact us should you have any questions on the POTW perspective.

The Agency's efforts have already had a tremendous impact and we thank you for your continued leadership on this issue. Specifically, the project has already had two important benefits:

- It has further opened communication between OW and OPP and generated much greater cooperation between the two offices. For example, we understand that OPP has recently been in communication with OW on the unrelated, but important, issue of how EPA might conduct environmental risk assessments for pesticides in biosolids.
- The two offices recently published a joint procedure for evaluation of aquatic toxicity data. For the first time, both offices will come to the same conclusion about data acceptability – an important first step.

In addition, OPP has added POTW discharge modeling to the environmental risk assessment procedures. While we still would like to work with OPP on aspects of how the POTW discharge modeling is conducted, particularly the removal efficiency estimates, better characterizing pesticide sources, handling discharge dilution in effluent-dominated waterways, and biosolids risk assessments, we have greatly appreciated working with OPP and OW staff on these issues.

Again, we urge you to continue work on this initiative as it is of great importance to the clean water community. Please do not hesitate to contact me should you have any questions.

Sincerely,



Chris Hornback

Senior Director, Regulatory Affairs