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August 17, 2011

Office of Pesticide Programs

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, D.C. 20406-0001

Submitted via [www.Regulations.gov](http://www.Regulations.gov)

**Re: Docket ID No. EPA-HQ-OPP-2010-0197; Policies Concerning Products Containing Nanoscale Materials**

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed policy for addressing nanoscale materials in pesticide products. NACWA represents the interests of nearly 300 publicly owned wastewater treatment works (POTWs), which treat and reclaim the majority of the wastewater generated each day nationwide.

After decades of controlling the discharge of toxic pollutants to the sewer system, NACWA members are concerned that the increasing use of nanoscale materials may have adverse effects on the wastewater treatment process and the environment. NACWA believes that EPA's preferred information collection policy for nanoscale materials would not give the Agency the essential capability to identify products containing nanoparticles or to evaluate the impacts of the nanoparticles on water quality and POTW operations.

POTWs have developed and implemented sophisticated pretreatment programs to prevent the discharge of toxic pollutants to the sewer system from industrial and commercial sources. However, POTWs have no authority to control discharges of pollutants from residential sources, and any pesticide products containing nanoscale materials that are used in homes may end up in the sewer system. In addition, products used outdoors may wash off into combined sewer systems or directly into waterways. It is therefore essential that EPA require data generation before pesticides – including those containing nanoparticles – are approved for use to ensure that there are no negative impacts on water quality and POTW operations. The potential costs and additional taxpayer burden of mitigating these impacts could be significantly greater than the costs of generating data prior to registration of products containing nanoparticles.

NACWA agrees with EPA that “there is a growing body of scientific evidence showing that differences can exist between nanoscale material(s) and their non- nanoscale counterpart(s).” Since little is known about the environmental impacts of nanoscale materials used in various products, information on the effects of the nanoscale materials on the environment and the wastewater treatment process should be a vital component of approving the use of these materials in any products.

NACWA recommends that EPA use the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(c)(2)(B) approach, which involves obtaining information using Data Call-In notices (DCIs), to collect data about nanoscale materials. The DCI approach would allow EPA to require that manufacturers generate all of the new data required to ensure that the environmental impacts of the nanoscale materials are fully understood. The benefits of this data and the protection of wastewater treatment and the environment outweigh the initial administrative burden that this approach will place on EPA and product manufacturers from issuing and responding to DCIs. A phased implementation of this approach is reasonable, and NACWA recommends that products containing the types of nanoscale materials that have already been shown to potentially harm aquatic life and/or wastewater treatment, such as nanosilver, nanocopper, and carbon nanotubes, should be prioritized.

EPA states in its proposed policy that the Agency prefers using section 6(a)(2) of FIFRA. This approach, however, would only require that manufacturers submit data that they have already voluntarily generated. It would not allow EPA to identify products containing nanoparticles or require the generation of data that is needed to evaluate environmental risks. NACWA agrees with EPA that the alternative approach of revising the pesticide data regulations in 40 CFR Parts 158 and 161 would unacceptably delay generation of the necessary information. With the recent proliferation of products containing nanoscale materials, EPA must evaluate the impacts of nanoscale materials on POTW operations in a timely manner, since interference with wastewater treatment operations and associated permit violations may be very expensive for utilities.

Furthermore, NACWA asks EPA to obtain all necessary data for complete environmental risk evaluation prior to product registration, rather than using conditional registrations. If EPA does use conditional registration while waiting for appropriate data generation, appropriate limits, such as maximum quantity sold, should be established for products that are most likely to be washed into sewers, storm drains, or waterways. EPA’s review of nanoscale materials should consider not only the nanoscale materials themselves, but also the final product that is sold to the consumer, such as treated clothing or food containers, and the potential risks associated with how the nanoscale materials will disperse from these products into wastewater or the environment.

NACWA recommends that EPA proceed with appropriate evaluation of nanoscale materials using the DCI approach and appreciates your consideration of these comments. Please contact me at [chornback@nacwa.org](mailto:chornback@nacwa.org) or 202/833-9106 if you would like to discuss these comments further.

Sincerely,



Chris Hornback  
Senior Director, Regulatory Affairs

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August 17, 2011

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