

November 4, 2024

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U.S. Environmental Protection Agency
Office of Pollution Prevention and Toxics
Existing Chemical Risk Management Division (7404M)
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Submitted electronically via: <https://www.regulations.gov>

RE: U.S. Environmental Protection Agency Draft Risk Evaluation Under the Toxic Substances Control Act—Docket ID No. EPA-HQ-OPPT-2018-0436

Mr. Coleman:

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA) draft risk evaluation under the Toxic Substances Control Act (TSCA) for di-isononyl phthalate (DINP) (1,2-Benzene- dicarboxylic acid, 1,2- diisononyl ester) (CASRN 28553-12-0). ACWA shares EPA's goal to protect public health while ensuring a safe and reliable water supply. EPA should carefully consider additional information within the context of water supply before making a final determination as to whether DINP poses unreasonable risk and provide clear guidance on safe water supply piping alternatives if a final risk evaluation determines DINP poses unreasonable risk.

ACWA is the largest statewide coalition of public water agencies in the country. Our more than 470 public agency members collectively are responsible for 90 percent of the water delivered to communities, farms, and businesses in California. For more than a century ACWA and our members have been working to provide high quality, reliable water supplies in an environmentally sustainable and fiscally responsible manner.

EPA is an important federal partner for ACWA's members and other water providers to address water challenges. ACWA agency members help EPA implement effective and sustainable initiatives for water supply, quality, infrastructure, and more by executing regulatory compliance, discussing technical assistance and best-practices, and utilizing funding opportunities.

ACWA's comments focus on EPA's draft risk evaluation and provide recommendations if EPA determines that DINP poses unreasonable risk of injury to human or environmental health.

I. EPA Should Carefully Consider Additional Information Within the Context of Water Supply in Any Decision to Determine Whether DINP Poses Unreasonable Risk

ACWA appreciates EPA's commitment to public health and environmental protection by evaluating whether DINP presents unreasonable risk of injury. DINP is used primarily as a plasticizer to manufacture flexible polyvinyl chloride (PVC) and conditions of use (COUs) include consumer, commercial, and

industrial applications.¹ Since many ACWA member agencies, as well as water suppliers throughout the nation, incorporate PVC pipes as a component of the infrastructure used to provide water supply, DINP is integrated into water infrastructure.²

In Section 3 regarding *Releases and Concentrations of DINP in the Environment*, EPA stated that DINP is expected to be released into the environment through water and other means. EPA detailed its evaluation in its *Draft Environmental Release and Occupational Exposure Assessment for DINP*. Specifically, EPA's evaluation included implications from PVC compounding (adding plasticizers to create a compound) and converting (molding a compound into a final product). ACWA is concerned, however, that EPA "estimated environmental releases and concentrations of DINP" and made a preliminary decision as significant as this with "limited chemical specific data for PVC plastics compounding and converting." Additionally, EPA's assessment appears to have excluded critical information: whether DINP is released into the environment through PVC when used for water supply and, if so, at what concentrations. ACWA therefore urges EPA to carefully consider obtaining data on this matter to further assist in any final risk evaluation for DINP.

II. EPA Should Provide Certain Exemptions for DINP Utilization Within the Context of Water Supply When No Unreasonable Risk Exists

EPA preliminary concluded in Section 4 regarding the *Human Health Risk Assessment* that all pathways of DINP exposure including surface water, drinking water, and fish ingestion were not of concern for the general population. Additionally, in Section 5 regarding *Environmental Risk Assessment*, EPA preliminary determined DINP exposure poses no risk to aquatic organisms, terrestrial species, surface water, or sediment. Nevertheless, in Section 6 regarding *Unreasonable Risk Determination*, EPA summarized it preliminarily determined DINP presents an unreasonable risk of injury to human health.³ EPA's decision is based on DINP COUs impacting industrial and occupational uses that do not necessarily pertain to water suppliers or consumers.

ACWA understands DINP COUs may occur in PVC processes prior to utilization in water infrastructure. However, ACWA encourages EPA to provide certain exemptions of DINP utilization within the context of water supply when unreasonable risk of injury does not exist rather than decide whether DINP poses an unreasonable risk of injury in the context of a whole. In any determination of final risk evaluation for DINP, ACWA requests EPA to permit water providers to use flexible PVC when unreasonable risk does not occur.

With regards to California regulations, the California Environmental Protection Agency (CalEPA) lists DINP under Proposition 65—the State's list of chemicals known to cause harm based on certain usage and prohibits California businesses from knowingly discharging significant amounts of listed chemicals into sources of drinking water. Yet CalEPA highlights that avoiding PVC is not a way to reduce exposure to DINP.⁴ This implies that the use of DINP in PVC is not significant enough to pose risk of injury.

III. EPA Should Issue Guidance on Safe Water Supply Piping Alternatives if EPA Determines DINP Poses an Unreasonable Risk

If EPA makes a final determination that DINP presents an unreasonable risk to health or the environment, then EPA will take regulatory risk management action to eliminate unreasonable risk posed by DINP. Under

¹ U.S. Environmental Protection Agency: Draft Risk Evaluation for Diisononyl Phthalate (DINP). EPA-740-D-24-015. August 2024. <https://www.regulations.gov/document/EPA-HQ-OPPT-2018-0436-0092>.

² California Office of Environmental Health Hazard Assessment: Vinyl chloride. <https://oehha.ca.gov/chemicals/vinyl-chloride>.

³ U.S. Environmental Protection Agency: Draft Risk Evaluation for Diisononyl Phthalate (DINP). EPA-740-D-24-015. August 2024. <https://www.regulations.gov/document/EPA-HQ-OPPT-2018-0436-0092>.

⁴ California Office of Environmental Health Hazard Assessment: Proposition 65—Diisononyl Phthalate (DINP). <https://www.p65warnings.ca.gov/fact-sheets/diisononyl-phthalate-dinp>.

TSCA, EPA could implement labeling, recordkeeping or notice requirements or ban DINP uses or the substance completely.

As mentioned above, DINP is integrated into water infrastructure because it is used as a plasticizer to manufacture flexible PVC that many water suppliers nationwide, including ACWA member agencies, use to provide water supply. To date, more than 40,000 water utilities in the nation use PVC pipe and more than one million miles are in service.⁵ Not only is PVC commonly used in water systems since it has been recognized as one of the safer alternatives for water supply⁶, but EPA is in the process of determining whether a risk evaluation should also be initiated for vinyl chloride—a main component used in the production of PVC. EPA may later determine that DINP and vinyl chloride pose an unreasonable risk to human health and the environment and cannot be used in water systems or place a ban on it generally, like actions it has already taken with respect to lead pipe. This would undoubtedly impact water suppliers on a national scale. While EPA action would not necessarily ban DINP or vinyl chloride, ACWA is highlighting this as a potential long-term implication for EPA to consider with respect to water supply.

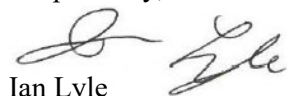
ACWA member agencies prioritize the delivery of safe and reliable water. ACWA member agencies work to ensure that drinking water as well as water impacting land and aquatic ecosystems, watersheds, forests, recreational uses, energy production, and more are free from harmful contaminants. Through regular and thorough testing and investments in water treatment technologies, ACWA member agencies ensure that drinking water supplies are safe and comply with all state and federal drinking water regulations.

ACWA therefore recommends EPA create guidance, using the best available science, on the safest piping materials used for water infrastructure projects to ensure that public water agencies like ACWA member agencies provide safe and reliable drinking water to communities.

IV. Conclusion

ACWA thanks EPA for the opportunity to provide comments concerning its draft risk evaluation for DINP under TSCA. ACWA looks forward to collaborating with EPA on this important effort. Please let us know if we can provide additional information or be of assistance. If you have any questions or would like to follow up on this matter, please contact ACWA Director of Federal Relations, Ian Lyle, at ianl@acwa.com or (202) 434-4765.

Respectfully,

A handwritten signature in dark ink, appearing to read "Ian Lyle", is positioned above the printed name.

Ian Lyle
Director of Federal Relations
Association of California Water Agencies

⁵ PVC Pipe Association. <https://www.uni-bell.org/About-Us/Public-Health>.

⁶ U.S. Environmental Protection Agency: Wastewater Technology Fact Sheet: Pipe Construction and Materials. EPA 832-F-00-068. September 2000. https://www3.epa.gov/npdes/pubs/pipe_construction.pdf.