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UNITED STATES OF AMERICA

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October 3, 2016

VIA ELECTRONIC FILING

Office of Pesticide Programs (OPP) Docket
Environmental Protection Agency Docket Center (28221T)
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

RE: Public Comment on “Atrazine, Simazine, and Propazine Registration Review; Draft Ecological Risk Assessments; Notice of Availability” (Federal Register Vol. 81, No. 108, p. 36301) (June 6, 2016); Docket No. EPA-HQ-OPP-2015-0794

TO WHOM IT MAY CONCERN:

The U.S. Chamber of Commerce, the world’s largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America’s free enterprise system, submits these comments to the U.S. Environmental Protection Agency (EPA) on the above-referenced draft ecological risk assessment for atrazine. Atrazine has long been one of the most effective and widely used herbicides on the market and many Chamber members rely on its use as an important part of their business operations. The Chamber has significant concerns regarding the development and consequences of EPA’s draft ecological risk assessment for atrazine.

I. Background

Atrazine is an herbicide that has been used for more than 50 years, primarily by corn, sorghum, and sugar cane farmers, to control destructive weeds. Each year, atrazine increases crop yields and reduces food production costs by \$4.8 billion, according to industry estimates. Moreover, the herbicide allows no-till and conservation tillage farming methods that prevent up to 85 million tons of soil erosion each year.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires herbicides such as atrazine to be registered with EPA.¹ After initial registration, EPA is required to conduct

¹ 7 U.S.C. § 136(a).

subsequent reviews of registered chemicals to determine if the chemical continues to satisfy FIFRA's standards for registration.² Atrazine was first registered in 1958 and has been repeatedly re-registered thereafter, most recently in 2006. The current registration review process was initiated in June 2013.³

As part of the review process, EPA conducts a risk assessment to determine what threats, if any, the chemical poses to the environment, and whether changes to the use or proposed use of the chemical are necessary to protect the environment.⁴ All decisions that EPA makes should be grounded in "sound, high quality science," including those stemming from a risk assessment.⁵

On June 6, 2016, EPA published a *Federal Register* notice of the draft risk assessment for atrazine.⁶ The draft risk assessment concludes that atrazine use has adverse impacts on aquatic and amphibian species, and recommends the aquatic life level of concern (LOC) be reduced to just **3.4 parts per billion (ppb)** on a 60-day average. The EPA's current LOC for atrazine is 10 ppb. The proposed level cuts average field application rates down to 8 ounces (one cup) per acre. This would constitute a *de facto* ban on the pesticide, imposing heavy costs on both producers and consumers, and setting back soil conservation efforts in the Corn Belt.

The Chamber is deeply troubled that EPA grounded its risk assessment and the recommendation to lower the level of concern (LOC) for atrazine on highly questionable data. While EPA asserts that its atrazine risk assessment is based on "current scientific and other knowledge,"⁷ the core studies EPA used to develop the LOC have been seriously questioned by both outside sources and by EPA's own FIFRA Scientific Advisory Panel (SAP). Moreover, EPA has ignored high-quality studies showing that current regulatory standards are adequately protective. EPA needs to correct its flawed draft risk assessment to better reflect sound science and real-world risk.

II. EPA Used Questionable Scientific Studies in its Risk Assessment for Atrazine.

EPA evaluated the risk that atrazine posed to the environment by combining multiple microcosm/mesocosm (COSM) studies with single-species plant toxicity levels to determine the likely "atrazine exposure patterns and concentrations" that would "result in changes to the productivity, structure, and/or function of aquatic plant communities."⁸ EPA's risk assessment

² 7 U.S.C. § 136(g)(1)(A)(iii). The statutory standard for registration is that the pesticide can perform its intended function without unreasonable adverse effects on human health and the environment.

³ *Atrazine – Background and Updates*, U.S. EPA, <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program> (last visited Sept. 20, 2016).

⁴ *Overview of Risk Assessment in the Pesticide Program*, U.S. EPA, <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program> (last visited Sept. 20, 2016).

⁵ *Scientific Integrity Policy*, U.S. EPA (2012), available at https://www.epa.gov/sites/production/files/2014-02/documents/scientific_integrity_policy_2012.pdf.

⁶ "Atrazine, Simazine, and Propazine Registration Review; Draft Ecological Risk Assessments; Notice of Availability," 81 Fed. Reg. 36,301 (June 6, 2016).

⁷ *Id.*

⁸ *Refined Ecological Risk Assessment for Atrazine*, U.S. EPA 2 (April 12, 2016).

concluded that “aquatic plant communities are impacted in many areas where atrazine use is heaviest, and there is potential chronic risk to fish, amphibians, and aquatic invertebrates in the same locations.”⁹ EPA developed this data into the recommended revised LOC, which was combined with monitoring data to identify watersheds where atrazine levels may pose a concern for communities.¹⁰

The data used in the risk assessment, however, includes numerous errors and has previously been challenged by scientists. Specifically, the risk assessment includes data from multiple scientific studies that scientists have previously deemed unreliable. In 2012, the SAP completed its report of a SAP meeting regarding scientific issues associated with “Problem Formulation for the Reassessment of Ecological Risks from the Use of Atrazine.”¹¹ The SAP reevaluated a number of COSM studies in response to a 2009 SAP, and identified 11 COSM studies with “discrepancies that led them to be incorrectly scored as ‘effects’ when they should really have been scored as ‘no effect.’”¹²

The SAP recommended that many of these studies should be excluded, noting that some had previously been flagged in the 2009 SAP report.¹³ Rather than heed the SAP’s suggestions, EPA relied on these 11 studies in the most recent draft risk assessment for atrazine when it clearly should have excluded them. This renders the risk assessment’s conclusions fundamentally flawed and, as such, undermines public confidence in the registration review process.

III. Sound Science Shows that Atrazine Does Not Pose a Risk to the Environment.

EPA discounted several “rigorous and high quality” scientific studies which concluded that atrazine was safe to use and posed no significant threat to humans, animals, or the environment. Over several decades, thousands of scientific studies have concluded that atrazine is safe.¹⁴ In addition, in 2006, EPA published a cumulative risk assessment for the triazines atrazine, simazine, and propazine, and concluded that the risks associated with the pesticides posed “no harm that would result to the general U.S. population, infants, children, or...other consumers.”¹⁵

⁹ See generally *Id.*

¹⁰ *Id.*

¹¹ *SAP Minutes – A Set of Scientific Issues Being Considered by the Environmental Protection Agency Regarding: Problem Formulation for the Reassessment of Ecological Risks from the Use of Atrazine*, U.S. EPA (September 11, 2012).

¹² *Id.* at 41.

¹³ See 2012 SAP Report, *supra* note 11, at 42-3.

¹⁴ National Corn Growers Association, “Statement on EPA Ecological Risk Assessment on Atrazine (June 2, 2016) available at <http://www.ncga.com/news-and-resources/news-stories/article/ncga-statement-on-epa-ecological-risk-assessment-on-atrazine>.

¹⁵ *Triazine Cumulative Risk Assessment*, U.S. EPA (2006), available at <http://itrcweb.org/FileCabinet/GetFile?fileID=6880>.

More recently, Baylor University published a study titled, “Effects of Pulsed Atrazine Exposure on Autotrophic Community Structure, Biomass, and Production in Field-Based Stream Mesocosms.”¹⁶ This study looked at atrazine at a LOC identified by EPA and involved three different streams that were dosed with four pulses of atrazine to achieve average concentrations of 10, 20, and 30 µg/L over a 60-day period. After the dosing period ended, researchers allowed the streams to remain untreated for 27 days and monitored the aquatic plant life during that time. The test found that atrazine only has temporary effects on more than a dozen different biological response variables, with no long-term or permanent effects on aquatic plant life.¹⁷

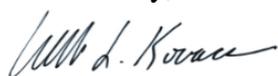
IV. Conclusion.

EPA’s draft risk assessment for atrazine lacks scientific credibility. The suggestion of a revised LOC for aquatic life at 3.4 parts per billion (ppb) on a 60 day average¹⁸ is itself premised on studies that are discredited by the agency’s own SAP. EPA ignores studies that indicate the current regulatory levels for atrazine are adequate and protective.

A 3.4 ppb LOC is practically unachievable and would constitute a two-thirds reduction from the current level, creating a *de facto* ban on using atrazine. This *de facto* ban would subject the Chamber’s members to higher costs and lower productivity in the course of their business, while simultaneously undermining national soil conservation efforts in major areas across the country.

EPA needs to take action to correct the flawed data that is the foundation of its draft risk assessment and properly assess the risk that atrazine poses to the environment. If you have questions regarding these comments, please contact me at wkovacs@uschamber.com or at (202) 463-5457.

Sincerely,



William L. Kovacs

¹⁶ Ryan S. King et al., *Effects of Pulsed Atrazine Exposures on Autotrophic Community Structure, Biomass, and Production in Field-Based Stream Mesocosms*, 35(3) ENVTL. TOXICOLOGY AND CHEMISTRY 600 (2016).

¹⁷ *Id.*

¹⁸ See Risk Assessment, *supra* note 8.