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SAB WARNS EPA USE OF NEW VINYLIDENE CHLORIDE DATA MAY SPUR OSHA DISCORD

EPA's Science Advisory Board last week warned then-administrator William Ruckelshaus that EPA may find itself at odds with the Occupational Safety & Health Administration if it places much credence on Italian data showing vinylidene chloride causes cancer in mice — data that OSHA did not consider in setting its workplace exposure standard. EPA in its draft health assessment document on vinylidene chloride concluded there is currently "no evidence" the substance causes cancer in humans — a conclusion supported by the SAB — but nevertheless used the Italian data (collected by Maltoni) in discussing the potential effects of the substance. EPA has temporarily delayed plans to announce a decision not to list vinylidene chloride as a Clean Air Act hazardous air pollutant because of the Maltoni data.

In a Jan. 4 letter to Ruckelshaus, SAB warns that if EPA "continues to use" the Maltoni data, "the two agencies may have conflicting scientific assessments on vinylidene chloride." OSHA did not use the Maltoni data in setting its 1 part per million workplace exposure standard. EPA's risk estimate from animal data implies that 1 part per million lifetime exposure to vinylidene chloride will lead to an incremental risk of approximately one in six for humans. SAB points out that EPA's "one in six" risk estimate seems inconsistent with results of an epidemiological study in which a population of 138 persons were exposed to an approximate average of 43 ppm of vinylidene chloride in which no statistically significant increase in cancer occurred. SAB asks EPA to "compare" its quantitative estimates of risk based on human data to those based on animal data.

The 1980 bioassay by Maltoni and coworkers cited by EPA showed a statistically significant evidence of kidney carcinomas in mice. SAB recommends that EPA "attempt to verify the tentative results" of the study because "several factors for which no evidence exists either way could lead to conclusions other than those reached by EPA."

OMB SITTING ON RCRA CODIFICATION RULE FEARING 'LEGISLATION BY REGULATION'

The Office of Management & Budget is sitting on EPA's rulemaking codifying the provisions of the recent Resource Conservation & Recovery Act, sources say, in the belief that EPA's interpretive language and regulation preamble are undue attempts to limit flexibility granted by Congress in the new RCRA law. Sources say OMB fears EPA may be attempting to "legislate through regulation," and is considering forcing EPA to go through the extended proposal and public comment period required by most agency action. EPA, insisting that the codification rule is merely an attempt to transfer Congress's wishes into the body of current RCRA law, reportedly may simply drop the codification rule if OMB insists on the drawn-out formal process.

Sources say OMB concerns may have been prompted in part by industry complaints about the codification rule. The steel tank coalition late last year wrote OMB voicing the concern that EPA may be "over-interpreting" RCRA provisions related to leaking underground storage tanks, sources say. The group requested that OMB force a formal rulemaking procedure for the codification. OMB was from the start of the review process aggravated by EPA activity on the issue, sources explain, because Congress was given copies of the codification rule before OMB. "Breaches of procedure like that really tick them [OMB] off," said one source.

EPA and environmentalists are dismayed at the impasse, believing the codification rule can only help