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The Honorable Michael S. Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: EPA Proposal Methylene Chloride; Regulation Under the Toxic Substances Control Act (TSCA); Docket ID No. EPA-HQ-OPPT-2020-0465

Dear Administrator Regan,

The American College of Occupational and Environmental Medicine (ACOEM) appreciates this opportunity to comment upon the Environmental Protection Agency's (EPA) proposed rule for Methylene Chloride; Regulation Under the Toxic Substances Control Act (TSCA). Founded in 1916, ACOEM is the nation's largest medical society dedicated to promoting employee health through preventive medicine, clinical care, research, and education. The College represents Occupational and Environmental Medicine (OEM) physicians and other health care professionals devoted to preventing and managing occupational injuries and exposures.

The focus of our comments is not the proposed reductions in the uses of methylene chloride or the choice of the proposed Existing Chemical Exposure Limit (ECEL). Instead, we are concerned about the potential challenges of implementing specific components of the proposed workplace chemical protection program (WCPP).

The proposed rule incompletely discusses its anticipated costs. On the one hand, it includes considerations of certain "monetized costs" as described in the Economic Analysis (e.g., "lost profits"). On the other hand, it notes, "Although some costs cannot be quantified, they are not necessarily less important than the quantified costs." In discussing those unquantified costs, EPA fails to consider the professional time and expenses required to properly implement the WCPP that we understand it requires to be implemented.

One aspect of our concern is that the proposed rule does not consider the number of workers and others who would be included in a WCPP. As outlined in the proposed rule, a WCPP would be so required for:

"ten conditions of use of methylene chloride (including manufacture; processing as a reactant; laboratory use; industrial or commercial use in aerospace and military paint and coating removal from safety-critical, corrosion-sensitive components by Federal agencies and their contractors; industrial or commercial use as a bonding agent for acrylic and polycarbonate in mission-critical military and space vehicle applications, including in the production of specialty batteries for such by Federal agencies and their contractors; and disposal)..." (Fed Reg 88(85):28285, May 3, 2023)

In addition, a WCPP would be required for certain activities subject to "Proposed Exemptions" in the aircraft and aerospace industries.

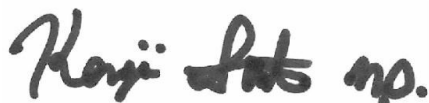
A second concern is that the proposed rule suggests but does not fully define the expected content of the WCPP. The proposed rule states that the WCPP "would align with existing requirements from the OSHA methylene chloride standard at 29 CFR 1910.1052 to the extent possible". We, therefore, assume that EPA intends that compliance with its proposed rule would include specific elements of that OSHA Standard, such as annual medical surveillance for workers exposed above the ECEL or STEL on ten days per year or above the Action Level on 30 days per year. Likewise, we understand that EPA will require that the WCPP align with OSHA Respiratory Protection Standard at 29 CFR 1910.134, which entails significant numbers of medical exams, fit testing, and hours of training.

Because the proposed ECEL, STEL, and Action Levels are much lower than the current corresponding OSHA levels, we anticipate the possibility that the number of individuals included in a WCPP could be substantially greater than the number of workers currently participating in the corresponding OSHA health and safety programs. If so, we are concerned about the potential demands for professional time and services that would be thus required. We are most concerned that a substantial increase in such demand could inadvertently lead to a lowering of professional standards and practices.

ACOEM is prepared and willing to work with EPA to develop and implement its WCPP program for Methylene Chloride (and other TSCA chemicals) to ensure that the quality of occupational medical care maintains current high standards. To better understand these possible future challenges and to best assist EPA as it rolls out its proposals, we first ask that efforts be made to determine the likely numbers of workers and others who will be impacted and included in future WCPP and whether the resulting demand for professional services would increase as compared to current OSHA-related demands.

On behalf of ACOEM, we thank you for your leadership on this critical issue. Please do not hesitate to contact Dane Farrell (Dane@cascadeassociates.net), ACOEM's Government Affairs Representative, with any questions.

Sincerely,



Kenji Saito, MD, JD, FACOEM
President
American College of Occupational and Environmental Medicine (ACOEM)