

Residual Risk Coalition

EPA Science Advisory Board Conference Call
Comments on Proposed Risk and Technology Review Rule (RTR)
December 7, 2006

The Residual Risk Coalition¹ is a group of 9 major industry trade associations representing member companies who are affected by over 60% of the MACTs that EPA is reviewing under the first phase of the revised Residual Risk Program. Due to the broad impact that the proposed rulemaking may have on our industries, we are very concerned about the scientific soundness of this program.

Regarding the charge questions, question #1 asks the Panel to address whether or not the scope of the assessment is appropriate “for the stated purpose,” and question #9 asks whether the approach will be sufficient to “support regulatory decision-making in the context of EPA’s residual risk program.” We would like to bring more clarity to these questions.

As we understand EPA’s new approach, EPA plans to conduct only one, conservative risk assessment for each source category using an updated NEI database, and use it for all the regulatory purposes of section 112(f), including conducting the full Benzene NESHAP 2-step framework as described in EPA’s 1999 Report to the Congress on the Residual Risk Program. This framework requires that EPA first decide the level of “acceptable risk” from the categories, and then evaluate whether additional controls are required to provide an “ample margin of safety.”

The Agency also indicated in its Report to Congress that it would conduct tiered assessments, starting with screening assessments and moving to refined assessments when needed to focus on sources with higher remaining risks. We endorsed this approach because we believed that when the Agency ultimately made any regulatory decisions that required additional controls beyond the MACT standards, the EPA and the public would want to make sure that any unacceptable risks that it calculated were reasonably accurate and that any specified controls would significantly reduce these risks.

We believe these assessments could be insufficient for use beyond the first step of the Benzene framework because of: (1) the conservative nature of the assumptions that EPA plans to incorporate in the assessments, (2) the upper bound estimates it plans to derive from the assessments, as opposed to plausible risk estimates as recommended by OMB in its guidance on the subject, and (3) the weaknesses in the NEI that might not be adequately overcome by the review EPA plans to undertake.

¹ The members of the Coalition are: the American Chemistry Council, the American Coal & Coke Chemicals Institute, the American Forest & Paper Association, the American Iron and Steel Institute, the American Petroleum Institute, the National Oilseed Processors Association, the National Petrochemical and Refiners Association, the Pharmaceutical Research and Manufacturers of America, and the Portland Cement Association.

As a result, we urge the Panel to recommend that EPA do two things: First, in order to obtain the most accurate data possible, EPA should be clear in its plan that significant consideration must be given to comments from industry on the NEI, as industry is the original source of this data, and second, EPA should reserve the flexibility to conduct more refined assessments on HAPs and/or sources of concern using more detailed emissions data and more plausible risk estimates when the initial assessments raise serious questions about how realistic the calculated risks are, and whether any identified controls will reduce risks significantly.

Again, our industries have a large stake in the proposed rulemaking, and we would be happy to follow up with a written response to any questions the panel may have about our statement.