

EPA Asked To Delay Tests On Substitute To Phased-Out Wood Pesticide

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EPA is facing pressure from a chemical company -- and its lobbyist, former presidential candidate Bob Dole (R) -- to take what agency and some industry sources say is the unusual step of approving a controversial wood preservative before the company provides the agency with a host of data on the compound's health effects.

But an EPA official says the approval the company is seeking violates agency protocols on pesticide registration, and an industry observer says Dole is trying to pressure EPA into circumventing the registration process, a charge that sources in Dole's office deny.

At issue is an effort by several chemical companies to register the pesticide acid copper chromate (ACC) as an alternative to the arsenic-containing wood preservative chromated copper arsenate (CCA), which is being phased out under a voluntary agreement between EPA and industry.

But environmentalists and some members of Congress have criticized ACC because it contains the carcinogen hexavalent chromium, which was widely publicized in the film *Erin Brockovich*. Its proponents, however, say the chemical is safe for use as a wood preservative.

Last month, EPA notified two of the companies that it would not grant their requests for "me-too" registration on an existing registration that allows ACC use to preserve wood in water towers unless the companies submitted additional data. The companies are seeking to register ACC for general uses. A me-too registration allows a company to build on an existing pesticide registration and is generally easier to obtain than an initial registration.

But sources in Dole's lobbying firm, which Forest Products Research Laboratory (FRPL) has retained in the ACC matter, say EPA should grant the registration and allow the company to perform the additional studies later under the reregistration eligibility decision (RED) process, which applies to pesticides that are already registered. The sources describe that as the "regular process."

However, an EPA official says the RED process does not apply to the new ACC application, which is a "traditional registration decision." While EPA does grant me-too registrations and allows companies to submit additional data later, the amount of data the agency is seeking on ACC -- which is expected

to take several years to develop and cost millions -- makes it unlikely that the pesticide would qualify for that treatment, the EPA official says.

One industry observer says the treatment Dole is seeking for his client is unprecedented, and poses a tough challenge for EPA Administrator Mike Leavitt on whether to approve "a carcinogen that has a celebrity status" in an election year. "Is Dole going to be able to bring so much political pressure here that EPA may grant a me-too registration?" the source asks. "That's a dangerous loophole that would be hard to close."

Leavitt's spokesperson did not return a call seeking comment.

The sources in Dole's office acknowledge that he has spoken twice with Leavitt about the issue, but says the calls were not substantive because Leavitt had not been briefed on the matter. Dole is concerned because his client had not received an answer from the agency, despite the fact that EPA is required to respond within 90 days to an application request.

But the EPA source says a January letter saying the agency could not approve the pesticide without the additional data was "absolutely" the agency's response, and it is up to FPRL to submit the necessary information. The company could not be reached for comment, and an attorney representing the firm did not return a call seeking comment.

The Dole sources, however, say the Jan. 9 answer was not a definitive "yes/no" answer.

A source with Arch Wood Protection, which had also sought me-too registration for ACC, says the company will probably not pursue the issue further. "We're still evaluating whether the potential market justifies" the expense of testing, the source says. "To complete those tests could cost millions."