



Rich
Leukroth/DC/USEPA/US
01/07/2005 02:32 PM

To David Menotti <David.Menotti@shawpittman.com>
cc Gautam Srinivasan/DC/USEPA/US@EPA
bcc Greg Schweer/DC/USEPA/US@EPA
Subject Re: Incineration ECAs 📎

Sorry for the delay in getting back to you. I have been working with Gautam and others to resolve the points made in your 12/7/04 response to my e-mail. Your comments under point A. *First Paragraph* clarified the difficulty we are having with the many issues which have unfolded since the end of the Public Comment period. As a result, the official ECA document will now be comprised of the following:

- a) ECA text (including all initialed replacement pages), under the page header “Copy #2 - Public Version Contains No Confidential Business Information”,
- b) The sanitized version of the company signature pages, under the page header “Copy #2 - Public Version Contains No Confidential Business Information”,
- c) The EPA signature page, under the page header “Copy #2 - Public Version Contains No Confidential Business Information”,
- d) Appendix A under the page header “Copy #2 - Public Version Contains No Confidential Business Information”,
- e) Appendices B-F under the page header “Final 04-22-04”,
- f) The company specific signature pages containing confidential business information (where appropriate).

Note that due to the changes and amendments to the ECA text, the copy number as designated on page headers for various elements of the comprised official ECA will not match those on the signature pages. At the end of the ECA signature process (i.e., receipt of all initialed pages from each company, signature by the EPA, and publication of the Federal Register notice announcing the ECA), EPA will send each company a completely signed official version of the ECA document including a copy of items a - e) as listed above and, where appropriate, item f) specific for those companies which have claimed CBI.

EPA agrees that developing the "information" version (as described in your e-mail) is no longer appropriate as this may cause further confusion.

I have prepared letters to each company signatory official explaining these changes and transmitting the appropriate replacement pages to be initialed and returned to EPA from each company. I'm working to have the letters in the mail on Monday.

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12/07/2004 02:13 PM

To Rich Leukroth/DC/USEPA/US@EPA
cc Gautam Srinivasan/DC/USEPA/US@EPA
Subject Incineration ECAs/ endgame

Rich:

Here are my comments/suggestions on the points you made in your email to me on December 1, 2004.

A. First paragraph: I wouldn't have any problems with you creating master "public" and CBI versions that have all the changes that the various companies have made and initialled in their public and CBI versions of each (telomer and flouropolymer) ECA. However, these would be, in effect, "information" copies of the documents, and not the "official" versions; the "official" versions would be, for each company, the "public" and "CBI" version of each (telomer and fluoropolymer) ECA. These are the versions that EPA should initial and execute (sign); the electronically corrected "information" copies would only be that -- information copies, to make it easier for the public and the companies and EPA (in the case of the CBI versions) to get its/their arms around what has been agreed to. The docket (and the FR notice) should explain that this is the role of the "information" copy(s), i.e., point out that the "official" versions are the ones signed/initialled by each company and EPA. The only alternative, as I see it, to this approach would be to recirculate ALL of the packages for resignature, which no one (including you) even wants to contemplate, much less attempt to do.

B. Telomer ECAs:

1. Clariant. I assume you mean that the Clariant change needs to be initialled by EPA, prior to signature by EPA (?).

2. DuPont. Why do we need to worry about EPA initialling an address correction? This is a non-substantive change.

C. Fluoropolmer ECAs:

1. AGC. AGC didn't sign and return the "official" version, because it had no CBI to declare, and the way the document was set up, it would be (incorrectly) invoking CBI protections, if AGC had signed it. I think all you need to do is to put a note in the file that the "public" version is the "official" version, because AGC made no CBI claims.

2. Dynenon. No comments. If a conference call is needed to sort out chemical name changes that Dynenon made (and presumably initialled), so be it.

3. Daikin.

a) I assume, again, that you mean that a change to page 4 made by Daikin (and initialled) needs to be initialled by EPA prior to signature (?).

b) Daikin probably retained the pages with the changes that EPA initialed that you are missing. I will email Daikin representatives, and ask them to initial these pages, and return them to you.

4. DuPont. Once again, I think we can dispense with initialling address changes, on the basis that such changes are non-substantive.

Per my voicemail message, please call me if you want to discuss any of this

or, email me, or both.

David E. Menotti
202-663-8675

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