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October 11, 2005

Via E-Mail

Information Quality Guidelines Staff
Mail Code 2811R
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Request for Reconsideration -- RFC # 05004

Dear Sir or Madam:

This is a request for reconsideration (RFR) of the Information Quality Staff's (IQS) July 11, 2005, disposition¹ of the June 24, 2005, request for the correction of information (RFC)² submitted on behalf of the Metam Sodium Alliance (Alliance)³ under the Information Quality Act (IQA)⁴ and the implementing guidelines issued, respectively, by the Office of Management and Budget (OMB)⁵ and the United States Environmental Protection Agency

¹ Letter from Reggie Cheatham, Director, Quality Staff, EPA (July 11, 2005). A copy of the IQS response is appended.

² Letter from Lynn Bergeson, Esquire, Bergeson & Campbell, P.C., to Information Quality Staff, EPA (June 24, 2005). A copy of the RFC is appended.

³ The Alliance consists of Amvac Chemical Corporation, Taminco, Inc., and Tessengerlo Kerley, Inc. Each of the Alliance companies is a registrant and producer of metam sodium.

⁴ Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001, P.L. 106-554; 44 U.S.C. § 3516 (notes).

⁵ 67 Fed. Reg. 8452 (Feb. 22, 2002).



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(EPA).⁶ As discussed in its RFC, the Alliance seeks the correction of information disseminated in EPA's January 31, 2005, "Human Health Risk Assessment: Metam Sodium" (Risk Assessment). To the extent that similar information is contained in the updated version of the Risk Assessment, made available to the public on July 13, 2005, the Alliance seeks the correction of that information likewise.

For the reasons set out in the RFC, the Alliance seeks the correction of EPA's Risk Assessment in its reliance upon the Probabilistic Exposure and Risk Model for Fumigants (PERFUM) as applied to metam sodium and in EPA's corresponding omission of any analysis based upon the Fumigant Exposure Modeling System (FEMS) model. As stated in the RFC -- and as remains true -- the exclusion from the Risk Assessment of the highly relevant modeling results based on the superior FEMS requires immediate correction. Because the FEMS results represent the "best available science," which EPA's Guidelines call for, their exclusion means that the Risk Assessment cannot meet the IQA objectives of utility and objectivity. In its July 11, 2005, response to the RFC, EPA's position was that the ongoing public participation process for the reregistration of metam sodium, through which the Alliance already has submitted comments, effectively satisfied EPA's IQA obligations.

The Alliance strongly disagrees with EPA's interpretation of what the IQA requires. If errors by an administrative agency that go to the objectivity, utility, or integrity of agency-disseminated information automatically could be cured by the existence of an opportunity for public comment during which the information at issue could be addressed, the IQA objectives would be redundant and meaningless. The availability of a public participation process does not immunize a given item of information from coverage under the IQA simply because an affected party might also raise its concerns in the context of the public comment. Where the unjustified omission of scientific or technical data would skew the objectivity or utility of the resulting information product, as is the case for the FEMS modeling results, an RFC on information quality grounds is not only appropriate, but should have been granted by EPA.

⁶ EPA, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity, of Information Disseminated by the Environmental Protection Agency, EPA/260R-02-008 (Oct. 2002) (Guidelines).



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Accordingly, the Alliance requests that EPA reconsider and grant its June 24, 2005, RFC.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynn L. Bergeson', with a horizontal line at the end.

Lynn L. Bergeson

Attachments

cc: Ms. Susan B. Hazen (w/attachments) (via e-mail)
Mr. James J. Jones (w/attachments) (via e-mail)
Debra F. Edwards, Ph.D. (w/attachments) (via e-mail)
CDR Mark J. Seaton (w/attachments) (via e-mail)
Ms. Margaret J. Rice (w/attachments) (via e-mail)
Ms. Linda Keola P. Murray (w/attachments) (via e-mail)