



Interoffice Communication

To Joseph C. Ledvina

From R. E. Laramy

Date February 26, 1982

Subject LABORATORY TEST METHODS AS ALLEGED VIOLATIONS OF NPDES PERMIT -
LAKE CHARLES VCM PLANT

RECEIVED

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At your request I have reviewed the various pieces of correspondence with regard to the LCVCM alleged test methods violations as ascertained by the EPA. In addition I have discussed the problem with Paul Fetzer at the LCVCM Plant.

In general the violations, with a single exception, are of minor significance and can be rectified easily at the plant laboratory. Though the arguments presented by the LCVCM personnel are very valid, whether a violation has occurred seems more in the definition of the laws rather than in faulty procedures. The nature of the environmental laws provides the EPA enforcement officials such broad latitude of definition that almost any approach taken by a laboratory is subject to argument with subsequent violation. A case in point is vividly apparent when one looks at the initial violations detected by EPA (ltr; C. Bruce Hale to J. A. DeBernardi, dated July 29, 1981), specifically item (H) where it is recommended that 10% of the samples be spiked. When this was challenged by the LCVCM Plant (ltr; J. A. DeBernardi to C. Bruce Hale, dated 24 August 1981), the response from C. Bruce Hale (ltr; C. Bruce Hale to J. A. DeBernardi, dated 6 October 1981) was not only to disallow the LCVCM Plant answer but to add 10% duplicate samples to the 10% spiked samples. An additional burden was levied that was not even a part of the original violations. The implication of such harassment is that if the EPA findings are questioned, they will just add more to their list of violations until you comply; the ambiguity of the laws allows this to happen. Consequently, unless one literally makes a federal case of it, there is little recourse to the EPA findings but to comply, even though your arguments are technically valid.

In this particular case, the point of duplicate samples (the single exception to the otherwise easily rectified violations) raises a serious problem that could impact on all Conoco plants. Telephone conversations with C. Bruce Hale to clarify the definition of duplicate resulted in duplicates being defined as two samples obtained simultaneously at the sample point and processing them through the various analyses. This, of course, means additional equipment, manpower and time. It was also intimated that if the EPA chose to so define the law, they could require that duplicate samples be analyzed on duplicate equipment, a completely asinine approach, but nonetheless permissible under the law (by EPA's interpretation).

In view of the above, coupled with the correspondence already on file, it appears the best approach is to comply with the findings unless Conoco is

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willing to make this a test case. In such an event I would agree with the Legal Department that this would probably be futile and result in even more stringent interpretation of the law, to say nothing of the expense involved and the possible lost production.

If I can be of further assistance, please do not hesitate to give me a call.


R. E. Laramy
Associate Director
Analytical Research Section

BW/La4
Copies to
WDLeslie, Ponca City
PLFetzer, LCVCM
GLFoshee, LCVCM

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CONOCO

To
From

Must be lettering
Calculation by
be to 174
Duplicate
samples; does
this mean
different
method
Scatter

1. Regional Lab not a duplicate
put together. These are different
2. - reason for data collected to determine
what is done there
3. ~~Other, same as above~~
4. Topic for 1st meeting.
5. Other - more same, esp. only those who
have been audited.
6. Approach EPA.
7. Are we confident of our numbers?
8. Outside lab. what do they do?

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