



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AR 226 - 1333

MAY 15 1992

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Certified Mail
Return Receipt Requested

Andrea Malinowski (D-8078-1)
E.I. du Pont de Nemours and Co.
CAP ID#: 8ECAP-0025
1007 Market Street
Wilmington, DE 19898

Dear CAP Participant:

On September 30, 1991, EPA announced in the Federal Register an extension of the TSCA Section 8(e) CAP reporting deadline for submission of information regarding release of chemical substances to and detection of chemical substances in environmental media. This announcement established a Phase Two of the CAP for section 8(e) information on the release of chemical substances to and the detection of chemical substances in environmental media and environmental toxicity data for plant effluents. All TSCA Section 8(e) CAP submissions under Phase 2 were to be delivered to EPA no later than six months after EPA publishes final revised environmental guidance ("guidance"). The exact date would appear in the Federal Register notice announcing the revised guidance.

On January 30, 1992, EPA provided CAP participants with an "Addendum to CAP Agreement" and policy statements that formally established the Two Phases to the CAP, and permitted the submission of the following information during Phase Two:

- o information on the release of chemical substances to and detection of chemical substances in environmental media, and
- o environmental toxicity testing performed on plant effluents.

The deadline for reporting all other information under the TSCA section 8(e) Compliance Audit Program remained unchanged at February 28, 1992 unless otherwise extended. The Addendum was to be executed by the Regulatee and returned to EPA for ratification and entry.



Since ratification of the Addendum, EPA has twice issued, for notice and comment, revised draft reporting guidance. After review of extensive comments, EPA has decided that it is reasonable and equitable to enforce the final revised reporting guidance on a prospective basis only. Therefore, information on the release of chemical substances to and detection of chemical substances in environmental media; or environmental toxicity data on plant effluents that predate the effective date of the guidance will not be the subject of an EPA TSCA Section 8(e) enforcement action. We are aware that some CAP participants may have submitted this data under Phase 1 of the CAP program. Accordingly, penalties will not be assessed for any Phase 2 type studies or reports submitted under the TSCA Section 8(e) CAP as TSCA Section 8(e) data. To effectuate this decision it is necessary to revise the previously ratified Addendum, and modify the Registration and Agreement for TSCA Section 8(e) Compliance Audit Program. The attached Revised Addendum to the CAP Agreement supersedes the previous Addendum and specifies the following:

- o The Regulatee no longer is required to conduct a file search for information on the release of chemical substances to and detection of chemical substances in environmental media, or for environmental toxicity data on plant effluents.
- o A second Final Report is no longer necessary. Therefore, the first Final Report becomes the controlling document described in Unit II.A.8. of the CAP Agreement.

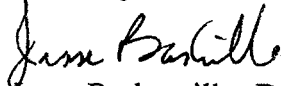
Please return the signed Revised Addendum to the CAP Agreement within thirty (30) calendar days of your receipt of this letter to:

Brian T. Dyer
ATTN.: TSCA 8(e) CAP
U.S. Environmental Protection Agency
Toxics and Pesticides Enforcement Division, 2245A
401 M Street, S.W.
Washington, D.C. 20460

Upon receipt, EPA will: (1) sign the Revised Addendum; (2) place it in your file; (3) forward a copy to you with the Consent Agreement and Consent Order; and (4) stamp the _ previously ratified Addendum as null and void.

If you have any questions concerning the CAP or the Revised Addendum for the CAP Agreement, please contact Brian Dyer, of my staff, at (202) 564-4166.

Sincerely,

A handwritten signature in black ink, appearing to read "Jesse Baskerville".

Jesse Baskerville, Director

Toxics and Pesticides Enforcement Division

Enclosure

Revised Addendum to the TSCA Section 8(e) CAP Agreement

This Revised Addendum supersedes the "Addendum to the CAP Agreement" and modifies the Registration and Agreement for TSCA Section 8(e) Compliance Audit Program as follows:

- I. The TSCA Section 8(e) Compliance Audit Program, which the Regulatee agreed to conduct in the Registration requirement I.A. does not include: information on the release of chemical substances to and detection of chemical substances in environmental media; or environmental toxicity data on plant effluents. The Regulatee, therefore, is no longer required to conduct a file search for this information. Further, footnote 1 of the Agreement pertains solely to chemical release and detection information and therefore, is no longer applicable to the administration of the TSCA Section 8(e) Compliance Audit Program.
- II. The first Final Report shall be considered the Final Report and controlling document, as described in Unit II.A.8, for purposes of determining the information listed or submitted under the TSCA Section 8(e) Compliance Audit Program. The first Final Report must have been submitted no later than February 28, 1992, unless an extension had been granted pursuant to Unit I.E. of the CAP Agreement.
- III. EPA intends to publish final revised guidance in the Federal Register on reporting information on the release of chemical substances to and detection of chemical substances in environmental media. EPA also intends to publish a question and answer document to illustrate application of the guidance. The final revised guidance will not be effective prior to EPA's publication of the question and answer document.
- IV. Impact of the final revised guidance on:
 - A. Information on the release of chemical substances to and detection of chemical substances in environmental media, or environmental toxicity data for plant effluents, that predates the effective date of the final revised guidance will not be the subject of an EPA TSCA section 8(e) penalty enforcement action.
 - B. Information on the release of chemical substances to and detection of chemical substances in environmental media, or environmental toxicity data for plant effluents, that may have been submitted under Phase 1 of the CAP Program will not result in the assessment of penalties for such studies or reports submitted under this TSCA Section 8(e) Compliance Audit Program.

V. Information generated after the effective date of new final revised guidance on the release of chemical substances to and detection of chemical substances in environmental media, or environmental toxicity data for plant effluents, will be submitted prospectively pursuant to TSCA Section 8(e) and the new final revised guidance, not the CAP Agreement. Therefore, no penalty will accrue under the CAP Agreement for the submission of such information.

WE AGREE TO THIS:

For EPA:

For Regulatee: *Am*

Jesse Baskerville, Director
Toxics and Pesticides
Enforcement Division



E. I. du Pont de Nemours and Company
CAP ID: 8ECAP-0025
By: Paul V. Tebo
Title: Vice President
DuPont Safety, Health and
Environment