



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
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ENVIRONMENTAL APPEALS BOARD

TO: EAB Clerk (202) 233-0121
DATE: March 17, 2005
RE: FRM Chem, Inc., Docket No. FIFRA-07-2004-0041
SUPPLEMENTAL MOTION FOR EXTENSION OF TIME TO FILE
APPEAL BRIEF
MOTION FOR CLARIFICATION OF RECORD ON APPEAL

MESSAGE:

Sent under this cover are a Supplemental Motion for Extension of Time in which to File an Appeal Brief and a Motion for Clarification of Record on Appeal in the above-referenced matter. The originals will be sent via Federal Express along with the Notice of Appeal on March 17, 2005.

FROM: Chris R. Dudding, Attorney
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8 pages including cover sheet

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ENVIR. APPEALS BOARD

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD**

WASHINGTON, DC

In the Matter of)
)
FRM Chem, Inc.,)
a.k.a. Industrial Specialties)
)
Respondent)

Docket No. FIFRA-07-2004-0041

SUPPLEMENTAL MOTION FOR EXTENSION OF TIME TO FILE APPEAL BRIEF

Pursuant to Sections 22.7(b) and 22.16(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Rules of Practice"), 40 C.F.R. §§ 22.7(b) and 22.16(a), the United States Environmental Protection Agency ("Agency" or "EPA"), on March 16, 2005 filed via facsimile (pursuant to the EAB Practice Manual Section II(D)(2)), a Motion for Extension of Time to File Appeal Brief ("Motion"), requesting a forty-five (45) day extension, for reasons laid out therein. EPA also simultaneously sent via facsimile a copy of the Motion to the Respondent-Appellee in this matter, FRM Chem, Inc. ("FRM" or "Respondent").

On March 15, 2005, EPA contacted via telephone Respondent's representative, Raymond Kastendieck, President of FRM, and informed him of the Agency's intent to appeal the matter and that we would be filing the Motion for Extension of Time to File Appeal Brief. During that phone conversation, Mr. Kastendieck voiced no intent to object to EPA's filing the Motion. Accordingly, EPA represented in its Motion that the Agency had contacted the Respondent and that Respondent had voiced no intent to object to the Motion. On March 17, 2005, the morning after faxing its Motion to the EAB and to the Respondent, EPA was contacted by another representative of Respondent, Mr. Karlen Kastendieck, who stated that, due to his poor hearing, Mr. Raymond Kastendieck had misunderstood EPA's March 15 telephone call.

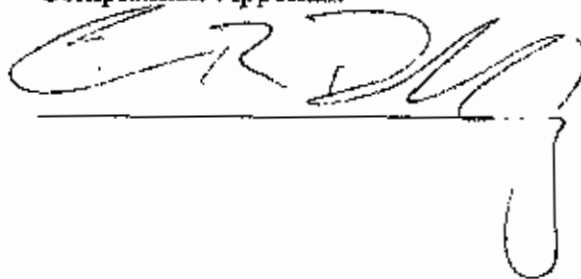
To ensure that the EAB is adequately apprised of Respondent-Appellee's position regarding the Agency's Motion for Extension of Time, EPA has filed this supplement to inform the Board that, based upon the phone conversation with Mr. Karlen Kastendieck on March 17, 2005, Respondent-Appellee may object to the granting of the Agency's Motion for Extension of Time.

EPA maintains that it has demonstrated good cause for its request and that granting its Motion for Extension of Time will not result in any prejudice to Respondent.

Respectfully submitted,

Chris R. Dudding
Assistant Regional Counsel
Complainant-Appellant

By:

A handwritten signature in black ink, appearing to read 'CRD', is written over a horizontal line. A vertical line extends downwards from the right end of the horizontal line, ending in a small hook.

OF COUNSEL:

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Ilana Saltzbar
Carl Eichenwald
Office of Enforcement and Compliance Assurance