Message

From: Welles, Laura [Welles.Laura@epa.gov]
Sent: 11/10/2016 3:37:34 PM
To: Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]
Subject: RE: WF -- revised draft
Attachments: September 27 2016 memo Suzuki Motor.pdf

I'm thinking that paragraph 49 (first paragraph under Effect of Settlement) needs to be reworded. I was just reading a September 27, 2016 memo that Diana gave me from EAB to OCE re: Suzuki Motor (see attached).

I think paragraph 49 should read something like:

> In accordance with the Consolidated Rules, 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondents' liability for federal civil penalties for the violations and facts specifically alleged in Section VI (EPA Allegations and Determinations) of this CAFO.

It looks like we'll also need to take out paragraph 54 (TBD agreement not sue, etc.). Paragraph 72 in Suzuki (this paragraph is mentioned in the EAB memo referenced above and attached) provided a covenant not to sue – "Complainant covenants not to sue Respondents for injunctive relief or other equitable relief for the violations and facts alleged in this matter, but such covenant automatically terminates if and when Respondents fail to timely and satisfactorily complete every condition stated in paragraph..."

It's my understanding that when the Suzuki CAFO was refiled with the EAB, paragraph 72 was taken out.

You probably already know all this, but it was new to me...

The language in the WF CAFO is from Walmart, but that was 2013...

From: Welles, Laura
Sent: Thursday, November 10, 2016 9:33 AM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: WF -- revised draft

See attached. This should show all EPA redline on the version WF sent us on 11/2. There are comments to explain certain changes.

Let me know if you have questions, need clarification, etc.

From: Fogarty, Johnpc
Sent: Thursday, November 10, 2016 8:50 AM
To: Welles, Laura <Welles.Laura@epa.gov>
Subject: RE: WF -- revised draft

Yes, thanks I do want to review this again before we share it w/WF. But I'm sort of confused by what you mean about accepting your earlier edits as well as mine – does that mean that this draft is not showing the differences from what they sent in redline/strikeout?

From: Welles, Laura
Sent: Wednesday, November 09, 2016 5:40 PM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: WF -- revised draft

I'm not sure you want to see this again, but I made some adjustments – I accepted my earlier edits, as well as your edits. Ex. 5 AC/AWP/DP All edits added later today are in track changes.

I met with Diana and Andy – Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP The headings may be a bit different, but I've found that many CAFOs are all over the place with headings, etc.

I was thinking that I would send an email to WF re: we plan to provide an overview of revisions, etc. during tomorrow's call and the send after the call. I also want to hear from them re: why universal waste count was taken out by them.

Anything else you want me to add to the list?

Laura Welles
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