

Everett Spellman

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To: mooreb@Kochind.com

cc: Katherine Dunn/Kdhe@Kdhe, Mostafa Kamal/Kdhe@Kdhe, Bill Anderson/Kdhe@Kdhe

Subject: Koch question concerning Part B application

Brian,

In our telephone conversation on Tuesday, November 4, 2003, we discussed the certification of the Part B application according to 40 CFR 270.11. Certification of the application became an obligation of Koch when the facility was transferred from Farmland Industries, Inc. on May 20, 2003 and to date remains outstanding.

During our conversation, you explained that Koch does not believe certification of the current Part B application is possible because the document and its attachments were not prepared under the supervision of Koch. Regardless of Koch's position, Koch is required to either certify the Part B application by certifying the existing document, or revise the application to Koch's satisfaction and certify the revised document. The need for any modification to the effective permit will depend on the extent of any revisions made to the application.

A second question asked concerned the modification of the certification language specified in 40 CFR 270.11. The precedence of accepting language other than that specified in 40 CFR 270.11 has not been established within KDHE. From that perspective, we are not inclined to accept documents that have not been appropriately certified.

I hope this message addresses your questions. Please contact me or Kathy Dunn at 785-296-6561 should you need clarification on this or another issue.

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