

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ABARCA, RAUL VALENCIA, et al.,)	1:07-cv-0388 OWW DLB
)	
Plaintiffs,)	AMENDED QUESTIONS FOR
)	FEDERAL RULE OF EVIDENCE
v.)	706 EXPERTS REGARDING AIR
)	MODELING
MERCK & CO., INC., et al.,)	
)	
Defendants.)	
)	
)	

The following questions are submitted by the Court to Federal Rule of Evidence 706 experts regarding air emissions.

INSTRUCTIONS

As Court appointed experts, you are being asked to provide written responses to the following questions in a report directly submitted to the Court. The purpose of your appointment is to assist the Court in determining whether or not the methodology and assumptions employed by the experts in the materials submitted to you was in compliance with generally accepted scientific standards and principles.

Please state any reasons that support the opinions you have reached.

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QUESTIONS

1. Was Sears' use of USEPA AP-42 Section 13.2.1 (paved road emission factor) in compliance with generally accepted scientific standards and principles for calculating hexavalent chromium and arsenic fugitive dust emissions at the Site?

2. Did the Sears model account for rainfall at the Site in compliance with generally accepted scientific standards and principles?

3. Were Sears' assumptions regarding forklifts and their use at the Site in compliance with generally accepted scientific standards and principles?

4. Were Sears' assumptions about silt loading at the Site in compliance with generally accepted scientific standards and principles?

5. Were Sears' assumptions about hexavalent chromium and arsenic particle size at the Site in compliance with generally accepted scientific standards and principles?

6. Were Sears' assumptions about the periods and hours of operations of the wood treating activities at the Site in compliance with generally accepted scientific standards and principles?

7. Were Sears' assumptions about the drippage accumulation of hexavalent chromium and arsenic on the surface at the Site in compliance with generally accepted scientific standards and principles?

8. Were Sears' assumptions about the valence state of hexavalent chromium at the Site in compliance with generally

accepted scientific standards and principles?

9. Was Sears' assumption of 27 percent emissions to the air of hexavalent chromium and arsenic in compliance with generally accepted scientific standards and principles?

10. Are there generally recognized standards and practices for validating and confirming the accuracy and reliability of an air model?

11. Were all the assumptions, data, and inputs utilized by Sears to reach her opinions, in compliance with generally accepted scientific standards and principles?

IT IS SO ORDERED.

Dated: November 18, 2010

/s/ OLIVER W. WANGER

United States District Judge