



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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In the Matter of:

Cindy Draher,

Respondent.

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Docket No. TSCA-05-2012-0001

ORDER TO SHOW CAUSE

By Prehearing Order dated January 11, 2012, Ms. Cindy Draher ("Respondent") was required to file a prehearing exchange of information on or before March 9, 2012. To date, Respondent has failed to file her prehearing exchange. Because this administrative litigation does not allow the level of discovery available "under the Federal Rules of Civil Procedure, the prehearing exchange plays a pivotal function—ensuring identification and exchange of all evidence to be used at hearing and other related information (e.g., identification of witnesses)." JHNY, Inc., 12 E.A.D. 372, 382 (EAB 2005). Section 22.17(a) of the Rules of Practice provides that a party may be found in default for failing to comply with a Prehearing Order. 40 C.F.R. § 22.17(a). A default is "an admission of all facts alleged . . . and a waiver of [R]espondent's right to contest such factual allegations." Id. If Respondent is found in default, she may be held liable for the entire proposed penalty. "[F]ailure to comply with an ALJ's order requiring [a prehearing] exchange is one of the primary justifications for entry of default." JHNY, Inc., 12 E.A.D. at 382.

Respondent has not complied with the prehearing exchange requirements of the Prehearing Order. Therefore, Respondent is ordered to submit a document on or before March 30, 2012, explaining why she had good cause for failing to submit a prehearing exchange as required by the Prehearing Order, and why a default should not be entered against her.

[Handwritten signature of M. Lisa Buschmann]

M. Lisa Buschmann
Administrative Law Judge

Dated: March 19, 2012
Washington, D.C.

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**In the Matter of *Cindy Draher*, Respondent.
Docket No. TSCA-05-2012-0001**

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **Order to Show Cause**, dated March 19, 2012, issued by M. Lisa Buschmann, Administrative Law Judge, was sent this 19th day of March 2012, in the following manner to the addressees listed below.



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**Dated: March 19, 2012
Washington, D.C.**

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FAX TRANSMITTAL PAGE

Date: 3/19/2012

From the office of:

Chief Judge Biro Judge Gunning Judge Nissen

Judge Bredmann ✓

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Of: Skidman & Associates

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Docket No. _____

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