



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

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In the Matter of:)
Advanced Recovery, Inc.,)
Respondent)

Docket No. RCRA-02-2013-7106

ORDER ON COMPLAINANT'S SECOND MOTION FOR AN EXTENSION OF TIME

On May 16, 2014, Complainant filed a Motion for an Extension of Time to File Complainant's Rebuttal Prehearing Exchange and Updated Status Report ("Motion"). Therein, Complainant requests an extension of the deadline for its Rebuttal Prehearing Exchange to June 4, 2014, because as of May 16, 2014, Complainant had not received a large portion of Respondent's Prehearing Exchange (namely, the first part of a two-part submission comprising a document titled Respondent's Prehearing Exchange and proposed exhibits A and B), and an attorney in EPA's regional office who needs to review the prehearing exchange documents before the Rebuttal is filed will be out of the office for work and vacation through May 31, 2014.

Complainant states in the Motion that counsel for Respondent has been "consulted and advised" of this Motion, however Complainant does not state whether Respondent consents or objects to the granting of the extension sought. In the Prehearing Order ("PHO") issued on March 10, 2014, I instructed the parties as follows: "Prior to filing any motion, the moving party must contact the other party or parties to determine whether the other party has any objection to the granting of the relief sought in the motion, and the motion shall state the position of the other party or parties." PHO at 6. In this Motion, and in the motion for an extension filed April 11, 2014, Complainant failed to comply with this instruction. Complainant is hereby reminded that the procedural rules that govern this proceeding, set forth at 40 C.F.R. Part 22 ("Rules of Practice"), provide that failure to comply with an order of the Judge may carry adverse consequences. 40 C.F.R. §§ 22.4(c), 22.17(a).

As to Complainant's request, the Rules of Practice provide that the presiding officer may grant an extension of time for filing any document "upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative." 40 C.F.R. § 22.7(b).

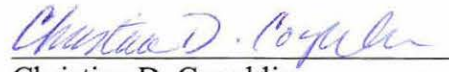
While staff for the undersigned cannot confirm why Complainant did not receive Respondent's complete Prehearing Exchange package, as e-mail records appear to show transmission of the first part of the two part submission was made twice on May 14, 2014,

ultimately Complainant asserts that it needs more time to review those materials, and a brief extension does not appear to prejudice Respondent. Complainant's second argument in support of its request, that a colleague of counsel for the Agency is out of town, generally, and also in this case, does not constitute good cause on its own to extend a rebuttal prehearing exchange deadline. However, for good cause shown otherwise, in accordance with the Rules of Practice, the Motion is **GRANTED**.

The pertinent deadline set forth in the PHO issued in this matter is hereby revised as follows:

June 4, 2014 Complainant's Rebuttal Prehearing Exchange

SO ORDERED.



Christine D. Coughlin
Administrative Law Judge

Dated: May 21, 2014
Washington, D.C.

In the Matter of *Advanced Recovery, Inc.*, Respondent.
Docket No. RCRA-02-2013-7106

CERTIFICATE OF SERVICE

I hereby certify that true copies of this Order on Complainant's Second Motion for an Extension of Time issued by Christine D. Coughlin, Administrative Law Judge, in Docket No. RCRA-02-2013-7106, were sent to the following parties on this 21st day of May 2014, in the manner indicated:



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Dated: May 21, 2013
Washington, DC