



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Homeca Recycling Center Co., Inc.,) Docket No. CAA-02-2024-1201
)
Respondent.)

ORDER ON COMPLAINANT’S UNOPPOSED MOTION FOR AN EXTENSION OF TIME

This proceeding was initiated on October 20, 2023, when Complainant, the Director of the Caribbean Environmental Protection Division of Region 2 of the United States Environmental Protection Agency, filed a Complaint and Notice of Opportunity to Request a Hearing against Respondent Homeca Recycling Center Co., Inc., for alleged violations of Sections 112 and 113 of the Clean Air Act, 42 U.S.C. §§ 7412 and 7413, and the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M. After Respondent filed an Answer to Complaint and Request for Hearing on December 5, 2023, the matter was forwarded to this Tribunal for adjudication, and I was designated to preside.

By Prehearing Order dated January 19, 2024, I set deadlines for certain prehearing procedures, including a prehearing exchange of information by the parties and the filing of certain prehearing motions. Pursuant to that Order and an Order dated April 9, 2024, Complainant and Respondent each filed a prehearing exchange. Additionally, with leave of this Tribunal, Complainant filed an Amended Complaint and Notice of Opportunity to Request a Hearing, to which Respondent filed an Answer to Amended Complaint and Request for Hearing.

On May 22, 2024, Complainant filed an Unopposed Motion for an Extension of Time on Remaining Prehearing Filing Deadlines (“Motion”), to which it attached a Stipulation to Extend Prehearing Filing Deadlines (“Stipulation”). In its Motion, Complainant asserts that in response to Respondent contending in its prehearing exchange that it lacks the ability to pay the penalty proposed in this proceeding, Complainant promptly engaged a financial expert to evaluate Respondent’s position and requested a variety of financial information from Respondent to facilitate that analysis, some of which Respondent provided on May 17, 2024, and the remainder of which Respondent expects to provide the first week of June. Because its evaluation of Respondent’s position is pending receipt of the remaining information, Complainant continues, it is unable to rebut or otherwise address Respondent’s inability to pay claim by the deadline set for filing its rebuttal prehearing exchange. Complainant then requests that I vacate the remaining prehearing deadlines set forth in my April 9, 2024 Order and adopt the deadlines proposed by Complainant in its Motion. Complainant maintains that those extended deadlines account for Respondent’s projected timeline for providing the remaining

financial information requested by Complainant and the estimate offered by its financial expert for the amount of time the financial expert will require after receipt of the information to analyze it and prepare an expert report for Complainant's consideration. Finally, Complainant argues that the Motion does not prejudice Respondent inasmuch as Respondent consents to the relief sought, as memorialized in the Stipulation; that it was timely filed; and that it demonstrates good cause to the extent that Complainant currently lacks sufficient information to rebut Respondent's inability to pay claim and that the outcome of the analysis of Respondent's financial information could significantly alter the progression of this proceeding.

This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Rules of Practice" or "Rules"), set forth at 40 C.F.R. Part 22. The Rules of Practice provide that I "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). Further, the Rules authorize me to "[d]o all other acts and take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues arising in proceedings governed by these Consolidated Rules of Practice." 40 C.F.R. § 22.4(c)(10).

Upon consideration, I find that Complainant's Motion was timely, demonstrates the diligence on the part of both parties to produce and evaluate the requested financial information, and proposes a reasonable timeline for the advancement of this proceeding given the circumstances. Accordingly, the Motion is hereby **GRANTED**. As requested, the prehearing schedule is extended as set forth below:

July 12, 2024	Complainant's Rebuttal Prehearing Exchange
July 26, 2024	Any joint motion for the appointment of a neutral
September 20, 2024	Any dispositive motions

SO ORDERED.



Michael B. Wright
Administrative Law Judge

Dated: May 28, 2024
Washington, D.C.

In the Matter of *Homeca Recycling Center Co., Inc.*, Respondent.
Docket No. CAA-02-2024-1201

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Complainant's Unopposed Motion for an Extension of Time**, dated May 28, 2024, and issued by Administrative Law Judge Michael B. Wright, was sent this day to the following parties in the manner indicated below.



Mary Angeles
Paralegal Specialist

Original by OALJ E-Filing System to:
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Dated: May 28, 2024
Washington, D.C.