



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

**In the Matter of:** )  
 )  
**ISP Freetown Fine Chemicals, Inc.,** ) **Docket No. RCRA-01-2018-0062**  
 )  
**Respondent.** )

**ORDER ON JOINT MOTION TO DEFER SCHEDULING PREHEARING EXCHANGE**

On September 26, 2018, the United States Environmental Protection Agency, Region 1, (“Agency”) initiated this proceeding by filing a Complaint against Respondent under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a).

After Respondent received several extensions of time to file an Answer, but before an Answer was submitted, the Agency filed an Amended Complaint on June 7, 2019. Respondent then filed an Answer to the Amended Complaint on June 26, 2019 along with a Motion to Dismiss Counts Two through Eight.

On July 29, 2019, the Agency filed a response to the Motion to Dismiss in addition to a Motion to Strike the Third and Sixteenth Defenses from Respondent’s Answer. Respondent filed a reply brief in response to its Motion to Dismiss and an opposition brief to the Agency’s Motion to Strike on August 23, 2019. The Agency filed a reply brief in support of its Motion to Strike on September 27, 2019. Both parties have asked for and received several extensions of time during this proceeding.

On October 1, 2019, the parties filed the pending Joint Motion to Defer Scheduling Pre-Hearing Exchange (“Joint Motion”). The Joint Motion states that the parties began settlement discussions after the original Complaint was filed, and since then they have been engaged in periodic discussions and document exchanges. J. Mot. at 1-2. Respondent provided additional documents to the Agency on September 6, 2019, and the parties “now desire to resume settlement discussions.” J. Mot. at 2. Consequently, the parties propose that this Tribunal refrain from issuing an order scheduling prehearing exchanges for at least 60 days from the date the Joint Motion was filed. J. Mot. at 2.

This Tribunal may “[r]ule upon motions, requests, and offers of proof, and issue all necessary orders,” and “[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 this proceeding. 40 C.F.R. § 22.4(c)(2), (10). This Tribunal also “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).

In the interest of promoting settlement discussions, it is appropriate for me to delay issuance of a Prehearing Order that would initiate the prehearing exchange process. Accordingly, the parties’ Joint Motion is **GRANTED** as follows:

**Settlement.** Barring an unexpected change of circumstance, this Tribunal will not issue an order to begin prehearing exchanges before December 2, 2019. Prior to that date, the parties are **ORDERED** to engage in settlement conference(s) and to attempt to reach an amicable resolution of this matter. Further, the parties shall submit joint status reports on the progress of their settlement discussions no later than **November 1, 2019**, and **December 2, 2019**.

*The parties are advised NOT to include, attach, or refer to any terms of settlement offers or agreements in any document submitted to the undersigned, and no copies of Consent Agreements and Final Orders shall be submitted, or attached to any document submitted, to the undersigned except those that are fully executed and filed with the Regional Hearing Clerk.*

**Preliminary Statement.** No later than **November 1, 2019**, each party shall file with the Headquarters Hearing Clerk, serve on the opposing party, and serve on the undersigned a Preliminary Statement that (1) identifies the party’s preference for the location of the hearing; (2) indicates the party’s consent to service of orders and decisions issued by this Tribunal, and to service of documents filed by other parties, *by email only* during this proceeding (service by email includes sending a link via email to an online file sharing service); and (3) provides valid email addresses at which the party will accept such service.<sup>1</sup>

**SO ORDERED.**



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Christine Donelian Coughlin  
Administrative Law Judge

Dated: October 3, 2019  
Washington, D.C.


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<sup>1</sup> The Rules of Practice allow for electronic service, and in the interest of judicial efficiency, it will be this Tribunal’s practice to serve the parties by email only. *See* 40 C.F.R. §§ 22.5(b)(2), 22.6 (authorizing service of most documents by email). If a party is unable to receive service by email, the party shall affirmatively state that it is unable to accept service by email and provide a valid address at which it may be served by regular mail.

In the Matter of *ISP Freetown Fine Chemicals, Inc.*, Respondent.  
Docket No. RCRA-01-2018-0062

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order on Joint Motion to Defer Scheduling Prehearing Exchange**, dated October 3, 2019, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.

  
\_\_\_\_\_  
Matt Barnwell  
Attorney-Advisor

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Mary Angeles, Headquarters Hearing Clerk  
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Office of Administrative Law Judges  
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Dated: October 3, 2019

Washington, D.C.