



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
LHP, LLC,) Docket No. TSCA-07-2014-0029
)
Respondent.)

**ORDER ON RESPONDENT’S MOTION FOR SUBPOENA
AND MOTION IN LIMINE**

The Notice of Hearing and Scheduling Order, issued on October 26, 2015, established December 16, 2015, as the deadline for filing non-dispositive prehearing motions, such as motions for subpoenas and motions in limine. On December 29, 2015, I issued an Order on Respondent’s Unopposed Motion for Extension of Time, extending the deadline for filing non-dispositive prehearing motions to January 15, 2016. On January 15, 2016, counsel for Respondent mailed a Motion for Subpoena and a Motion in Limine to the Headquarters Hearing Clerk by commercial delivery service.¹

The procedural rules governing this proceeding, set forth at 40 C.F.R. Part 22, state that “[a] document is filed when it is received by the appropriate clerk.” 40 C.F.R. § 22.5. In the present matter, Respondent’s Motion for Subpoena and Motion in Limine were not received by the Headquarters Hearing Clerk until January 19, 2016, following the filing deadline for such non-dispositive prehearing motions established in the Order on Respondent’s Unopposed Motion for Extension of Time. As a result, Respondent’s Motion for Subpoena and Motion in Limine are not timely, and they were not accompanied by a motion for leave to file out of time. Considering the untimely filing of Respondent’s Motion for Subpoena and Motion in Limine, particularly within the context of the already extended deadline for filing such non-dispositive prehearing motions, it would be inappropriate to grant these motions. Accordingly, Respondent’s Motion for Subpoena and Motion in Limine are **DENIED**.

¹ Notably, electronic filing has been authorized for this Tribunal by the Standing Order Authorizing Electronic Filing in Proceedings before the Office of Administrative Law Judges, issued by Chief Administrative Law Judge, Susan L. Biro on August 11, 2014, available at <http://www.epa.gov/sites/production/files/2014-10/documents/alj-standing-order-efiling.pdf>. Electronic filing provides registered users expedient, same-day filing, as an alternative to paper filing. In the present matter, electronic filing could have assured timely filing of Respondent’s Motion for Subpoena and Motion in Limine.

SO ORDERED.

Christine Donelian Coughlin

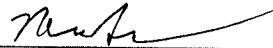
Christine Donelian Coughlin
Administrative Law Judge

Date: January 21, 2016
Washington, D.C.

In the Matter of *LHP, LLC*, Respondent.
Docket No. TSCA-07-2014-0029

Certificate of Service

I hereby certify that copies of this **Order on Respondent's Motion for Subpoena and Motion in Limine**, issued by Christine D. Coughlin, Administrative Law Judge, on this 21st day of January 2016, were sent to the following in the manner indicated.



Mary Angeles
Paralegal

Original and One Copy by Hand Delivery

Sybil Anderson
Headquarters Hearing Clerk
U.S. EPA / Office of Administrative Law Judges
Mail Code 1900R
1200 Pennsylvania Ave., NW
Washington, DC 20460

Copy By Electronic and Regular Mail To:

Robert W. Richards, Esq.
Assistant Regional Counsel
U.S. EPA, Region VII
11201 Renner Boulevard
Lenexa, KS 66219
Email: richards.robert@epa.gov

Cynthia M. Rote, Esq.
Delaney Law, PC
Managing Partner
444 North Wabash Avenue, 3rd Flr.
Chicago, IL 60611
Email: cynthia@delaney-law.com

January 21, 2016
Washington, D.C.