



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of: )  
)  
Emrich Aerial Spraying LLC, ) Docket No. FIFRA-07-2022-0133  
)  
Respondent. )

**ORDER GRANTING RESPONDENT’S MOTION FOR EXTENSION**

On August 8, 2023, upon being designated to preside over the proceeding, I issued a Prehearing Order wherein I established deadlines for various prehearing procedures, including a prehearing exchange of information by the parties pursuant to Section 22.19(a) of the Rules of Practice that govern this proceeding, 40 C.F.R. § 22.19(a). Prehearing Order (Aug. 8, 2023). The Prehearing Order required Respondent to file its Prehearing Exchange no later than October 13, 2023. Prehearing Order 4. Respondent did not do so.

Instead, on October 24, 2023, Respondent filed a document styled Respondent’s Motion for Extension (the “Motion”), which asks me to extend Respondent’s Prehearing Exchange deadline until October 27, 2023. Mot. 1. Respondent represents that Complainant does not oppose the requested extension. Mot. ¶ 3.

The Rules of Practice that govern this proceeding 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.*” 40 C.F.R. 22.7(b) (emphasis added). In addition, “[a]ny motion for an extension of time *shall be filed sufficiently in advance of the due date* so as to allow other parties reasonable opportunity to respond and to allow the Presiding Officer . . . reasonable opportunity to issue an order.” 40 C.F.R. 22.7(b) (emphasis added).

Respondent’s Motion arguably meets neither of these requirements. The Motion for Extension would more accurately have been titled a Motion to File Out of Time, as Respondent submitted it more than a week after the relevant deadline. In addition, the Motion neither explains Respondent’s lapse nor otherwise identifies good cause for the extension. Denial of the Motion would be justified, as would an order for Respondent to show cause as to why a default should not be entered against it. *See* 40 C.F.R. § 22.17(a) (a party may be found to be in default upon failure to comply with the prehearing information exchange required by 40 C.F.R. § 22.19(a) or an order of the presiding Administrative Law Judge).

However, as Respondent now appears prepared to pursue its defense of this case, and as Complainant does not oppose Respondent’s request for an extension, I will extend Respondent’s Prehearing Exchange deadline as requested in the interest of judicial economy and the pursuit of a resolution on the merits. *See* 40 C.F.R. § 22.7(b) (Presiding Officer may also grant an

extension of time “upon [her] own initiative”); 40 C.F.R. § 22.4(c)(10) (authorizing the Presiding Officer to “take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of” proceedings). Respondent is cautioned that this leniency will not extend to future belated filings.

The Motion is **GRANTED**. The parties’ Prehearing Exchange deadlines are extended as follows:

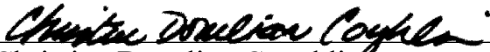
**October 27, 2023**

Respondent’s Prehearing Exchange

**November 13, 2023**

Complainant’s Rebuttal Prehearing Exchange

**SO ORDERED.**

  
Christine Donelian Coughlin  
Administrative Law Judge

Dated: October 26, 2023  
Washington, D.C.

In the Matter of *Emrich Aerial Spraying LLC*, Respondent.  
Docket No. FIFRA-07-2022-0133

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order Granting Respondent's Motion for Extension**, dated October 26, 2023, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.

*Stephanie Neale*

Stephanie Neale  
Attorney Advisor

Original by OALJ E-Filing System to:  
Mary Angeles, Headquarters Hearing Clerk  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
[https://yosemite.epa.gov/OA/EAB/EAB-ALJ\\_Upload.nsf](https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf)

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*Counsel for Complainant*

Dated: October 26, 2023  
Washington, D.C.