



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

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REGIONAL HEARING CLERK U.S. ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)
Cindy Draher,) Docket No. TSCA-05-2012-0001
Respondent.) Issued: May 24, 2012

ORDER SCHEDULING HEARING

The prehearing exchange process in this matter has been completed1 and there are no pending motions. Therefore, this matter may be scheduled for hearing. The parties are reminded that dispositive motions regarding liability, such as motions for accelerated decision or motions to dismiss under Rule 22.20(a), must be filed no later than June 13, 2012, as set forth in the Prehearing Order issued on January 11, 2012. The filing of a dispositive motion does not stay the deadlines established by this Order and will not constitute good cause for failing to comply with this Order's requirements.

Agency policy strongly supports settlement. The parties are directed to hold a settlement conference and attempt to reach an amicable resolution of this matter. Complainant shall file a status report regarding such conference and the status of settlement, without disclosing any specific terms of settlement, on or before July 13, 2012.

In the event the parties fail to reach a settlement, they shall strictly comply with the requirements of this Order and prepare for a hearing. All non-dispositive prehearing motions, such as motions for subpoenas or motions in limine, must be filed on or before July 27, 2012. This deadline does not apply to motions to supplement the prehearing exchange.

On or before August 17, 2012, the parties shall file a Joint Set of Stipulated Facts, Exhibits, and Testimony. The time allotted for the hearing is limited. Therefore, the parties must make a good faith effort to stipulate to matters that cannot reasonably be contested so that the hearing can be concise and focused solely on those matters that can only be resolved after a hearing.

1 Complainant has orally informed the undersigned's staff attorney that it does not intend to file a Rebuttal Prehearing Exchange.

The parties are reminded that any document or exhibit not included in the prehearing exchanges shall not be admitted into evidence, and any witness whose name and testimony summary are not included in the prehearing exchange shall not be allowed to testify at hearing. If a party wishes to add a proposed witness, document, or exhibit to its prehearing exchange, it must file a timely motion to supplement the prehearing exchange no later than **August 31, 2012**. Motions filed after this date will not be considered absent extraordinary circumstances.

The parties may, if they wish, file prehearing briefs. The deadline for filing such briefs is **September 14, 2012**. A copy of the briefs must be emailed (oaljfilng@epa.gov), faxed, or hand-delivered to the undersigned by that date. The brief may serve in lieu of an opening statement at the hearing. Complainant's brief should at a minimum specifically state each count of the Complaint, and each claim therein, which is to be tried at the hearing and indicate which counts/claims are not. Respondent's brief should at a minimum identify and explain each defense Respondent intends to pursue at the hearing.

The hearing in this matter will be held in Akron, Ohio, beginning promptly at 9:30 a.m. on Tuesday, September 25, 2012, at a location to be determined, continuing if necessary on September 26 through September 28, 2012. The Regional Hearing Clerk will make appropriate arrangements for a courtroom. The parties will be notified of the exact location and of other procedures pertinent to the hearing when those arrangements are complete.

If special accommodations will be required at the hearing, such as wheelchair access or translation services, the parties should contact the Regional Hearing Clerk as soon as possible so that appropriate arrangements can be made.

RESPONDENT IS HEREBY ADVISED THAT FAILURE TO APPEAR AT THE HEARING, WITHOUT GOOD CAUSE BEING SHOWN THEREFOR, MAY RESULT IN A DEFAULT JUDGMENT BEING ENTERED AGAINST IT. COMPLAINANT IS HEREBY ADVISED THAT FAILURE TO APPEAR AT THE HEARING MAY RESULT IN DISMISSAL OF THIS MATTER.

If either party does not intend to attend the hearing, or has good cause for not being able to attend the hearing as scheduled, it shall notify the undersigned at the earliest possible moment through her staff attorney or through her legal staff assistant Knolyn Jones at (202) 564-6262, jones.knolyn@epa.gov.



M. Lisa Buschmann
Administrative Law Judge

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**In the Matter of *Cindy Draher*, Respondent.
Docket No. TSCA-05-2012-0001**

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **Order Scheduling Hearing**, dated May 24, 2012, was sent in the following manner to the addressees listed below.



Knolyn R. Jones
Legal Staff Assistant

Original and One Copy by Regular Mail to:

La Dawn Whitehead
Regional Hearing Clerk
U.S. EPA, Region V, MC-E19J
Office of Enforcement and Compliance Assurance
77 West Jackson Blvd.
Chicago, IL 60604-3590
Fx: 312.692.2405

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Copy by Regular Mail to:

Jeffery M. Trevino, Esq.
Associate Regional Counsel
U.S. EPA, Region V, C-14J
77 West Jackson Blvd.
Chicago, IL 60604-3590
Fx: 312.692.2987

Copy by Regular Mail to:

Archie W. Skidmore, Esq.
Skidmore & Associates
PNC Center
One Cascade Plaze, 12th Floor
Akron, OH 44308
Fx: 330.253.9657

**Dated: May 24, 2012
Washington, D.C.**