



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG.11 2012 NOV 29 A 10:12 REGIONAL HEARING CLERK

In the Matter of: )
The Battery Recycling Company, Inc., )
Respondent. )
Docket No. EPCRA-02-2011-4301

ORDER ON MOTION FOR CONTINUANCE

As you were previous notified, I am designated to preside over the above-captioned matter. This action was initiated on March 1, 2011, by the United States Environmental Protection Agency, Region 2, Division of Enforcement and Compliance Assistance ("Complainant" or "EPA"), filing an Administrative Complaint against Respondent, The Battery Recycling Company, Inc., under Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act ("Superfund"), 42 U.S.C. §§ 11001 et seq., also known as the Emergency Planning and Community Right to Know Act of 1986 ("EPCRA"). By Prehearing Order dated May 23, 2012, Complainant was ordered to file a Consent Agreement and Final Order ("CAFO") or its Initial Prehearing Exchange no later than July 6, 2012. The undersigned has twice granted Complainant lengthy extensions of time to file its Initial Prehearing Exchange or CAFO on July 3 and August 20, 2012.

On October 26, 2012, the parties submitted a Joint Motion for Continuance ("Motion"). In the Motion, the parties request an extension of time until December 21, 2012 to file a CAFO.

Section 22.7(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (40 C.F.R. § 22.7(b)) provides 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, and after consideration of prejudice to other parties.

After considering the prejudices to the parties, the Motion is hereby GRANTED for good cause shown. The parties must submit a joint status report on or before December 7, 2012. The parties are notified that future extension requests will not be viewed favorably. Accordingly, the deadlines set forth in the August 20, 2012 Order on Motion for Continuance are modified as follows:

**December 21, 2012**

Complainant's Initial Prehearing Exchange and  
Respondent's Prehearing Exchange or CAFO

**January 4, 2013**

Complainant's Rebuttal Prehearing Exchange

**Complainant is notified that its failure to file its prehearing exchange in a timely manner can result in a dismissal of the case with prejudice. Respondent is hereby notified that the failure either to comply with the prehearing exchange requirements set forth herein or to state that it elects only to conduct cross-examination of Complainant's witnesses can result in the entry of a default judgment against it.**

**SO ORDERED.**



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Susan L. Biro  
Chief Administrative Law Judge

Dated: November 23, 2012  
Washington, DC

**In the Matter of *The Battery Recycling Company, Inc.*, Respondent.  
Docket No. EPCRA-02-2011-4301**

CERTIFICATE OF SERVICE

I hereby certify that true copies of this **Order on Motion for Continuance**, issued by Susan Biro, Chief Administrative Law Judge, in Docket No. EPCRA-02-2011-4301, were sent to the following parties on this 23<sup>rd</sup> day of November 2012, in the manner indicated:



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**Dated: November 23, 2012  
Washington, DC**