

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

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REGIONAL

2010 MAY 18 AM 11:20

REGIONAL HEARINGS  
OFFICE

**In the Matter of** )  
 )  
**United States Department of the Army,** )  
**and** )  
**Army and Air Force Exchange Service,** )  
**West Point Garrison,** )  
 )  
**Respondents** )

**Docket No. RCRA-02-2009-7507**

**ORDER GRANTING MOTION FOR EXTENSION OF TIME**

By Prehearing Order dated January 8, 2010, the parties in this proceeding were directed to file initial prehearing exchanges by March 8, 2010. On March 3, Complainant moved for a three month extension of the due date on grounds that the parties reached a settlement in principle and need concurrence and signatures from multiple levels of all three entities. The presiding Administrative Law Judge (ALJ) denied the request for three months extension, and instead granted a one month extension of time, until April 8 to file prehearing exchanges or a Consent Agreement and Final Order (CAFO). On April 6, 2010, the ALJ granted an extension of time until April 29 upon motion submitted by Respondent Army and Air Force Exchange Service, which explained that the settlement includes a Supplemental Environmental Project (SEP) requiring internal reviews by the parties, and that the person authorized to sign a CAFO will be turning over the command to a new commanding general. The ALJ subsequently granted a third request for extension of time, requiring the parties to submit a CAFO or prehearing exchanges by May 13, 2010. On May 11, 2010, due to the ALJ accepting new employment from another agency, the undersigned was designated to preside in this matter.

On May 12, Respondent United States Army submitted, with the consent of the other parties, a Motion for an Extension of Time to File Prehearing Exchange (Motion). The Motion notes that there are rigid requirements in the EPA SEP policy letter and for expenditure of appropriated funds by the Army, that details of policy compliance had to be reviewed internally by EPA and the Army, that recently the Army concluded that the proposed SEP is not feasible, and that it instead has reached a settlement for a penalty, which has been memorialized in a CAFO received by the Army from EPA on May 12. The Motion requests an additional two weeks to complete the concurrence and signatures required from multiple levels of all three parties and to file the CAFO.

Section 22.7(b) of the Rules of Practice (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. Good

cause exists for granting of the Motion in that the parties have expressed specific and valid reasons for the need for additional time, and it is in the interest of the parties and judicial economy for the parties to settle this matter on mutually agreeable terms rather than to litigate this matter to a conclusion. In that a hearing has not yet been scheduled in this proceeding, a brief delay will not result in any prejudice.

Therefore, the Motion is **GRANTED**. The parties shall have until **May 27, 2010** to file the fully executed CAFO in this matter, or their initial prehearing exchanges.



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Susan L. Biro  
Chief Administrative Law Judge

Date: May 13, 2010  
Washington, D.C.

In the Matter of U.S. Department of the Army and Army & Air Force Exchange Service, West Point Garrison, Respondents  
Docket No. RCRA-02-2009-7507

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Granting Motion For Extension Of Time**, dated May 13, 2010, was sent this day in the following manner to the addressees listed below.

  
Maria Whiting-Beale  
Staff Assistant

Dated: May 13, 2010

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