



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

U.S. ENVIRONMENTAL
 PROTECTION AGENCY-REG.11
 2012 MAY 10 P 1:56
 REGIONAL HEARING
 CLERK

In the Matter of: Oil Energy System, Inc., Respondent.)))))	Docket No. RCRA-02-2011-7107
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ORDER TO SHOW CAUSE

By Prehearing Order dated February 29, 2012, Oil Energy System, Inc. (“Respondent”) was required to file a prehearing exchange of information on or before April 27, 2012. To date, Respondent has failed to file its prehearing exchange. Because this administrative litigation does not allow the level of discovery available “under the Federal Rules of Civil Procedure, the prehearing exchange plays a pivotal function—ensuring identification and exchange of all evidence to be used at hearing and other related information (e.g., identification of witnesses).” *JHNY, Inc.*, 12 E.A.D. 372, 382 (EAB 2005). Section 22.17(a) of the Rules of Practice provides that a party may be found in default for failing to comply with a Prehearing Order. 40 C.F.R. § 22.17(a). A default is “an admission of all facts alleged . . . and a waiver of respondent’s right to contest such factual allegations.” *Id.* If Respondent is found in default, it may be held liable for the entire proposed penalty. “[F]ailure to comply with an ALJ’s order requiring [a prehearing] exchange is one of the primary justifications for entry of default.” *JHNY, Inc.*, 12 E.A.D. at 382.

Respondent has not complied with the prehearing exchange requirements of the Prehearing Order. Therefore, Respondent is ordered to file a document no later than May 25, 2012, explaining why it had **good cause** for failing to submit a prehearing exchange as required by the Prehearing Order, and why a default should not be entered against it.

M. Lisa Buschmann
Administrative Law Judge

Dated: May 9, 2012
Washington, D.C.

In the ADR Matter of *Oil Energy Systems, Inc.*, Respondent.
Docket No. RCRA-02-2011-7107

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order to Show Cause**, dated May 9, 2012 was sent this day in the following manner to the addressees listed below.


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