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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of ICOR International, Inc. Respondent)))))	Docket No. 5-CAA-98-038
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ORDER DENYING MOTION FOR ACCELERATED DECISION

The Complainant does deserve credit for persistence. Although its motion for an extension of the hearing date, in order to allow time for filing a motion for accelerated decision has been denied, it has filed such a motion anyway. However, as the Region has itself recognized, there is not sufficient time to allow for a response and decision on the motion before this hearing begins on May 11, 1999, in Indianapolis, Indiana. Therefore, the motion for accelerated decision must be denied.

Again, I note that it appears that this motion, even if there were sufficient time to resolve it, would likely not conserve the parties' and the court's time and resources. At best, it might shift some of that effort to the prehearing period, from the hearing itself. Where the facts and circumstances concerning the determination of the appropriate penalty for each count are intertwined with those concerning liability, an accelerated decision on bare liability is often an empty exercise that results in duplication of effort at the hearing, rather than a more efficient proceeding. To at least some degree, that appears to be the situation in this case. The Complainant has not pointed out one witness or piece of evidence that it would not have to address at hearing if the motion were granted. In any event, at this point, there is insufficient time to resolve the motion for accelerated decision.

To the extent facts are admitted in the pleadings or not disputed, they will not occupy our time at the hearing. As indicated in my earlier order denying an extension, Complainant's motion is useful as a trial brief that could serve to help narrow the issues for hearing relating to Respondent's liability. These matters will be addressed in a conference before beginning the hearing.

Order

The Complainant's motion for accelerated decision on liability is denied.

Andrew S. Pearlstein
Administrative Law Judge

Dated: April 26, 1999
Washington, D.C.

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