

interests of justice. A blanket prohibition on discovery without further consideration of specific discovery requests that might be made is not warranted. Additionally, this Tribunal's existing resources, current docket of cases, and upcoming holiday season do not allow for the scheduling of a hearing earlier than January 2023. At the same, this Tribunal is mindful of the statutory deadline that passed while the EAB was considering AMVAC's appeal and will therefore shorten the previously established deadlines.

Accordingly, the Agency's Motion is **GRANTED in part** and **DENIED in part**, and the Hearing and Scheduling Order Following Remand is amended to reschedule the hearing and prehearing deadlines as follows:¹

Additional Discovery. The parties are encouraged to engage in mutually agreed upon discovery so as to expedite the hearing and simplify contested issues. However, if the parties cannot agree on a discovery matter, the deadline for filing a motion seeking further discovery shall be **October 25, 2022**. All discovery shall be completed no later than **December 2, 2022**.

Other Motions. Motions for subpoenas shall be filed no later than **December 9, 2022**. Motions in limine shall be filed no later than **15 days** prior to hearing. Likewise, a party may freely amend its witness list, narrative summaries of expected testimony, documents, or exhibits, except that any amendment sought within **15 days** of the hearing must be accompanied by a motion demonstrating good cause for the amendment.

Joint Stipulations. The time allotted for the hearing is limited. Therefore, the parties shall make a good faith effort to stipulate as much as possible to matters that cannot reasonably be contested. This practice ensures that the hearing is concise and focused solely on those matters that can only be resolved after an evidentiary hearing. Any stipulations reached by the parties shall be filed as a Joint Set of Stipulated Facts, Exhibits, and/or Testimony on or before **December 23, 2022**.

Prehearing Briefs. The Agency shall file a prehearing brief on or before **January 6, 2023**. Petitioner AMVAC shall file a prehearing brief in response to the Agency's prehearing brief on or before **January 13, 2023**. In that this Tribunal and the EAB have already issued substantive orders in this case, the parties need not include in its prehearing briefs a general statement as to the procedural and/or factual history of this case, nor the applicable law. Rather, this Tribunal would like the parties to address in their Prehearing Briefs the following:

- A. The meaning of the phrase "within the time required by the Administrator" as used in 7 U.S.C. § 136a(c)(2)(B)(iv), citing any relevant statutory or regulatory history, case law, and/or other authority relied upon for interpretation, including therein a statement as to the party's position regarding any specific time limits set by the Administrator for production of data set out in the Data Call-in Notice, with respect to each of the twenty data requirements set out in the Notice of Intent to Suspend ("NOITS"), which were in effect at the time the NOITS was issued;

¹ These amendments do not change the Settlement and Status Report requirement established by the Hearing and Scheduling Order Following Remand.

- B. The meaning of the phrase “failed to take appropriate steps to secure the data required” as used in 7 U.S.C. § 136a(c)(2)(B)(iv), citing any relevant statutory or regulatory history, case law, and/or or other authority relied upon for interpretation;
- C. For each of the twenty data requirements set out in the NOITS, separately and with specificity, identify the evidence the party intends to offer at hearing in support of its position that AMVAC did or did not “fail to take appropriate steps to secure the data” requested by the Agency; and
- D. Identify with specificity any factual errors regarding the history of this matter set out in this Tribunal’s Order on Respondent’s Motion for Accelerated Decision or the EAB’s Decision and Remand Order, citing in support any and all evidence supporting the error.

Hearing. The hearing in this matter will be held beginning promptly at **9 a.m. ET** on **Tuesday, January 24, 2023**, and continue as necessary through Friday, January 27, 2022. The hearing will take place at:

EPA Administrative Courtroom
EPA East Building, Room 1152
1201 Constitution Ave. NW
Washington, D.C. 20460

Additional information about the hearing will be provided at a later date. The parties are hereby advised that the hearing will be held virtually using videoconferencing technology if conditions related to the spread of COVID-19 within Washington, D.C. require it as the scheduled hearing approaches.

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: October 18, 2022
Washington, D.C.

***In re FIFRA Section 3(c)(2)(B) Notice of Intent to Suspend Dimethyl
Tetrachloroterephthalate (DCPA) Technical Registration***

AMVAC Chemical Corporation; Grower-Shipper Association of Central California; Sunheaven Farms, LLC; J&D Produce; Ratto Bros., Inc.; and Huntington Farms, Petitioners.
Docket No. FIFRA-HQ-2022-0002

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Respondent's Motion to Amend Hearing and Scheduling Order**, dated October 18, 2022, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



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Dated: October 18, 2022
Washington, D.C.