

10/9/96

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of)
)
Cytec Industries, Inc.,) Docket No. RCRA V-W-0009-94
)
Respondent)

ORDER DENYING POSTPONEMENT OF HEARING
and
ADDRESSING SUPPLEMENTAL PREHEARING EXCHANGE

Continuation of Hearing

Complainant has moved, in a fax dated October 8, 1996, for a postponement of the hearing in this matter, scheduled to begin October 22, 1996. That motion is denied. In order to show good cause for a postponement at this late date, there must generally be consent of both parties, such as due to a settlement in principle, or some kind of emergency concerning key witnesses or counsel. The motion does not adequately explain why more time is needed simply to review documents and interview potential witnesses, and does not even indicate whether Respondent has been contacted for its consent. There has been ample time to prepare for this hearing, even under the several time constraints cited by Complainant in its motion. Therefore the motion for a continuation is denied, and unless there is mutual consent and/or good cause shown in any subsequent motion, the hearing will take place as scheduled.

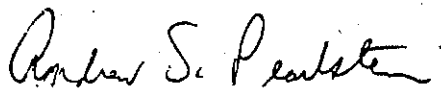
Supplemental Prehearing Exchange

Complainant has also, on October 3, 1996, moved to supplement its prehearing exchange. As I stated in my Notice of Prehearing Procedures dated September 12, 1996, I freely allow supplemental prehearing exchanges up to 30 days before the hearing, and may allow them within 30 days if there is no prejudice, and, certainly, on consent. The motion does not indicate whether Respondent was contacted for its consent, and Respondent has not yet replied. Due to the short time before the hearing, and to avoid unnecessary further submittals, Complainant's motion will be addressed at this time.

The proposed additional exhibits and witnesses appear to be appropriate to address the issues, and do not appear to pose any significant potential to prejudice Respondent two weeks before the beginning of the hearing. The proposed documents and photographs are specifically allowed as a supplemental prehearing exchange.

I am concerned, however, with the vagueness and apparent

redundancy of the descriptions of the proposed testimony of several of the new potential witnesses. I will not preclude any testimony or evidence at this time, but may well do so at the hearing if it appears that it will be unduly repetitious. Complainant should limit its witnesses to those necessary to address the issues one time only, or will be taking the risk that some of the proposed witnesses will be precluded from testifying at the hearing.



Andrew S. Pearlstein
Administrative Law Judge

Dated: October 9, 1996
Washington, D.C.

In the Matter of Cytec Industries, Inc.
Docket No. RCRA V-W-0009-94

CERTIFICATE OF SERVICE

I certify that the foregoing Order Denying Postponement and Addressing Prehearing Exchange, dated October 9, 1996 was sent in the following manner to the addressees listed below:

Original by Regular Mail:

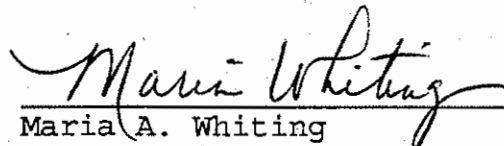
Estelle Patterson
Acting Regional Hearing Clerk
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3507

Copies by Fax and Regular Mail:

Michael J. McClary, Esq.
Assistant Regional Counsel
U.S. EPA Region 5
Mail Code CS-3T
77 West Chicago Boulevard
Chicago, IL 60604-3507
Fax: (312) 353-8937

Kirk M. Minckler, Esq.
Frederic P. Andes, Esq.
Sonnenschein Nath & Rosenthal
8000 Sears Tower
Chicago, IL 60606
Fax: (312) 876-7934

Karen E. Koster, Esq.
Linda J. Doucette-Ashman, Esq.
Cytec Industries, Inc.
Five Garret Mountain Plaza
West Paterson, NJ 07424
Fax: (201) 357-3058



Maria A. Whiting
Legal Assistant
Ofc. of Adm. Law Judges
U.S. EPA, Mail Code 1900
401 M Street SW
Washington, DC 20460

Dated: October 9, 1996
Washington, D.C.