



Office of Administrative Law Judges



[Recent Additions](#) | [Contact Us](#) **Search:** All EPA This Area

You are here: [EPA Home](#) » [Administrative Law Judges Home](#) » [Decisions & Orders](#) » [Orders 1999](#)

- Decisions & Orders
- About the Office of Administrative Law Judges
- Statutes Administered by the Administrative Law Judges
- Rules of Practice & Procedure
- Environmental Appeals Board
- Employment Opportunities

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

<p>In the Matter of</p> <p style="text-align: center;">ICOR International, Inc.</p> <p style="text-align: center;">Respondent</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. 5-CAA-98-038</p>
---	--	--------------------------------

ORDER DENYING EXTENSION OF HEARING DATE

The Region 5 Office of the United States Environmental Protection Agency (the "Region" or "Complainant") has filed a renewed motion for an extension of the hearing date in this matter. An initial motion seeking this relief was denied without prejudice by this court in an Order dated April 13, 1999. The renewed motion includes more specific reasons for the extension, and draft motions for accelerated decision and to strike the Respondent's affirmative defenses. The Region seeks the extension in order to allow time for the filing and decision on such motions. The hearing in this matter is scheduled to begin on May 11, 1999, in Indianapolis, Indiana. The Respondent has filed a motion in opposition to the Complainant's motion for an extension of the hearing date, and Complainant filed a response to Respondent's opposition.

The Complaint in this proceeding, dated September 29, 1998, charges ICOR International, Inc., of Indianapolis, Indiana (the "Respondent" or "ICOR"), with three counts of violations of the Clean Air Act §608, 42 U.S.C. §7671g, and the Stratospheric Ozone Regulations, 40 CFR Part 82, with respect to ICOR's manufacture and distribution of equipment and refrigerants used in motor vehicle air conditioners ("MVACs"). The Complaint seeks assessment of an administrative civil penalty of \$99,850 against ICOR for these alleged violations.

Although the Region's motion is sufficiently specific in indicating the relief it would seek in its intended motions for accelerated decision and to strike defenses, it still does not show sufficient good cause to extend the hearing date in this case. The putative motions, even if granted, would not result in the conservation of judicial resources or those of the parties. Rather, this proceeding could more rapidly and efficiently be resolved by proceeding to the hearing on the scheduled dates.

The Complainant's draft motions seek determinations that the Respondent is liable for the alleged three counts of violations, and to strike Respondent's affirmative defenses. Even if those motions were to be granted,⁽¹⁾ the issue of the appropriate penalty to be assessed remains wide open for adjudication. Many of ICOR's assertions in its Answer, prehearing exchange, and response to the motion, raise factual issues and legal arguments that, if not complete defenses to liability, could well be relevant to the determination of an appropriate civil penalty under the CAA §113(e)(1). These matters would have to be addressed in one way or another during the hearing, to substantially the same extent regardless of whether the proposed motions were earlier decided. Extension of the hearing date to allow such motion practice would thus result in an empty exercise that would not advance the litigation process and ultimate resolution of this proceeding.

The materials exchanged thus far can be used by the parties, however, to mutually arrive at stipulations on undisputed facts and to narrow the issues for hearing. The procedures for accomplishing this will be addressed in the accompanying prehearing notice. This represents an avenue that is more likely to advance the litigation process in this case.

Order

For these reasons, the Complainant's motion to extend the hearing date is denied. The hearing will proceed as scheduled on May 11, 1999, in Indianapolis, Indiana.

Andrew S. Pearlstein
Administrative Law Judge

Dated: April 21, 1999
Washington, D.C.

1. The Respondent has challenged certain facts concerning its liability, or partial liability, for the alleged violations. This decision does not intimate that any preliminary assessment has been made of the likelihood of success of Complainant's proposed motions.

[EPA Home](#) | [Privacy and Security Notice](#) | [Contact Us](#)

file:///Volumes/KINGSTON/Archive_HTML_Files/icor2.htm
[Print As-Is](#)

Last updated on March 24, 2014