



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

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In the Matter of: )  
)  
Reckitt Benckiser LLC, et al., ) FIFRA Docket No. 661  
)  
Petitioners. )

**ORDER ON JOINT MOTION CONCERNING THE PREHEARING EXCHANGE**

On February 10, 2014, the undersigned issued a Prehearing Order (“PHO”) setting forth deadlines by which the parties are to file and serve Prehearing Exchange (“PHE”) materials, including a deadline of Friday, February 28, 2014, for Respondent’s Initial Prehearing Exchange.<sup>1</sup>

On February 19, 2014, Respondent stated in a Status Report that in discussing the PHE deadlines, all parties had agreed not to oppose any other party’s reasonable motion to supplement its initial PHE submissions, and Respondent indicated that it would not file a motion for an extension of time to file its Initial PHE. Respondent and Petitioner Reckitt stated to all parties their intention to offer physical exhibits into evidence at the hearing, and all parties agreed that for purposes of the PHEs, “a concise description of the exhibit sufficient to allow the parties to identify it, including the EPA product registration number where pertinent, and a picture of the exhibit would suffice.” Respondent stated in the Status Report that the parties also agreed to other related procedures.

On February 21, 2014, the parties filed a Joint Motion Concerning the Prehearing Exchange, wherein they state that they have conferred and jointly request that the undersigned adopt certain procedures for the parties’ PHE. These procedures include (with some detail omitted here), (1) the parties’ acceptance of PHE materials in electronic form instead of paper; (2) the parties’ acceptance of descriptions of physical exhibits instead of the items themselves, subject to terms set forth in the February 19 Status Report; (3) the filing of the parties’ PHE materials in electronic format instead of paper format at least for purposes of meeting the PHO’s

<sup>1</sup> In addition to being served on the parties, the PHO was served on CropLife America (“CLA”) and the American Chemistry Council Biocides Panel (“ACC”), both of which filed amicus curiae briefs in support of a motion that has now been adjudicated. Notice is hereby given that because CLA and ACC are not parties to this proceeding pursuant to the governing rules, they shall no longer be served by this Tribunal after service of this order, and are not entitled to be served by the parties going forward. 40 C.F.R. §§ 164.2(m), (o), (s), 164.4(d), 164.5, 164.31(c), (d). All interested persons that are not parties may review the documents filed in this proceeding on the Internet at <http://www.epa.gov/oalj/filings-section6.htm>.

deadlines, with paper copies sent thereafter at the undersigned's order; (4) for the parties' exchange and filing of exhibits available on the Internet, the substitution of a functional electronic citation of those exhibits instead of physical copies (though the physical copy will be made available at the hearing); and (5) the parties' reservation of the right to enlarge for presentation or show on screen at the hearing an identical image of any tables, charts, graphs or other images included within PHE exhibits without the need to separately identify or exchange such image as part of the PHE.

The rules of practice governing this proceeding, set forth at 40 C.F.R. Part 164 ("Rules of Practice"), provide that copies of exhibits may be substituted for original exhibits at the discretion of the ALJ, and that a copy of each exhibit filed must be served on the parties unless the ALJ deems it impracticable. 40 C.F.R. § 164.81(d).

Because the parties have all agreed on the procedures stated in the Joint Motion and the February 19 Status Report, and each provision therein appears reasonably calculated to reduce waste, avoid impracticability, and improve clarity and efficiency of the PHE process, each provision is approved. The parties are notified, however, that the undersigned may revise such procedures or order the full production of exhibits by future order.

The parties' Joint Motion Concerning the Prehearing Exchange is hereby **GRANTED**.

**SO ORDERED.**



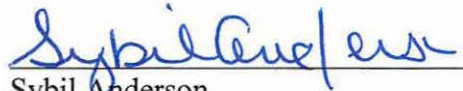
Susan L. Biro  
Chief Administrative Law Judge

Dated: February 25, 2014  
Washington, D.C.

In The Matter of Reckitt Benckiser LLC, et al., FIFRA Docket No. 661

CERTIFICATE OF SERVICE

I hereby certify that a letter offering **Order On Joint Motion Concerning The Prehearing Exchange**, dated February 25, 2014, was sent this day in following manner to the addresses listed below:



Sybil Anderson  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
(202)564-6261

Dated: **February 25, 2014**

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