



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)	
)	
Birds Eye Foods, Inc.,)	Docket Nos. MM-05-2018-0002
)	CERCLA-05-2018-0005
)	EPCRA-05-2018-0009
)	
Respondent.)	

**ORDER ON RESPONDENT’S MOTION TO EXTEND DEADLINE
FOR FILING OF INITIAL PREHEARING EXCHANGE**

On June 13, 2018, the Chief of the Emergency Response Branch 1, Superfund Division, United States Environmental Protection Agency, Region 5 (“Complainant”), initiated this proceeding by filing a Complaint against Birds Eye Foods, LLC (“Respondent”), under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9609(b), and Section 325(b)(2) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11045(b)(2). On July 16, 2018, Respondent filed an Answer, Affirmative Defenses and Request for Hearing. By Prehearing Order dated July 20, 2018, I directed the parties to engage in a prehearing exchange of information in accordance with the schedule set forth in the Prehearing Order. Of particular relevance here, I ordered Respondent to file its Prehearing Exchange by September 21, 2018. Based on Respondent’s representations that the parties were engaged in good faith settlement negotiations, I subsequently extended that deadline to October 31, 2018.

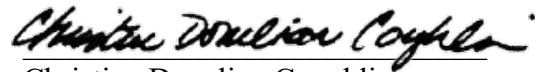
On October 18, Respondent filed a Motion to Extend Deadline for Filing of Initial Prehearing Exchange (“Motion”), in which Respondent requests another extension of that deadline, this time to November 30, 2018. As grounds for this request, Respondent represents that the parties have progressed in their settlement negotiations to the point where they believe they have reached a settlement in principle. However, Respondent explains, the parent company of Respondent is being acquired by another corporate entity, which may raise additional legal questions requiring resolution by the parties, and approval of the settlement terms by the acquiring company will require additional time not originally anticipated by the parties. Respondent represents that Complainant does not object to the requested extension.

This matter is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”) set forth at 40 C.F.R. Part 22. The Rules of Practice provide that I “may grant an extension of time for filing any document: upon timely motion of a party to the

proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.” 40 C.F.R. § 22.7(b).

Here, Respondent’s Motion was timely, shows good cause, and is unopposed. Accordingly, it is hereby **GRANTED**. As requested, Respondent shall now file its Prehearing Exchange no later than **November 30, 2018**. The deadline for Complainant’s Rebuttal Prehearing Exchange will correspondingly be extended, and Complainant shall file it no later than **December 14, 2018**.

SO ORDERED.


Christine Donelian Coughlin
Administrative Law Judge

Dated: October 23, 2018
Washington, D.C.

In the Matter of *Birds Eye Foods, LLC*, Respondent.
Docket Nos. MM-05-2018-0002, CERCLA-05-2018-0005, EPCRA-05-2018-0009

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Respondent's Motion to Extend Deadline for Filing of Initial Prehearing Exchange**, dated October 23, 2018, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.

Jennifer Almase
Attorney-Advisor

Original and One Copy by Personal Delivery to:

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For Respondent

Dated: October 23, 2018
Washington, D.C.