



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
Homeca Recycling Center Co., Inc.,) **Docket No. CAA-02-2024-1201**
)
Respondent.)

ORDER ON THE PARTIES' MOTIONS REGARDING THE PREHEARING SCHEDULE

This proceeding was initiated on October 20, 2023, when Complainant, the Director of the Caribbean Environmental Protection Division of Region 2 of the United States Environmental Protection Agency, filed a Complaint and Notice of Opportunity to Request a Hearing ("Complaint") against Respondent Homeca Recycling Center Co., Inc., for alleged violations of Sections 112 and 113 of the Clean Air Act, 42 U.S.C. §§ 7412 and 7413, and the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M. After Respondent filed an Answer to Complaint and Request for Hearing on December 5, 2023, the matter was forwarded to this Tribunal for adjudication, and I was designated to preside.

By Prehearing Order dated January 19, 2024, I set deadlines for certain prehearing procedures, including a prehearing exchange of information by the parties and the filing of certain prehearing motions. Complainant timely filed its Initial Prehearing Exchange on March 1, 2024. I subsequently granted leave to Complainant to file an amended complaint to correct errors it had identified in the Complaint, which it did on March 21, 2024.

As set forth in the Prehearing Order, the deadline for Respondent to file and serve its prehearing exchange was the following day on March 22, 2024. As of March 27, 2024, this Tribunal had yet to receive Respondent's prehearing exchange or a motion seeking to extend the filing deadline, so as a courtesy, an attorney for this Tribunal contacted counsel for Respondent, with counsel for Complainant copied, to inquire as to the status of the filing. Counsel for Respondent responded that Respondent intended to file an amended answer in response to the amended Complaint and that its understanding was that a new prehearing order would be issued as a result of the amended pleadings. Upon being advised that the deadlines set by the Prehearing Order remained in effect, such that Respondent's prehearing exchange was overdue, Respondent filed a Motion for Leave to File Prehearing Exchange Out of Time and a Request for Authorization to File Prehearing Exchange Out of Time (collectively, "Respondent's Motions") on April 2, 2024. Substantively seeking the same relief, the Motions 1) explain that Respondent reasonably and in good faith believed that the schedule for the parties' prehearing exchange would be revised based on the amended pleadings; 2) seek leave to file Respondent's prehearing exchange after the March 22, 2024 deadline; and 3) request

that the new deadline for Respondent’s prehearing exchange be April 24, 2024. Finally, the Motions relay that Complainant does not object to the requested relief.

Complainant subsequently filed a Response to Respondent’s Motion(s) for Leave to File Prehearing Exchange Out of Time and Cross-Motion for Extension of Time (collectively, “Complainant’s Motion”). Therein, Complainant states that it does not oppose Respondent’s Motions but that because the relief requested by Respondent sets back the litigation schedule by approximately four weeks, Complainant proposes a new schedule for the submission of its Rebuttal Prehearing Exchange and prehearing motions that accounts for the delay in Respondent’s prehearing exchange and pre-existing obligations of Complainant. Complainant maintains that its request is timely, supported by good cause, and unopposed by Respondent.

This proceeding 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” or “Rules”), 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). Further, the Rules authorize me to “[d]o all other acts and take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues arising in proceedings governed by these Consolidated Rules of Practice.” 40 C.F.R. § 22.4(c)(10).

Upon consideration, I find that both Respondent’s Motions and Complainant’s Motion show good cause. Moreover, neither party objects to the relief sought. Accordingly, Respondent’s Motions and Complainant’s Motion are hereby **GRANTED**. As requested by the parties, the prehearing schedule is extended as set forth below:

- | | |
|-----------------------|---|
| April 24, 2024 | Respondent’s Prehearing Exchange |
| May 24, 2024 | Complainant’s Rebuttal Prehearing Exchange |
| June 7, 2024 | Any joint motion for the appointment of a neutral |
| July 23, 2024 | Any dispositive motions |

SO ORDERED.



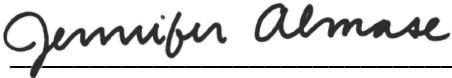
Michael B. Wright
Administrative Law Judge

Dated: April 9, 2024
Washington, D.C.

In the Matter of *Homeca Recycling Center Co., Inc.*, Respondent.
Docket No. CAA-02-2024-1201

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on the Parties' Motions Regarding the Prehearing Schedule**, dated April 9, 2024, and issued by Administrative Law Judge Michael B. Wright, was sent this day to the following parties in the manner indicated below.



Jennifer Almase
Attorney-Advisor

Original by OALJ E-Filing System to:
Office of Administrative Law Judges
U.S. Environmental Protection Agency
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

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Dated: April 9, 2024
Washington, D.C.