

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of)	
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)	
Cecos International, Inc.,)	Docket No. II-TSCA-PCB-91-0246
)	
)	
Respondent)	

ORDER DENYING MOTION FOR PARTIAL ACCELERATED

DECISION FOR LIABILITY

On November 21, 1997, Complainant, Environmental Protection Agency, filed a Motion For Partial Accelerated Decision For Liability in the above-stated proceeding. This motion was not received by either respondent or the undersigned until November 26, 1997, the eve of Thanksgiving. On December 2, 1997, respondent filed a Motion For Extension until December 17, 1997, to file its response to Complainant's Motion. This Motion was received by the undersigned on December 5, 1997. EPA's Motion had also sought three weeks after receipt of respondent's opposition to its motion, to file its rely.

An evidentiary hearing in this case is scheduled for the week of January 26-30, 1998, in New York. According to the briefing schedule advanced by the parties, EPA's Motion would not be ripe for review until approximately the week of January 12, 1998, when the undersigned is scheduled to hear another evidentiary hearing in Lafayette, Indiana. For the undersigned to consider the briefs and issue an Order

on EPA's Motion would hold the parties in suspense until virtually the day of hearing. This is a patently unreasonable and inappropriate burden to place on the undersigned and parties to this proceeding.

The deadline for dispositive motions in this case was originally set for October 22, 1997. However, by order dated September 17, 1997, the undersigned, at EPA's request, extended the deadline for "the filing of motions, if any," [to] no later than November 21, 1997. EPA thus had more than 60 days to file its Motion for Partial Accelerated Decision. Instead, it chose until the last day of the deadline, November 21, 1997, to file its Motion, which was not received by respondent until the Thanksgiving Holiday period. Although technically EPA's Motion was "timely" filed, the lateness of its filing, especially during the extended holiday season precludes its adjudication. For these reasons, Complainant's Motion is DENIED.

EPA's Motion raises potential legal issues that have not changed and which could have been addressed shortly after submission of pre-hearing exchange materials, when there was adequate time to consider it on the merits. Therefore, Respondent need not file a response to EPA's Motion. For the same reasons, the undersigned will not consider EPA's request to hear oral argument on its Motion, which is similarly, DENIED.

As in any evidentiary hearing, the parties are encouraged to discuss possible resolution or narrowing of the issues, as well as to enter into any stipulations of law or fact which may serve to expedite this hearing. The issues raised in EPA's Motion for Accelerated Decision will be resolved by means of the evidentiary hearing process.

Barring settlement of this case, the hearing will begin as scheduled on January 26, 1998, and continue on the ensuing days until completed. No requests for a continuance or postponement of the hearing will be entertained.

Stephen J. McGuire

Administrative Law Judge

Date: December 10, 1997

Washington, D.C.