



U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

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BEFORE THE ADMINISTRATOR

REGIONAL HEARING
CLERK

In the Matter of:)
)
Hong Kong Supermarket, Inc.,) **Docket No. FIFRA-02-2012-5205**
)
Respondent.) **Dated: November 5, 2012**

SECOND ORDER EXTENDING PREHEARING DEADLINES

A Prehearing Order was issued in this matter on July 17, 2012, directing the parties to engage in a series of prehearing information exchanges and establishing deadlines by which those exchanges were to take place. On September 24, 2012, the undersigned received a filing in which Respondent stated that “both parties” had agreed to ask “for extensions of time for Respondent’s Prehearing Exchange and the Complainant’s Rebuttal Prehearing Exchange for thirty (30) days, in light of substantial and active settlement negotiations between the parties in this matter.” In a telephone conversation held on September 28, 2012, Complainant’s counsel informed the undersigned’s staff attorney that the parties had reached an agreement concerning liability in this matter and were awaiting approval from EPA Region 2 before signing a written settlement. On October 1, 2012, the undersigned issued an Order extending the deadlines set forth in the Prehearing Order by thirty days. Complainant was to file its Rebuttal Prehearing Exchange no later than November 5, 2012, unless the parties first filed a fully-executed Consent Agreement and Final Order.

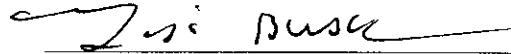
Between October 29 and 30, 2012, a storm identified as Hurricane Sandy struck the northeastern portion of the United States, causing significant damage to New York City and the New York metropolitan area. On November 5, 2012, Complainant’s counsel submitted an email in which he states that prior to the storm “Complainant approved of the Consent Agreement to resolve the above-referenced administrative proceeding and the Consent Agreement was sent to Respondent’s counsel . . . for his client’s signature.” Complainant’s counsel states that the response date had been set for the week of October 29, 2012. However, due to the effects of the storm, Complainant’s offices have been closed since October 29, 2012, and Complainant’s counsel does not know the status of the Consent Agreement. Complainant’s counsel requests that the deadline for filing either an executed Consent Agreement and Final Order or a Rebuttal Prehearing Exchange be extended until November 21, 2012. Complainant also requests that the undersigned excuse the absence of a formal motion due to the unique emergency circumstances still present in New York City at this time.

Shortly after receiving Complainant’s counsel’s email message, the undersigned received an email from Respondent’s attorney. Respondent’s attorney states that his office was also closed during the week of October 29, 2012, due to the effects of the storm, and that Respondent joins in Complainant’s request for an extension of time.

The Rules of Practice that govern this proceeding, 40 C.F.R. Part 22, provide that the presiding officer may grant an extension of time for filing any document “upon timely motion . . ., for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.” 40 C.F.R. § 22.7(b).

The unopposed request is hereby **GRANTED** for good cause in accordance with 40 C.F.R. § 22.7(b). If the parties do not file a fully-executed Consent Agreement and Final Order beforehand, Complainant shall file its Rebuttal Prehearing Exchange on or before **November 21, 2012**.

SO ORDERED.



M. Lisa Buschmann
Administrative Law Judge

In the ADR Matter of *Hong Kong Supermarket, Inc.*, Respondent.
Docket No. FIFRA-02-2012-5205

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Second Order Extending Prehearing Deadlines**, dated November 5, 2012 was sent in the following manner to the addressees listed below.


Knolyn Jones
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

Karen Maples
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New York, NY 10007-1866

One Copy by Pouch Mail to:

Bruce Aber, Esq.
Office of Regional Counsel
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One Copy by Regular Mail to:

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