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**\*\*FILED\*\***  
**29 NOV 2021**  
**U.S. EPA - REGION IX**

7 UNITED STATES  
8 ENVIRONMENTAL PROTECTION AGENCY  
9 REGION IX

10 In the Matter of: ) Docket No. TSCA-09-2021-0068  
11 )  
12 MCEC, Inc., ) MOTION FOR EXTENSION OF  
13 ) TIME TO FILE ANSWER  
14 Respondent. )  
\_\_\_\_\_ )

15  
16 TO THE REGIONAL JUDICIAL OFFICER:  
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18 Pursuant to the authority set forth in the Consolidated Rules of Practice, 40 C.F.R. Part  
19 22, Complainant U.S. Environmental Protection Agency, Region IX (“Complainant”), moves the  
20 Regional Judicial Officer to grant a 45-day extension of time to respond to the complaint in the  
21 above-entitled action (the “Complaint”) to January 18, 2022. Complainant’s reasons for seeking  
22 an extension for time are set forth below.

23 BACKGROUND

24 On September 2, 2021, Complainant filed a civil administrative action against  
25 Respondent MCEC, Inc. in the above-entitled action. The Complaint alleges violations of  
26 Section 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2689, by failing to  
27 comply with Sections 402 and 406 of TSCA, 15 U.S.C. §§ 2682 and 2686, and their  
28 implementing federal regulations promulgated at 40 C.F.R. Part 745, Subpart E. Respondent was

1 served with the Complaint on September 2, 2021, and Respondent’s response to the Complaint is  
2 due by October 4, 2021 (technically, the due date is October 2, 2021, but since this falls on a  
3 Saturday then, pursuant to 40 C.F.R. § 22.7(a), the due date shall be extended to include the next  
4 business day). Complainant subsequently filed a Motion for Extension of Time to File Answer  
5 on September 29, 2021 that requested an extension of time to file its Answer to December 3,  
6 2021. On October 13, 2021, the Regional Judicial Officer filed a Decision on Motion for  
7 Extension of Time to File Answer providing for an extension to and including December 3,  
8 2021.

9 ARGUMENT

10 The Regional Judicial Officer may grant an extension of time to file an answer upon  
11 filing of a timely motion, a showing of good cause and after consideration of prejudice to other  
12 parties to the action. 40 C.F.R. §§ 22.7(b) and 22.16. This motion satisfies these criteria.

13 This motion is timely, having been filed prior to the due date for Respondent’s answer to  
14 the Complaint.

15 This motion also complies with the “good cause” requirement of 40 C.F.R. § 22.7(b). It is  
16 Complainant’s policy to encourage settlement and avoid litigation when consistent with the  
17 provisions and objectives of the law at issue. 40 C.F.R. § 22.18(b). Representatives of  
18 Complainant and Respondent have come to a settlement in principle in the above-captioned  
19 matter, and a 45-day extension of time to respond to the complaint will facilitate the process by  
20 which the settlement is finalized and made official. Specifically, the 45-day extension will allow  
21 (1) Respondent to review and comment upon the draft Consent Agreement and Final Order (the  
22 “CAFO”) that Complainant provided to Respondent on November 19, 2021; and (2) after  
23 agreement on the final version of the CAFO, allow Complainant to process Respondent's signed  
24 copy of the CAFO through its bureaucratic filing system for final Agency signature and issuance  
25 (a task for which perhaps a 30-day extension would typically suffice but, given the impending  
26 holidays and shifting availability of necessary parties, for which a 45-day extension is more  
27 prudent).

1 Finally, granting of this motion will not result in prejudice. As noted above, the parties  
2 have mutually agreed to a settlement in principle and the requested extension will provide  
3 Complainant and Respondent sufficient time to make the settlement official to fully resolve the  
4 matter. Respondent agrees with and does not object to this Motion.

5 CONCLUSION

6 For the reasons set forth above, Complainant respectfully requests that the Regional  
7 Judicial Officer grant Complainant's motion for a 45-day extension of time to file an answer to  
8 and including January 18, 2022.

9 Dated at San Francisco, California, on this 29<sup>th</sup> day of November, 2021.

10 EDGAR  
11 CORAL

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12 EDGAR P. CORAL  
13 Assistant Regional Counsel  
14 U.S. Environmental Protection Agency, Region IX  
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1 CERTIFICATE OF SERVICE

2 I hereby certify that I have served, by electronic mail, a true and correct copy of the  
3 foregoing Motion for Extension of Time to File Answer (Docket No. TSCA-09-2021-0068) to  
4 the following counsel for Respondent:

5 James L. Miller, Esq.  
6 James L I Miller, P.C.  
7 3419 Via Lido #194  
8 Newport Beach, CA 92663  
9 jlimesq@dslextreme.com

10 and to the Regional Hearing Clerk:

11 Regional Hearing Clerk  
12 Office of Regional Counsel (ORC-1)  
13 U.S. Environmental Protection Agency, Region IX  
14 75 Hawthorne Street  
15 San Francisco, California 94105  
16 R9HearingClerk@epa.gov

17 Dated: \_\_\_\_\_

18 By:

19 **EDGAR CORAL**

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20 U.S. Environmental Protection Agency, Region IX  
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