



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Borla Performance Industries, Inc.,) Docket No. CAA-09-2020-0044
)
Respondent.)

ORDER ON JOINT MOTION FOR EXTENSION OF TIME

By Order, deadlines for completing the prehearing exchange of information in this matter were set by the undersigned. *See* Order on J. Mot. for Extension of Time (Nov. 23, 2020) at 1-2. On February 4, 2021, the parties filed an Expedited Joint Motion for Extension of Time for Filing Respondent’s Prehearing Exchange and Complainant’s Rebuttal (“Joint Motion”). In their Joint Motion, the parties request that these upcoming deadlines be extended by three weeks. J. Mot. at 1.

As grounds for this request, the parties report that the U.S. Environmental Protection Agency issued a revised mobile source penalty policy on January 18, 2021. J. Mot. at 2. The parties state that “Respondent did not become aware of the new policy until February 2, 2021.” J. Mot. at 2. The parties relate that Complainant cited the prior penalty policy in its Prehearing Exchange, submitted January 8, 2021, but has since communicated to Respondent that it will rely on the revised penalty policy moving forward. J. Mot. at 2. The parties assert that:

Respondent has been working to develop its Prehearing Exchange submission that is presently due on February 12, 2021, with the understanding that [Complainant] would be basing its penalty calculation on the [prior] penalty policy. The issuance of the new penalty policy and its application in this case will require Respondent to analyze the new policy and adjust its Prehearing Exchange to reflect the potential impacts of that new policy on [Complainant’s] positions and Respondent’s defenses.

J. Mot. at 3. The parties further claim that “[n]o prejudice to any party will occur as the parties are in agreement with respect to the proposed schedule extension. [Complainant] must also adjust the preparation of its proposed penalty assessment to reflect the modifications in the January 2021 policy[.]” J. Mot. at 3.

Under the Consolidated Rules of Practice governing this proceeding, set forth at 40 C.F.R. Part 22, the presiding officer is empowered to “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[.]” 40 C.F.R. § 22.7(b). As such, I find there is good cause to allow the requested three-week extension of time, and I find that neither party will be prejudiced by granting this request. The Joint Motion is **GRANTED**. The new deadlines are as

follows:

The outstanding Prehearing Exchanges called for in the Prehearing Order (October 19, 2020) shall be filed and served on or before the following deadlines:

Friday, March 5, 2021	Respondent's Prehearing Exchange
Friday, March 19, 2021	Complainant's Rebuttal Prehearing Exchange

Any remaining deadlines set by the Prehearing Order, such as that for filing a joint motion for the appointment of a neutral, are extended accordingly.

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: February 5, 2021
Washington, D.C.

In the Matter of *Borla Performance Industries, Inc.*, Respondent.
Docket No. CAA-09-2020-0044

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Joint Motion for Extension of Time**, dated February 5, 2021, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.


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Dated: February 5, 2021
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