

Whitehead, LaDawn

From: Denton, Charles <Charles.Denton@btlaw.com>
Sent: Friday, March 27, 2015 2:51 PM
To: Coyle, Ann
Cc: DeLeon, Jose; Kaiser, Steven; Whitehead, LaDawn; Rosado, Elizabeth
Subject: In the Matter of Allegan Metal Finishing Co - Docket No. EPCRA-05-2015-0010
Attachments: Respondent's Reply.pdf

Importance: High

Attached is Respondent's Reply to U.S. EPA's Expedited Response Regarding Motion for Extension of Time to File Answer, proposed Order, with Certificate of Service.

We appreciate your prompt consideration.

Charlie Denton

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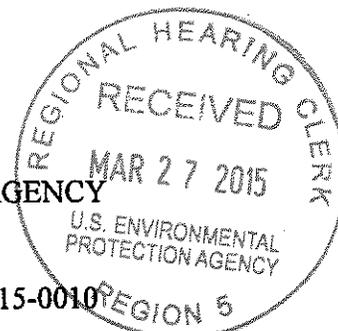
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:) Docket No. EPCRA-05-2015-0010
)
Allegan Metal Finishing Company) Proceeding to Assess a Civil Penalty Under
Allegan, Michigan,) 325(c)(1) of the Emergency Planning and
) Community Right-to-Know Act of 1986
Respondent.)
)

**RESPONDENT'S REPLY TO U.S. EPA'S EXPEDITED RESPONSE REGARDING
MOTION FOR EXTENSION OF TIME TO FILE ANSWER**

Respondent Allegan Metal Finishing Company ("AMFCO"), through its undersigned legal counsel of record, maintains its request for an indefinite extension for filing its Answer to the Complaint in this matter. As previously explained in its March 24, 2015 Motion for Extension of Time to File an Answer, the Company has been destroyed by the March 15, 2015 fire. AMFCO's current resources are being directed towards determining whether it can continue as a business, securing the property and undertaking emergency response measures, and making sure its customers and employees are able to recover from their losses as well. While not wanting to marginalize U.S. EPA's Complaint, the Company has for the immediate future more pressing matters than addressing U.S. EPA's alleged misfiling violations that present no environmental, health or safety threat or impact.

AMFCO also stands by the representation to this tribunal that U.S. EPA's counsel refused to concur in the relief sought or to stipulate to any extension during pre-filing discussions regarding the fire event (with which U.S. EPA Region 5 was already involved) and possible extension as a result of that catastrophic loss. U.S. EPA Assistant Regional Counsel refused to agree to any extension of time, not simply an indefinite extension of time when pressed by

counsel for AMFCO. U.S. EPA counsel simply did not offer any options for AMFCO to file a stipulated or unopposed motion for an extension, and so the pending Motion was unavoidable.

AMFCO renews its request to have a status conference on or about May 1, 2015 with the Regional Hearing Officer and U.S. EPA Regional Counsel to discuss AMFCO's status and evaluate further proceedings based upon the state of the Company's recovery from the destruction of its business at that time. This is generally consistent with U.S. EPA Regional Counsel's email to the undersigned this morning indicating U.S. EPA's Response would be "suggesting thirty days followed by a status and then if necessary to be extended another thirty days."

WHEREFORE, Respondent AMFCO respectfully moves the Hearing Officer to GRANT its Motion for Extension of Time to Answer Complaint and allow AMFCO's Answer to the Complaint to be filed with the Regional Hearing Clerk at a later date to be determined following a status conference on or about May 1, 2015, conduct a Formal Hearing on the U.S. EPA allegations pursuant to a scheduling order to be issued, together with such further and other relief as may be just and equitable under the circumstances.

Respectfully submitted,

Dated: March 27, 2015



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**ORDER GRANTING RESPONDENT'S MOTION FOR EXTENSION OF TIME
TO ANSWER COMPLAINT and REQUEST FOR FORMAL HEARING**

This matter comes before the Hearing Officer on the motion of Respondent Allegan Metal Finishing Company ("AMFCO") for an indefinite extension of time by which to provide any Answer related to the United States Environmental Protection Agency's Complaint in this matter.

AMFCO shall provide a status update to the Hearing Officer and U.S. Environmental Protection Agency regarding its ability to provide an Answer to the Complaint served in this matter on or before May 1, 2015.

This Court, having considered the relevant facts and being duly advised, finds that the Allegan Metal Finishing Company's Motion for Extension of Time should be and is hereby **GRANTED**.

A Formal Hearing on this matter will be scheduled at a later date pursuant to a future scheduling order.

So **ORDERED** this ____ day of _____, 2015.

Honorable
Administrative Law Judge
U.S. Environmental Protection Agency

Copies to:

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of "Respondent's Reply to U.S. EPA's Expedited Response Regarding Motion for Extension of Time to File Answer" has been served this 27th day of March 2015, by depositing a copy of the same in the United States mail, first class postage prepaid and properly addressed to Counsel for U.S. EPA and also sending by e-mail to the e-mail addresses listed. Electronic service is made pursuant to the Regional Judicial Officer's March 27, 2015 Order regarding service of this Reply, which was served to counsel via e-mail about 2:50 p.m. EDT:

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