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7 UNITED STATES
8 ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX

10 In the Matter of:) Docket No. TSCA-09-2019-0070
11)
12 Fusion Windows and Doors Inc.,) MOTION FOR EXTENSION OF
13) TIME TO FILE ANSWER
14 Respondent.)

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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 60-day extension of time to respond to the complaint in the
21 above-entitled action (the “Complaint”) to March 4, 2020. Complainant’s reasons for seeking an
22 extension for time are set forth below.

23 BACKGROUND

24 On September 27, 2019, Complainant filed a civil administrative action against
25 Respondent Fusion Windows and Doors Inc. in the above-entitled action. The Complaint alleges
26 violations of Section 409 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2689, by
27 failing to 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 October 4, 2019, and Respondent's response to the Complaint was
2 due by November 4, 2019 (technically, the due date was November 3, 2019, but since this fell on
3 a Sunday then, pursuant to 40 C.F.R. § 22.7(a), the due date had to be extended to include the
4 next business day). Complainant subsequently filed a Motion for Extension of Time to File
5 Answer on November 4, 2019 that requested an extension of time to file its Answer to January 3,
6 2020. On November 4, 2019, the Regional Judicial Officer filed a Decision on Motion for
7 Extension of Time to File Answer providing for an extension to and including January 3, 2019.

8 ARGUMENT

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

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

14 This motion also complies with the "good cause" requirement of 40 C.F.R. § 22.7(b). It is
15 Complainant's policy to encourage settlement and avoid litigation when consistent with the
16 provisions and objectives of the law at issue. 40 C.F.R. § 22.18(b). Having just begun
17 settlement discussions in this matter, the counsel that had been directly assigned by Respondent's
18 counsel's firm to represent Respondent abruptly resigned and so now the parties must begin
19 settlement discussions again – as such, a 60-day extension of time to answer will facilitate such
20 negotiations, particularly since Respondent's remaining counsel has only been retained as of
21 October 7, 2019, and is still not fully up to speed on this matter. Also, an extension of time will
22 allow the parties to avoid the complications of the holiday season, when access to staff and
23 resources will be limited (*e.g.*, counsel for Complainant will be away from the office from
24 December 26, 2019 through January 2, 2020).

25 Finally, granting of this motion will not result in prejudice. As noted above, the parties
26 are involved in settlement discussions and the requested extension will provide Complainant and
27 Respondent sufficient time to reach and finalize settlement and fully resolve the matter.

1 Respondent's remaining counsel could not be reached, but it is likely he does not object to this
2 Motion.

3 CONCLUSION

4 For the reasons set forth above, Complainant respectfully requests that the Regional
5 Judicial Officer grant Complainant's motion for a 60-day extension of time to file an answer to
6 and including March 4, 2020.

7 Dated at San Francisco, California, on this 19th day of December, 2019.

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9 EDGAR P. CORAL
10 Assistant Regional Counsel
11 U.S. Environmental Protection Agency, Region IX
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CERTIFICATE OF SERVICE


I certify that the original and one copy of the foregoing Motion for Extension of Time to File Answer (Docket No. TSCA-9-2019-0070) was hand delivered to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

and that a true and correct copy of the Motion was placed in the United States Mail, addressed to the following:

Jilbert Tahmazian, Esq.
Tahmazian Law Firm, P.C.
1518 West Glenoaks Boulevard
Glendale, CA 91201

Dated: 12/19/2019

By: 
U.S. Environmental Protection Agency, Region IX