

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

IN THE MATTER OF:)

The Okonite Company, Inc.)
_____)

) TSCA Appeal No. 11-02

) Docket No. TSCA-02-2010-9104
)

REGIONAL HEARING
CLERK

2011 MAR 18 A 7 16

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II

COMPLAINANT'S MOTION FOR EXTENSIONS OF TIME
WITHIN WHICH TO FILE A NOTICE OF APPEAL AND BRIEF

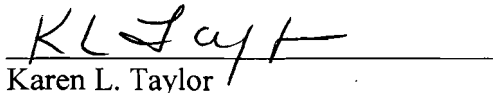
On March 8, 2011, the Presiding Officer concluded proceedings in this matter below by issuing an Initial Decision. According to the Certificate of Service, the Initial Decision was sent to Complainant via pouch mail and facsimile on March 8, 2011. Pursuant to 40 C.F.R. §§ 22.30(a) and 22.7, a party has 30 days from the date of service of the Initial Decision in which to appeal, making Complainant's Notice of Appeal and Brief due no later than April 7, 2011.

Complainant requests that the Board grant it a 15 day extension of time, to April 22, 2011, within which to file a Notice of Appeal and a 30 day extension of time thereafter, to May 23, 2011, within which to file a Brief addressing the issues on appeal.

Counsel for Complainant has a previously scheduled and prepaid vacation for the week of March 20, 2011. Additionally, the Presiding Officer's rulings in this matter affect EPA's TSCA compliance and administrative enforcement programs across the nation. Counsel for Complainant will need to consult with several EPA Headquarters and Region 2 offices. Consequently, Counsel for Complainant respectfully submits that the important issues raised by the Initial Decision cannot be briefed effectively by April 7, 2011.

The EAB has the authority to grant the requested extension of time pursuant to 40 C.F.R. § 22.7(b). Under that subsection, a motion for extension can be granted for good cause shown, after consideration of prejudice to other parties. 40 C.F.R. § 22.7(b). Complainant submits that: the previously scheduled absence of Counsel for Complainant; the national significance of the issues raised in this case; and, the need for consideration among various offices within EPA constitute good cause for the requested extensions. Complainant also submits that a 15 day extension of time for the filing of a Notice of Appeal and additional 30 day extension of time for the filing of its Brief will not cause prejudice or harm to Respondent in any way. Counsel for EPA has conferred with Counsel for Respondent regarding this request for extension of time. Counsel for Respondent has represented that Respondent has no objection to Complainant receiving a 15 day extension of time in which to file a Notice of Appeal and a 30 day extension of time thereafter in which to file its Brief.

RESPECTFULLY SUBMITTED,



Karen L. Taylor
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing Complainant's Motion for Extensions of Time within which to File a Notice of Appeal and Brief in the Matter of The Okonite Company Inc., TSCA Appeal No. 11-02, Docket No. TSCA-02-2010-9104 was filed with the Environmental Appeals Board electronically, via the CDX portal. In addition, a copy was hand delivered to the Regional Hearing Clerk in EPA, Region 2 and was sent by facsimile and first class mail to each of the other persons listed below:

Honorable Barbara A. Gunning
Offices of the Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue., NW
Washington, D.C. 20460-2001
(202) 565-0044

Francis T. Giuliano, Esq.
Vice President and General Counsel
The Okonite Company, Inc.
102 Hilltop Road
Post Office Box 340
Ramsey, New Jersey 07446
(201) 825-0300 ext. 4406

3/17/2011

New York, NY

KLJ

OF COUNSEL:

Coles H. Phinzy
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Benjamin D. Fields
Acting National Coordinator
Cross-Cutting Administrative Litigation Issues
U.S. Environmental Protection Agency (3RC30)
1650 Arch Street
Philadelphia, PA 19103

Geraldine Gardner
Attorney-Adviser
USEPA Headquarters OECA-OCE-WCED
Ariel Rios Building, Mail Code 2249A
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Andrea Medici
Attorney-Adviser
USEPA Headquarters OGC-PTSLO
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 2333A
Washington, DC 20460