



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA FEDERAL EXPRESS

JAN 26 2009

The Honorable Judge Susan L. Biro
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1099 14TH Street
N.W., Suite 350
Washington, D.C. 20005

**Re: CDG Technology, Inc.
Docket No.: FIFRA-03-2008-00147**

Dear Judge Biro:

Enclosed please find a true and correct copy of the MOTION FOR EXTENSION OF TIME TO FILE COMPLAINANT'S INTIAL PREHEARING EXCHANGE filed today in the above-referenced matter.

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MEMORANDUM FOR THE DIRECTOR
U.S. ENVIRONMENTAL PROTECTION AGENCY

Sincerely

Jennifer M. Abramson
Senior Assistant Regional Counsel

Enclosure



BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF)

CDG Technology, Inc.)
759 Roble Road)
Allentown, PA 18109)

Respondent)

DOCKET NO: FIFRA-03-2008-0147

MOTION FOR EXTENSION OF TIME
TO FILE COMPLAINANT'S INITIAL
PREHEARING EXCHANGE

MOTION FOR EXTENSION OF TIME

Pursuant to 40 C.F.R. § 22.16 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice") and in response to a December 4, 2008 Prehearing Order issued by Chief Administrative Law Judge Susan L. Biro (the 'Presiding Officer'), Complainant, the Director of the Land and Chemicals Division (formerly the Waste and Chemicals Management Division), United States Environmental Protection Agency, Region III ("EPA" or "Complainant"), hereby files this Motion seeking a fourteen (14) day extension of time to file its initial prehearing exchange in the above-referenced matter.

In Support, Complainant asserts the following:

1. On December 4, 2008, the Presiding Officer issued a Prehearing Order requiring, *inter alia*, Complainant's initial prehearing exchange to be filed by January 30, 2009. The Presiding Officer's December 4, 2008 Prehearing Order further states that "[i]f the case is settled, the Consent Agreement and Final Order signed by the parties should be file no later than **January 30, 2009**, with a copy sent to the undersigned.'

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2. On December 30, 2008, Complainant filed a Status of Settlement reporting that “the parties have reached a settlement in principle . . . , that a draft Consent Agreement and Final Order (“CAFO”) has been prepared and sent to Respondent’s counsel for review, and that, absent any unforeseen circumstances, the CAFO should be filed by January 30, 2009”

3. On January 22, 2009, EPA received via overnight mail a CAFO, executed by Respondent.

4. As of January 26, 2009, the CAFO is in EPA concurrence for execution and filing.

5. Under the Consolidated Rules of Practice, the Presiding Officer may 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 the parties. 40 C.F.R. §§ 22.7(b) and 22.16(a). The Consolidated Rules of Practice further provide that any motion for an extension of time must be filed sufficiently in advance of the due date to allow other parties a reasonable opportunity to respond, and to allow the Presiding Officer an opportunity to issue an order. 40 C.F.R. § 22.7(b).

6. In order to allow sufficient time for EPA to execute and file the CAFO settling this matter (thereby negating the need for the parties to file prehearing exchanges), Complainant respectfully requests that its initial prehearing exchange deadline set forth in the December 4, 2008 Prehearing Order be extended an additional (14) days.

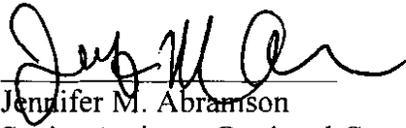
7. After informing Respondent’s Counsel about its intent to file this Motion and about the relief sought herein on January 26, 2009 as directed by the Prehearing Order, Respondent’s Counsel represented that he DID NOT OPPOSE the relief sought herein

WHEREFORE, having demonstrated good cause for the extension and that it should result in any prejudice to Respondent, Complainant respectfully requests that the Presiding

Officer grant its Motion to extend the deadline to submit its initial prehearing exchange for
fourteen (14) days

Respectfully Submitted,

JAN 28 2009

A handwritten signature in black ink, appearing to read "Jennifer M. Abramson", written over a horizontal line.

Jennifer M. Abramson
Senior Assistant Regional Counsel

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
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IN THE MATTER OF)

CDG Technology, Inc.)
759 Roble Road)
Allentown, PA 18109)

Respondent)

DOCKET NO: FIFRA-03-2008-0147

CERTIFICATE OF SERVICE

I certify that the foregoing MOTION FOR EXTENSION OF TIME TO FILE
COMPLAINANT'S INITIAL PREHEARING EXCHANGE in the above referenced matter, was
sent this day in the following manner to the below addressees.

Original and one copy by hand-delivery:

Lydia Guy, Regional Hearing Clerk

Copy by Federal Express:

Thomas R. Carey, Esq.
Bell, Boyd & Lloyd LLP
70 W. Madison Street Suite 3100
Chicago, IL 60602-4207

The Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1099 14th Street
N.W., Suite 350
Washington, D.C. 20005

JAN 26 2009

Date


Jennifer M. Abramson (3LC62)
Senior Assistant Regional Counsel
U.S. EPA, Region III

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