

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

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In the Matter of	:	
Wolfe Landau,	:	Honorable Susan L. Biro,
	:	<u>Presiding Officer</u>
Respondent.	:	
Proceeding under Section 16(a) of	:	Docket No.
Toxic Substances Control Act,	:	<u>TSCA-02-2009-9267</u>
15 U.S.C. § 2615(a).	:	
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U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. 2  
2010 JAN 13 PM 3:40  
REGIONAL HEARING  
CLERK

**MOTION TO MODIFY CONFERENCE DEADLINES**

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, requests that this Court modify the deadlines for the parties to meet and Complainant to then file a status report, as set forth in the January 5, 2010 Prehearing Order. For the reasons set forth below, EPA submits that good cause exists for granting this motion.

This is a case administratively prosecuted under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), in which EPA seeks a civil penalty of \$46,210 for alleged violations occurring of Section 409 of TSCA, 15 U.S.C. § 2689, regarding lead paint disclosures at buildings Respondent owns or leases. The prehearing order of this Court directs that the parties meet for settlement on or before January 20, 2010, and further directs Complainant to file a status report regarding settlement on or before January 25, 2010.

The parties have agreed to hold a settlement conference on January 26, 2010. They were

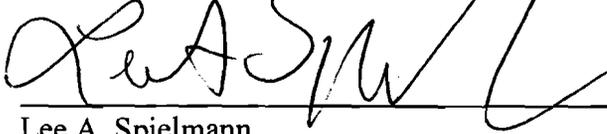
unable to find a mutually convenient date prior to that time; this date represents the earliest one on which they could meet.

Given that the parties' scheduling is in conflict with the Court's prehearing order, Complainant requests this Court to modify the deadlines established in the January 5<sup>th</sup> order so that the parties can proceed with their scheduled meeting without running afoul of Court-mandated directives. The undersigned has communicated with Respondent's counsel and he indicates his assent to the extension being sought.

Complainant submits that these circumstances demonstrate that the good cause requirement of 40 C.F.R. § 22.7(b) exists for the granting of this motion. An answer has recently been filed, there have not been any litigation developments (such as the filing of any motions) and this is the first request for an extension. The evidentiary record has not been formally developed, and no hearing date has been set. Neither party would be prejudiced by it. The parties are simply seeking the additional time needed to accommodate their agreed-upon scheduling. Therefore, EPA respectfully moves this Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.19(a), for an order: a) vacating so much of the January 5<sup>th</sup> prehearing order as directed the parties to meet by January 20, 2010 and Complainant to file a status report within five days thereafter, and b) extending each such deadline seven days.

Dated: January 13, 2010  
New York, New York

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Lee A. Spielmann', written over a horizontal line.

Lee A. Spielmann  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866  
212-637-3222  
FAX: 212-637-3199

TO: Honorable Susan L. Biro  
Chief Administrative Law Judge  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900L  
Washington, DC 20460

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866

Raphael A. Weitzner, Esq.  
Counsel for Respondent  
134 Broadway, Suite 616  
Brooklyn, New York 11211

***In re Wolfe Landau.***

**Docket No. TSCA-02-2009-9267**

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing "MOTION TO MODIFY CONFERENCE DEADLINES,," dated January 13, 2010, in the following manner to the respective addressees listed below:

Original and One Copy

By Inter-Office Mail:

Office of Regional Hearing Clerk  
U.S. Environmental Protection  
Agency - Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866

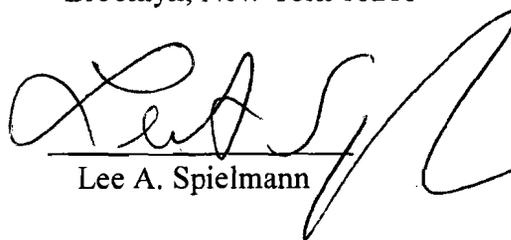
Copy by Fax,  
202-565-0044, and  
Pouch Mail:

Honorable Susan L. Biro  
Chief Administrative Law Judge  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900 L  
Washington, DC 20460

Copy by Fax,  
718-486-4998, and  
First Class Mail:

Raphael A. Weitzner, Esq.  
134 Broadway, Suite 616  
Brooklyn, New York 11211

Dated: January 13, 2010  
New York, New York

  
\_\_\_\_\_  
Lee A. Spielmann