

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2009 JUL 10 AM 9:44
REGIONAL HEARING
CLERK

In the Matter of:

Eastman Kodak Company,
Rochester, NY

Respondent

In a proceeding under the Clean Air Act,
42 U.S.C. § 7401, et seq., 42 U.S.C.
§ 7413(d), Section 113(d)

CAA-02-2009-1212

Hon. Barbara A. Gunning,
Administrative Law Judge

**JOINT MOTION FOR AN EXTENSION OF TIME TO FILE
PREHEARING EXCHANGE**

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, requests the Court grant a 60-day extension of time for the parties to file their prehearing exchanges. Eastman Kodak Company (Respondent), through its counsel, JoAnn Gould, Esq. concurs upon this request. For the reasons set forth below, good cause exists for granting the motion.

Pursuant to 42 U.S.C. § 7401, et seq., 42 U.S.C. § 7413(d), Section 113(d), the Clean Air Act (CAA or the Act), Complainant filed an administrative complaint and notice of opportunity to request a hearing (Complaint) against Respondent for alleged violations of Section 608, 42 U.S.C. § 7671(g) of the Act, the emission standards for the

servicing and disposal of air conditioning or refrigeration equipment containing ozone depleting refrigerants, 40 C.F.R. Part 82, Subpart F, 40 C.F.R. § 82.150 *et seq.* (CFC Regulations), and the Facility's Title V Operating Permit, which includes the CFC Regulations as applicable requirements. The total amount of the penalty proposed by Complainant is \$255,612. Respondent filed an answer and request for a hearing dated May 12, 2009.

By Prehearing Order (Order) dated June 1, 2009, the Court directed the parties to submit their prehearing exchanges as per the following schedule:

- August 21, 2009 - Complainant's initial prehearing exchange;
- September 18, 2009 - Respondent's prehearing exchange, including any direct and/or rebuttal evidence; and
- October 2, 2009 - Complainant's rebuttal prehearing exchange.

In accordance with 40 C.F.R. § 22.7(b), the parties believe that good cause is shown to satisfy granting this joint motion for an extension of time to file prehearing exchange. On May 4, 2009, Complainant and Respondent met for an initial settlement conference. The parties continued negotiations throughout the early part of June.

On June 8, 2009, the parties agreed to a settlement in principle. Complainant will also be filing a motion to amend the complaint in order to reflect the settlement in principle. Along with the motion to amend, EPA will file a stipulation signed by both parties agreeing to the amended complaint.

It is in the interest of both parties and judicial economy to bring this matter to fruition prior to incurring costs in preparing and submitting prehearing exchanges. In addition to the parties having agreed to a settlement in principle, no hearing has been scheduled, and thus neither party will be prejudiced by this additional period of time.

Accordingly, the parties seek a 60-day extension of time to allow for additional time to amend the Complaint, have Respondent file an amended answer, complete the consent agreement and final order (CAFO), and obtain approval of and signatures for the CAFO from both parties.

EPA respectfully moves the Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.19(a), for an order amending the June 1, 2009 Order to extend each of the prehearing exchange dates set forth in the Order by a period of 60-days.

Dated: July 10, 2009
New York, New York

Respectfully submitted,



Kara E. Murphy
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U.S. Environmental Protection Agency, Region 2
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TO: Honorable Barbara A. Gunning
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In the Matter of Eastman Kodak Company, Docket No. CAA-02-2009-1212

CERTIFICATE OF SERVICE

I, Kara E. Murphy, certify that the foregoing Joint Motion for Extension of Time to File Prehearing Exchange was sent this day in the following manner to the addressees listed below:

Original and One Copy
By Hand:

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

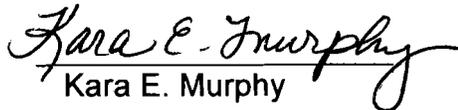
Copy by
Pouch Mail:

The Honorable Barbara A. Gunning
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U.S. Environmental Protection Agency
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Dated: July 10, 2009
New York, New York


Kara E. Murphy