

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

In the Matter of:)
)
The Whalley Glass Company)
214 Whalley Avenue)
New Haven, Connecticut 06511)
)
Respondent.)
)
Proceeding under Section 16(a) of the)
Toxic Substances Control Act,)
42 U.S.C. §2615(a))
)

Docket No.
TSCA-01-2015-0013

**MOTION FOR EXTENSION OF
TIME TO FILE ANSWER**

MOTION FOR EXTENSION OF TIME TO FILE ANSWER

Respondent The Whalley Glass Company (“Whalley Glass”), hereby moves for an extension of time to answer the Complaint in the above-entitled action. On March 9, 2015, EPA filed a civil administrative action against Whalley Glass. EPA served Whalley Glass with the Complaint on March 12, 2015, and the Answer was initially due by April 13, 2015. Whalley Glass filed a Motion for Extension of Time to File Answer on April 2, 2015 that requested a thirty (30) day extension of time to file its Answer to May 13, 2015. On April 6, 2015, the Regional Judicial Officer filed an Order Granting Extension of Time to File Answer to Complaint that provided for an extension to and including May 13, 2015.

EPA and Whalley Glass met on April 22, 2015 to engage in settlement discussions and have continued to make progress toward settlement. Whalley Glass provided EPA with evidence related to this matter and is currently gathering additional information and evidence to warrant

reduction of the proposed penalty. It is in the interests of this court and the parties to avoid engaging in costly and potentially unnecessary litigation while settlement discussions are ongoing. Whalley Glass therefore respectfully requests that the court extend the time to answer by thirty (30) days, from May 13, 2015 to Monday June 15, 2015. EPA has represented through its counsel that it will not oppose this motion.

The Presiding Officer may grant an extension of time for filing “any document” if the motion is “timely” and “good cause” is shown. 40 C.F.R. §22.7(b). In addition, the court must consider “prejudice to other parties.” *Ibid*. A motion for extension of time must be filed “sufficiently in advance” of the due date so as to allow other parties “reasonable opportunity to respond” and allow the Presiding Officer “reasonable opportunity” to issue an order. *Ibid*.

This motion is timely, as it will be on file six (6) days prior to Whalley Glass’s response to EPA’s Complaint, which is currently due on May 13, 2015. This motion will also be filed sufficiently in advance of that date to permit the issuance of an order. EPA will not oppose the motion, and the Presiding Officer will have a reasonable opportunity to rule on the motion prior to the response deadline.

The only other party to this matter, EPA, has represented through counsel that it will not oppose a motion to seek a thirty (30) day extension of time in which to file an answer. There is, therefore, no question of prejudice to EPA.

Finally, there is good cause for an extension of time in which to file a responsive pleading. EPA and Whalley Glass met on April 22, 2015 to engage in settlement discussions and have continued to make progress toward settlement. Whalley Glass provided EPA with evidence related to this matter and is currently gathering additional information and evidence to warrant reduction of the proposed penalty. Whalley Glass is also assembling the financial documentation

necessary to explore an ability to pay argument. Whalley Glass is hopeful that this case will resolve without the need to engage in costly litigation. Rather than expend valuable time and resources on litigation, Whalley Glass would prefer to focus on settlement talks with EPA and move forward toward expedited resolution of this case. This would benefit both the Presiding Officer and the parties by conserving judicial resources and avoiding the distraction and expense of litigation for a short period of time while the parties review, analyze and prepare settlement offers and counter-offers.

Good cause exists to grant this timely motion to extend the date by which the Complaint must be answered. Accordingly, Whalley Glass respectfully requests that the Presiding Officer extend said date from May 13, 2015 to June 15, 2015.

DATED: May 7, 2015

JACOBI & CASE, P.C.

By: 

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