

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

_____)	
In the Matter of:)	
)	
)	
Howard Gross)	Docket No. TSCA-01-2019-0050
466 Central Avenue, Suite 9)	
Dover, New Hampshire 03820)	Proceeding under Section 16(a) of
)	the Toxic Substances Control Act,
Respondent)	15 U.S.C. § 2615(a)
)	
)	
)	
_____)	

**FIFTH ASSENTED TO MOTION FOR EXTENSION OF TIME
TO ANSWER ADMINISTRATIVE COMPLAINT**

NOW COMES Howard Gross, Respondent in the above-captioned matter, by and through his attorneys, and respectfully moves for a 60 day extension of time to answer the Administrative Complaint in this matter on the following grounds:

1. Mr. Gross was served with the Administrative Complaint by certified mail on or about October 2, 2019, requiring an answer by November 1, 2019.
2. Mr. Gross and his then-counsel for this matter met with Tim Conway and Jordan Alves to discuss the Administrative Complaint and related issues on October 31, 2019.
3. On March 25, 2020, the Hearing Officer granted Mr. Gross' assented to motion to extend the time to answer until June 1, 2020, in light of the global COVID-19 pandemic and to allow the parties to continue to negotiate a resolution of this matter.
4. The circumstances have not materially changed since mid-March when the United States Government declared a National State of Emergency associated with the pandemic caused by

the COVID-19 virus. Although the situation has begun to stabilize, both the states of New Hampshire, where Mr. Gross lives and works, and Massachusetts, have severely curtailed virtually all commercial, government and university activity, and essentially shut down the court system. Mr. Gross is a 65 year old criminal defense lawyer in Dover, New Hampshire. Because of his age, which makes him more susceptible to severe illness from the COVID-19 virus, and nature of his occupation, which has been disproportionately impacted by the court closing, his ability to earn income has been, at least temporarily, almost entirely cut-off. While there are signs of improvement, these underlying circumstances have not changed in the past 60 days.

5. The parties are close to reaching a resolution regarding the amount of civil penalty that would be imposed in this matter. Until now, Mr. Gross has not asserted an ability to pay defense in this matter, but in light of the unprecedented events associated with the COVID-19 pandemic, Mr. Gross is uncertain whether and when he will be able to earn income in the future. Allowing another couple of months for the impacts from the COVID-19 national emergency to recede should allow Mr. Gross to be in a position to complete the settlement of this matter on terms that are being discussed with EPA's counsel. Nonetheless, equity and practicality dictate that Mr. Gross should be allowed a reasonable amount of additional time to determine the impact of the pandemic on his ability to pay any penalty in this matter.

6. I spoke with Tim Conway, EPA's counsel in this matter, and he stated that given the unique circumstances, EPA would not object to one more sixty day extension of time to answer.

WHEREFORE, Howard Gross respectfully requests a 60 day extension of time to answer the Administrative Complaint, until July 31, 2020.

Dated: May 20, 2020

Respectfully Submitted,



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In the Matter of Howard Gross, Respondent

Docket No. TSCA-01-2019-0050

CERTIFICATE OF SERVICE

I hereby certify that, on May 20, 2020, the foregoing Fifth Assented to Motion for Extension of Time to Answer Administrative Complaint was delivered via email to the following addressees:

Wanda Santiago
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HOWARD GROSS,
By his attorney,



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