



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

**In the Matter of:** )  
 )  
**BASF Corporation,** ) **Docket No. CWA-05-2018-0008**  
 )  
**Respondent.** )

**ORDER GRANTING RESPONDENT’S MOTION FOR AN EXTENSION OF TIME  
TO FILE THE PREHEARING EXCHANGE**

This proceeding was initiated on July 24, 2018, with the filing of a Complaint by the Director of the Water Division of Region 5 of the United States Environmental Protection Agency (“Complainant”) against BASF Corporation (“Respondent”) pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). Respondent filed an Answer to Complaint, Affirmative Defenses, and Request for a Hearing on September 25, 2018. By Prehearing Order dated September 28, 2018, I directed the parties to engage in a prehearing exchange of information in accordance with the schedule set forth therein. Complainant timely filed its Initial Prehearing Exchange on November 9, 2018. On November 15, 2018, approximately two weeks in advance of the filing deadline for its Prehearing Exchange, Respondent filed a Motion for Extension of Time to File the Prehearing Exchange (“Motion”), in which Respondent requests that that deadline be extended by 60 days. Complainant promptly objected to Respondent’s request in a Response to Respondent Motion for 60-day Extension of Time to File its Prehearing Exchange (“Response”), and Respondent subsequently filed a Reply in Further Support of Motion for Extension of Time to File the Prehearing Exchange (“Reply”).

This matter is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”) set forth at 40 C.F.R. Part 22. The Rules of Practice provide that I “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 other parties; or upon [my] own initiative.” 40 C.F.R. § 22.7(b).

Here, Respondent’s Motion was undoubtedly timely. As for whether good cause exists, Respondent argues that it has shown good cause for the requested extension. In particular, Respondent points to the volume of information produced by Complainant as part of its Initial Prehearing Exchange, including information related to the methodology used in calculating the proposed penalty. Respondent maintains that pursuit of settlement by the parties has been dependent on Respondent’s receipt of that information and that it now requires time to review, digest, and evaluate the information in order to make a meaningful settlement offer. Respondent also argues that out of the three weeks it was afforded to prepare its Prehearing Exchange, one of

those weeks is the week of Thanksgiving, when personnel critical to the review of Complainant's Initial Prehearing Exchange and preparation of Respondent's Prehearing Exchange are unavailable due to the holiday.

In its Response, Complainant disputes that Respondent has shown good cause. Among other arguments raised in favor of its position, Complainant contends that Respondent fails to explain why it is unable to pursue settlement of this matter while simultaneously preparing its Prehearing Exchange, noting that Respondent did not take any steps to continue settlement discussions in the week that elapsed between the filing of Complainant's Initial Prehearing Exchange and the filing of the instant Motion. Complainant next criticizes Respondent for failing to explain why it did not adequately plan for the Thanksgiving holiday. Complainant also appears to take exception to the length of the requested extension.

Upon consideration, I find Respondent's arguments to be persuasive. Respondent has sufficiently demonstrated the hardship it would experience in the absence of an extension, and the length of the requested extension does not appear to be unreasonable given the volume of materials produced by Complainant as part of its Initial Prehearing Exchange and the impending holidays. Moreover, as noted by Respondent, Complainant has not alleged that it would be prejudiced if the requested extension is granted, and it is not otherwise evident from the record that any prejudice would result. For the foregoing reasons, Respondent's Motion is hereby **GRANTED**. As requested, Respondent shall now file its Prehearing Exchange no later than **January 29, 2019**. The deadline for Complainant's Rebuttal Prehearing Exchange will correspondingly be extended to **February 12, 2019**.

**SO ORDERED.**

  
Christine Donelian Coughlin  
Administrative Law Judge

Dated: November 20, 2018  
Washington, D.C.

In the Matter of *BASF Corporation*, Respondent.  
Docket No. CWA-05-2018-0008

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order Granting Respondent's Motion for an Extension of Time to File the Prehearing Exchange**, dated November 20, 2018, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.

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Dated: November 20, 2018  
Washington, D.C.