

7/20/95

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of)
)
Yuasa-Exide, Inc.,) CAA-IV-94-088
)
Respondent)

ORDER GRANTING MOTION TO AMEND ANSWER

Under date of June 7, 1995, Respondent, Yuasa-Exide, moved to amend its answer in this proceeding under section 113(d) of the Clean Air Act (42 USC § 7413(d)). Yuasa asserted that it wished to amend its answer to clarify its defenses with respect to (1) new and different factual information revealed through investigations of the facts alleged by Complainant; (2) clarification of legal principles that may be applicable to the case and that better define the jurisdiction of Complainant over Rotoclone No. 2, the subject of the instant complaint; and (3) facts which indicate that EPA's penalty calculation may be flawed and violates applicable case law.

No. (1) above relates to the contention that EPA may not have jurisdiction to bring this action, because Yuasa may not have been subject to § 7411 or § 7413, and implementing regulations; No. (2) apparently relates to the contention that Rotoclone No. 2 was not a regulated source during times relevant to the complaint and No. (3) relates to administrative decisions concerning collateral

ORDER

Good cause having been shown, Yuasa's motion to amend its answer is granted. Yuasa shall file its amended answer within 20 days after the service of this order.^{2/}

Dated this 20th day of July 1995.


Spencer T. Nissen
Administrative Law Judge

^{2/} After the amended answer is filed, a prehearing order and a ruling on Yuasa's motion for discovery will be issued.

CERTIFICATE OF SERVICE

This is to certify that the original of this ORDER GRANTING MOTION TO AMEND ANSWER, dated July 20, 1995, in re: Yuasa-Exide, Inc., Dkt. No. CAA-IV-94-088, was mailed to the Regional Hearing Clerk, Reg. IV, and a copy was mailed to Respondent and Complainant (see list of addressees).



Helen F. Handon
Legal Staff Assistant

DATE: July 20, 1995

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