

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105**

In the Matter of:)
)
Borla Performance Industries, Inc.,)
) Docket No. CAA-R9-2020-0044
Respondent.)
_____)

**JOINT MOTION FOR EXTENSION OF BRIEFING DEADLINES REGARDING
COMPLAINANT’S PARTIAL MOTION FOR ACCELERATED DECISION**

Pursuant to 40 C.F.R. §§ 22.16(b) and 22.7, Respondent Borla Performance Industries, Inc. and Complainant U.S. Environmental Protection Agency jointly request that the Presiding Officer extend the general deadlines set forth in 40 C.F.R. § 22.16 for Respondent’s response to Complainant’s Partial Motion for Accelerated Decision to June 11, 2021 and for Complainant’s reply to July 12, 2021. The bases for this request are as follows:

1. On April 19, 2021, Complainant filed a Partial Motion for Accelerated Decision seeking a ruling that Respondent is liable for violations alleged in Complainant’s Second Amended Complaint.
2. Pursuant to 40 C.F.R. § 22.16(b), Respondent’s response would be due within 15 days of service of Complainant’s motion (by May 4, 2021) and Complainant’s reply would be due within 10 days of service of Respondent’s response (by May 14, 2021).
3. Section 22.16(b) expressly authorizes the Presiding Officer to set a “longer time for response or reply.” In addition, section 22.7(b) provides that the Presiding Officer “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.” These criteria are satisfied here and support granting this tailored extension request.

4. Good cause exists for an extended briefing schedule because of the complexity of the issues addressed by Complainant’s motion. The motion is 59 pages in length and addresses significant factual and legal issues under the Clean Air Act as well as a range of Constitutional arguments identified as defenses by Respondent. Complainant also submitted a Statement of Material Facts Concerning Liability Not in Reasonable Dispute that contains more than 600 individual statements of fact alleged not to be in reasonable dispute. Given the nature and breadth of this submission, Respondent requires reasonable additional time to digest and respond to the full range of issues raised by Complainant’s motion. For the same reasons, Complainant will require reasonable additional time to review and digest Respondent’s response and to complete a reply submission. The parties request that the Court extend the deadline for Respondent’s response to June 11, 2021, and the deadline for Complainant’s reply to July 12, 2021.

5. No prejudice to any party will occur as the parties are in agreement with respect to the proposed schedule extension. There will be no delay in the proceeding because no hearing date has been established and no further deadlines are pending in the case at this time. Moreover, given the significance of the issues raised in the motion and the potential impact of a decision on the scope of a hearing, the parties request that no hearing date be set until the motion is resolved.

For these reasons, the parties jointly request that the Presiding Officer issue an order establishing the following deadlines regarding Complainant’ Partial Motion for Accelerated Decision:

June 11, 2021	Respondent’s response
July 12, 2021	Complainant’s reply.

Respectfully submitted,

Dated April 21, 2021



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CERTIFICATE OF SERVICE

I, Kent Mayo, hereby certify that on this 21st day of April 2021, I have served a true and correct copy of the Joint Motion for Extension of Time for Filing Prehearing Exchange as set forth below:

Copy by OALJ Electronic Filing System to:

Mary Angeles, Headquarters Hearing Clerk
United States Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue, NW
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