

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

Johnson Matthey, Inc.

Respondent

In a proceeding under the Clean Air Act,
42 U.S.C. § 7401, et seq., 42 U.S.C.
§ 7413(d), Section 113(d)

CAA-02-2012-1222

Hon. M. Lisa Buschmann,
Administrative Law Judge

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SECOND MOTION FOR AN EXTENSION OF TIME TO FILE
PREHEARING EXCHANGES

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 (EPA), through her attorney, requests the Court grant a four (4) week extension of time for the parties to file their prehearing exchanges. Johnson Matthey Inc. (Respondent), through its counsel, James Stewart, Esq. of the firm of Lowenstein Sandler PC, has participated in the development of this Motion and concurs upon this request. For the reasons set forth below, good cause exists for granting the motion.

On September 21, 2012, pursuant to 42 U.S.C. § 7401, et seq., 42 U.S.C. § 7413(d), Section 113(d), the Clean Air Act (CAA or the Act), Complainant filed an administrative complaint and notice of opportunity to request a hearing (Complaint) against Respondent for alleged violations of Section 112 and 114, 42 U.S.C. §§ 7412 and 7413, of the Act, the “National Emissions Standards for Pharmaceutical Production” set for that 40 C.F.R. Part 63, Subpart

GGG, and the Title V Operating Permit. On October 22, 2012, Respondent filed an answer and request for a hearing. The Respondent denied the allegations and offered affirmative defenses.

By Prehearing Order dated November 30, 2012, the Court directed the parties to engage in a settlement conference and to file a status report on or before December 28, 2012. The Court also directed that if a Consent Agreement and Final Order (CAFO) is not finalized on or before January 11, 2013, the parties shall submit their prehearing exchanges as per the following schedule:

- January 11, 2013 - Complainant's initial prehearing exchange;
- February 8, 2013 - Respondent's prehearing exchange, including any direct and/or rebuttal evidence; and
- February 22, 2013 - Complainant's rebuttal prehearing exchange.

The Court also indicated that that each party must comply with the filing deadlines unless a fully executed CAFO is filed with Hearing Clerk or the Court has granted that party an extension of time to file.

On December 13, 2012, in accordance with 40 C.F.R. § 22.7(b), the Complainant with the support of the Respondent filed a "Motion for an Extension of Time to File Prehearing Exchange," requesting a 60 day extension of time to file Prehearing Exchanges. The Court responded with a December 17, 2012 "Order on Motion for Extension of Time to File Prehearing Exchange". In this order the Court found that good cause for an extension was shown and granted extensions of approximately 30 days as follows:.

- February 8, 2013 - Complainant's initial prehearing exchange;
- March 8, 2013 - Respondent's prehearing exchange, including any direct and/or rebuttal evidence; and
- March 22, 2013 - Complainant's rebuttal prehearing exchange.

On January 17, 2013, the parties' management, technical staff and counsel engaged in a formal, comprehensive settlement negotiation. Prior to this meeting, counsel had discussed settlement opportunities and facilitated a sharing of information designed to facilitate the January 17 meeting. February 1 2013, the parties agreed to an agreement in principle on a monetary settlement to be embodied in a CAFO, which upon execution and filing with the Hearing Clerk would bring this matter to conclusion.

It is in the interest of both parties and judicial economy to bring this matter to fruition prior to incurring costs in preparing and submitting prehearing exchanges. In addition to the parties having agreed to a settlement in principle, no hearing has been scheduled, and thus neither party will be prejudiced by this additional period of time. Accordingly, the parties seek a four (4) week extension of time to allow for additional time to complete the CAFO, to obtain approval of and signatures for the CAFO from both parties, and to file the CAFO with the Hearing Clerk.

EPA respectfully moves the Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.19(a), for an order amending the "Order on Motion for Extension of Time to File Prehearing Exchange" by a period of four (4) weeks.

Dated: February 1, 2013
New York, New York

Respectfully submitted,



Evans Stamatakis
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
212-637-3211/FAX: 212-63

VIA FAX: (202) 565-0044

VIA OVERNIGHT MAIL

To: Honorable M. Lisa Buschmann
Administrative Law Judge
U.S. EPA Office of Administrative Law Judges
1099 14th Street, N.W.
Suite 350W, Franklin Court
Washington, D.C. 20005

VIA OVERNIGHT MAIL

To: Sybil Anderson
Headquarters Hearing Clerk
U.S. EPA Office of Administrative Law Judges
1099 14th Street, N.W.
Suite 350W, Franklin Court
Washington, D.C. 20005

VIA OVERNIGHT MAIL

To: James Stewart, Esq.
Lowenstein Sandler
65 Livingston Avenue
Roseland, New Jersey 07068

In the Matter of Johnson Matthey, Inc., Docket No. CAA-02-2012-1222

CERTIFICATE OF SERVICE

I, Katherine Zuckerman, certify that the foregoing Second Motion for Extension of Time to File Prehearing Exchange was sent this day in the following manner to the addressees listed below:

Original and One Copy
Via Overnight Mail

✓ To: Sybil Anderson
Headquarters Hearing Clerk
U.S. EPA Office of Administrative Law Judges
1099 14th Street, N.W.
Suite 350W, Franklin Court
Washington, D.C. 20005

One Copy
Via FAX: (202) 565-0044 and Overnight Mail

To: Honorable M. Lisa Buschmann
Administrative Law Judge
U.S. EPA Office of Administrative Law Judges
1099 14th Street, N.W.
Suite 350W, Franklin Court
Washington, D.C. 20005

One Copy
Via Overnight Mail

To: James Stewart, Esq.
Lowenstein Sandler
65 Livingston Avenue
Roseland, New Jersey 07068

Dated: Feb. 1, 2013
New York, New York


Katherine Zuckerman