

1 ALEXIS J. CUROTTO, ESQ. (CSBN 173895)  
2 FRY'S ELECTRONICS, INC.  
3 600 E. Brokaw Road  
4 San Jose, CA 95112  
5 Telephone: (408) 487-4748  
6 Fax: (408) 487-4741  
7 Email: ajc@i.frys.com

8 Attorney for Respondent  
9 FRY'S ELECTRONICS, INC.

**FILED**

2012 OCT 26 PM 12: 24

U.S. EPA. REGION IX  
REGIONAL HEARING CLERK

10 UNITED STATES  
11 ENVIRONMENTAL PROTECTION AGENCY  
12 REGION IX

13  
14 IN THE MATTER OF:

15 FRY'S ELECTRONICS, INC.,

16  
17 Respondent.

Docket No.: FIFRA-09-2012-00-06

**RESPONDENT FRY'S ELECTRONICS,  
INC.'S UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO RESPOND TO  
THE COMPLAINT AND NOTICE OF  
OPPORTUNITY FOR HEARING**

18  
19  
20  
21 Respondent FRY'S ELECTRONICS, INC. (hereinafter referred to as "Respondent") now moves  
22 to extend the time to respond to the U.S. Environmental Protection Agency's Complaint and Notice of  
23 Opportunity for Hearing from October 29, 2012, to November 28, 2012. Respondent offers the following  
24 in support of this motion:

- 25 1. Pursuant to 40 C.F.R. § 22.7(b), the Environmental Appeals Board or the Presiding Officer may  
26 grant an extension of time for filing any document, including a response to the Complaint.  
27 2. The Complaint was filed and served by mail on Respondent on September 24, 2012. Pursuant to  
28 40.C.F.R. §22.7(c), adding five days for service by mail would create a due date for

1 Respondent's responsive pleading of Monday, October 29, 2012. Counsel of record for  
2 Respondent hereby moves for a 30-day extension to respond to the Complaint. Thus, the  
3 response would be due on or before November 28, 2012, rather than October 29, 2012.

4 Complainant does not object to this continuance.

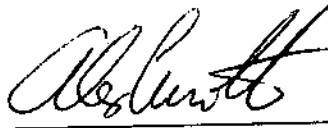
- 5 3. Good cause exists to justify this extension. Both parties are currently engaged in settlement  
6 negotiations. An extension of the deadline to file a response would allow the parties to more fully  
7 engage in such negotiations. Neither party will be prejudiced by this continuance.

8 Based upon the foregoing, should this Motion be granted, Respondent FRY'S ELECTRONICS, INC.  
9 will file a response to the Complaint in this matter by November 28, 2012.

10 DATED: October 19, 2012

FRY'S ELECTRONICS, INC.

11  
12  
13 By:

  
\_\_\_\_\_  
ALEXIS J. CUROTTO  
Legal Counsel

1 Case Name: In the Matter of: Fry's Electronics, Inc.  
2 Case No.: Docket No.: FIFRA-09-2012-00-06

3 **PROOF OF SERVICE BY OVERNIGHT COURIER**

4 I, the undersigned employee, declare and state that I am over 18 years of age, employed  
5 in the City of San Jose, County of Santa Clara, California, and not a party to this action. My  
6 business address is 600 E. Brokaw Road, San Jose, CA 95112.

7 On October 24, 2012, at my place of business following ordinary business practice, I  
8 served **RESPONDENT FRY'S ELECTRONICS, INC.'S UNOPPOSED MOTION FOR**  
9 **EXTENSION OF TIME TO RESPOND TO THE COMPLAINT AND NOTICE OF**  
10 **OPPORTUNITY FOR HEARING** by placing a true and correct copy thereof in a sealed  
11 envelope(s) and depositing such envelope(s) in a box or other facility regularly maintained by  
12 **Golden State Overnight Delivery**, an express service carrier providing overnight delivery, or  
13 delivering it to an authorized courier or driver authorized by the express service carrier to  
14 receive document, in an envelope or package designated by the express service carrier, with  
15 overnight delivery fees paid or provided for, clearly labeled to identify the person being served  
16 at the address indicated below:

17 Edgar P. Coral  
18 Office of Regional Counsel (ORC-2)  
19 U.S. Environmental Protection Agency,  
20 Region IX  
21 75 Hawthorne Street  
22 San Francisco, CA 94105

23 I declare under penalty of perjury under the laws of the State of California that the  
24 foregoing is true and correct.

25 **DATED:** 10-24-12

*Regina Gustafson*  
REGINA GUSTAFSON