



**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)
) RCRA Appeal No. 21-01
General Electric Company)
)
Permit No. MAD002084093)
)
_____)

**ORDER ESTABLISHING THE DATE FOR FILING
A RESPONSE TO THE PETITION FOR REVIEW**

On January 14, 2021, the Housatonic River Initiative and the Housatonic Environmental Action League (collectively, “Petitioners”), filed a “Notice of Appeal” of a Resource Conservation and Recovery Act (“RCRA”) permit issued by the U.S. Environmental Protection Agency, Region 1, to the General Electric Company for remediation of the Housatonic River. Petitioners attached to the Notice of Appeal a motion requesting an additional thirty days to submit a brief setting forth the factual and legal grounds for their appeal. On January 19, 2021, the Board granted Petitioners’ motion and specified that Petitioners’ brief in support of their Petition for Review must be filed with the Board on or before **March 5, 2021**.

This Order clarifies when a response to that brief in support is due for Region 1. Additionally, it clarifies when a response is due for the General Electric Company and for States or Tribal authorities where the permitted facility or site is located, should these entities choose to file a response, and when an amicus brief from an interested person is due.

Appeals of permits issued under 40 C.F.R. § 124.15 are commenced by the filing of a petition for review. 40 C.F.R. § 124.19(a)(1). Under 40 C.F.R. § 124.19(b)(2), the EPA Regional Administrator who issued the permit must file a response to the petition for review, a certified index of the administrative record, and the relevant portions of the administrative record within thirty (30) days after the service of a petition.¹ If they wish to participate, States or Tribal authorities where the permitted facility or site is or is proposed to be located must file a notice of appearance and a response to the petition for review within the time frame established for the Regional Administrator’s response filings. *Id.* § 124.19(b)(4). Amicus briefs from interested parties must be filed within twenty-one (21) days after the filing of the petition. *Id.* § 124.19(e).

In this proceeding, a Notice of Appeal was filed on January 14, 2021, but the Board established March 5, 2021, as the date on which the Petitioners’ brief in support of their Petition for Review is due. In these circumstances, the Board is ordering that, subject to any future extension motions, Region 1 must file a response to the Petition for Review, a certified index of the administrative record, and the relevant portions of the administrative record with the Board on or before **April 5, 2021**. Additionally, if they choose to participate, the General Electric Company,² States, and Tribal authorities must file a notice of appearance and a response to the

¹ EPA regulations specify that the Regional Administrator must file a response to a petition for review of “a PSD or other new source permit * * * within 21 days after the service of the petition.” 40 C.F.R. § 124.19(b)(1). The deadline for the Regional Administrator’s response to petitions for review of all other permit appeals under section 124.19 is thirty (30) days after the filing of the petition. *Id.* § 124.19(b)(2).

² The General Electric Company has already filed a notice of appearance in this proceeding. General Electric Company’s Notice of Appearance (Feb. 9, 2021).

Petition for Review with the Board on or before **April 5, 2021**. Finally, if any interested person chooses to file an amicus brief, that brief must be filed with the Board on or before **March 26, 2021**. *See* 40 C.F.R. § 124.19(o).

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: February 22, 2021

By: 
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **ORDER ESTABLISHING THE DATE FOR FILING A RESPONSE TO THE PETITION FOR REVIEW** in the matter of General Electric Company, RCRA Appeal No. 21-01, were sent to the following persons by email:

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Dated: February 22, 2021

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