

Attachment 3

Excerpts from Reissued RCRA Permit (reissued in October 2001 and again effective December 7, 2007)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA NEW ENGLAND

PERMIT UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)
AS AMENDED (42 U.S.C. SECTION 6901 ET SEQ.)

General Electric Company
159 Plastics Avenue
Pittsfield, Massachusetts 01201
EPA I.D. No. MAD002084093

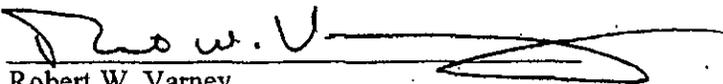
The Permittee is required to conduct certain activities at areas affected by releases of hazardous waste and/or hazardous constituents from the General Electric Facility located in Pittsfield, Massachusetts, in accordance with Sections 3004(u), 3004(v), and 3005(c) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), as specified in the conditions set forth herein.

This Reissued Permit of 2007 ("2007 Permit") has been prepared for RCRA Corrective Action activities to be performed by General Electric pursuant to a final Consent Decree. The Consent Decree has been entered in U.S. District Court, United States, et al. v. General Electric Company (D. Mass.) ("Consent Decree"). The Consent Decree memorializes an agreement to address releases of hazardous waste and/or hazardous constituents from the General Electric Company's facility in Pittsfield, Massachusetts, including, but not limited to, the releases of hazardous waste and/or hazardous constituents addressed in this 2007 Permit. This 2007 Permit, upon the effective date set forth below, replaces the HSWA Permit previously issued to the Permittee, which became effective upon entry of the Consent Decree on October 27, 2000 ("2000 Permit"). Upon the effective date of the 2007 Permit, the 2000 Permit hereby is revoked.

Dated and Effective as of:

12-5-07

Signed:


Robert W. Varney
Regional Administrator
U.S. Environmental Protection Agency, EPA New England
One Congress Street, Suite 1100
Boston, Massachusetts 02114-2023

EPA solicited public comments on the proposed reissued Permit from September 17, 2007 through November 16, 2007. In response to the public comment solicitation, EPA received no

comments which requested a change in the proposed reissued Permit. Also, EPA has made no changes from the proposed reissued Permit. Accordingly, pursuant to 40 C.F.R. Section 124.15(b), this reissued Permit is effective immediately upon signature of the EPA Regional Administrator.

This reissued Permit shall expire upon the earlier of the following: (a) ten years after the effective date of this Permit; or (b) when the Permit modification described in Special Condition II.J hereof becomes final, effective, and not subject to any further appeals (i.e., after the conclusion of all appeals of such Permit modification decision, including any remands and subsequent appeals, as described in Paragraphs 22 and 141.b of the Consent Decree); provided, however, that to the extent that the Permittee has remedial design and/or remedial action obligations under Paragraph 22 of the Consent Decree during the pendency of any such appeals and remands, the Permittee shall perform such obligations as required despite the fact that this Permit remains in effect.

GENERAL ELECTRIC CO. - PITTSFIELD, MA
RCRA CORRECTIVE ACTION PERMIT
-DRAFT -

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DEFINITIONS

All terms used in this Permit are as defined in 40 C.F.R. Part 260 and Section 264.141, unless defined below:

1. "Act" or "RCRA" means the Solid Waste Disposal Act, as amended (also known as the Resource Conservation and Recovery Act), 42 U.S.C. §§ 6901 et seq.
2. "Appendix IX+3 constituents" means, unless otherwise specified in a particular document submitted pursuant to this Permit and approved by EPA, all compounds listed in Appendix IX of 40 C.F.R. Part 264 plus the following three additional constituents: benzidene, chloroethylvinyl ether, and 1,2-diphenylhydrazene.
3. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.
4. "Consent Decree" means the Consent Decree executed by the General Electric Company, the United States, and state governmental agencies, lodged in the United States District Court for the District of Massachusetts on _____, 1999, in the case of United States et al. v. General Electric Company (Civil Action No. _____), and entered by the Court in that case on _____, 1999.
5. "EPA" means the United States Environmental Protection Agency, Region I, and any successor department or agency.
6. "Floodplain" is the area located within the floodplain of the Housatonic River to which hazardous waste and/or hazardous constituents originating at the GE Facility are migrating, have migrated, or may have migrated.
7. "GE Facility" means, for the purposes of this Permit, the General Electric facility in Pittsfield, Massachusetts, as generally depicted on the map attached hereto as Attachment A.
8. "Groundwater" means water below the land surface.
9. "Hazardous Constituents" include those constituents listed in Appendix VIII to 40 C.F.R. Part 261 and Appendix IX to 40 C.F.R. Part 264.
10. "Hazardous Waste" means a solid waste or combination of solid wastes defined as a hazardous waste under 40 C.F.R. Part 261.
11. "HSWA" means the Hazardous and Solid Waste Amendments of 1984.

12. "Interim Media Protection Goals" means media-specific protection goals for the Rest of River area, as established pursuant to Special Condition II.D of this Permit. The Interim Media Protection Goals shall be used in the CMS, as provided in this Permit.
13. "Justify" or "Justification" means to support the recommendation or conclusion which is being put forth with scientific principles and/or supporting data, as appropriate.
14. "PCBs" means polychlorinated biphenyls.
15. "Performance Standards" mean cleanup standards, design standards and other measures and requirements necessary to protect human health and the environment.
16. "Permittee" means the General Electric Company.
17. "Previously Issued HSWA Permit" means the Permit issued to the GE Facility under HSWA, initially issued on February 8, 1991, and modified effective January 3, 1994.
18. "Release" includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migrating into the environment.
19. "Rest of River" or "Rest of River area" shall mean, for the purposes of this Permit, all sediments, surface waters, and floodplain soils of the Housatonic River which are downstream of the confluence of the East and West Branches of the River, including backwaters in the floodplain, and to which releases of hazardous wastes and/or hazardous constituents are migrating or have migrated from the GE Facility, but excluding any Actual/Potential Lawns at current residential properties in the floodplain, as defined in the Consent Decree.
20. "Solid Waste" means a solid waste as defined in 40 C.F.R. § 261.2.
21. "Surface Water" means water occurring immediately adjacent to land as overland flow, open channel flow, closed conduit flow and waters in lakes, ponds, and reservoirs.
22. "Zone of Contamination" means the three-dimensional extent of contamination that was produced or is being produced from a release of hazardous waste and/or hazardous constituents originating at the GE Facility due to migration of such waste or constituents from the GE Facility.

F. Corrective Measures Study Proposal Approval

After the Permittee submits the CMS Proposal, EPA will either approve, conditionally approve or disapprove the Proposal. If EPA approves or conditionally approves the Proposal, the Permittee shall carry out the evaluation of corrective measures and develop the CMS Report (see Special Condition II.G below) in accordance with the approved or conditionally approved CMS Proposal. In addition to requiring additional CMS work, a conditional approval or disapproval may include a requirement to conduct additional RFI work if such work is necessary to implement the CMS.

If EPA disapproves the Proposal, EPA shall, within its discretion, either: (1) specify the deficiencies and establish a time frame within which the Permittee shall submit a modified Proposal; or (2) make such modifications as EPA deems necessary to satisfy the requirements in Special Condition II.E above. If EPA modifies the proposal, the Permittee shall carry out the evaluation of corrective measures and develop the CMS Report (see Special Condition II.G below) in accordance with the modified Proposal.

G. Corrective Measures Study Report

In accordance with the compliance schedule set out in Attachment B, the Permittee shall submit a CMS Report. At a minimum, the Permittee shall provide the following information for each corrective measure approved for evaluation in the CMS Proposal (taking into consideration that the corrective measures ultimately selected will be implemented as a remedial action pursuant to CERCLA and the Consent Decree, as provided in Special Condition II.J):

1. General Standards for Corrective Measures

- a. Overall Protection of Human Health and the Environment -- How each alternative or combination of alternatives would provide human health and environmental protection, taking into account EPA's Human Health and Ecological Risk Assessments.
- b. Control of Sources of Releases -- How each alternative or combination of alternatives would reduce or minimize possible further releases, including (but not limited to) the extent to which each alternative would mitigate the effects of a flood that could cause contaminated sediments to become available for human or ecological exposure.

- c. Compliance with Applicable or Relevant and Appropriate Federal and State Requirements -- How each alternative or combination of alternatives would meet such requirements or, when such a requirement would not be met, the basis for a waiver under CERCLA and the National Contingency Plan ("NCP").

2. Selection Decision Factors

a. Long-Term Reliability and Effectiveness;

- (1) Magnitude of residual risk, including (but not limited to) the extent to which each alternative would mitigate long-term potential exposure to residual contamination, and the extent to which and time over which each alternative would reduce the level of exposure to contaminants;
- (2) Adequacy and reliability of each alternative or combination of alternatives, including (i) operation, monitoring, and maintenance requirements; (ii) availability of labor and materials needed for operation, monitoring, and maintenance; (iii) whether the technologies have been used under analogous conditions; and (iv) whether the combination of technologies (if any) have been used together effectively; and
- (3) Any potential long-term adverse impacts of each alternative or combination of alternatives on human health or the environment, including (but not limited to) potential exposure routes and potentially affected populations, any impacts of dewatering and disposal facilities on human health or the environment, any impacts on wetlands or other environmentally sensitive areas, and any measures that may be employed to mitigate such impacts.

- b. Attainment of Interim Media Protection Goals -- The ability of each alternative or combination of alternatives to achieve the Interim Media Protection Goals approved by EPA in accordance with Special Condition II.D, including (if applicable) the time period in which each alternative would result in the attainment of the IMPGs and an evaluation of whether and the extent to which each alternative would accelerate such attainment compared to natural processes.

c. Reduction of Toxicity, Mobility, or Volume of Wastes.

- (1) If applicable, treatment process used and materials treated;
- (2) If applicable, amount of hazardous materials destroyed or treated;
- (3) If applicable, degree of expected reductions in toxicity, mobility, or volume;
- (4) If applicable, degree to which treatment is irreversible; and
- (5) If applicable, type and quantity of residuals remaining after treatment.

d. Short-Term Effectiveness -- Impacts to nearby communities, workers, or the environment during implementation of each alternative, including (but not limited to) risks associated with excavation, transportation, dewatering, disposal, or containment of sediments, soils, or other materials containing hazardous constituents.

e. Implementability

- (1) Ability to construct and operate the technology, taking into account any relevant site characteristics;
- (2) Reliability of the technology;
- (3) Regulatory and zoning restrictions;
- (4) Ease of undertaking additional corrective measures if necessary;
- (5) Ability to monitor effectiveness of remedy;
- (6) Coordination with other agencies;
- (7) Availability of suitable on-site or off-site treatment, storage and disposal facilities and specialists; and
- (8) Availability of prospective technologies.

f. Cost

- (1) Capital costs;
- (2) Operating and maintenance costs; and
- (3) Present worth costs.

3. Recommendation

The Permittee shall conclude the CMS Report with a recommendation as to which corrective measure or combination of corrective measures, in the Permittee's opinion, is best suited to meet the general standards outlined in Special Condition II.G.1 above in consideration of the decision factors in Special Condition II.G.2 above, including a balancing of those factors against one another.

H. Corrective Measures Study Report Approval

After the Permittee submits the CMS Report, EPA will either approve, conditionally approve or disapprove the Report. In addition to requiring additional CMS work, a conditional approval or disapproval may include a requirement to conduct additional RFI work if such work is necessary to complete the CMS.

If EPA disapproves the Report, EPA shall, within its discretion, either (1) specify the deficiencies and establish a time frame within which the Permittee shall submit a modified Report; or (2) make such modifications as EPA deems necessary to meet the requirements in Special Condition II.G above.

I. Project Coordinators

1. Pursuant to the Consent Decree, EPA and the Permittee have each designated a Project Coordinator and an Alternate Project Coordinator.
2. EPA and the Permittee shall provide at least five (5) working days' written notice prior to changing Project Coordinators or Alternate Project Coordinators, unless impracticable but in no event later than the actual day the change is made.
3. The absence of EPA's Project Coordinator shall not be cause for stoppage of work by the Permittee.

4. Unless otherwise specified, reports, notices or other submissions required under the Permit shall be in writing and shall be sent to:

EPA's Project Coordinator

Susan Svirsky
U.S. Environmental Protection Agency
Region I
1 Congress St. Suite 1100
Boston, MA 02114-2023

EPA's Alternate Project Coordinator

Bryan Olson
U.S. Environmental Protection Agency
Region I
1 Congress St. Suite 1100
Boston, MA 02114-2023

Permittee's Project Coordinator

Andrew T. Silfer
General Electric Company
Corporate Environmental Programs
100 Woodlawn Avenue
Pittsfield, MA 01201

Permittee's Alternate Project Coordinator

Michael T. Carroll
General Electric Company
Corporate Environmental Programs
100 Woodlawn Avenue
Pittsfield, MA 01201

State Project Coordinator

J. Lyn Cutler
Massachusetts Department of Environmental Protection
436 Dwight Street - Fifth Floor
Springfield, Mass. 01103

J. Permit Modification To Select Corrective Measures and Right to Appeal

Based on the information that the Permittee submits pursuant to this Permit and any other relevant information in the Administrative Record for the modification of this Permit, EPA will propose Performance Standards, and the appropriate corrective measures necessary to meet the Performance Standards, to address PCBs and any other hazardous waste and/or hazardous constituents that have migrated from the GE Facility to the surface waters, sediments, and floodplain soils in the Rest of River area. This proposal will also include a proposed identification of the applicable or relevant and appropriate requirements ("ARARs") under federal and state law that must be met by such corrective measures, and where EPA proposes to waive any such ARARs, the basis for such waiver under CERCLA and the NCP. EPA will propose these Performance Standards, corrective measures, and ARARs as a draft modification to this Permit in accordance with 40 C.F.R. §§ 124.5-124.12 and 270.41 and Paragraph 22.n of the Consent Decree.

In considering public comment, EPA may require the Permittee to conduct additional RFI, CMS or other work that is necessary for EPA to make a final decision. Such work shall be conducted in accordance with an implementation schedule established by EPA.

EPA will notify the Permittee of its intended final decision on the proposed Permit modification in accordance with Paragraph 22.o of the Consent Decree, and the Permittee shall have the right to seek administrative dispute resolution with respect to that notification in accordance with Paragraphs 22.o and 141.b(i) of the Consent Decree. Upon completion of that dispute resolution process (if invoked), or after the expiration of 30 days following EPA's notification (if the Permittee does not invoke such dispute resolution), EPA will issue a modification of this Permit, which will set forth the selected Performance Standards and corrective measures for the Rest of River area, along with the associated ARARs and the basis for waiver of any ARARs under CERCLA and the NCP.

That Permit modification will be subject to review by the EPA Environmental Appeals Board and the United States Court of Appeals in accordance with Paragraphs 22.q through 22.v, 22.bb, 22.cc, and 141.b of the Consent Decree and subject to the stays described in those paragraphs. In accordance with and as provided in Paragraphs 22.q through 22.cc of the Consent Decree, the Permittee shall implement the selected corrective measures as a remedial action pursuant to CERCLA and the Consent Decree. As further provided in Paragraph 22.z of the Consent Decree, the modification of this Permit to select

such corrective measures shall be considered to be the remedy selection decision pursuant to Section 121 of CERCLA and Section 300.430 of the NCP (40 C.F.R. § 300.430).

K. Sampling Requirements

The Permittee shall provide the results of all sampling and/or tests or other data generated by the Permittee or on the Permittee's behalf with respect to the implementation of the Permit, to EPA and shall submit these results to EPA in accordance with the Data Exchange Agreement (Attachment C hereto) and in monthly progress reports.

At the request of EPA, the Permittee shall allow split or duplicate samples to be taken by EPA and/or its authorized representative, of any samples collected by the Permittee or on the Permittee's behalf pursuant to the implementation of this Permit. The Permittee shall notify EPA not less than seven (7) days in advance of any sample collection activity.

EPA will notify the Permittee not less than seven (7) days in advance of any sample collection activity by EPA in connection with the implementation of this Permit. At the request of the Permittee, EPA shall provide to the Permittee, or allow the Permittee to take, split or duplicate samples of any samples collected by EPA or on EPA's behalf in conducting work in the Rest of River area.

L. Reservation of Rights

1. EPA and the Permittee reserve all rights and defenses that they may have, subject to the provisions of the Consent Decree.
2. Apart from the provisions of this Permit that are incorporated by reference in the Consent Decree, nothing in this Permit shall in any way affect the rights, obligations, and reservations of rights of either the Permittee or EPA as set forth in the Consent Decree.

M. Access to or Use of Property

1. To the extent that the work required of the Permittee under this Permit requires access to or use of property presently owned or under the control of persons other than the Permittee, the Permittee shall use its best efforts to obtain access in accordance with the provisions of Paragraph 59.a of the Consent Decree relating to access.