



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

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| In re City of Holyoke Department of Public Works | ) |                        |
|  | ) | NPDES Appeal No. 24-01 |
| NPDES Permit No. MA0101630                       | ) |                        |
|  | ) |                        |
|  | ) |                        |

**ORDER CLARIFYING RESPONSE DEADLINE**

The City of Holyoke, Massachusetts, filed a petition with the Environmental Appeals Board for review of National Pollutant Discharge Elimination System (“NPDES”) Permit No. MA0101630, issued by U.S. Environmental Protection Agency Region 1. On March 5, 2024, the Board accepted the Petition and cover letter. Order Accepting Petition for Review at 4 (Mar. 5, 2024) (“Order Accepting Petition”). On March 13, 2024, the Region filed a motion requesting clarification of the deadline for filing its response brief. EPA Region 1’s Motion to Clarify the Region’s Filing Deadline at 2 (Mar. 13, 2024) (“Region’s Motion”). The Region states that it understands its filing deadline to be April 4, 2024. *Id.* The Region asks that the Board grant its Motion and clarify the Region’s filing deadline. The Region represents that Petitioner assents to the Motion. *Id.* at 1. For the reasons stated below, the Board grants the Motion.

The regulations on permit appeals establish the process for these actions. Relevant to this NPDES case, the regulations require the Regional Administrator to file a response and associated documents within 30 days of service of the petition. 40 C.F.R. § 124.19(b)(2) (“[T]he Regional Administrator must file a response to the petition, a certified index of the administrative record,

and the relevant portions of the administrative record within 30 days after the service of a petition.”).

Here, the Petition was filed on February 29, 2024, and the cover letter to the Petition states that Ken Moraff, Director, Water Division Environmental Protection Agency Region 1 was a “cc.” In its Motion, the Region represents that it first received the Petition on March 5, 2024, when it was served with the Board’s Order Accepting Petition, which attached the Petition and the cover letter.<sup>1</sup> Region’s Motion at 2. As a result, the Region believes its filing deadline to be April 4, 2024, thirty days after its March 5, 2024 receipt of the Petition, and requests the Board clarify that deadline. *Id.*

Based on the representations in the Motion, the Board **GRANTS** the Motion. *See* 40 C.F.R. § 124.19(f)(6), (n). Accordingly, the Region shall file its response to the Petition for Review on or before **Thursday, April 4, 2024**. The Region must file a certified index of the administrative record and the relevant portion of the administrative record on or before the same date. *See id.* § 124.19(b)(2).

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<sup>1</sup> The regulations require parties to include a certificate of service with each document filed. 40 C.F.R. § 124.19(i)(4). While the cover letter accompanying the Petition is not a formal certificate of service, it does reflect that the Region was copied. And as noted by Region 1, the Region received the Petition when the Board issued its Order Accepting Petition in light of the incorrect information provided by Board staff. *See* Region’s Motion at 2; Order Accepting Petition at 3. Under these unique circumstances, the Board determined that to require Petitioner to submit a formal certificate of service would only create confusion and delay. Petitioner’s counsel is reminded to append a certificate of service to each document filed with the Board as required by the regulations. *See* 40 C.F.R. § 124.19(i)(4).

So ordered.

Dated: March 18, 2024

A handwritten signature in blue ink, consisting of two stylized, overlapping 'A' characters with long horizontal strokes extending to the right.

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Aaron P. Avila  
Environmental Appeals Judge

**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing *Order Clarifying Response Deadline* in the matter of City of Holyoke Department of Public Works, NPDES Appeal No. 24-01, were sent to the following persons in the manner indicated:

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Dated: Mar 18, 2024

*Emilio Cortes*

Emilio Cortes  
Clerk of the Board