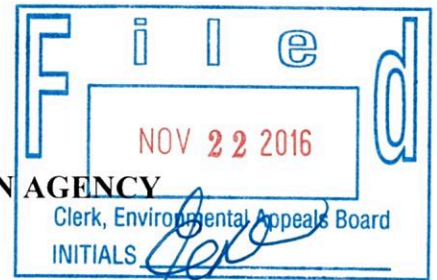


ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)

General Electric Company)

Permit No. MAD002084093)
_____)

) RCRA Appeal Nos. 16-01M, 16-02, and
) 16-03

**ORDER GRANTING EXTENSION OF TIME AND ESTABLISHING A SINGLE
DEADLINE FOR RESPONSES TO PETITIONS**

The Housatonic River Initiative and C. Jeffrey Cook have petitioned for review of a modification to a Resource Conservation and Recovery Act (“RCRA”) permit that the U.S. Environmental Protection Agency, Region 1, issued in October 2016. The Environmental Appeals Board received the Housatonic River Initiative’s petition on November 7, 2016, and Mr. Cook’s petition on November 18, 2016. A third petition is expected shortly from the General Electric Company, the permittee. *See* Unopposed Motion of Permittee General Electric to Exceed Word Limitations (Nov. 1, 2016). Under the applicable regulations, Region 1 is required to file a response to a petition for review of a permit, a certified index to the administrative record, and relevant portions of the administrative record within thirty days after the filing of the petition. 40 C.F.R. § 124.19(b)(2). Region 1 filed a motion to extend the time for filing its response to the Housatonic River Initiative petition so that a single deadline can be

established for its responses to all petitions.¹ Region 1 proposes that it be allowed to move for a specific response date once all petitions are submitted.

In granting General Electric's earlier motion requesting an expansion of the word limitation on petitions, the Board found, based on General Electric's representations, "unusual circumstances," including a complex permit modification and extensive record, justifying expansion of the applicable word limitation. *In re Gen. Elec. Co.*, RCRA Appeal No. 16-01M, at 1-2 (EAB Nov. 8, 2016) (Order Granting Request for Exceedance of Word Limitation).

Region 1 argues that establishing a single date for its response(s) to the petitions² would aid in the efficient administration of this complex case and reduce duplication of effort by the Region.

Region 1 also asserts that having one deadline will allow the Board to consider all of the petitions in setting an appropriate word limitation for the Region's brief and to make any determinations needed on the potential consolidation of the Region's response. Finally,

Region 1 notes that it has contacted the Housatonic River Initiative and General Electric and represents that neither of these parties opposes an extension of time for the purpose of establishing a single response date.³

¹ At the time of the filing of Region 1's motion, Mr. Cook had not yet filed his petition.

² Region 1 has indicated it may seek approval from the Board for filing a consolidated response to all of the petitions.

³ Region 1 did not mention Mr. Cook in its motion, presumably because its motion was filed before Mr. Cook's petition. However, in the circumstances of this permit challenge (including that Mr. Cook filed his petition only days before the filing deadline), the possibility of Mr. Cook being prejudiced by an extension of time for Region 1's response appears extremely unlikely.

Accordingly, for the reasons stated above, the Board concludes that an extension of time is appropriate. However, rather than leave open the date for Region 1's response(s), as the Region has suggested, the Board extends the date for Region 1's response(s), certified index to the administrative record, and relevant portions of the administrative record, until thirty days after the filing of the last timely-filed petition.⁴ After all petitions are filed, Region 1, General Electric, or any other party has the option of filing additional motion(s), subsequent to consulting with the other parties, addressing such matters as the potential consolidation of Region 1's responses to the petitions and the timing for Region 1's response(s) and/or the petitioners' reply briefs.

So ordered.

ENVIRONMENTAL APPEALS BOARD⁵

Dated: November 22, 2016

By: Kathie A. Stein
Kathie A. Stein
Environmental Appeals Judge

⁴ The applicable regulation specifies that to be timely, "[a] petition for review must be filed with the Clerk of the Environmental Appeals Board within 30 days after the Regional Administrator serves notice of the issuance of a RCRA * * * final permit decision under § 124.15 * * *." 40 C.F.R. § 124.19(a)(3).

⁵ The three-member panel deciding this matter is composed of Aaron P. Avila, Kathie A. Stein, and Mary Beth Ward.

CERTIFICATE OF SERVICE

I certify that copies of the forgoing *ORDER GRANTING EXTENSION OF TIME AND ESTABLISHING A SINGLE DEADLINE FOR RESPONSES TO PETITIONS* issued November 22, 2016, in the matter of *In re General Electric Co.*, RCRA Appeal Nos. 16-01M, 16-02, and 16-03 were sent to the following persons in the manner indicated.

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Dated: NOV 22 2016



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