

- A permit modification application with revised and updated record retention requirements and process information, or an explanation of why this would not be required; and
 - A permit modification application with a revised hazardous waste unit identification table and a revised and updated list of solid waste management units, hazardous waste management units and areas of concern, or an explanation of why this would not be necessary.
3. The RCRA Permit also requires the Permittees to submit to the Region within 90 days of the effective date (i.e., by March 1, 2019), the following:
 - Pursuant to Section IV.E.6. either a secondary containment work plan or, as has been discussed with the Region, a certification of a new secondary containment area associated with a spent carbon unloading hopper; and
 - Pursuant to Section V.H.5, a closure activity notification that will trigger a complex series of steps to accomplish closure of a reactivation furnace designated as RF-1.
 4. There are consequently several compliance deadlines looming, including deadlines that require submittal of RCRA Permit modification applications and/or other information by January 30, 2019, and additional deadlines shortly after that. Every one of these submittal requirements is currently a joint obligation of Evoqua and CRIT. As such, they are the exact type of condition that is at issue in the pending Motion for Stay. It is Evoqua's contention that EPA has a non-discretionary duty to stay these permit conditions.
 5. The Region has requested that the EAB delay the supplemental briefing deadline until January 29, 2019, just one day before several contested submittals would be due. This extension would create an unnecessary and inappropriate hardship, as the work required to complete these submittals is substantial and it seems virtually assured that Evoqua will not know the appropriate deadline that applies until well after January 30th if the Region's request for an extension is granted.
 6. Furthermore, as currently interpreted by the Region, the RCRA Permit modification applications that are now due by January 30, 2019 must be signed by both Evoqua and CRIT. Where CRIT's obligations under the permit are directly at issue in the

underlying request, and where Evoqua has petitioned the EAB to order a stay of those permit conditions, to grant the Region a three-week extension right up to these important compliance deadline puts Evoqua at an extreme disadvantage.

7. The EAB ordered further briefing on December 14, 2018 and provided 25 days for the parties to comply. While Evoqua is cognizant of the holidays and wants to accommodate vacation schedules, the work that is necessary to respond to the EAB order is not insurmountable, and a three week delay beyond the 25 days that were granted does not address the very real concerns that Evoqua has raised.
8. Legal representatives of Evoqua and the Region engaged in several amicable discussions on this scheduling issue to try to work out a reasonable accommodation but these efforts did not ultimately result in an agreement.
9. Because all permit conditions not identified as stayed in EPA's Notification are now fully effective and enforceable by operation of the applicable regulations, and because compliance deadlines are rapidly approaching, Evoqua respectfully re-urges its request that the EAB decide this motion, and requests that the EAB enter the requested order on an expedited basis.

STATEMENT OF COMPLIANCE WITH WORD LIMITATION

Undersigned counsel for Evoqua hereby certifies that this response complies with the word limit of 40 C.F.R. § 124.19(f)(5) because this response contains 729 words.

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Respectfully submitted,

/s/ Bryan J. Moore

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing response has been served on the following parties via the following method on this 20th day of December 2018:

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