

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

In the Matter of:

Polycarbon Industries, Inc.

9 Opportunity Way
Newburyport, Massachusetts 01950

Respondent

Proceedings under Section 3008(a) of the
Resource Conservation and Recovery Act
42 U.S.C. § 6928(a)

EPA Docket No. RCRA-01-2018-0068

**ASSENTED-TO MOTION TO
EXTEND TIME TO FILE
ANSWER**

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Polycarbon Industries, Inc. ("Respondent") hereby moves pursuant to 40 C.F.R. § § 22.7(b) and 22.16(a) for a 60-day extension of time to file an answer and a written request for a hearing in this matter until June 14, 2019. Respondent submits there is good cause for this further extension as follows:

1. The complaint in this matter was filed on Friday, September 28, 2018. Respondent received service thereafter during the first week in October.
2. The parties scheduled an initial conference to discuss this matter on November 16, 2018, at which time Respondent provided detailed information regarding its operations and its position regarding the allegations in the complaint. Based on the conference, the parties agreed that Respondent would collect and provide additional information to EPA counsel and staff for their review and evaluation.
3. Following the meeting, on December 7, Respondent wrote to EPA to further explain its operations and provided substantial documents and data for EPA to consider. Respondent provided further information by email of December 18, after which the parties discussed the matter by conference call on December 20, 2018.
4. During that December 20 call, EPA requested additional information from Respondent. Following up on that request, on January 8, 2019, Respondent provided additional operating records and other information requested by EPA.
5. EPA's review of the information provided by Respondent was delayed due to the extended government shutdown. It was then further delayed after the shutdown ended, because the EPA

then returned to work on a reduced schedule.

6. As a result, EPA did not respond further to Respondent until March 11 to schedule a conference call for March 21 that EPA subsequently rescheduled for March 28. Before that call, by letter dated March 27, Respondent provided additional information and analysis to EPA.

7. The parties discussed the matter at some length on March 28, but while productive, to allow EPA time to review certain information and explain its position further, the parties resumed the conversation for additional extended conference call on April 2. EPA then provided further clarity regarding its specific claims by e-mail on April 3.

8. Accordingly, through no fault of its own, Respondent is only now able to consider and evaluate EPA's response to information that Respondent has been providing to EPA over the past several months, dating back to the parties' first meeting in November 2018.

9. Moreover, Respondent is not a large organization – the same management and staff that will need to review and evaluate EPA's response and support further discussions with EPA would need to be supporting hearing preparations – while still responsible for operating their business.

10. As such, for these reasons, Respondent submits there is good cause to allow Respondent additional time to consider EPA's response and for the parties to conduct further discussions to assess whether there is an opportunity to resolve this matter without the need for further litigation, including potentially through the use of alternative dispute resolution, such as mediation.

Wherefore, Respondent respectfully requests a 60-day extension, i.e., to June 14, 2019, to file an answer and written request for a hearing in this matter. EPA counsel, Andrea Simpson, Esq., has assented to the filing and granting of this motion.

Respectfully submitted,

Assented to:

/s/Samuel B. Boxerman
Samuel B. Boxerman
Sidley Austin LLP
Counsel for Polycarbon Industries, Inc.

/s/Andrea Simpson (by SBB)
Andrea Simpson
U.S. Environmental Protection Agency

Date: April 10, 2019

I, Samuel B. Boxerman, hereby certify that on April 10, 2019, I served a copy of the foregoing Assented to Motion to Extend Time to File Answer by electronic mail to the following:

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