



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Pepperell, LLC,) Docket No. CWA-01-2026-0030
)
Respondent.)

ORDER ON RESPONDENT’S MOTION TO FILE OUT OF TIME

This matter began with the filing of a Complaint against Pepperell, LLC (“Respondent”), by the Director of the Enforcement and Compliance Assurance Division for the U.S. Environmental Protection Agency, Region 1 (“Complainant”), on March 3, 2026. After Respondent filed an Answer in which it requested a hearing, this matter was transferred to the Administrative Law Judges Division. I was then designated to preside over this matter. See Order of Designation (Apr. 10, 2026).

On April 10, 2026, I issued the Prehearing Order, which set deadlines for the filing of certain documents, including each party’s Preliminary Statement. See Prehearing Order at 1-2. Complainant timely filed their Preliminary Statement on May 1, 2026. Respondent did not file its Preliminary Statement until May 21, 2026, almost three weeks past the deadline. On May 21, 2026, Respondent also filed a Motion to File Out of Time (“Motion”). In its Motion, Respondent explains that “Undersigned Counsel was under a mistaken impression that the submission filed by the EPA’s counsel was intended to be a joint filing.” Mot. at 1.

These proceedings are governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules”), set out at 40 C.F.R. Part 22. The Rules provide that “the Presiding Officer may grant an extension of time for filing any document[] upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.” 40 C.F.R. § 22.7(b). The Rules are silent about belated requests for extensions of time, and in such instances, the Environmental Appeals Board has pronounced that “[w]hen a procedural issue arises that is not addressed in Part 22, the Board has the discretion to resolve the issue as it deems appropriate. In the exercise of this discretion, the Board finds it instructive to examine analogous federal procedural rules and federal court decisions applying those rules.” *Neman*, 5 E.A.D. 450, 455 n.2 (EAB 1994) (Remand Order) (citations omitted); see also *Lazarus, Inc.*, 7 E.A.D. 318, 330 & n.25 (EAB 1997).

This Tribunal will proceed in accordance with the Board’s guidance. In this instance, the analogous federal procedural rule is Federal Rule of Civil Procedure 6. This rule states that

“When an act may or must be done within a specified time, the court may, for good cause, extend the time: . . . on motion made after the time has expired if the party failed to act because of excusable neglect.” Fed. R. Civ. P. 6(b)(1)(B). And, as to applicable federal court decisions, the Supreme Court has expounded on the phrase “excusable neglect” when included in a procedural rule for bankruptcy proceedings. *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380 (1993). In that matter, the Court recognized that the factors to be considered when assessing whether neglect is “excusable” are “the danger of prejudice to the debtor [*i.e.*, the non-movant], the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith.” *Id.* at 395.

Consistent with the above, I find that Respondent’s late filing of its Preliminary Statement is due to excusable neglect. The delay was short, and does not threaten further impeding these proceedings, especially since the parties have asked to postpone future deadlines to discuss settlement. See Order on Request for Extension of Time (May 6, 2026). There is no indication Respondent has acted in any manner but a good faith one: the reason for the delay was that Respondent’s counsel mistakenly believed that Complainant’s filing was a joint filing that satisfied Respondent’s obligations, an oversight which was corrected upon notification by Tribunal staff. Complainant will not be prejudiced by the late filing of the Preliminary Statement, as Complainant, when contacted by Tribunal staff, stated no opposition to the motion.¹ Additionally, there is good cause to allow the late filing, as it furthers the interests of judicial economy and conserves the Tribunal’s resources. Therefore, the Motion is **GRANTED**, and the Preliminary Statement is accepted.

SO ORDERED.



Michael B. Wright
Chief Administrative Law Judge

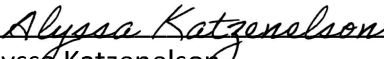
Dated: May 27, 2026
Washington, D.C.

¹ The parties are reminded to contact the other party and determine that party’s position on any future motion before filing the motion. See Prehearing Order at 4-5.

In the Matter of *Pepperell, LLC*, Respondent.
Docket No. CWA-01-2026-0030

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Respondent's Motion to File Out of Time**, dated May 27, 2026, and issued by Chief Administrative Law Judge Michael B. Wright, was sent this day to the following parties in the manner indicated below.


Alyssa Katzenelson
Staff Attorney

Copy by ALJD E-Filing System to:
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Administrative Law Judges Division
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

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For Respondent

Dated: May 27, 2026
Washington, D.C.