



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

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

ORDER ON MOTION TO FILE OUT OF TIME

The Order on Motion for Extension of Time, issued August 4, 2026, extended the deadlines for the filing of the parties' Prehearing Exchanges, and also set deadlines for the filing of Status Reports. The first Status Report was due August 31, 2026. Complainant filed the Status Report on September 1, 2026—one day late.

Styled as a Status Report & Motion to File Out of Time, the document provides an update on the negotiations and information exchange between the parties, and concludes by stating:

Counsel for Complainant was unable to timely-file this Status Report due to a scheduled absence and respectfully moves to file-out-of-time. Respondent's counsel was provided with a draft version of this Status Report and Motion, and has provided his concurrence.

Status Rep. & Mot. at 2.

As described previously during these proceedings (*see* Order on Respondent's Motion to File Out of Time, issued May 27, 2026), this matter is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Rules"), set forth at 40 C.F.R. Part 22. With respect to extensions of time, the Rules state 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 do not directly address belated requests for extensions of time. However, the Environmental Appeals Board has advised 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).

The “analogous federal procedural rule” is Federal Rule of Civil Procedure 6, which 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). In determining the demarcations of the term “excusable neglect,” the Supreme Court, in analyzing a bankruptcy procedural rule, proffered that the factors to be considered when weighing whether neglect was “excusable” were “the danger of prejudice to 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.” *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 395 (1993). In short, “the determination is at bottom an equitable one, taking account of all relevant circumstances surrounding the party’s omission.” *Id.*

I find that Complainant’s belated filing of the Status Report was because of excusable neglect. The delay was only one day, and will not impact these proceedings. There is no risk of prejudice to Respondent by allowing the late filing of the Status Report. The reason for the delay was Complainant’s scheduled absence. Complainant has acted in good faith and promptly filed the missing document when notified by Tribunal staff. Additionally, I find there is good cause to allow the belated filing of the Status Report. The Motion to File Out of Time is **GRANTED**.

SO ORDERED.



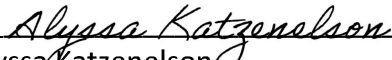
Michael B. Wright
Chief Administrative Law Judge

Dated: September 4, 2026
Washington, D.C.

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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Motion to File out of Time**, dated September 4, 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:
U.S. Environmental Protection Agency
Administrative Law Judges Division
<https://yosemite.epa.gov/OA/EAB/EAB-ALJ Upload.nsf>

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For Respondent

Dated: September 4, 2026
Washington, D.C.