

STANDING ORDER**Designation of EPA Region 10 Part 22 Electronic Filing System**

Effective Date: June 1, 2020

Background: Rule 22.5(a)(1) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Part 22 Rules”), 40 C.F.R. § 22.5(a)(1), states that, with regard to the filing of Part 22 related documents with a Regional Hearing Clerk, “[t]he Presiding Officer ... may by order authorize or require filing by facsimile or an electronic filing system subject to any appropriate conditions and limitations.”

Designation of EFS: Pursuant to our authority as the Regional Judicial Officers of the United States Environmental Protection Agency (EPA) Region 10, we hereby designate EPA’s Outlook-based email system to serve as EPA Region 10’s connection with administrative enforcement actions under the Part 22 Rules. This Standing Order does not require that documents be filed using this EFS. Rather, it authorizes the use of the email EFS as an option, in addition to those methods already authorized by the Part 22 Rules for the filing of documents with the Regional Hearing Clerk.

The use of the EFS is subject to the following conditions and limitations:

- **EFS Email Address** – Documents being filed with the Regional Hearing Clerk using the EFS are to be emailed to the following email address: R10_RHC@epa.gov. A document emailed to the Regional Judicial Officer directly does not constitute filing using the EFS and will not be deemed to be filed as part of the administrative record for the matter;
- **Caption of EFS Email** - The caption of the EFS email must contain the following information: name of case; EPA docket no.; and identification of document being filed. (Ex. In the matter of: ABC Company, Inc.; U.S. EPA Docket No. RCRA-10-2020-XXXX; Administrative Complaint);
- **Parties Copied on EFS Email** - It is the responsibility of the party filing a document using the EFS to make certain that all other parties to the matter are copied on the EFS email;
- **Date/Time of Filing** - Pursuant to Rule 22.5(a)(1), a document is filed when received by the Regional Hearing Clerk. 40 C.F.R. 22.5(a)(1). For purposes of the EFS, the date and time of the filing of a document in the EFS will be the date and time indicated on the email that is received by the Regional Hearing Clerk email account, subject to the following limitations: a document that has an email time stamp after 4:00 p.m. Pacific Standard Time will be treated as having been filed the next business day;

- **Certificate of Service** – In accordance with Rule 22.5(a)(3), a Certificate of Service shall accompany any document filed with the Regional Hearing Clerk using the EFS. 40 C.F.R. § 22.5(a)(3);
- **Original** – For purposes of the administrative record of the matter, the “original” of a filed document shall be the electronic file that is received by the Regional Hearing Clerk in the Regional Hearing Clerk email account;
- **Regional Hearing Clerk Email Acknowledgement** – The Regional Hearing Clerk will send to all parties an email acknowledging receipt of the document filed using the EFS. The email acknowledgement will indicate the date and time that the document was filed in the EFS;
- **Stamping of Filed Documents** – The Regional Hearing Clerk will stamp (either physically or electronically) all documents received by the EFS. The Stamp will indicate that the document was filed and will indicate the date and time of filing with the EFS;
- **Compliance with Part 22 Rules** – A party submitting a document using the EFS is required to comply with all Part 22 Rules, including, but not limited to, rules pertaining to: format and substance of the document being filed. To the extent that this Standing Order conflicts with any requirement or provision of the Part 22 Rules, the Part 22 Rules control;
- **Format of Filed Documents** – Documents submitted electronically must be in Portable Document Format ("PDF"). (Note - EPA is not endorsing this product nor the company that makes it);
- **Contact Information for Submitting Party** – The email that is transmitting the document to the EFS must contain the following contact information for the submitting party or its authorized representative: name, phone number, mailing address, and e-mail address;
- **Signature of Documents by EPA Personnel** – Documents filed using the EFS must be signed by EPA Personnel in accordance with Rule 22.5(c)(3), 40 C.F.R. § 22.5(c)(3). More specifically, filed documents can be signed either: via a pdf of a “wet signature” or via an e-signature. With regard to e-signatures by EPA personnel, these signatures must comply with EPA’s [Electronic Signature Policy \(Directive No. CIO 2136.0\)](#) and an [Electronic Signature Procedure \(Directive No. CIO 2136-P-01.0\)](#) that apply to new uses of electronic signature technology for internal EPA processes. Standard digital signature functions in applications such as Adobe Reader and Acrobat DC, generally will satisfy these requirements, provided they are approved by EPA Region 10’s Senior Information Official (SIO).
- **Signature of Documents by Outside Parties/Non-Agency** - Documents filed using the EFS must be signed by an outside/non-EPA party in accordance with Rule 22.5(c)(3), 40 C.F.R. § 22.5(c)(3).¹ More specifically, filed documents can be signed either: via a pdf of a “wet signature” or via an e-signature. For the Regional Judicial

¹ This Standing Order also adheres to the requirements in EPA’s Cross-Media Electronic Reporting Rule (CROMERR) that apply when an outside party submits an electronic document to EPA as a substitute for a paper document. 40 C.F.R. § 3.10(a).

- Officer to accept an electronically signed document from an outside/non-EPA party (i.e., a respondent), the document needs to bear a “valid electronic signature.” A Certificate Based Digital Signature, such as one created using standard digital signature software (for example, the Digital Signature function in Adobe Acrobat), can constitute a “valid electronic signature” for Part 22 purposes. These and similar products embed metadata identifying a unique user and the time and date that the signature was applied to the document. The metadata in the document should demonstrate that the signature applied was valid and was not altered in the time after the digital signature was applied. If the submitting party is emailing a pdf of a document with a wet signature, the submitting party must also mail the original signature page of the document (i.e., the page bearing the wet signature) to the Regional Hearing Clerk. The Regional Hearing Clerk will include this signature page in the official record of the matter;
- **Signature Representation** – Pursuant to Rule 22.5(c)(3), the signature on a document filed using the EFS constitutes a representation that the signer has read the document, that to the best of his or her knowledge the statements made therein are true, and that the document is not interposed for delay. 40 C.F.R. § 22.5(c)(3);
 - **Service of EFS Filed Documents** – The filing of a document using the EFS and the copying of an opposing party of the email to the EFS do not constitute service of the document under the Part 22 Rules. Service of the document on all opposing parties must still be completed in accordance with the applicable Part 22 Rules. See 40 C.F.R. § 22.5(b);
 - **Amendments to Filed Documents** – Once a document has been received by the EFS it is part of the administrative record of the matter. It cannot be retrieved, deleted or altered in any manner by the submitting party. Amendments to filed documents can only be performed in accordance with the Part 22 Rules;
 - **PII and CBI** – It is the responsibility of a party submitting a document via the EFS to make certain that the document does not contain Personal Identification Information (PII) or Confidential Business Information (CBI). Because documents uploaded onto the EFS are deemed to be public documents, filers may not upload any CBI. Any claim of confidentiality for any business information will be deemed to be waived if such information is uploaded using this system. Additionally, filers may not upload other private information the disclosure of which would constitute an unwarranted invasion of any person's privacy (for example: social security numbers, birthdates, medical records, personal financial information or other private information). For information on how to file CBI or other private materials, please contact the Regional Hearing Clerk;
 - **Filing of Complaints** - This Standing Order applies only in proceedings in which notice to a respondent of the availability of the EFS for the filing of an answer or motion is clearly provided. A copy of this Standing Order is to accompany all complaints that are filed and served. For the efficient and effective use of the EFS, the parties are encouraged to confer and reach agreement regarding acceptable electronic addresses and other logistical issues; and

- **Applicability of Standing Order** – Unless a proceeding is subject to the provisions of Subpart I of the Part 22 Rules, the applicability of this Standing Order shall terminate as to a particular proceeding upon the filing of an answer with the Regional Hearing Clerk pursuant to 40 C.F.R. § 22.15, the issuance of an initial decision and default order pursuant to 40 C.F.R. § 22.17 or the conclusion of the matter pursuant to the entrance of a final order pursuant to 40 C.F.R. § 22.18. About proceedings subject to Subpart I of the Part 22 Rules, this Standing Order shall be in effect during the duration of the proceeding unless revoked or modified by the Regional Judicial Officers. This Standing Order does not apply to the submission of consent agreements and final orders (CAFOs) or expedited settlement agreements (ESAs) for consideration by a Regional Judicial Officer. The process and requirements for the submission of CAFOs and ESAs in connection with settlements of Part 22 matters is governed by the EPA Region 10 *Interim Standard Operating Procedure for Filing and Service of 40 C.F.R. Part 22 CAFOs and ESAs While on Region-Wide Telework (SOPs)* (March 31, 2020). To the extent that there is a conflict between this Standing Order and the SOPs, the Standing Order controls and will be applicable. This Standing Order also does not apply to the filing of a document with the EPA Office of Administrative Law Judges (OALJ) or the EPA Environmental Appeals Board (EAB). Please check the OALJ and EAB websites for e-filing procedures and requirements before those entities.

The conditions and limitations set forth herein may be amended or revoked generally or regarding a specific case or group of cases by further order of the Regional Judicial Officers in their sole discretion at any time. In addition, the Regional Judicial Officers may issue an order modifying these conditions and limitations if deemed appropriate in his or her discretion.

Termination Date of Standing Order: This Standing Order will remain in effect until terminated in writing by the Regional Judicial Officers of EPA Region 10.

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