

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

**AUTHORIZATION OF EPA REGION 1 PART 22 ELECTRONIC FILING SYSTEM
FOR ELECTRONIC FILING AND SERVICE OF DOCUMENTS**

STANDING ORDER

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, set forth at 40 C.F.R. Part 22 (“Consolidated Rules of Practice”), state that “[t]he Presiding Officer . . . may by order authorize or require filing by . . . an electronic filing system, subject to any appropriate conditions and limitations.” 40 C.F.R. § 22.5(a)(1).¹ In addition, the Consolidated Rules of Practice state that “the Presiding Officer . . . may by order authorize or require service by . . . email, or other electronic means, subject to any appropriate conditions and limitations.” 40 C.F.R. § 22.5(b)(2). Pursuant to this authority, the undersigned authorizes the U.S. Environmental Protection Agency’s Microsoft Outlook email-based system as an electronic filing system for purposes of Part 22 proceedings and adopts the following conditions and limitations to facilitate the electronic filing and service of documents.²

Filing Documents by Email

Pursuant to this Order, parties may submit documents to the Regional Hearing Clerk for filing by email.³ This authorization is subject to the following conditions and limitations.

1. **Email address and subject line.** All documents filed electronically shall be sent to R1_Hearing_Clerk_Filings@epa.gov. The subject line of the email shall contain the name and docket number of the proceeding.
2. **Format and contact information.** Documents shall be submitted in portable document format (PDF), shall contain the contact name, phone number, mailing address and email

¹ The Regional Judicial Officer is the Presiding Officer in proceedings under Subpart I of the Consolidated Rules. 40 C.F.R. § 22.4(b). The Regional Judicial Officer also acts as the Presiding Officer until the respondent files an answer in proceedings under the Consolidated Rules of Practice in which Subpart I does not apply. *Id.*

² This Order does not mandate electronic filing. Rather, it authorizes the use of electronic filing as an option to those methods already authorized and enumerated in the Consolidated Rules of Practice. 40 C.F.R. § 22.5(a)(1). For documents filed through non-electronic means, the inked date stamp physically applied by the Regional Hearing Clerk to the paper copy of the documents will continue to serve as the official record of the date and time of filing. The Regional Hearing Clerk may receive such paper filings between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, Monday through Friday. Any such paper document received by the Regional Hearing Clerk after 5:00 p.m. Eastern Time shall be treated as having been filed the next business day.

³ This Order does not apply to the electronic filing of documents with the U.S. EPA Office of Administrative Law Judges or the U.S. EPA Environmental Appeals Board. Please check their respective websites for electronic procedures and requirements.

address of the filing party or its authorized representative and shall otherwise conform to all applicable requirements of Rule 22.5(c).

3. **Signature representation.** By filing a document electronically through EPA's Microsoft Outlook email-based system, a party, or its attorney or other representative, represents that the signatory 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).
4. **Certificate of Service.** In accordance with 40 C.F.R. § 22.5(a)(3), each document electronically filed shall be accompanied by a certificate of service.
5. **Service on each party.** Each document electronically filed shall be served on each party and said service shall comply with all applicable Part 22 rules. *See* 40 C.F.R. § 22.5(b).
6. **Documents sent to other email addresses.** Documents shall be submitted to R1_Hearing_Clerk_Filings@epa.gov or will not be accepted for filing and will not be deemed to be filed as part of the administrative record for the matter. Documents submitted to any other email address will not be accepted for filing.
7. **Date/Time of Filing.** A document is filed when received by the Regional Hearing Clerk. 40 C.F.R. § 22.5(a)(1). For purposes of electronic filing, the date and time indicated on the email that is received by the R1_Hearing_Clerk_Filings@epa.gov email account will be deemed the official filing date. Thus, to be considered timely, documents electronically submitted to R1_Hearing_Clerk_Filings@epa.gov must be received by 11:59 p.m. Eastern Time on the day the document is required to be filed.
8. **Original and copy.** The Consolidated Rules of Practice require that “[t]he original and one copy of each document intended to be part of the record . . . be filed with the Regional Hearing Clerk when the proceeding is before the Presiding Officer[.]” 40 C.F.R. § 22.5(a)(1). A party who files electronically is deemed to satisfy this requirement.
9. **Stamping of filed documents.** The Regional Hearing Clerk will stamp (either physically or electronically) documents electronically submitted to the R1_Hearing_Clerk_Filings@epa.gov email account.
10. **Format and content.** A party electronically filing a document shall comply with all Part 22 rules, including, but not limited to, all rules pertaining to format and content of the particular document being filed. To the extent this Standing Order conflicts with any requirements of the Part 22 rules, the Part 22 rules control. To the extent this Standing Order conflicts with any condition or limitation contained in the October 9, 2014 Standing Order Authorizing Filing and Service by E-Mail in Proceedings Before the Region 1 Regional Judicial Officer, EPA Docket No. 01-2015-0001, this Standing Order will control.

11. **Electronic signature.** Documents electronically filed shall be signed by EPA employees in accordance with 40 C.F.R. § 22.5(c)(3). Electronically filed documents may be signed either by PDF of a “wet signature” or by electronic signature. Electronic signatures utilized by EPA employees shall comply with the March 24, 2020 Region 1 Senior Information Official Memorandum Regarding Region 1 Implementation of Electronic Signatures. Electronic signatures utilized by non-EPA employees shall bear a “valid electronic signature” for purposes of EPA’s Cross-Media Electronic Reporting Rule (CROMERR) regulations.⁴ A Certificate Based Digital Signature, such as one created using standard digital signature software⁵, can constitute a “valid electronic signature” for CROMERR 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 was valid and was not altered in the time after the digital signature was applied. Because this information is embedded in the document itself, the electronic version of a document that has been digitally signed is considered the “original,” and shall be preserved (with all relevant metadata) in accordance with any applicable records retention schedules. If a party files a document that has been electronically signed, the party must file the “original” version of the document in order to preserve the metadata establishing that the digital signature is valid. If a party electronically files a portable document format (PDF) of a document with a “wet signature,” the party must also submit the original signature page of the document to the Regional Hearing Clerk, either by First Class Mail or by filing in the Regional Hearing Clerk’s in-box. The Regional Hearing Clerk will include this original signature page in the administrative record for the matter.
12. **Amendments.** Once a document is received by the R1_Hearing_Clerk_Filings@epa.gov email account, it becomes part of the administrative record of the matter. The document shall not be retrieved, deleted or altered in any manner by any submitting party. Amendments to filed documents can only performed in accordance with the Part 22 rules or the terms of a fully executed settlement agreement.
13. **Complaint.** This Order applies only in proceedings in which the Complaint clearly provides notice of the availability of electronic filing for the filing of an Answer or Motion, and in which the Complaint is accompanied by a copy of this Standing Order and the Consolidated Rules of Practice. Prior to utilizing electronic filing, the parties shall confer regarding acceptable electronic addresses and any other logistical issues.

⁴ EPA’s CROMERR regulations define “valid electronic signature” to mean “an electronic signature on an electronic document that has been created with an electronic signature device that the identified signatory is uniquely entitled to use for signing that document, where this device has not been compromised, and where the signatory is an individual who is authorized to sign the document by virtue of his or her legal status and/or his or her relationship to the entity on whose behalf the signature is executed.” 40 C.F.R. § 3.3.

⁵ These software programs create certificate based digital signatures using a digital ID that is unique to the signer. The digital ID contains a private key that is used to create the signature, and a certificate with a public key that is applied to the document, allowing the recipient to verify the signature upon opening the document.

14. **Termination.** In all proceedings not initiated under 40 C.F.R. Part 22, Subpart I, this order terminates as to any particular proceeding when an answer is filed pursuant to Rule 22.15.

Confidential Business Information and Other Private Information

It shall be the responsibility of the party electronically filing a document to ensure the document does not contain confidential business information (CBI) or personally identifiable information (PII). Any claim of confidentiality for business information will be deemed waived if such information is submitted electronically to the R1_Hearing_Clerk_Filings@epa.gov email account. Additionally, filers may not submit other private information the disclosure of which would constitute the unwarranted invasion of any person's privacy, e.g., social security numbers, birthdates, medical information, financial information or other private information. For information on how to file CBI or PII, please contact the Regional Hearing Clerk. *See* 40 C.F.R. § 22.5(d); *see also* 40 C.F.R. Part 2.

Serving Documents Electronically

Service requirements under Part 22 are distinct from filing requirements. Parties to proceedings under Part 22 shall review the requirements relating to both filing and service of documents. Pursuant to this Order, parties may also serve all filed documents covered by this Order by electronic means, including email and facsimile⁶, subject to the following conditions and limitations.

1. **Complaints.** Part 22 does not provide for the electronic service of complaints. Service of the complaint in a proceeding is governed by Rule 22.5(b)(1), which is not affected by this authorization.
2. **Documents Other Than the Complaint, Rulings, Orders and Decisions.** All documents filed by a party, other than the complaint, rulings, order and decisions, may be served electronically provided the other party has consented to electronic service in writing. A party who has consented to electronic service shall file an acknowledgement of its consent, identifying the type of electronic means agreed to and the electronic address to be used, with the Regional Hearing Clerk. *See* 40 C.F.R. § 22.5(b)(2).
3. **Orders, Rulings and Decisions.** Forty C.F.R. § 22.6 provides that orders, rulings and decisions shall be filed by the Regional Administrator or Presiding Officer with the appropriate Clerk "in any manner allowed for service of such documents." The appropriate clerk is responsible for serving copies of such rulings, orders, decisions and other documents on all parties and is specifically authorized to do so by electronic means. As such, email or other electronic means shall be authorized for use by the Presiding

⁶ This Order does not mandate electronic service of documents. Rather, it authorizes the use of service email in addition to the service methods authorized by the Consolidated Rules of Practice. *See* 40 C.F.R. §§ 22.5, 22.6.

Officer to file documents with the Regional Hearing Clerk, and by the Regional Hearing Clerk to serve documents on parties to the proceeding.

4. **Email service.** The subject line of the email shall contain the name and docket number of the proceeding. Documents served by email shall be in PDF, and shall contain the contact name, phone number, mailing address and email address of the serving party or its authorized representative.
5. **Certificate of service.** In accordance with 40 C.F.R. § 22.5(a)(3), each document electronically served shall be accompanied by a certificate of service.
6. **Service complete.** Service of documents electronically is complete upon transmission to the valid electronic address(es) of the other parties.
7. **Service on Regional Judicial Officer.** Documents submitted electronically to the R1_Hearing_Clerk_Filings@epa.gov email account shall be deemed served on the Regional Judicial Officer. 40 C.F.R. § 22.5(b).

The conditions and limitations set forth in this Order may be amended or revoked generally or in regard to a specific case or group or cases by further order at any time. In addition, the undersigned may issue an order modifying these conditions and limitations if deemed appropriate. This Order shall remain in effect until further notice.

IT IS SO ORDERED.

Date: June 19, 2020

LeAnn Jensen
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 1