



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

August 20, 2020

**MEMORANDUM**

**SUBJECT:** Enforcement Statement Regarding “Wet” Signature Requirements During the COVID-19 Public Health Emergency

**FROM:** Susan Parker Bodine

**TO:** All Governmental and Private Sector Partners

**Introduction**

The U.S. Environmental Protection Agency recognizes that social distancing and other government- or company-imposed requirements that are designed to limit the spread of COVID-19, such as work-from-home or other measures to minimize direct contact between workers, in some cases may limit the ability of regulated entities to provide or obtain a “wet” signature where required for a report, certification, or other document submitted to EPA. EPA supports such efforts to slow the spread of COVID-19 and protect the public health, and wants to encourage regulated entities to implement such measures in a way that does not adversely impact their ability to satisfy other laws that protect public health and the environment.

EPA has been contacted by regulated entities expressing concern about the impact of adherence to measures to limit the spread of COVID-19 on their ability to comply with a requirement for a “wet” signature. As with all submissions to EPA, when a paper document with the original “wet” signature is required to be submitted to EPA, it is important that it is timely submitted, is accurate and complete, and is reviewed and approved by the regulated entity’s appropriate personnel. The mere inability to provide a “wet” signature is not a justification for the failure to make a paper submission or certification. However, EPA is aware that social distancing practices, including working from home, may hinder the ability of some regulated entities to provide a “wet” signature as required by an enforceable requirement. Accordingly, this memorandum addresses the limited situation where a “wet” signature cannot be provided due to COVID-19 social distancing efforts, and the signature requirement is enforceable by EPA. The procedures identified in this memorandum are in the public interest both by supporting measures to help limit the spread of COVID-19 and by providing that information required to be reported to EPA must be accurate and truthful, even in the absence of a “wet” signature.

**Scope and Applicability**

This statement applies only to those provisions set forth in a statute, regulation, permit condition, and/or other enforceable federal requirement that are both enforceable by EPA and require a “wet” signature on

a paper document.<sup>1</sup> It does not apply to signature requirements that do not specifically mandate a “wet” signature (*e.g.*, an electronic signature or certification) or a signature requirement that is not an enforceable violation of law (*e.g.*, a signature on permit application).

This statement does not apply to:

- Delegated or authorized states or tribes, who may take a different approach.
- Signatures or certifications for deliverables or submissions required by civil judicial consent decrees or administrative settlements. EPA will coordinate with the Department of Justice where a consent decree mandates a “wet” signature that a regulated entity is unable to provide. Where an administrative settlement requires a “wet” signature, EPA will work with the parties to resolve the issue.
- “Wet” signatures for CERCLA or RCRA corrective action requirements.
- Signatures required for paper hazardous waste manifests, which are covered by an appendix to this memorandum.<sup>2</sup>

This statement is in effect through December 31, 2020. EPA will regularly assess its continuing need and may modify or terminate it prior to this date. EPA will provide at least seven days advance notice if the statement is terminated prior to December 31, 2020.

#### Procedures When a “Wet” Signature Cannot Be Submitted

Where an applicable statute, regulation, permit condition, and/or other enforceable federal requirement provides the option of an electronic signature, regulated entities are strongly encouraged to avail themselves of this option.

Nonetheless, if there is a requirement for a “wet” signature of a responsible official on a paper document and the regulated entity is unable to provide such due to COVID-19 social distancing efforts, EPA will evaluate such noncompliance on a case-by-case basis. As part of that evaluation, EPA will consider the following to be appropriate behavior in response to the inability to provide a “wet” signature on a paper document. Where a “wet” signature is not submitted, the regulated entity should provide either:

- A pdf or other copy of the required “wet” signed document (*e.g.*, a scanned copy) and maintain a copy of the original “wet” signature on file; or
- The required document signed with a digital signature, or other electronic signature method.

A regulated entity should exercise the same diligence in preparing a submission with an alternative signature that it would exercise if providing the same submission with a “wet” signature. The inability to

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<sup>1</sup> EPA notes that there are very few regulatory requirements that mandate a signature in ink as the only acceptable means for “signing” or certifying a submission to EPA; therefore, the availability of various methods for providing electronic signatures should mean that there are very few instances in which a regulated entity may need to avail itself of the procedures discussed in this statement.

<sup>2</sup> “Statement About Signing Paper Hazardous Waste Manifests During the COVID-19 Public Health Emergency” (Aug. 20, 2020).

provide a “wet” signature does not relieve the regulated entity from any applicable certification or other due diligence requirements.<sup>3</sup>

Consistent with the provision noted above for using a pdf or scanned copy of a required signature, EPA would also consider submission of a scanned document by email instead of submission of the paper original via regular mail, as appropriate, as long as the original paper document remains available and is provided upon request.

Importantly, when a regulated entity is unable to provide a “wet” signature on a paper document and utilizes an alternate means to provide a signature substitute that fulfills the purpose and effect of the “wet” signature requirement, EPA would need the following information to undertake its case-by-case evaluation of the noncompliance. Such information should be documented contemporaneously<sup>4</sup> with the use of the alternate signature method, and:

1. Identify the applicable regulatory or other legal provision with the “wet” signature requirement, the specific document or submission for which the substitute signature method or process was used, and its date;
2. Explain the facts and circumstances for how social distancing efforts to slow the spread of COVID-19 was the proximate or direct cause of the inability to provide or obtain a “wet” signature on a paper document; and
3. Detail the alternative means or method used as the substitute for a “wet” signature.

This documentation should be maintained and made available to EPA upon request.

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<sup>3</sup> The use of alternatives to paper signatures similar to those in this memorandum is consistent with procedures adopted for other EPA programs as a result of the COVID-19 public health emergency (e.g., “[Establishment of Standards for Submission of Administrative and Financial Assistance Agreement Forms/Documents with Electronic or Digital Signatures by Email](#)” and “[Flexibilities under the Clean Water Act](#)” (Q&A on signatures)), as well as more generally. See National Law Review, “[Electronic Signatures Becoming the Norm during COVID-19 Outbreak](#)” (Apr. 24, 2020).

<sup>4</sup> The documentation and certification should be prepared and dated contemporaneously with submission signed using alternate means. If the documentation is not prepared and signed contemporaneously, the documentation should include a description of the cause of any delay, the steps taken to ensure that the delayed documentation remains complete and accurate, and the steps taken to minimize or prevent a similar delay in the future.