

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE

SUBCHAPTER 17. ELECTRONIC REPORTING

252:4-17-1. Purpose, authority and applicability

(a) Purpose. The rules in this Subchapter implement the United States Environmental Protection Agency's Cross Media Electronic Reporting Rule (CROMERR), as published in the October 13, 2005 issue of the *Federal Register* (70 FR 59848 - 59889), and which became effective January 11, 2006.

(b) Authority. The rules in this Subchapter were promulgated and adopted under the authority of the Oklahoma Environmental Quality Code, 27A O.S. §§ 2-1-101 *et seq.*, including specifically § 2-2-101(H); the Oklahoma Administrative Procedures Act, 75 O.S. § 302; and the Oklahoma Uniform Electronic Transactions Act, 12A O.S. §§ 15-101 *et seq.*

(c) Applicability. The rules in this Subchapter:

(1) apply to:

(A) persons and signatories who submit electronic reports or other documents to the DEQ to satisfy requirements of Title 40 of the Code of Federal Regulations (40 CFR) for authorized programs for which the Executive Director has announced on the DEQ's public website that the DEQ is accepting specified electronic documents; and

(B) the DEQ's electronic document receiving system and other software applications implemented, revised, or modified as announced by the DEQ.

(2) do not apply to:

(A) documents submitted via facsimile;

(B) electronic documents submitted via magnetic or optical media such as diskette, compact disc, digital video disc, or tape; or

(C) electronic documents submitted through the DEQ's electronic document receiving system pursuant to a state program.

252:4-17-2. Definitions

In addition to the Definitions in Subchapter 1 of this Chapter, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Authorized program" means a federal program that the United States Environmental Protection Agency (EPA) has delegated, authorized, or approved the DEQ, on behalf of the State of Oklahoma, to administer, or a program that the EPA has delegated, authorized, or approved the DEQ to administer in lieu of a federal program, under provisions of 40 CFR and for which the delegation, authorization or approval has not been withdrawn or expired.

(2) "Copy of record" means a true and correct copy of an electronic document received by an electronic document receiving system, which can be viewed in a human-readable format that clearly and accurately associates all the information provided in the electronic document with descriptions or labeling of the information. A copy of record includes:

(A) any electronic signature contained in or logically associated with the document;

(B) the date and time of receipt; and

(C) any other information used to record the meaning of the document or the circumstances of its receipt.

(3) "Electronic document" means any information that is submitted to the DEQ's electronic document receiving system in digital form to satisfy requirements of an authorized program and may include data, text, sounds, codes, computer programs, software, or databases.

(4) "Electronic document receiving system" means a set of apparatus, procedures, software, or records established and used by the DEQ to receive electronic documents in lieu of paper.

(5) "Electronic signature" means any information in digital form attached to or logically associated with a record submitted to the DEQ's electronic document receiving system and executed or adopted by a person with the intent of expressing the same meaning as would a handwritten signature if affixed to an equivalent paper document with the same content.

(6) "Electronic signature agreement" means a written agreement prepared by the Executive Director and signed by an individual with respect to an electronic signature device that the individual will use to create his or her electronic signature.

(7) "Electronic signature device" means a code or other mechanism, assigned to an individual who is uniquely entitled to use it and that is then used to create the individual's electronic signature.

(8) "Federal program" means any program administered by EPA under any provision of 40 CFR.

(9) "Handwritten signature" means the scripted name or legal mark of an individual made by that individual with the present intention to authenticate a writing in a permanent form.

(10) "Signatory" means an individual authorized to and who signs a document submitted to the DEQ's electronic document receiving system pursuant to an electronic signature agreement in a format acceptable to the DEQ.

(11) "State program" means any program other than an authorized program that is implemented by DEQ under the Oklahoma Environmental Quality Code or other laws of the State of Oklahoma.

(12) "Valid electronic signature" means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, where the

device has not been compromised and where the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf the signature is created.

252:4-17-3. Use of electronic document receiving system

(a) **Announcement on public website.** When the Executive Director has announced on the DEQ's public website that the DEQ is accepting specified electronic documents in lieu of paper to satisfy requirements under authorized programs, individuals who submit such electronic documents must use the DEQ's CROMERR-compliant electronic document receiving system.

(b) **Submittals requiring signature.** Any electronic document submitted must bear a valid electronic signature of a signatory, if that signatory would be required under the authorized program to sign the paper document for which the electronic document substitutes.

(c) **Submittals not requiring signature.** If no signature is required under the authorized program, individuals may submit electronic documents in lieu of paper to satisfy requirements of such programs through the DEQ's CROMERR-compliant electronic document receiving system without an electronic signature or an electronic signature agreement.

252:4-17-4. Electronic signature agreement

(a) **Agreement to be executed.** In the case of an electronic document that must bear the electronic signature of a signatory under an authorized program, each signatory must execute an electronic signature agreement.

(b) **Form and content of agreement.** All agreements shall be in writing and filed with the electronic document receiving system administrator via the U.S. postal service or by hand delivery. The agreement shall include the information and follow the format in Appendix E. The agreement form may be downloaded and printed for execution from the DEQ's public website.

(c) **Verification.** The identity of each individual submitting an electronic signature agreement shall be verified by the DEQ. After the DEQ has satisfactorily completed the verification, the DEQ shall notify the individual electronically, issue a unique electronic signature device to the individual, and request that the individual establish a password to be used in connection with the device.

252:4-17-5. Valid electronic signature

(a) **Signatory.** An authorized signatory may not allow another individual to use the electronic signature device unique to his or her electronic signature.

(b) **Unique signature device.** When the electronic signature device is used to create an individual's electronic signature, the code or mechanism must be unique to that individual at the time

the signature is created and the individual must be uniquely entitled to use it. The signatory shall:

- (1) protect the electronic signature device from compromise; and
- (2) report to the DEQ, within one business day of discovery, any evidence that the device has been compromised.

252:4-17-6. Effect of electronic signature

(a) **Electronic signature establishes intent.** The presence of an electronic signature on an electronic document submitted to the DEQ establishes that the signatory intended to sign the electronic document and to submit it to the DEQ to fulfill the purpose of the electronic document.

(b) **Electronic signature legally binding.** Where an electronic document submitted to satisfy a reporting requirement of an authorized program bears an electronic signature, the electronic signature legally binds, obligates, and makes the signatory responsible to the same extent as the signatory's handwritten signature on a paper document submitted to satisfy the same reporting requirement. If an applicable law or rule requires a handwritten signature on a document, an electronic signature satisfies that requirement.

252:4-17-7. Enforcement

(a) **Penalties and other remedies.** If the submitter or signatory fails to comply with a reporting requirement by failing to comply with the provisions of this subchapter, the electronic signature agreement, or other applicable reporting requirements, the submitter or signatory is subject to any appropriate civil or criminal penalties or other remedies under State law.

(b) **Electronic document as evidence.** Nothing in this subchapter or the authorized program limits the use of an electronic document, copy of record, or other information derived from an electronic document as evidence in enforcement proceedings.

APPENDIX E. ELECTRONIC SIGNATURE AGREEMENT [NEW]

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

Company Name: _____

Street/Physical Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

Site/Facility Name and Address (if different from company name/address above): _____

I, _____,
(Name of authorized individual)

- Understand that this Electronic Signature Agreement allows me to submit electronic documents to the Oklahoma Department of Environmental Quality's ("DEQ") approved electronic document receiving system ("EDRS") under authorized programs in lieu of paper submissions.
- Understand that the DEQ has adopted applicable rules at Oklahoma Administrative Code 252:4-17, entitled "Electronic Reporting".
- Agree to protect my unique electronic signature device from compromise and from use by anyone except me. Specifically, I agree to maintain the secrecy of the password; I will not divulge or delegate my user name and password to any other individual; I will not store my password in an unprotected location; and I will not allow my password to be written into computer scripts to achieve automated log-in.
- Agree to contact the DEQ EDRS administrator at deqreporting@deq.state.ok.us as soon as possible, but no later than 24 hours, after suspecting or determining that my account identification and/or password have become lost,

stolen or otherwise compromised.

- Agree that I will review the contents of all electronic submissions prior to submission.
- Understand and agree that I will be legally bound, obligated, or responsible by my use of my electronic signature as I would be using my hand-written signature.
- Understand that I will automatically receive an e-mail receipt from the DEQ's EDRS for any submission that contains a valid electronic signature, identifying the document received, the signatory, and the date and time of receipt.
- Agree that I will contact the DEQ EDRS Administrator if I do not receive an e-mail receipt as specified above within five (5) business days for any submission to the DEQ's EDRS.
- Understand that I will have the opportunity to review the document submitted in a human-readable format and an opportunity to repudiate the electronic document based on this review.
- Understand that the DEQ's EDRS will automatically reject any electronic document submitted without a valid electronic signature if such signature is required.
- Understand that the DEQ may contact the Immediate Supervisor or Company Official who signs below to authorize me as signatory for the company in order to verify my identity.
- Agree to notify the DEQ EDRS Administrator if I cease to represent the regulated entity specified above as signatory as soon as this change in relationship occurs.
- Agree to retain a copy of this signed agreement as long as I continue to represent the regulated entity specified above as signatory of the company's electronic submissions.

Printed Name of Authorized Signatory:

Signatory's E-mail Address for EDRS correspondence:

Signature of Authorized Signatory

Official Title

Date: _____

Subscribed and sworn to before me this _____ day of
_____, 20__.

NOTARY PUBLIC

My commission expires:

AUTHORIZATION BY IMMEDIATE SUPERVISOR OR COMPANY OFFICIAL

I, _____, acknowledge that the individual named above works at/for _____ and is authorized to submit electronic documents and act as signatory for purposes of the DEQ's electronic document receiving system.

Signature of Immediate Supervisor or Company Official

Official Title: _____

Date: _____

Subscribed and sworn to before me this _____ day of _____, 20__.

NOTARY PUBLIC

My commission expires:

PLEASE MAIL THIS DOCUMENT AS SOON AS POSSIBLE TO:

Oklahoma Department of Environmental Quality
Attn.: EDRS Coordinator
Customer Services Division
P.O. Box 1677
Oklahoma City, OK 73101-1677