

LESSON 1: OVERVIEW OF THE FINAL RULE

This lesson provides an overview of CROMERR, as codified in the CFR.

Topics covered in this lesson include:

- What does the rule do?
- What does the rule NOT do?
- Who is affected?
- When does the rule NOT apply? (Or “What are the exceptions to the rule?”)
- What are the compliance dates?

WHAT DOES THE RULE DO?

- **Sets Standards for e-Reporting:** The rule sets standards for systems that states, tribes, and local governments use to receive e-reports under their EPA-authorized programs. The standards are performance-based requirements that systems must meet to ensure the authenticity and integrity of the electronic documents and electronic signatures that they receive. EPA systems that receive e-reports from direct reporters are also required to meet these CROMERR standards.
- **Removes Regulatory Obstacles:** The rule removes regulatory obstacles to e-reporting under EPA and EPA-authorized programs by overriding references to paper-based requirements in Title 40 of the CFR. Examples include “file copies” or “return receipts.”

Sets Requirements for:

- **Direct e-Reporting to EPA:** The rule sets requirements for regulated entities that report directly to EPA and wish to report electronically. The requirements identify the EPA systems to which they may e-report and set conditions on the execution of any signatures associated with the submitted reports.
- **Authorized Programs That Receive or Wish to Receive e-Reports:** The rule requires state, tribal, and local governments that receive or wish to receive e-reports in lieu of paper under their authorized programs to seek EPA approval of modifications or revisions to those programs to incorporate e-reporting. EPA will make approval decisions based primarily on two criteria:
 - The applicant must have sufficient legal authority to enforce its authorized programs using electronically submitted documents; and
 - The system the applicant proposes to use to receive the e-reports must meet the CROMERR standards for e-reporting systems.

These criteria reflect the need to ensure that the applicant preserves the enforceability of its authorized programs when replacing paper reports with e-reports.

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- Applications for EPA Approval of Authorized Program e-Reporting: The rule sets requirements for completing and submitting an application for approval of an authorized program modification or revision, including a specification of the items that the application must include.

And:

- Provides a Special, Streamlined EPA Approval Process: CROMERR provides a streamlined approval process for program modifications or revisions related to e-reporting that allows state, tribal, and local governments to submit a single, consolidated application for multiple authorized programs. State, tribal, and local governments may also use applicable program approval or revision processes under other Parts of Title 40 that are specific to a particular authorized program.

WHAT DOES THE RULE NOT DO?

- Does NOT Set Requirements for e-Recordkeeping: The rule does NOT set requirements for regulated entities that maintain records required under EPA and EPA-authorized programs that wish to maintain those records electronically.
- Does NOT Make e-Reporting Mandatory: CROMERR does NOT mandate that authorized programs institute electronic reporting or accept documents electronically. It also does NOT require that regulated entities use electronic reporting to report directly to EPA.
- Does NOT Prohibit Mandatory e-Reporting: CROMERR does NOT prohibit mandatory e-reporting under other federal, state, tribal, or local laws.

WHO IS AFFECTED?

The final rule applies to two groups:

- **Regulated Entities**—CROMERR applies to persons or entities that submit electronic reports or documents in lieu of paper, to EPA under Title 40 when they are the regulated entity.
 - For example, 40 CFR 51.211 requires that operators of stationary sources of air emissions, such as power plants, must periodically report those emissions. If a regulated entity submits this report electronically directly to EPA, it is subject to CROMERR.
- **Entities Acting as a Regulator for an EPA Program**—States, tribes, or local governments that administer authorized programs under Title 40 that receive or wish to receive electronic reports or documents in lieu of paper.
 - The Clean Water Act (CWA) Program is an example of how states, tribes, or local governments can act as a regulator for an EPA program. The CWA gives EPA the authority to set effluent limits on an industry-wide (technology-based) basis and on a water-quality basis. These limits will ensure protection of the receiving water. The CWA requires anyone who wants to discharge pollutants to first obtain a National Pollutant Discharge Elimination System (NPDES) permit.

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- The CWA allows EPA to authorize the NPDES Permit Program to state governments, enabling states to perform many of the permitting, administrative, and enforcement aspects of the NPDES Program.

In lieu of paper: An electronic report is considered to be submitted “in lieu of paper” when it takes the place of a paper report submitted to satisfy the requirements under another part of 40 CFR.

In some states, the electronic reporting is done to make data collection and management easier, but the state requires that each report submitted electronically also be submitted as a signed paper copy. In this case, the electronic submission would not be in lieu of paper and CROMERR does not apply to the state.

Some electronic reporting systems use a combined approach, where part or all of the data are submitted only electronically, but a wet ink signature on paper is also required. In these cases, the e-report (or at least the portions of it that are not also submitted on paper) is considered to be submitted “in lieu of paper” and CROMERR applies.

In addition, there are special CROMERR rules under 40 CFR 3.2000(a) that govern the use of a wet ink signature on paper in conjunction with an e-report. (Additional detail on this combined approach is provided in Lesson 6.)

WHEN DOES THE RULE NOT APPLY?

CROMERR does **NOT** apply to:

1. Documents submitted via fax, or magnetic or optical media, including:
 - Facsimile transmissions;
 - Tape;
 - Diskette;
 - Compact Disc (CD); and
 - Digital Video Disc (DVD).
2. Data transfers between EPA and state, tribal, or local governments when the transfers are:
 - Part of their authorized programs; or
 - Part of administrative arrangements with EPA.
3. Submissions to EPA not under Title 40
4. Submissions to state, tribal, or local governments not under their authorized programs

WHAT ARE THE COMPLIANCE DATES FOR STATES, TRIBES, AND LOCAL GOVERNMENTS' AUTHORIZED PROGRAMS?

Authorized programs must meet CROMERR's compliance dates:

- New e-Reporting Systems: Programs with a new e-reporting system, as defined in CROMERR, must seek EPA approval *before* using that system to receive e-reports in lieu of paper.
- Existing e-Reporting Systems: Programs with an existing e-reporting system were required to submit an application for EPA approval no later than January 13, 2010.

Note: The requirement was for programs to submit the application by this deadline; the program need not receive EPA approval by that deadline. The program may continue to operate the existing e-reporting system while the application is under review.