**Section 611.105 Electronic Reporting**

Submitting any document to comply with this Part as an electronic document in lieu of a paper document must comply with this Section.

a) Scope and Applicability

1) The USEPA, the Board, or the Agency may provide for submitting electronic documents in lieu of paper documents. This Section does not require the submission of electronic documents in lieu of paper documents. This Section provides for submitting an electronic version of any document the supplier must submit to USEPA or the Agency under certain rules:

A) To USEPA directly under Title 40 of the Code of Federal Regulations; or

B) To the Board or the Agency under any provision of 35 Ill. Adm. Code 611.

2) A supplier may only submit an electronic document under specific circumstances:

A) For submitting documents to USEPA, a supplier may submit an electronic document only after USEPA publishes a Federal Register notice that USEPA will receive the specific document or type of document in an electronic format; or

B) For submitting documents to the State, a supplier may submit an electronic document only after the Board or the Agency begins using an electronic document receiving system that USEPA approves under 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA does not withdraw its approval in writing.

3) This Section does not apply to specific documents, whether or not the supplier submits the document to satisfy the requirements cited in subsection (a)(1):

A) Any document the supplier submits via facsimile;

B) Any document the supplier submits via magnetic or optical media, such as a diskette, compact disc, digital video disc, or tape; or

C) Any data transfer between USEPA, any state, or any local government and the Board or the Agency as part of administrative arrangements to share data.

4) Upon USEPA conferring written approval for submitting any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(2)(B), the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the USEPA-approved electronic document receiving system for receiving them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of USEPA withdrawing approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) derives from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000.

b) Definitions. For the purposes of this Section, terms have the meanings 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 611.102(c), attributes them.

c) Procedures for Submitting Electronic Documents to USEPA in Lieu of Paper Documents. Except as provided in subsection (a)(3), any person Title 40 of the Code of Federal Regulations requires to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document in lieu of a paper document upon meeting certain conditions:

1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 611.102(c); and

2) USEPA first publishes a notice in the Federal Register, as subsection (a)(2)(A) describes.

BOARD NOTE: Subsection (c) derives from 40 CFR 3.2(a) and subpart B of 40 CFR 3.

d) Procedures for Submitting Electronic Documents to the Board or the Agency in Lieu of Paper Documents

1) The Board or the Agency may establish procedural rules for electronically submitting documents. The Board or the Agency must establish any rules under the Administrative Procedure Act [5 ILCS 100/5].

2) The Board or the Agency may accept electronic documents under this Section only as subsection (a)(2)(B) provides.

BOARD NOTE: Subsection (d) derives from 40 CFR 3.2(b) and subpart D of 40 CFR 3.

e) Effects of Submitting an Electronic Document in Lieu of a Paper Document

1) A person failing to comply with this Section when electronically submitting a document is subject to the penalties prescribed for failing to comply with the requirement to file that document.

2) The electronic signature on a document a person files electronically to satisfy a reporting requirement legally binds, obligates, and makes the signer responsible to the same extent as would the filer's filing a paper document bearing the signer's handwritten signature.

3) Proof that the signer used a particular signature device to create an electronic signature establishes that the individual uniquely entitled to use the device did so intending to sign the electronic document and give it effect.

4) Nothing in this Section limits using electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) derives from 40 CFR 3.4 and 3.2000(c).

f) Public Document Subject to State Laws. Any electronic document a person files with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws:

1) The Administrative Procedure Act [5 ILCS 100];

2) The Freedom of Information Act [5 ILCS 140];

3) The State Records Act [5 ILCS 160];

4) The Electronic Commerce Security Act [5 ILCS 175];

5) The Environmental Protection Act;

6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and

7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).

g) Nothing in this Section or any rule adopted under subsection (d)(1) creates any right or privilege to electronically submit any document.

BOARD NOTE: Subsection (g) derives from 40 CFR 3.2(c).

BOARD NOTE: This Section derives from 40 CFR 3 and 142.10(g).

(Source: Amended at 47 Ill. Reg. 16486, effective November 2, 2023)