**Section 810.105 Electronic Reporting**

a) Scope and Applicability

1) The USEPA, the Board, or the Agency may allow for the filing of electronic documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic filing of any report or document that must be submitted to the appropriate of the following:

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

B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 810 through 815, to the extent the document is required by a provision derived from 40 CFR 258.

2) Electronic reporting under this Section can begin only after USEPA has first done as follows:

A) As to filing with USEPA, USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations in an electronic format; or

B) As to filing with the State, USEPA has granted approval of any electronic document receiving system established by the Board or the Agency that meets the requirements of 40 CFR 3.2000, incorporated by reference in Section 810.104.

3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1):

A) Any document submitted via fascimile;

B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or

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

4) Upon USEPA conferring approval for the filing of any types of documents as electronic 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 electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and the date on which the Board or the Agency will begin to receive those submissions. In the event of cessation of USEPA approval or receiving any type of document as an electronic document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) is derived from 40 CFR 3.1 (2017).

b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in Section 810.104.

c) Procedures for Submission of Electronic Documents to USEPA. Except as provided in subsection (a)(3), any person who is required under Title 40 of the Code of Federal Regulations 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, provided the following conditions are met:

1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 810.104; and

2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2).

BOARD NOTE: Subsection (c) is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 (2017).

d) Procedures for Submission of Electronic Documents to the Board or the Agency

1) The Board or the Agency may, but is not required to, establish procedures for the electronic submission of documents that meet the requirements of 40 CFR 3.2 and 3.2000, incorporated by reference in Section 810.104. The Board or the Agency must establish any such procedures under the Administrative Procedure Act.

2) The Board or the Agency may not accept electronic documents under this Section until after USEPA has approved the procedures in writing, and the Board or the Agency has published a notice of USEPA's approval in the Illinois Register. Nothing in this subsection (d) limits the authority of the Board or the Agency under the Illinois Environmental Protection Act to accept documents filed electronically.

BOARD NOTE: Subsection (d) is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 (2017).

e) Effects of Submission of an Electronic Document

1) If a person who submits a document as an electronic document fails to comply with the requirements this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.

2) If a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.

3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

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

BOARD NOTE: Subsection (e) is derived from 40 CFR 3.4 and 3.2000(c) (2017).

f) Public Document Subject to State Laws. Any electronic document filed with the Board is a public document. The document, its filing, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:

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 in any provisions adopted pursuant to subsection (c)(1) will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) is derived from 40 CFR 3.2(c) (2017).

BOARD NOTE: Derived from 40 CFR 3 and 258.29(d) (2017).

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