**Section 720.109 Electronic Reporting**

a) Scope and Applicability

1) The USEPA, the Board, or the Agency may allow for submitting any document as an electronic document in lieu of a paper document. This Section does not require submitting electronic documents in lieu of paper documents. This Section specifies the requirements for any 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 under any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.

2) Electronic document submission under this Section can occur only as follows:

A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or

B) For submissions of documents to the State, submissions may occur only under the following circumstances:

i) To the Board, into the Clerk's Office On-Line (COOL) system at https://pcb.illinois.gov/.

ii) To the Agency, into any electronic document receiving system for which USEPA has granted approval 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so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.

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

A) Any document submitted via facsimile;

B) Any document submitted via magnetic or optical media, e.g., a 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 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 electronic document receiving system approved to receive 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. If USEPA ceases approval in writing for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly publish a Notice of Public Information in the Illinois Register.

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

b) Definitions. For this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).

c) Procedures for Submitting Electronic Documents in Lieu of Paper 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 complies with 40 CFR 3.10, incorporated by reference in Section 720.111(b); and

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

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

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

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

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

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

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

1) If a person who submits a document as an electronic document fails to comply with 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).

f) Public Document Subject to State Laws. Any electronic document filed 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, including the following:

1) The Administrative Procedure Act;

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 Act;

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

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

g) Nothing in this Section or in any provisions adopted under subsection (d)(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).

BOARD NOTE: Derived from 40 CFR 3, 145.11(a)(33), 271.10(b), 271.11(b), and 271.12(h).

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