

250-RICR-30-00-2

## **TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

### **CHAPTER 30 - MANAGEMENT SERVICES**

#### **SUBCHAPTER 00 - N/A**

##### **PART 2 - Rules Related to Electronic Document Submissions**

### **2.1 Purpose**

The purpose of these rules and regulations is to allow electronic document submissions to an electronic document receiving system in lieu of paper documents required by DEM administered programs as announced and specified by the Director on DEM's public website.

### **2.2 Authority**

These rules and regulations are adopted pursuant to R.I. Gen. Laws Chapter 42-17.1, Department of Environmental Management, and Chapter 42-127.1, Uniform Electronic Transactions Act, and in accordance with Chapter 42-35, the Administrative Procedures Act.

### **2.3 Application**

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

### **2.4 Definitions**

- A. For the purposes of these regulations, the following terms shall have the following meanings:
1. "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.
2. “DEM administered program” means any program implemented by DEM under laws of the State of Rhode Island, or a federal program that the United States Environmental Protection Agency (EPA) has delegated to, authorized, or approved the DEM, on behalf of the State of Rhode Island, to administer, or a program that the EPA has delegated to, authorized, or approved the DEM to administer in lieu of a federal program, under provisions of Title 40 of the Code of Federal Regulations (C.F.R.) and for which the delegation, authorization or approval has not been withdrawn or expired.
3. “Electronic document” means any information that is submitted to the DEM's electronic document receiving system in digital form to satisfy requirements of a DEM administered program and may include data, text, images, sounds, codes, computer programs, software, or databases.
4. “Electronic document receiving system” means the apparatus, procedures, software, or records established by the Director and used by the DEM 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 DEM'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 in a format prepared by the 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. “Handwritten signature” means the scripted name or legal mark of an individual made by that individual with the intention to authenticate a seal in a permanent form.
9. “Signatory” means an individual authorized to and who signs a document submitted to the DEM’s electronic document receiving system pursuant to an electronic signature agreement in a format acceptable to the DEM.
10. “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, provided the device has not been compromised and provided 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.

## **2.5 Use of Electronic Document Receiving System**

- A. Once an electronic document receiving system has been made available, the Director shall announce on the DEM's public website that the DEM is accepting specified electronic documents in lieu of paper to satisfy requirements under a DEM administered program. Individuals who submit such electronic documents must use the electronic document receiving system indicated by the Director in the online announcement.
- B. Documents subject to the United States Environmental Protection Agency's Cross Media Electronic Reporting Rule (CROMERR) may only be submitted through a receiving system approved by the EPA based on the requirements outlined in 40 C.F.R. § 3.1000.
- C. The Director may exercise discretion to select alternative system standards for documents not subject to § 2.5(B) of this Part in compliance with the R.I. Gen. Laws § 42-127.1-1, *et seq.*, the Uniform Electronic Transactions Act. Alternative system standards shall also be announced on the DEM's public website.

- D. Any electronic document submitted must bear the valid electronic signature of a signatory, if that signatory would be required under the DEM-administered program to provide a handwritten signature on the paper document for which the electronic document substitutes.
- E. If no signature is required under the DEM authorized program, individuals may submit electronic documents in lieu of paper to satisfy requirements of such programs through the appropriate electronic document receiving system without an electronic signature or an electronic signature agreement, however, users shall be required to comply with the authorization and validation requirements of the electronic document receiving system.

## **2.6 Electronic Signature Agreement**

- A. In the case of an electronic document that must bear the electronic signature of a signatory under a DEM administered program, each signatory must execute an electronic signature agreement.
- B. 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 appropriate format specified by the Director on the DEM's public website.
- C. The identity and authority of each individual submitting an electronic signature agreement shall be verified by the DEM. After the DEM has satisfactorily completed the verification, the DEM 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.

## **2.7 Valid Electronic Signature**

- A. An authorized signatory may not allow another individual to use the electronic signature device unique to his or her electronic signature.
- B. 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 DEM, within one business day of discovery, any evidence that the security of the device has been compromised.

## **2.8 Effect of Electronic Signature**

- A. Absent any evidence of fraud or information indicating otherwise, the presence of an electronic signature on an electronic document submitted to the DEM establishes that the signatory intended to sign the electronic document and to submit it to the DEM to fulfill the purpose of the electronic document.
- B. Where an electronic document submitted to satisfy a reporting requirement of an authorized or state program bears an electronic signature, the electronic signature legally binds, obligates, and makes the signatory responsible to the same extent as the signatory's hand-written 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 shall be deemed to have satisfied said requirement.

## **2.9 Enforcement**

- A. 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 shall be subject to any appropriate civil or criminal penalties or other remedies under State or federal law.
- B. Nothing provided herein shall limit the use of an electronic document, copy of record, or other information derived from an electronic document as evidence in enforcement proceedings.

## **2.10 Severability**

If any provisions of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

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