

# **Texas Chapter 19 – Electronic Reporting**

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## **CHAPTER 19: ELECTRONIC REPORTING**

### **SUBCHAPTER A: GENERAL PROVISIONS**

#### **§19.1, §19.3**

#### STATUTORY AUTHORITY

The new sections are adopted under Texas Water Code, §5.103, which allows the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state; §5.128, which authorizes the commission to encourage the use of electronic reporting; §26.011, which authorizes the commission to adopt rules regulating water quality; §26.345, which authorizes the commission to adopt rules regulating petroleum storage tanks; §27.019, which authorizes the commission to adopt rules regulating underground injection wells; §28.011, which authorizes the commission to make and enforce rules for the protection of underground water; §26.040, which authorizes the commission to adopt rules necessary to implement a general permit program for water quality; and §37.002, which authorizes the commission to adopt rules for the occupational licensing and registration program; Texas Health and Safety Code, §382.017, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act; §341.031, which authorizes the commission to adopt and enforce rules regulating public drinking water and implementing the Federal Safe Drinking Water Act; §361.024, which authorizes the commission to adopt rules for the management and control of solid waste; §361.121, which requires the commission to establish an electronic reporting system for holders of permits for the land application of sludge; §371.028, which authorizes the commission to adopt rules regulating management of used oil; and §374.051, which authorizes the commission to adopt rules to administer and enforce the dry cleaner program, and the Texas Business and Commerce Code, §43.007 (electronic document recognition), which provides legal recognition of electronic records, electronic signatures, and electronic contracts.

The adopted new sections implement Texas Water Code, §5.128, relating to electronic reporting; and CROMERR, the federal program for electronic reporting, 40 Code of Federal Regulations Parts 3, 9, 51, 60, 70, 71, 123, 142, 145, 162, 233, 257, 258, 271, 281, 403, 501, 745, and 763.

**§19.1. Definitions.**

In addition to the terms defined in Chapter 3 of this title (relating to Definitions), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) **Authorized program**--A federal program that the United States Environmental Protection Agency (EPA) has delegated, authorized, or approved the State of Texas to administer, or a program that the EPA has delegated, authorized, or approved the State of Texas to administer in lieu of a federal program, under other provisions of 40 Code of Federal Regulations and such delegation, authorization, or approval has not been withdrawn or expired.

(2) **Copy of record**--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) all electronic signatures contained in or associated with that 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.

(3) **Electronic document**--Any information that is submitted in digital form to satisfy requirements of an authorized program or other designated state programs. Information may include data, text, sounds, codes, computer programs, software, or databases.

(4) **Electronic document receiving system**--A set of apparatus, procedures, software, or records used to receive electronic documents.

(5) **Electronic signature**--Any information in digital form that is included in or associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document with the same reference to the same content.

(6) **Electronic signature agreement**--A document drafted by the executive 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 and whereon the individual acknowledges the obligations connected with preventing compromise of the electronic signature device.

(7) **Electronic signature device**--A code or other mechanism that is used to create electronic signatures.

(8) **Federal program**--Any program administered by the United States Environmental Protection Agency under any provision of 40 Code of Federal Regulations.

(9) **State program**--Any program, other than a federal program administered by the United States Environmental Protection Agency under any provision of 40 Code of Federal Regulations, that is implemented by the commission under the Texas Water Code, Texas Health and Safety Code, and other laws of the State of Texas.

(10) **Handwritten signature**--The scripted name or legal mark of an individual, made by that individual with a marking or writing instrument such as a pen or stylus and executed or adopted with the present intention to authenticate a writing in a permanent form.

(11) **Signatory**--An individual authorized to and who signs a document using a format acceptable to the commission.

### **§19.3. Applicability.**

(a) This chapter applies to:

(1) persons, as defined in §3.2 of this title (relating to Definitions), and signatories who submit official, final electronic documents to the commission to satisfy requirements of:

(A) authorized programs for which the executive director has announced on the commission's public Web site that the commission is accepting specified electronic documents; or

(B) state programs for which the executive director has announced on the commission's public Web site that the commission is accepting specified electronic documents;

(2) the commission's electronic document receiving system and other software applications implemented, revised, or modified as announced by the commission; and

(3) authorized programs and state programs for which the executive director has announced on the commission's public Web site that the commission is accepting specified electronic documents.

(b) This chapter does not apply to:

(1) documents submitted via facsimile; or

(2) electronic documents submitted via magnetic or optical media such as diskette, compact disc, digital video disc, or tape.

## **SUBCHAPTER B: ELECTRONIC REPORTING REQUIREMENTS**

### **§§19.10, 19.12, 19.14**

#### **STATUTORY AUTHORITY**

The new sections are adopted under Texas Water Code, §5.103, which allows the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state; §5.128, which authorizes the commission to encourage the use of electronic reporting; §26.011, which authorizes the commission to adopt rules regulating water quality; §26.040, which authorizes the commission to adopt rules necessary to implement a general permit program for water quality; §26.345, which authorizes the commission to adopt rules regulating petroleum storage tanks; §27.019, which authorizes the commission to adopt rules regulating underground injection wells; §28.011, which authorizes the commission to make and enforce rules for the protection of underground water; and §37.002, which authorizes the commission to adopt rules for the occupational licensing and registration program; Texas Health and Safety Code, §382.017, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act; §341.031, which authorizes the commission to adopt and enforce rules regulating public drinking water and implementing the Federal Safe Drinking Water Act; §361.024, which authorizes the commission to adopt rules for the management and control of solid waste; §361.121, which requires the commission to establish an electronic reporting system for holders of permits for the land application of sludge; §371.028, which authorizes the commission to adopt rules regulating management of used oil; and §374.051, which authorizes the commission to adopt rules to administer and enforce the dry cleaner program, and the Texas Business and Commerce Code, §43.007 (electronic document recognition), which provides legal recognition of electronic records, electronic signatures, and electronic contracts.

The adopted new sections implement Texas Water Code, §5.128, relating to electronic reporting; and CROMERR, the federal program for electronic reporting, 40 Code of Federal Regulations Parts 3, 9, 51, 60, 70, 71, 124, 142, 145, 162, 233, 257, 258, 271, 281, 403, 501, 745, and 763.

**§19.10. Use of Electronic Document Receiving System.**

(a) When the executive director has announced on the commission's public Web site that it is accepting specified electronic documents, individuals who submit to the commission electronic documents to satisfy requirements of authorized programs or designated state programs must use the commission's electronic document receiving system.

(b) Individuals desiring to use an electronic signature device must execute an electronic signature agreement with handwritten wet ink signature or by using an electronic identity verification system utilized by the commission.

(c) Authorized signatories may not allow another individual to use the electronic signature device unique to his or her signature.

**§19.12. Authorized Electronic Signature.**

(a) 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. Signatories shall:

- (1) protect the electronic signature device from compromise; and



(2) report to the commission any evidence that the device has been compromised, within one business day of the discovery.

(b) An electronic signature device is compromised if the code or mechanism is available for use by any other individual.

(c) An electronic document must bear the valid electronic signature of a signatory if that signatory is required under the authorized program or the state program to sign the paper document for which the electronic document substitutes.

(d) An electronic signature on an electronic document is valid if it has been created with an electronic signature device that the identified signatory is uniquely entitled to use for signing that document; the device has not been compromised; and the signatory is an individual who is authorized to sign the document by virtue of his or her legal status and/or his or her relationship to the entity on whose behalf the signature is executed.

(e) The presence of an electronic signature on an electronic document submitted to the commission establishes that the signatory intended to sign the electronic document and to submit it to the commission to fulfill the purpose of the electronic document.

#### **§19.14. Enforcement.**

(a) An electronic signature on an electronic document submitted to the commission is the legal equivalent of a handwritten signature on a paper document submitted to the commission.

(b) Persons, as defined in §3.2 of this title (relating to Definitions), and signatories are subject to penalties, fines, and other remedies under commission rules or applicable statutes for failure to comply with a reporting requirement of the commission if the person or signatory reports electronically and fails to comply with the applicable provisions of this chapter, applicable statutes, commission rules, and the electronic participation agreement.

(c) Nothing in this chapter limits the use of an electronic document, copy of record, or information derived from electronic documents as evidence in enforcement proceedings.