



Cross-Media Electronic Reporting Regulation (CROMERR)

Legal Certification Guide for State Attorney General or Local Government or Tribe
Certifying Official Statement

Table of Contents

Certification Requirements for States and Tribes	2
<i>Crosswalk</i>	3
<i>Signatory Authorization for States</i>	3
<i>Signatory Authorization for Tribes</i>	4
Certification Requirements for Local Governments	5
<i>Determining whether a State has an Approved AG Certification</i>	5
<i>Where a State has an Approved AG Certification</i>	5
<i>Where a State does not have an Approved AG Certification</i>	6
<i>Signatory Authorization</i>	6
Appendix A: Examples for States and Tribes	8
Appendix B: Example for Local Governments	9
Appendix C: 40 CFR Part 3 Crosswalk Template	10
Appendix D: Example Attorney General Certification Statement - Wisconsin	12
Appendix E: Example Attorney General Certification Statement - Virgin Islands	18



Certification Requirements for States and Tribes

As stated in 40 CFR § 3.1000(b)(1)(i), a certification that sufficient legal authority to implement electronic reporting must be signed by the State Attorney General or his or her designee, or for Tribes, by the chief executive or administrative official, or his or her designee. Appendices D and E are examples of certification statement language that may be used, in part, to satisfy the certification requirement. We request that you certify as required by the regulation and include it as part of your State's or Tribe's Cross Media Electronic Reporting Regulation ('CROMERR' or 'Regulation') application packet. In addition to including all State or Tribal statutes and regulations relevant to the application, we suggest including a description specifically linking applicable portions of 40 CFR part 3 with relevant portions of your State's statutes and regulations to assist EPA's review, a document we call a "crosswalk".

All applicable provisions of CROMERR may be relevant to an application. However, below is a list of specific items to consider prior to certification and include in your documentation:

1. 40 CFR § 3.2000(a)(2) provides that a "valid electronic signature" is required if a person would have been required to "sign the paper document for which the electronic document substitutes" Please verify that your State is requiring electronic signatures in accordance with Part 3. Additionally, please verify that your electronic reporting system produces electronic signatures (or, alternatively, that wet-ink-on-paper signature is provided), where either type of signature is admissible and sufficiently probative that the signature would satisfy the "beyond a reasonable doubt" standard that applies in criminal court.
2. Electronic signatures collected by the electronic reporting system must meet the definition of "valid electronic signature" under 40 CFR § 3.3. See 40 CFR § 3.2000(a)(2). Please verify that the method used to create electronic signatures satisfies the definition in section 3.3.
3. Systems must be able to show that "[e]ach signatory had the opportunity, at the time of signing, to review the content or meaning of the required certification statement, including any applicable provisions that false certification carries criminal penalties[.]" 40 CFR § 3.2000(b)(5)(iv). Please verify that the notice provided to signatories is legally sufficient.
4. Systems are required to show that "[f]or each electronic signature device used to create an electronic signature on the document, the identity of the individual uniquely entitled to use the device and his or her relation to any entity for which he or she will sign electronic documents has been determined with legal certainty by the issuing state, tribe, or local government." 40 CFR § 3.2000(b)(5)(vii). Please verify



that your identity-proofing method is sufficiently robust to meet the “beyond a reasonable doubt” evidentiary standard.

5. Please also verify that the requirements of 40 CFR § 3.2000(c) are met. The requirements include:
 - a. A person is subject to all appropriate civil, criminal penalties or other remedies under State law for failure to comply with a reporting requirement if the person fails to comply with the applicable provisions of the Regulation.
 - b. Where an electronic document submitted to satisfy a State reporting requirement bears an electronic signature, the electronic signature legally binds or obligates the signatory, or makes the signatory responsible, to the same extent as the signatory’s handwritten signature on a paper document would, if the paper document were submitted to satisfy the same reporting requirement.
 - c. Proof that a particular electronic signature device was used to create an electronic signature that is included in or logically associated with an electronic document submitted to satisfy a State reporting requirement will suffice to establish that the individual uniquely entitled to use the device at the time of signature did so with the intent to sign the electronic document and give it effect.
 - d. Nothing in the authorized program limits the use of electronic documents or information derived from electronic documents as evidence in enforcement proceedings.

Crosswalk

The certification must include copies of all State or Tribal statutes and regulations relevant to the application. EPA suggests also including a description specifically linking applicable portions of 40 CFR part 3 to relevant portions of the State or Tribal statutes and regulations to facilitate EPA’s review. A comparison template is provided in Appendix C, and completed examples of this comparison are provided in Appendices D and E.

Signatory Authorization for States

If the certification document is signed and dated by the State Attorney General (“State AG”) on official letterhead, no further action is needed for the purposes of certification. However, if the certification document is not signed by the State AG, you must provide other means for EPA to rely on when determining whether certification requirements have been met, including but not limited to:



1. A delegation statement signed and dated on official letterhead by the State AG that:
 - a. authorizes a named individual within the State AG's office to sign the certification document on the State AG's behalf; or
 - b. designates any individual serving in a specified official position to sign the certification document;

OR

2. A copy of an official State policy or regulation that authorizes an individual in a named position to represent the State AG in the matter.

Signatory Authorization for Tribes

EPA requests that the certification be made by an individual in the Tribal government who has the authority to represent the Tribe and the knowledge needed to make the required certification. This is typically the chief executive or administrative official of the Tribe or the head of the government entity collecting electronic reports ("Tribal official"), or his or her designee. EPA also requests that the certification be signed and dated on official letterhead of the Tribal organization or office.

If the certification document is signed and dated by the official referenced above, EPA requests a copy of an official Tribal law, charter, policy, regulation, or other document that authorizes the signer to represent the Tribe in the matter.

If the certification document is not signed by the Tribal official referenced above, but is instead signed by his or her designee, you must provide other evidence of that individual's authority to sign the certification document, including but not limited to:

1. A delegation statement signed and dated on official letterhead by the Tribal official that:
 - a. authorizes a named individual within the Tribe or Tribal official's office to sign the certification document on the Tribal official's behalf; or
 - b. designates any individual serving in a specified official position to sign the certification document;

OR

2. A copy of an official Tribal policy or regulation that authorizes an individual in a named position to represent the Tribal official referenced above in the matter.



Certification Requirements for Local Governments

The type of certification required from local governments depends on whether the State has received State AG certification approval for the program under which the local government is requesting CROMERR approval. To ensure that CROMERR can be implemented and that affected programs are enforceable using electronic documents collected under these programs, EPA reviews whether the proper authority exists at the State and local levels. If the proper authority exists at the State level, as demonstrated by an approved State AG certification, EPA reviews whether local statutes or ordinances impede CROMERR implementation in any way.

Determining whether a State has an Approved AG Certification

Generally, if the State has received CROMERR approval under a particular program, the relevant legal authority exists at the State level. EPA maintains a list of State level AG certifications, including information concerning whether the certifications apply to a single system or can be leveraged to cover a broader array of similar electronic reporting systems, at: <https://www.epa.gov/cromerr/cromerr-program-announcements-and-initiatives>. EPA also requests that you contact your State AG office to confirm that the State has possesses relevant legal authority to implement and enforce the authorized program under CROMERR which would be reflected through an approved State AG certification that covers your program.

Where a State has an Approved AG Certification

If your State has an approved State AG certification that covers the program under which the local government is requesting CROMERR approval, EPA requests that all local applicants review local statutes, regulations, and ordinances to verify that they do not impede CROMERR implementation. EPA considers implementation of CROMERR to be impeded when governing State, Tribal, or local law conflicts with the requirements of CROMERR such that documents collected by a CROMERR-compliant system would not be admissible or of sufficient probative value under those laws or those laws prevent a system from collecting the forensic information required by CROMERR. In conducting this review, we recommend consulting with any city, county, Tribal, or State agencies, departments, or other regulatory bodies with subject matter expertise in any potentially conflicting or limiting statutes.



If No Statute, Regulation, or Ordinance Impedes CROMERR Implementation

EPA requests that all local applicants submit a certification that their local statutes, regulations, and ordinances do not impede CROMERR implementation. No crosswalk is required. An example is provided in Appendix B.

If a Statute, Regulation, or Ordinance Impedes CROMERR Implementation

If a local government determines that they do have statutes, regulations, or ordinances that impede the implementation of CROMERR, EPA requests that you provide the regulation, statute or ordinance and a description of how it might impede CROMERR. In addition, contact the EPA CROMERR program or your Regional EPA office CROMERR contact to discuss it. Contact information for the EPA CROMERR program and EPA Regional CROMERR contacts can be found at <https://www.epa.gov/cromerr/forms/contact-us-about-cross-media-electronic-reporting-rule>.

Where a State does not have an Approved AG Certification

If the State does not have a CROMERR-approved AG certification, EPA recommends following the process outlined in “Certification Requirements for States and Tribes” above including:

1. A certification statement signed and dated by the chief executive or administrative official or officer of a governmental entity (“official”) of an authorized local government program, on official letterhead. EPA recommends using the Example for States provided below as a template.
2. A completed crosswalk, as described in the “Certification Requirements for States” above. An example crosswalk is provided in “Example Completed 40 CFR Part 3 Crosswalk” below.

Signatory Authorization

EPA requests that the certification be made by an individual in local government who has the legal authority to represent the locality or municipality and the knowledge needed to make the required certification. This is typically the chief executive or administrative official of the municipality or local government or the office of the government entity collecting electronic reports (“local official”), or his or her designee. EPA also requests that the certification be provided on official letterhead of the local organization or office. If the certification document is signed and dated by the local official referenced above, on official letterhead, no further action is needed for the purposes of certification. However, if the certification document is not signed by the local official referenced above, but is instead signed by his or her designee, you must provide other evidence of that individual’s authority to sign the certification document, including but not limited to:



1. A delegation statement signed and dated on official letterhead by the local official that:
 - a. authorizes a named individual within the local official's office to sign the certification document on the local official's behalf; or
 - b. designates any individual serving in a specified official position to sign the certification document;

OR

2. A copy of an official local government policy or regulation that authorizes an individual in a named position to represent the local official referenced above in the matter.



Appendix A: Examples for States and Tribes

Attorney General Certification Statement

(If Attorney General signs include the following:) I, [insert name of Attorney General], am the Attorney General for the State/Commonwealth of [insert State/Commonwealth name].

OR

(If Attorney General's designee signs include the following:) I, [insert name of Attorney General's designee], am the [insert title of Attorney General's designee] for the State/Commonwealth of [insert State/Commonwealth name] and the Attorney General's designee for the purposes of certifying to the appropriate Federal authorities the legal authority of the State/Commonwealth of [insert State/Commonwealth name] to administer any applicable Federal mandates. To demonstrate my authority to make this certification, I have attached [insert either "a delegation statement from the Attorney General" or reference to the policy or regulation giving authority].

I have reviewed [insert State or Commonwealth and State/Commonwealth's Agency's name] application and supporting documentation to EPA to approve electronic reporting for [insert name of reporting system].

I hereby certify:

1. that the State/Commonwealth of [insert State/Commonwealth name] has sufficient legal authority provided by [insert State/Commonwealth name]'s lawfully enacted or promulgated statutes or regulations to implement the electronic reporting component of its authorized programs consistent with 40 Code of Federal Regulations § 3.2000 and with this application;
2. that such statutes or regulations are in full force and effect on the date of this certification; and
3. that [insert State/Commonwealth name] has authority to enforce the affected programs using electronic documents collected under these programs.

I have included with this certification all [insert State/Commonwealth name] statutes and regulations relevant to this application. To assist EPA's review of this application, I also have included a description specifically linking applicable provisions of 40 C.F.R. Part 3 with relevant portions of [insert State/Commonwealth name]'s statutes and regulations.

[Insert name of Attorney General or Attorney General's Designee]

[Insert title]

[Insert date]



Appendix B: Example for Local Governments

This example is applicable when your State has an approved AG certification covering the program under which you will collect electronic reports, and local statutes, regulations, and ordinances do not impede CROMERR implementation. If CROMERR implementation is impeded, EPA recommends using the process outlined under “Certification Process for States and Tribes” and the example under “Example for States and Tribes.”

[Insert local certifying official title] Certification Statement

I, [insert name of certifying official], am the [insert certifying official title] for the [insert locality name]. I possess the authority to represent [insert locality name] through this certification document. I have reviewed [insert locality name] application and supporting documentation to EPA to approve electronic reporting for [insert name of reporting system].

I hereby certify that the [insert locality name] has no lawfully enacted or promulgated statutes, ordinances, or regulations that impede the implementation of the electronic reporting component of its authorized programs consistent with 40 Code of Federal Regulations § 3.2000 and with this application.

I further certify that I have consulted with the Attorney General or an authorized representative of the Attorney General for [insert State or Commonwealth] and confirmed that authority to implement and enforce electronic signatures under CROMERR has been approved by EPA for [insert State or Commonwealth] as provided under the state Attorney General Certification dated [insert date of CROMERR-approved Attorney General Certification]. I have been authorized by the Attorney General of [insert State or Commonwealth] or his or her authorized representative to attest to this statement.

[Insert name of certifying official]

[Insert title]

[Insert date]



Appendix C: 40 CFR Part 3 Crosswalk Template

To assist EPA’s review of this application, [Insert Local/Tribal/State Agency Acronym] has included a description which specifically links applicable provisions of 40 C.F.R. Part 3 with relevant portions of the [Insert Local Area/Tribal Area/State Name] statutes and [Insert Local/Tribal/State Agency Acronym] regulations. The description shows [Insert Local/Tribal/State Agency Acronym] authority to implement electronic reporting. This certification also includes descriptions and copies of all State statutes and regulations relevant to this application. These statutes and regulations demonstrate the [Insert Local/Tribal/State Agency Acronym] authority to enforce the affected authorized programs using electronic documents.

I. [Insert Local/Tribal/State Agency Acronym] LEGAL AUTHORITY TO IMPLEMENT ELECTRONIC REPORTING IN CONFORMANCE WITH 40 CFR § 3.2000

FEDERAL RULE	RELEVANT LOCAL/TRIBAL/STATE STATUTE OR RULE
40 CFR 3.2000(a)(2) – “valid electronic signature” is required if a person would have been required to sign the paper document	
40 CFR 3.2000(a)(2) – verify that State electronic reporting system produces electronic signatures that will satisfy the “beyond a reasonable doubt” standard when criminal sanctions are possible (e.g., individual signatory is uniquely authorized to use the signature device assigned to him/her)	
40 CFR 3.2000 (a)(2) – verify that the method used to create electronic signatures satisfies the definition of “valid electronic signature” in 40 CFR 3.3	
40 CFR 3.2000(b)(5)(iv) – verify that each signatory will have the opportunity, at the time of signing, to review the content or meaning of the required certification statement, including any applicable provisions that false certification carries criminal penalties	
40 CFR 3.2000(b)(5)(vii) – verify that for each electronic signature device used to create an electronic signature, the identity of the individual uniquely entitled to use the device and his/her relation to the entity has been determined with legal certainty (e.g., identity-proofing method is sufficiently robust to meet the “beyond a reasonable doubt” evidentiary standard)	

40 CFR 3.2000(c) – verify that a person is subject to all appropriate civil, criminal penalties or other remedies for failure to comply with a reporting requirement if the person fails to comply with the applicable federal regulation	
40 CFR 3.2000(c) – verify that where an electronic document submitted to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds or obligates the signatory or makes the signatory responsible to the same extent as the signatory’s handwritten signature on a paper document	
40 CFR 3.2000(c) – verify that the signatory will be uniquely entitled to use the electronic signature device at the time of signature	
40 CFR 3.2000(c) – verify that nothing in the state program limits the use of electronic documents or information derived from electronic documents as evidence in enforcement proceedings	

II. GENERAL AUTHORITY OF [Insert Local/Tribal/State Agency Acronym] AS “[STATE or LOCAL] AGENCY” FOR PURPOSES OF 40 CFR 3.2000

[Insert Descriptions of Statutes Providing General Authority for Purposes of 40 CFR § 3.2000]

III. GENERAL REGULATORY AND ENFORCEMENT AUTHORITY OF [Insert Local/Tribal/State Agency Acronym]

[Insert Descriptions of Statutes Providing General Regulatory and Enforcement Authority]

IV. SPECIFIC AUTHORITY OF [Insert Local/Tribal/State Agency Acronym] TO ENFORCE THE AFFECTED AUTHORIZED PROGRAMS USING ELECTRONIC DOCUMENTS

- **Air Quality:** [Insert References to Relevant Statutes]
- **Water Quality:** [Insert References to Relevant Statutes]
- **Drinking Water:** [Insert References to Relevant Statutes]
- **Land Protection:** [Insert References to Relevant Statutes]
- **Hazardous Materials Reporting:** [Insert References to Relevant Statutes]
- **Other Authorized Programs:** [Insert References to Relevant Statutes]

Appendix D:
Example Attorney General Certification Statement -
Wisconsin



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

BRAD D. SCHIMEL
ATTORNEY GENERAL

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Andrew C. Cook
Deputy Attorney General

November 7, 2016

WISCONSIN ATTORNEY GENERAL CERTIFICATION
STATEMENT

I, Brad D. Schimel, am the Attorney General for the State of Wisconsin.

My legal staff has reviewed the Wisconsin Department of Natural Resources (WI DNR) Cross-Media Electronic Reporting Rule (CROMERR) application to the United States Environmental Protection Agency (US EPA) seeking approval of certain WI DNR electronic reporting systems.

I hereby certify:

(1) that the State of Wisconsin has sufficient legal authority provided by Wisconsin's lawfully enacted statutes and promulgated regulations to implement the electronic reporting component of its authorized programs consistent with 40 Code of Federal Regulations § 3.2000 and with the CROMERR application;

(2) that such statutes or regulations are in full force and effect on the date of this certification; and

(3) that Wisconsin has authority to enforce the affected programs using electronic documents collected under the programs identified in the application.

I have included with this certification a list of all Wisconsin statutes and regulations relevant to the CROMERR application. To assist US EPA's review of the application, I have included a description specifically linking applicable provisions of 40 C.F.R. Part 3 to the relevant portions of Wisconsin's statutes and regulations.

Brad D. Schimel
Wisconsin Attorney General

Wisconsin Attorney General Certification Statement Supplement

To assist US EPA’s review of WI DNR’s CROMERR application, the table below specifically links applicable provisions of 40 C.F.R. Part 3 to the relevant portions of the State of Wisconsin statutes and WI DNR regulations. The description shows WI DNR authority to implement electronic reporting. This certification also includes descriptions and copies of all State statutes and regulations relevant to this application. These statutes and regulations demonstrate the WI DNR authority to enforce the affected authorized programs using electronic documents.

I. STATE OF WISCONSIN LEGAL AUTHORITY TO IMPLEMENT ELECTRONIC REPORTING IN CONFORMANCE WITH 40 CFR § 3.2000

FEDERAL RULE	RELEVANT LOCAL/TRIBAL/STATE STATUTE OR RULE
40 CFR 3.2000(a)(2) – “electronic document must bear the valid electronic signature” if a person would have been required to sign the paper document	Wis. Stat. §§ 137.15 , 137.17 , 137.21 , 137.25 govern the validity and enforceability of electronic signatures and does not impede this federal requirement. The WI DNR CROMERR application checklist addresses the customer signatory process.
40 CFR 3.2000(a)(2) – verify that State electronic reporting system produces electronic signatures that will satisfy the “sufficient for legal certainty that the signature was executed with the intention to certify to, attest to, or agree to the content of that electronic document (e.g., individual signatory is uniquely authorized to use the signature device assigned to him/her)	Wis. Stat. §§ 137.15 , 137.17 , 137.21 , 137.25 govern the validity and enforceability of electronic signatures and does not impede this federal requirement. The WI DNR CROMERR application checklist addresses the customer signatory process.
40 CFR 3.2000 (a)(2) – verify that the method used to create electronic signatures satisfies the definition of “valid electronic signature” in 40 CFR 3.3	Wis. Stat. §§ 137.17 , 137.25 , 137.26 govern the validity and interoperability of electronic signatures and does not impede this federal requirement. The WI DNR CROMERR application checklist addresses the customer signatory process.
40 CFR 3.2000(b)(5)(iv) – verify that each signatory will have the opportunity, at the time of signing, to review the content or meaning of the required certification statement, including any applicable provisions that false certification carries criminal penalties	Wis. Stat. § 137.23 governs the sending and receipt of electronic records and does not impede this federal requirement. The Wisconsin CROMERR application checklist addresses the customer submittal review process.
40 CFR 3.2000(b)(5)(vii) – verify that for each electronic signature device used to create an electronic signature, the identity of the individual uniquely entitled to use the	Wis. Stat. §§ 137.11(13) , 137.15 , 137.17 , 137.21 , 137.25 govern the validity and enforceability of electronic signatures and does not impede this federal requirement.

Wisconsin Attorney General Certification Statement Supplement

<p>device and his/her relation to the entity has been determined with legal certainty (e.g., identity-proofing method is sufficiently robust to meet the “legal certainty” evidentiary standard)</p>	<p>The WI DNR CROMERR application checklist addresses the customer identity-proofing process.</p>
<p>40 CFR 3.2000(c) – verify that a person is subject to all appropriate civil, criminal penalties or other remedies for failure to comply with a reporting requirement if the person fails to comply with the applicable federal regulation</p>	<p>General: §§ 137.11(8), 137.15, 137.17, 137.25(1). Clean Water Act: Wis. Stat. §§ 283.37, 283.55, 283.89, 283.91(4); Wis. Admin. Code § NR 205.07(1)(g). Clean Air Act: Wis. Stat. §§ 285.11(11), 285.17, 285.65, 285.83(1)(a)2, 285.87, 299.15, 299.95; Wis. Admin. Code § NR 438.03(1)(a). Hazardous Waste: Wis. Stat. §§ 291.05(6), 291.95(1)(c), 291.97; Wis. Admin. Code § NR 664.0075. Safe Drinking Water Act: Wis. Stat. § 280.98(3), 281.98, 281.99; Wis. Admin. Code § NR 809.80. Asbestos: Wis. Stat. §§ 285.11, 285.13, 285.17, 285.27, 285.83(1)(a)2, 285.86, 285.87, 299.95; Wis. Admin. Code §§ NR 447.07, 447.19(2)(b), 447.19(3).</p>
<p>40 CFR 3.2000(c) – verify that where an electronic document submitted to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds or obligates the signatory or makes the signatory responsible to the same extent as the signatory’s handwritten signature on a paper document</p>	<p>Wis. Stat. §§ 137.11(8), 137.13(5), 137.15, 137.17, 137.21, 137.25 govern the validity and enforceability of electronic signatures and does not impede this federal requirement. The WI DNR CROMERR application checklist addresses the customer signatory process.</p>
<p>40 CFR 3.2000(c) – verify that the signatory will be uniquely entitled to use the electronic signature device at the time of signature</p>	<p>Wis. Stat. §§ 137.15, 137.17, 137.21, 137.25 govern the validity and enforceability of electronic signatures and does not impede this federal requirement. The WI DNR CROMERR application checklist addresses the customer signatory process.</p>
<p>40 CFR 3.2000(c) – verify that nothing in the state program limits the use of electronic documents or information derived from electronic documents as evidence in enforcement proceedings</p>	<p>Wis. Stat. §§ 137.15, 137.17, 137.21, 137.25 govern the validity and enforceability of electronic documents and does not impede this federal requirement.</p>

Wisconsin Attorney General Certification Statement Supplement

II. GENERAL AUTHORITY OF WI DNR AS “STATE AGENCY” FOR PURPOSES OF 40 CFR 3.2000:

1. Wis. Stat. § [15.34](#)
2. Wis. Stat. § [227.01\(1\)](#)
3. Wis. Stat. § [227.11\(2\)\(a\),\(b\)](#)
4. Wis. Stat. § [137.11\(9\)\(a\)](#)
5. Wis. Admin. Code § Adm [12.05\(1\), \(4\)](#)

III. GENERAL REGULATORY AND ENFORCEMENT AUTHORITY OF WI DNR

1. Wis. Stat. § [299.95](#) - General Environmental Provisions
2. Wis. Stat. §§ [280.97, 280.98](#)
3. Wis. Stat. § [287.97](#)
4. Wis. Stat. § [299.15\(1\), \(4\), 299.53\(2\)\(a\), \(3\), \(4\)](#)

IV. SPECIFIC AUTHORITY OF WI DNR TO ENFORCE THE AFFECTED AUTHORIZED PROGRAMS USING ELECTRONIC DOCUMENTS

• Air Quality:

1. Wis. Stat. ch. [285](#) - Air Pollution
2. Wis. Stat. §§ [285.83, 285.87, 299.95](#)
3. Wis. Admin. Code § [NR 438.03\(1\)\(a\)](#) - AIR CONTAMINANT EMISSION INVENTORY REPORTING REQUIREMENTS
4. Wis. Admin. Code ch. [NR 447 - CONTROL OF ASBESTOS EMISSIONS](#)
5. Wis. Stat. [ch. 137](#) (Subchapter II - §§ [137.11– 137.26](#)) - Authentications and Electronic Transactions and Records
6. Wis. Admin. Code [ch. Adm 12 - Electronic Records Management- Standards and Requirements](#)

• Water Quality:

1. Wis. Stat. § [281.12](#) - Water and Sewage - Water Resources
2. Wis. Stat. § [281.17\(8\)](#) - Water and Sewage - Water Resources
3. Wis. Stat. §§ [281.98, 281.99](#) - Water and Sewage
4. Wis. Stat. ch. [283 - Pollution Discharge Elimination](#)
5. Wis. Admin. Code ch. [NR 205](#) - Environmental Protection – Wisconsin Pollutant Discharge Elimination System
Wis. Admin. Code ch. [NR 208](#) - Environmental Protection – Wisconsin Pollutant Discharge Elimination System
Wis. Stat. § [299.15](#) - General Environmental Provisions
6. Wis. Stat. [ch. 137](#) (Subchapter II - §§ [137.11– 137.26](#)) - Authentications and Electronic Transactions and Records

Wisconsin Attorney General Certification Statement Supplement

7. Wis. Admin. Code [ch. Adm 12 - Electronic Records Management- Standards and Requirements](#)
- Drinking Water:
 1. Wis. Stat. [ch. 280 - Well Drilling, Heat Exchange Drilling, and Pump Installing](#)
 2. Wis. Stat. §§ [280.97](#), [280.98](#)
 3. Wis. Admin. Code Ch. [NR 809](#), Subchs. I [§§ NR [809.07](#) - [809.53](#)], V [§§ [809.80](#) - [809.837](#)]
 4. Wis. Admin. Code §§ NR [809.55](#), [809.68](#)
 5. Wis. Stat. ch. [137](#) (Subchapter II - §§ [137.11](#) – [137.26](#)) - Authentications and Electronic Transactions and Records
 6. Wis. Admin. Code [ch. Adm 12 - Electronic Records Management- Standards and Requirements](#)
 - Land Protection: Not applicable
 - Hazardous Materials Reporting:
 1. Wis. Stat. §§ [287.01](#), [287.03](#) - Solid Waste Reduction, Recovery and Recycling
 2. Wis. Stat. § [289.01\(7\)](#) - Solid Waste Facilities
 3. Wis. Stat. § [289.06](#) - Solid Waste Facilities
 4. Wis. Stat. ch. [291 - Hazardous Waste Management](#)
 5. Wis. Adm. Code § [NR 664.0075](#) - HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITY STANDARDS
 6. Wis. Stat. [ch. 137](#) (Subchapter II - §§ [137.11](#) – [137.26](#)) - Authentications and Electronic Transactions and Records
 7. Wis. Adm. Code [ch. Adm 12 - Electronic Records Management- Standards and Requirements](#)
 - Other Authorized Programs:
 1. Wis. Stat. [ch. 137](#) (Subchapter II - §§ [137.11](#) – [137.26](#)) - Authentications and Electronic Transactions and Records
 2. Wis. Adm. Code [ch. Adm 12 - Electronic Records Management- Standards and Requirements](#)

Appendix E:
Example Attorney General Certification Statement -
Virgin Islands

[Please insert official Attorney General seal or letterhead]

****DATE****

United States Virgin Islands ATTORNEY GENERAL CERTIFICATION
STATEMENT

I, Claude Earl Walker, am the Attorney General for the United States Virgin Islands.

I have reviewed the United States Virgin Islands Department of Planning and Natural Resources (VI DPNR) Cross-Media Electronic Reporting Rule (CROMERR) application and supporting documentation to United States Environmental Protection Agency (US EPA) to approve electronic reporting to VI DPNR electronic reporting systems.

I hereby certify:

(1) that the United States Virgin Islands has sufficient legal authority provided by the Virgin Islands' lawfully enacted or promulgated statutes or regulations to implement the electronic reporting component of its authorized programs consistent with 40 Code of Federal Regulations § 3.2000 and with this application;

(2) that such statutes or regulations are in full force and effect on the date of this certification; and

(3) that the United States Virgin Islands has authority to enforce the affected programs using electronic documents collected under these programs.

I have included with this certification all United States Virgin Islands' statutes and regulations relevant to this application. To assist EPA's review of this application, I also have included a description specifically linking applicable provisions of 40 C.F.R. Part 3 with relevant portions of the Virgin Islands' statutes and regulations.

[insert name of Attorney General]

[insert title]

[insert date]

To assist US EPA’s review of this application, United States Virgin Islands Department of Planning and Natural Resources (VI DPNR) has included a description which specifically links applicable provisions of 40 C.F.R. Part 3 with relevant portions of the United States Virgin Island statutes and VI DPNR regulations. The description shows VI DPNR authority to implement electronic reporting. This certification also includes descriptions and copies of all statutes and regulations relevant to this application. These statutes and regulations demonstrate the VI DPNR authority to enforce the affected authorized programs using electronic documents.

I. UNITED STATES VIRGIN ISLANDS LEGAL AUTHORITY TO IMPLEMENT ELECTRONIC REPORTING IN CONFORMANCE WITH 40 CFR § 3.2000

FEDERAL RULE	RELEVANT LOCAL/TRIBAL/STATE STATUTE OR RULE
40 CFR 3.2000(a)(2) – “electronic document must bear the valid electronic signature” if a person would have been required to sign the paper document	11 V.I.C. § 107(c) If a law requires a signature, or provides for certain consequences in the absence of a signature, an electronic signature satisfies the law.
40 CFR 3.2000(a)(2) – verify that State electronic reporting system produces electronic signatures that will satisfy the “sufficient for legal certainty that the signature was executed with the intention to certify to, attest to, or agree to the content of that electronic document” (e.g., individual signatory is uniquely authorized to use the signature device assigned to him/her)	<p>11 V.I.C. § 107(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.</p> <p>(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.</p> <p>(c) If a law requires a record to be in writing, an electronic record satisfies the law.</p> <p>(d) If a law requires a signature, or provides for certain consequences in the absence of a signature, an electronic signature satisfies the law.</p> <p>11 V.I.C. § 109(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.</p>

<p>40 CFR 3.2000 (a)(2) – verify that the method used to create electronic signatures satisfies the definition of “valid electronic signature” in 40 CFR 3.3</p>	<p>11 V.I.C. § 102(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.</p> <p>11 V.I.C. § 109(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.</p>
<p>40 CFR 3.2000(b)(5)(iv) – verify that each signatory will have the opportunity, at the time of signing, to review the content or meaning of the required certification statement, including any applicable provisions that false certification carries criminal penalties</p>	<p>11 V.I.C. § 111 If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.</p> <p>11 V.I.C. § 115(a)(1) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it: is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.</p>
<p>40 CFR 3.2000(b)(5)(vii) – verify that for each electronic signature device used to create an electronic signature, the identity of the individual uniquely entitled to use the device and his/her relation to</p>	<p>11 V.I.C. § 109(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the</p>

<p>the entity has been determined with legal certainty (e.g., identity-proofing method is sufficiently robust to meet the “legal certainty” evidentiary standard)</p>	<p>efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.</p> <p>(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.</p>
<p>40 CFR 3.2000(c) – verify that a person is subject to all appropriate civil, criminal penalties or other remedies for failure to comply with a reporting requirement if the person fails to comply with the applicable federal regulation</p>	<p>11 V.I.C. § 105(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.</p>
<p>40 CFR 3.2000(c) – verify that where an electronic document submitted to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds or obligates the signatory or makes the signatory responsible to the same extent as the signatory’s handwritten signature on a paper document</p>	<p>11 V.I.C. § 107(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.</p> <p>(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.</p> <p>(c) If a law requires a record to be in writing, an electronic record satisfies the law.</p> <p>11 V.I.C. § 105(b-d) This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct. A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The</p>

	right granted by this subsection may not be waived by agreement. Except as otherwise provided in the act, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of the act of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.
40 CFR 3.2000(c) – verify that the signatory will be uniquely entitled to use the electronic signature device at the time of signature	<p>11 V.I.C. § 109(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.</p> <p>(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.</p>
40 CFR 3.2000(c) – verify that nothing in the state program limits the use of electronic documents or information derived from electronic documents as evidence in enforcement proceedings	11 V.I.C. § 113 In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

II. GENERAL AUTHORITY OF UNITED STATES VIRGIN ISLANDS AS “STATE AGENCY” FOR PURPOSES OF 40 CFR 3.2000:

The Uniform Electronic Transactions Act (11 V.I.C. § **100**) (hereinafter "UETA"), provides that the UETA applies to electronic records and electronic signatures relating to an action or set of actions occurring between two or more persons relating to the conduct of governmental affairs and to any electronic record or electronic signature

created, generated, sent, communicated, received, or stored on or after the effective date of this chapter.

Section 102 of the UETA defines a government agency to mean an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a State or of a county, municipality, or other political subdivision of a State.

Section 107 of the UETA provides legal recognition of electronic records, electronic signatures, and electronic contracts; if a law requires a record to be in writing or if the law requires a signature, an electronic writing or an electronic signature satisfies the law.

Section 109 of the UETA provides that an electronic record or signature is attributable to a person if it was the act of the person, which may be shown in any feasible manner including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

Section 113 of the UETA provides that, in a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

III. GENERAL REGULATORY AND ENFORCEMENT AUTHORITY OF UNITED STATES VIRGIN ISLANDS

12 V.I.C. § 159 provides that the Commissioner shall have the authority to enforce all terms and conditions contained in water resource conservation permits issued by the commissioner.

12 V.I.C. § 184 provides the DPNR with the authority to exercise general supervision of the administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder, and to perform any and all acts necessary to carry out the purposes and requirements of this chapter and of the Federal Water Pollution Control Act, as amended, relating to the United States Virgin Islands participation in the National Pollutant Discharge Elimination System.

12 V.I.C. § 190 provides the DPNR enforcement authority to impose injunctive relief, civil penalties, and criminal penalties against violators of DPNR regulations and permit requirements.

12 V.I.C. § 204 provides the DPNR the authority to exercise general supervision of the administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder, and to perform any and all acts necessary to carry out the purposes and requirements of this chapter and of the Clean Air Act.

12 V.I.C. § 538 provides that the Attorney General shall prosecute all actions required for the enforcement of the provisions of the Environmental Protection chapter of the Virgin Islands code.

IV. SPECIFIC AUTHORITY OF UNITED STATES VIRGIN ISLANDS TO ENFORCE THE AFFECTED AUTHORIZED PROGRAMS USING ELECTRONIC DOCUMENTS

- Air Quality:

- 12 V.I.C. § 204 – USVI has the authority to enforce all rules and regulations and orders promulgated thereunder, and to perform any and all acts necessary to carry out the purposes and requirements of this chapter and of the Clean Air Act.
- 12 V.I.C. §203 – Air pollution control agencies shall have the authority to render opinions concerning the degree and severity of small business stationary source enforcement actions.

- Water Quality:

- 12 V.I.C. § 184 provides the DPNR with the authority to exercise general supervision of the administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder, and to perform any and all acts necessary to carry out the purposes and requirements of this chapter and of the Federal Water Pollution Control Act, as amended, relating to the United States Virgin Islands participation in the National Pollutant Discharge Elimination System
- 12 V.I.C. § 190 provides the DPNR enforcement authority to impose injunctive relief, civil penalties, and criminal penalties against violators of DPNR regulations and permit requirements.

- Drinking Water:

- 12 V.I.C. § 159 provides that the Commissioner shall have the authority to enforce all terms and conditions contained in water resource conservation permits issued by the commissioner.

- Land Protection:

- 12 V.I.C. § 538 provides that the Attorney General shall prosecute all actions required for the enforcement of the provisions of the Environmental Protection chapter of the Virgin Islands code.

- Hazardous Materials Reporting:

- 12 V.I.C. § 654 provides the Department the authority to exercise general supervision of the administration and enforcement of this chapter and all rules and regulations and orders promulgated or issued thereunder, and to perform any and all acts necessary to carry out the purposes and requirements of this chapter and Subtitle I of the Resource Conservation and Recovery Act.