



## Publicly-Owned Pretreatment Works (POTW) Programs and Electronic Reporting

### EPA Pretreatment Program

Under the authority of the Clean Water Act (CWA), the Pretreatment Program regulates pollutants from industrial and commercial sources that discharge into locally managed sewer systems.

### For General Information:

[www.epa.gov/npdes/pretreatment](http://www.epa.gov/npdes/pretreatment)

### For e-Reporting Inquiries:

[CromerrPOTWrequest@epa.gov](mailto:CromerrPOTWrequest@epa.gov)

### EPA Cross-Media Electronic Reporting Rule (CROMERR)

CROMERR provides the legal framework for electronic reporting under EPA's regulatory programs. The Rule sets performance-based, technology-neutral system standards to ensure the enforceability of regulatory information collected electronically.

### For General Information:

[www.epa.gov/cromerr/](http://www.epa.gov/cromerr/)

### For e-Reporting Inquiries:

[cromerr@epa.gov](mailto:cromerr@epa.gov)

This document outlines the process that Pretreatment Authorities<sup>1</sup> should follow when seeking to ensure their electronic reporting plans are compliant with Cross-Media Electronic Reporting Rule (CROMERR) standards as well as applicable Pretreatment Program requirements.

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## Is My Electronic Reporting Subject to CROMERR?

CROMERR applies if:

- you receive submissions electronically from regulated facilities,
- those submissions are requirements of an EPA-authorized program, and
- electronic submissions are accepted in lieu of paper submissions.

EPA developed a [chart to help states, tribes, and local governments determine if CROMERR applies to their electronic reporting system](#).

It is also important to note that attaching reports to emails **is not** considered to be CROMERR-compliant because it fails to meet numerous CROMERR requirements. This is true regardless of how the document is signed. However, CROMERR does not prevent programs from receiving non-CROMERR compliant regulatory data submissions by email as a "courtesy" copy, so long as paper-based records of this data are separately retained as the legal copy of record.

<sup>1</sup> EPA, Approved State Pretreatment Programs, and Approved Publicly Owned Treatment Works (POTW) Pretreatment Programs

## Background: CROMERR Application and Approval

For electronic reporting subject to CROMERR, a state, tribe or local government "applicant" must document both legal and technical compliance with CROMERR standards. Upon successfully documenting this, the applicant's EPA-authorized program(s) under which e-reporting will occur are revised to reflect the plans for CROMERR compliant e-reporting under these program(s).

CROMERR provides two options for applicants seeking this approval:

- 1) Program revision by a state or EPA Region under the applicable media program-specific procedures, or
- 2) Program revision under CROMERR following procedures outlined under 40 CFR part 3.

A POTW Pretreatment Program's application is generally handled following the first option. So, while it will be confirmed to be compliant with CROMERR standards, the POTW will typically be approved by its [Approval Authority](#) following Pretreatment Program procedures under 40 CFR part 403.

## Overview: CROMERR Electronic Reporting Standards and Pretreatment Program Requirements

EPA's Office of Water (OW) and Office of Environmental Information (OEI) are collaborating to support POTW Pretreatment Programs around the transition to electronic reporting.

Promulgated in October 2005 and codified under 40 CFR part 3, CROMERR sets standards for electronic reporting under EPA's regulatory programs to include key elements such as elements such as identity proofing, electronic signatures, and maintaining the integrity of electronic documents. Today, over 90 percent of EPA-authorized programs opt to achieve CROMERR compliance either through [Shared CROMERR Services \(SCS\)](#) offered through OEI's [Central Data Exchange \(CDX\)](#) or through commercial off-the-shelf (COTS) solutions that have established, custom-developed approaches for meeting CROMERR compliance.

With the advent of SCS as well as a few COTS options, CROMERR compliance is straightforward to obtain and maintain. Further, following initial implementations by POTWs, CDX is hoping to offer open-source code and specific guidance for POTWs to aid Shared CROMERR Services implementation. To learn more about Shared CROMERR Services, please contact CDX at [sharedcromerrservices@epacdx.net](mailto:sharedcromerrservices@epacdx.net). To learn more about COTS CROMERR solutions, please contact the [vendors listed on the CROMERR website](#) directly.

EPA has largely [authorized states](#) to approve POTW Pretreatment Programs and any modifications to such programs. Therefore, EPA is often not the appropriate authority to approve or modify these POTW pretreatment programs. Further, regardless of whether modifications to a POTW Pretreatment Program are subject to EPA or state approval, there are additional steps that approved POTW Pretreatment Programs should take before receiving reports electronically to ensure that all affected parties are aware of the local program changes.

## Steps for POTW Pretreatment Program to Obtain Approval for CROMERR-Subject Electronic Reporting

The general steps for a POTW Pretreatment Program to obtain approval for planned electronic reporting that it believes is subject to CROMERR are outlined below. Details regarding the activities that take place during these steps are outlined in the Roles and Responsibilities sections.

- 1) POTW notifies its [state or EPA Approval Authority](#) of the intent to receive electronic reports under its approved pretreatment program. POTW also notifies CROMERR Program ([cromerr@epa.gov](mailto:cromerr@epa.gov)) and National EPA Pretreatment Program ([CromerrPOTWrequest@epa.gov](mailto:CromerrPOTWrequest@epa.gov)).
- 2) POTW verifies that no local statutes exist that might conflict with statutes in place at the state or territorial level establishing the legal validity of electronic signatures. The majority of U.S. states and territories have adopted the [Uniform Electronic Transactions Act \(UETA\)](#) or their own variations to establish the legal validity of e-signatures.
- 3) If needed, the CROMERR Program reviews and can also help draft POTW's CROMERR technical documentation to determine if the planned approach is CROMERR-compliant.
  - a. If a review is needed, the CROMERR Program notifies POTW and Approval Authority if the planned approach meets CROMERR requirements. If the review generated comments, the CROMERR Program works with POTW and/or its vendor to revise the planned approach until it is CROMERR-compliant.
- 4) POTW submits a program modification plan to its Approval Authority which addresses how the planned electronic reporting complies with relevant program management requirements outlined under 40 CFR part 403. This can occur in parallel with Step 2 above, or – in certain cases – Step 2 is not performed.
  - a. POTW works with its Approval Authority to revise program modification plan as needed until it meets 40 CFR part 3 program management requirements.
- 5) The Approval Authority makes the final determination regarding POTW's plans for electronic reporting. Determination is typically communicated informally because approval to implement electronic reporting is not a significant program modification under 40 CFR part 403.

## Roles and Responsibilities: POTW Pretreatment Program

### Verify Legal Validity of Electronic Signatures

Regardless of whether application approval occurs under CROMERR or under media program statutes, CROMERR requires certification the applicant of the legal validity of electronic signatures. [Most states have already broadly attested to the CROMERR Program the legal validity of e-signatures.](#)

Most POTW Pretreatment Programs, therefore, just must verify and submit a written certification that no local statutes exist that might conflict with statutes in place at the state or territorial level establishing the legal validity of e-signatures. This document is typically one page, and the CROMERR Program provides [guidance and a template for local governments to prepare this legal certification.](#)

POTW Pretreatment Programs should contact the CROMERR Program if it has questions, needs assistance in preparing this certification, or would like a copy of the approved CROMERR certification(s) on file from its state or territory. Otherwise, once this certification is prepared, it should be included as part of the documentation provided to Approval

Authority as part of the program modification request. It does not need to be reviewed or approved by the CROMERR Program.

### **Prepare CROMERR System Documentation, If Needed**

Most POTW Pretreatment Programs will likely opt to implement e-reporting approaches which have core documentation on how they meet all CROMERR requirements out-of-the-box. These solutions typically do not require significant investment around maintaining CROMERR compliance. They include:

- **Central Data Exchange (CDX) Shared CROMERR Services (SCS)** – These are API CROMERR component solutions offered by EPA’s CDX that provide full CROMERR compliance.
- **Certain Commercial Off-the-Shelf Solutions (COTS)** – Certain COTS solutions either use SCS or have custom-developed CROMERR functionality provides for full CROMERR compliance.

See the CROMERR website for a [list of electronic reporting solutions known to the CROMERR Program](#).

System documentation on how the approach meets CROMERR requirements is only required if pursuing a custom-developed system or certain COTS solutions that do not provide for full CROMERR functionality. POTW Pretreatment Programs and/or their vendors should prepare system documentation for these approaches either using [a pre-prepared CROMERR System Checklist template for certain COTS solutions](#) or prepare comprehensive system documentation using the [blank CROMERR System Checklist](#) for completely custom-developed approaches.

In preparing comprehensive system documentation, please refer to this chart for [guidance as](#)

[to which sections of Checklist are applicable to the e-reporting approach](#). POTW Pretreatment Programs and/or their vendors preparing either limited or comprehensive system documentation should also contact the CROMERR Program for assistance as needed.

### **Review and Update Pretreatment Program Requirements**

The POTW Pretreatment Program should review and update the certain program components that the implementation of e-reporting may affect. Potential program requirements that may be affected are outlined below.

The POTW Pretreatment Program prepares documentation that it has reviewed, developed, and updated plans and procedures which may be needed or have been impacted because of the implementation of e-reporting. The Program should then submit a modification request to the Approval Authority (EPA or Approved State Pretreatment Program) in accordance with 40 CFR 403.18.

- Maintain legal authorities (e.g., the ordinance, applicable multijurisdictional agreements) to ensure necessary parameters for implementing the electronic reporting system.
- Develop and implement procedures required per 40 CFR 403.8(f)(2) to describe how the approved pretreatment program receives, analyzes, and retains reports and other notices submitted by Industrial Users which, for example, may need to be updated to:
  - Identify which (some or all) reports that may be received electronically in lieu of paper submission.
  - Identify changes to reviewing and analyzing IU reports per 40 CFR 403.8(f)(2)(iv) and identify any changes to procedures necessary to ensure that POTW staff is notified on a timely basis of any noncompliance so that

appropriate investigation steps may be taken in accordance with the POTW Pretreatment Program's approved Enforcement Response Plan per 40 CFR 403.8(f)(5).

- Provide communication plans and instructional materials for electronic reporters (IUs) on how to submit reports, make corrections, ensure transmission was completed, etc., including contingency plans for instances if electronic systems are temporarily inaccessible by the IUs and/or POTW;
- Provide communication plans and instructional materials for electronic users of the data (POTW staff, state, EPA, public), including periodic standardized reports for frequent users, as necessary to maintain public accessibility of the information per 40 CFR 403.14, including determination of recordkeeping formats for required retention times per 40 CFR 403.12(o).
- Identify POTW organizational duties description for administering the Pretreatment Program. As described in 40 CFR 403.8(f)(5) and 403.9(b), staff should be identified who are responsible to implement the electronic reporting system. Such activities may include:
  - Input any necessary IU permit components and IU facility identifiers into the data system to enable the IU to log into the system to report their periodic data;
  - Ensure that the new Pretreatment data receipt program can produce information necessary so that the POTW adequately submits required annual reporting.
  - Assistance to IUs who need to submit reports to the electronic system.
- Ensure that the POTW has sufficient resources (funding) and qualified personnel to carry out the electronic report receipt procedures, per 403.8(f)(3), supporting the purchase or ongoing rental fee for the software or system, and developing contingency plans in case resource support for the electronic system decreases or ceases.

## Roles and Responsibilities: EPA CROMERR Program

In cases where an applicant opts to implement e-reporting approaches which have core documentation, the CROMERR Program generally does not need to review and approve any documentation. These approaches include Shared CROMERR Services and certain COTS solutions indicated on the CROMERR website as having core documentation as opposed to a template CROMERR System Checklist. In limited cases, CDX or the COTS vendor will advise the CROMERR Program if special customizations have been made to standard CROMERR functionality for that solution. Only in these cases, is a review conducted of the customized functionality. See [list of electronic reporting solutions known to CROMERR](#).

In cases where an applicant opts to custom develop an approach for CROMERR-compliant e-reporting, or elects to implement a custom-developed COTS solution without core documentation, complete system documentation is required using the [CROMERR System Checklist](#). The EPA CROMERR Program can assist in preparing this documentation, and will typically iteratively review documentation until the electronic reporting approach meets CROMERR requirements. Vendors also oftentimes help in the preparation of this documentation.

During this drafting and review process, EPA may contact the POTW Pretreatment Program and/or vendor if the application lacks critical detail, language describing the system is unclear, and/or the system as designed appears to raise CROMERR compliance issues. Once the approach as documented meets CROMERR requirements, EPA will provide notification to both the POTW Pretreatment Program and to the respective EPA or State Approval Authority that the planned e-reporting approach is CROMERR compliant.



## Roles and Responsibilities: EPA or Approved State Pretreatment Program

### Approval Authority

EPA and Approved State Pretreatment Programs acting as Pretreatment Program Approval Authorities provide technical and legal assistance to POTWs in developing and implementing pretreatment programs.

EPA expects that obtaining the authority and required technology needed to receive electronic reports from Industrial Users will require most POTW Pretreatment Programs to change the current program implementation. Consequently, EPA expects that POTWs will need to review and modify their existing programs to reflect these changes.

Specifically, upon notification from the POTW Pretreatment Program that the POTW wants to begin receiving reports electronically from its Industrial Users, the EPA Regional Pretreatment staff or Approved State Pretreatment Program staff will:

- 1) Work with the POTW Pretreatment Program to assist in identification of programmatic authorities and procedures that the POTW should modify to implement electronic reporting for its Industrial Users.
- 2) For solutions not CROMERR compliant out-of-the-box, receive the recommendation from the CROMERR Program that the CROMERR system documentation has been reviewed and/or revised as needed and is determined to be CROMERR compliant.
- 3) Ensure that the POTW Pretreatment Program is aware of needed modifications to its programmatic and procedural requirements to implement electronic reporting.
- 4) Receive and process the POTW Pretreatment Program's program modification request in accordance with procedures in 40 CFR 403.18.

### Definitions

#### **Pretreatment Program "Approval Authority"**

The Director in a National Pollutant Discharge Elimination System (NPDES) State with an approved State pretreatment program and the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program. [More than two-thirds of states implement approved State pretreatment programs](#). EPA is the Approval Authority for the remaining States, Tribes, and Territories that have not been approved.

#### **"Approved POTW Pretreatment Program or POTW Pretreatment Program"**

A program administered by a POTW that meets the criteria established in 40 CFR 403.8 and 403.9 and which has been approved by a Regional Administrator or State Director in accordance with 40 CFR 403.11. The Approved POTW Pretreatment Program is also called a "Control Authority." Where the POTW is not the Control Authority, the Approval Authority is the Control Authority, i.e., EPA or approved State pretreatment program.

#### **"Publicly Owned Treatment Works or POTW"**

A treatment works as defined in section 212 of the Clean Water Act (CWA), which is owned by a State or municipality. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey

wastewater to a POTW Treatment Plant (that portion of the POTW, which is designed to provide treatment, including recycling and reclamation of municipal sewage and industrial waste).

The term also means the municipality as defined in section 502(4) of the CWA, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. An approved POTW Pretreatment Program is usually required to implement its approved program in accordance with requirements contained in a NPDES permit.

**“Copy of Record”**

A true and correct copy of an electronic document received by an electronic document receiving system, which copy 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: 1) All electronic signatures contained in or logically associated with that document; 2) The date and time of receipt; and 3) Any other information used to record the meaning of the document or the circumstances of its receipt.

**"Valid Electronic Signature"**

An electronic signature on an electronic document that has been created with an electronic signature device that the identified signatory is uniquely entitled to use for signing that document, where this device has not been compromised, and where 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.