



Office of Information Collection:

CROMERR Step-by-Step Guide to Apply for EPA Approval For States, Tribes, and Local Governments

The Cross-Media Electronic Reporting Regulation (CROMERR) provides the legal framework for electronic reporting to EPA and to states, tribes, and local governments that are authorized to administer EPA programs. A key provision of CROMERR is that state, tribes, and local governments that receive or wish to receive electronic reports in lieu of paper under their authorized programs must revise or modify those programs to ensure that they meet applicable CROMERR requirements. CROMERR also establishes a procedure that states, tribes, and local governments may use to seek EPA approval of one or more program revisions or modifications related to electronic reporting through a single application and review process.

In addition to CROMERR's Preamble, EPA has produced a number of documents to assist states, tribes, and local governments in understanding and implementing CROMERR. These documents can help in the preparation of applications and include this step-by-step guide, the CROMERR Fact Sheet, and the CROMERR System Checklist. For specific instructions on the process, please refer to the text of the regulation for the definitive instructions. In any conflict between this guide and the Regulation, the Regulation controls.

Step 1. Ensure that new and existing electronic reporting programs meet the requirements described in 40 CFR, Part 3 §3.2000.

EPA approval of program modifications and revisions related to electronic reporting will be based on compliance with the CROMERR performance-based requirements for electronic document receiving systems. These requirements are found in §3.2000(b) of the regulation and discussed in section VI.E of the Preamble. CROMERR's requirements reflect the need to ensure that electronically submitted documents have the same "legal dependability" as their paper counterparts. In preparing their applications, states, tribes, and local governments should describe how their electronic document receiving systems meet the §3.2000(b) requirements. States, tribes and local governments should consult the actual language of section VI.E of the preamble and §3.2000(b) of the regulation for more detail. The subject-areas addressed by the requirements include:

- Timeliness of data generation;
- Copy of record;
- Integrity of the electronic document;

- Submission knowingly;
- Opportunity to review and repudiate copy of record;
- Validity of the electronic signature;
- Binding the signature to the document;
- Opportunity to review;
- Understanding the act of signing;
- The electronic signature or subscriber agreement;
- Acknowledgement of receipt; and
- Determining the identity of the individual uniquely entitled to use a signature device.

Step 2. Determine the relevant deadlines for approval of the electronic document receiving system.

State, tribal and local government applicants that do not have an existing electronic document receiving system, must receive approval from EPA before using a system to accept electronic reports in lieu of paper. If the applicant is already operating an electronic document receiving system (as defined in §3.3 of the regulation), then the applicant has until October 13, 2008, to apply for approval. Under limited circumstances, specified in §3.1000(a)(3) of the regulation, the deadline for existing electronic document receiving systems may be extended.

Step 3. Prepare and submit application package.

Applications may be submitted to EPA using the 40 CFR Part 3 approval process that allows consolidated applications for multiple programs or by using applicable program approval or revision processes under other Parts of Title 40, as provided in §3.1000(a)(1) of the regulation. Every application must include the following four elements specified in §3.1000(b)(1) of the regulation.

(1) Legal authority for electronic reporting, including:

- A certification that a state, tribe, or local government's laws and/or regulations provide sufficient legal authority to implement electronic document receiving systems and enforce the affected programs using electronic documents. The certification must be signed by the Attorney General or his or her designee for states or the chief administrative official or officer or his or her designee for tribes and local governments.
- Copies of the relevant statutes and/or regulations.

(2) Documentation of how the electronic document receiving system meets the applicable CROMERR criteria, including:

- A listing of the electronic document receiving systems that do or will receive electronic submissions addressed by the program revisions or modifications being requested.

- A description of each system that specifies in detail how it will satisfy the requirements of §3.2000 of the regulation. The application should indicate for each system, 1) which electronic submissions it will receive, and, for each such submission, 2) whether the submission involves a) electronic signatures and b) is a *priority report* under Appendix 1 to Part 3.

(3) A schedule of upgrades to each system addressed by the application that could affect the systems' continued compliance with the CROMERR §3.2000 requirements.

(4) Any other information that the EPA Administrator may request to fully evaluate the application, as described under Step 4 below.

Applications submitted using the 40 CFR Part 3 approval process must be sent to Mark Luttner, Director, at one of the following addresses:

U.S. Postal Service Deliveries:

U.S. Environmental Protection Agency
Office of Environmental Information
Office of Information Collection
1200 Pennsylvania Avenue, N. W.
Mail Code: 2821T
Washington, DC 20460

Overnight Courier/Mail Deliveries:

U.S. Environmental Protection Agency
Office of Environmental Information
Office of Information Collection
1301 Constitution Avenue, N.W. 6th Floor, #6130
Washington, DC 20460
Phone: (202) 566-1630

Also, please submit an electronic courtesy copy to: TRC@epa.gov.

Step 4. EPA reviews applications for completeness.

Upon receiving an application, EPA will review it for completeness as described in §3.1000(b)(3)(i) of the regulation. The Agency will send a letter within 75 calendar days of EPA's receipt of an application specifying whether applications are complete or not. For applications that are incomplete, EPA will provide information on application deficiencies.

States, tribes, and local governments may amend an application after EPA has determined the application package to be complete. However, the application will be considered to have been withdrawn and resubmitted as a new package, and a new 75-day completeness determination process will begin.

Step 5. Applicants may amend and resubmit applications deemed to be deficient.

Applicants receiving a notice of deficiencies for an application may amend and resubmit the application. EPA then has 30 calendar days to respond with a new completeness/incompleteness determination. As described in §3.1000(b)(3)(ii), EPA may act on an incomplete application if a state, tribe, or local government does not remedy the deficiencies and resubmit the application within a reasonable time period.

Step 6. EPA approves or denies application.

Upon determination that an application is complete, EPA's next step is to determine whether to approve or deny the application, as described in §3.1000(c) of the regulation. CROMERR does not require EPA to take the same action on all the program revisions or modifications in a consolidated application. EPA may approve some of the program revisions or modifications in the consolidated application, and disapprove others. (See §3.1000(c)(2).)

In most cases, the Agency has 180 days from notification of completeness to act on the application. If EPA does not act on a program revision or modification by the end of the 180-day review period, then that revision or modification is automatically approved by the EPA (unless the applicant requests an extension). The approval generally becomes effective when EPA publishes a notice of the approval in the *Federal Register*.

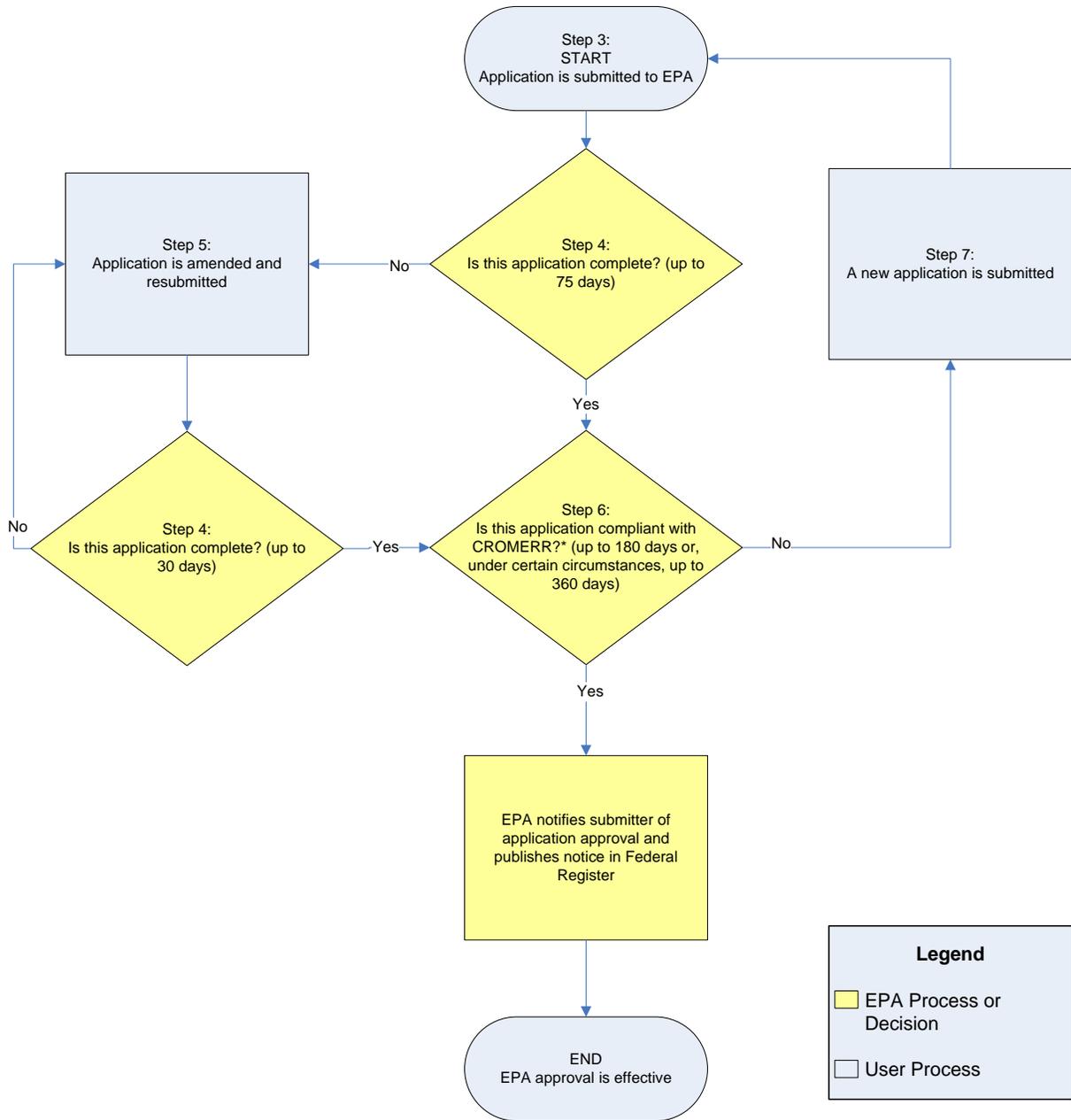
As noted earlier, authorized programs with existing electronic document receiving systems have until October 13, 2008 to submit their applications. For applications for existing systems that are received after July 30, 2007, EPA then has 360 days, rather than 180 days, to act on any requested modification or revision.

Step 7. If EPA denies a requested modification or revision covered by an application, the applicant may revise and resubmit the application.

If EPA denies a revision or modification request, the Agency will explain the reasons for the action and advise the applicant of the steps to remedy the application's shortcomings. EPA will work with the applicant to address issues that pose an obstacle to approval. Applications may then be resubmitted, and the process begins again at Step 3.

The flow chart on the following page illustrates the process explained in steps 3 through 7 above:

Cross-Media Electronic Reporting Regulation (CROMERR) Application Process



*For applications that apply to more than one report or system, EPA does not have to take the same action on each report or system.

**Existing systems must submit an application by October 13, 2007.

Additional steps for public water systems.

If the application requests revision or modification to a public water system program under 40 CFR Part 142, special procedures apply as described in §3.1000(f). For these systems, the sequence of events is as follows:

- Steps 1 through 7 apply as they do for other electronic document receiving systems except that the decision made by EPA in Step 6 to approve or deny the revision or modification is a “preliminary determination.”
- EPA publishes a notice of the preliminary determination in the *Federal Register*. The notice will state the reasons for the preliminary determination, and will inform interested members of the public that they may request a public hearing.
- The public has 30 days from the publication date of the *Federal Register* notice to request a hearing.
- If EPA does not hold a hearing, then the preliminary determination will be effective 30 days after its *Federal Register* publication.
- If EPA grants a request for a hearing, or the Administrator determines that a hearing is warranted, EPA will publish an additional *Federal Register* notice announcing—at least 15 days in advance of any such hearing—the date and time of any hearing, contact information, and the purpose of the hearing.
- At the hearing, a hearing officer will receive oral and written testimony, and will forward a record of the hearing to the EPA Administrator.
- After reviewing the record of the hearing, EPA will either affirm or rescind the preliminary determination and will publish notice of this decision in the *Federal Register*. If EPA’s decision is to approve the program revision or modification, the approval will be effective upon publication of the notice.

Notification and approval of changes to electronic document receiving systems.

Under §3.1000(a)(4), once a state, tribe, or local government begins operating an approved electronic document receiving system, they must notify EPA of changes to laws, policies, or the electronic document receiving system that have the potential to affect program compliance with CROMERR. If there are substantial changes to an approved system, EPA may ask the applicant to submit a new application for EPA approval. The applicant may also submit a new application on its own initiative.

More Information

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