



Notification and Approval of Changes to Approved CROMERR Applications: For States, Tribes, and Local Governments

EPA has produced this document to assist states, tribes, and local governments in understanding and implementing a requirement of the Cross-Media Electronic Reporting Regulation (CROMERR or the Regulation). This document describes the notification, review, and approval process and steps that should be used by state, tribal and local government agencies, where changes to their CROMERR approved electronic reporting programs and or laws and policies may have the potential to affect the program's EPA-approved electronic reporting program's compliance with CROMERR. In addition to this document, EPA's CROMERR program staff is available to assist you in understanding this requirement, determining if it applies to your program, and providing support through the review and approval process.

CROMERR provides the legal framework for electronic reporting to EPA and to states, tribes, and local governments (authorized programs) 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 established 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.

Once an authorized program has EPA's approval to accept electronic documents under certain programs, CROMERR § 3.1000 (a)(4) requires that the program keep EPA apprised of any changes to laws, policies, or the electronic document receiving systems that have the potential to affect the program's compliance with CROMERR § 3.2000. Where EPA determines that such changes are significant and require EPA review and approval, EPA may request that the authorized program submit an application for program revision or modification to address the changes. The applicant may also submit

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a new application on its own initiative. Generally, EPA will only ask the applicant to submit a new application for EPA approval when the changes are significant. EPA approval of any program changes related to electronic reporting will be based on compliance with the CROMERR performance-based requirements for electronic document receiving systems. Generally, the notification and approval of changes process will involve the following steps:

- Authorized program notifies EPA of any changes.
- EPA determines if the change(s) is subject to EPA review and approval.
- If requested by EPA, the authorized program must provide additional information to EPA.
- If required, the authorized must prepare and submit new application package.
- EPA reviews, makes determination, and notifies applicant.

These process steps are detailed below.

Significant vs. Non-significant changes

Significant changes are likely to be changes that affect system functionality described in the original application. Examples of significant changes could include changes to the types of file formats that affect how the copy of record (COR) is maintained, as well as changes to the technologies that may be used for file transfer or for creating electronic signatures on transmitted reports. Generally, changes in the steps involved in transmitting electronic reports, changes to the registration or credentialing process, and changes to the COR, including its maintenance and accessibility, will amount to significant changes.

Significant changes will generally not include optional upgrades to software provided by third parties where the system does not depend on the added or modified software functionality, or changes to the system that simply reflect changes to the underlying regulatory reporting requirements. Finally, notification is generally not required for bug fixes, even if those fixes relate to functionality described in the original system application. Such changes may range from fixing a typo on a data entry screen to re-engineering the system's archiving routines.

If an authorized program plans to replace its approved system with an essentially new one, or requests revision/modification of additional EPA-authorized programs to allow electronic reporting, the program will need to submit a new application. Please refer to the *CROMERR Step-by-Step Guide to Apply for EPA Approval* for instructions on how to submit a new application (<http://www.epa.gov/cromerr/pdf/guide.pdf>); or to the text of the Part 3 regulation for the definitive instructions (<http://www.epa.gov/fedrgstr/EPA-GENERAL/2005/October/Day-13/g19601.pdf>).

EPA will make determinations on a case-by-case basis and the time-frame for such determinations will vary, depending on the extent and complexity of the changes. Generally, EPA expects to review and make determinations on such changes quickly – in most cases, probably within 3 to 6 weeks. EPA recognizes that there may be instances where an authorized program may need to change its approved system, to take advantage of new technologies or to make “emergency” changes (e.g., upgrading system firewall protection), and EPA will work



diligently to expedite this determination process. In any conflict between this guide and the Regulation, the Regulation controls. The following steps detail this process.

Notification and Review and Approval Process

Step 1. Authorized Program notifies EPA of any changes.

Authorized programs must notify EPA, in writing, of any changes to law, policy, or the electronic document receiving system, that have the potential to affect the program's compliance with CROMERR § 3.2000, as required under 40 CFR Part 3 §3.1000 (a)(4). The authorized program may do so by sending an email to the CROMERR program manager and CROMERR contact included at the end of this document. The email should describe the specific changes, briefly explain why the changes are being made, identify any agency deadlines and a primary and secondary agency contact, and include other information as needed for EPA to make a determination. For changes to an approved electronic document receiving system, applicants should describe the new system's approach, technology, functionality, process and how the new system meets the requirements of §3.2000(b) of the Regulation. These requirements are also discussed in section VI.E of the preamble. For convenience, the applicant may choose to revise its approved CROMERR application system checklist to reflect the changes.

Step 2. EPA determines if the change(s) is subject to EPA review and approval.

EPA will review the information provided by the authorized program and determine if the change(s) is subject to EPA review and approval. Under this step, the Agency may require additional information from the authorized program to determine if the change(s) is subject to EPA review and approval. If the change(s) is not subject to EPA review and approval, EPA will promptly inform the authorized program. The authorized program will also be notified if EPA determines that a new application must be submitted to EPA for review and approval. If EPA has sufficient information to review and approve change(s), EPA will proceed to step 5 below. EPA will notify applicants via email.

Step 3. If requested by EPA, the authorized program must provide additional information to EPA.

The authorized program may email the additional information requested by EPA under step 2 to the CROMERR contacts included at the end of this document. Once EPA receives the requested information, EPA will review it, and the process begins again at Step 2.

Step 4. Prepare and submit new application package.

If EPA determines that the change(s) to the state, tribe, or local government approved electronic reporting program require the program to submit a new application to EPA, the authorized program should prepare and submit an application that complies with the requirements of CROMERR § 3.1000(b)(1), discussed in section VI.C.1. of the regulation preamble, as soon as possible. As noted above, the *CROMERR Step-by-Step Guide to Apply for EPA Approval* provides



instructions on preparing and submitting a new application (<http://www.epa.gov/cromerr/pdf/guide.pdf>).

Depending on the changes, the authorized program may not need to prepare an entirely new application and may be able to copy and include much of the documentation from its original application in its new submission. For example, if the changes to an approved electronic reporting program do not affect the Attorney General's certification statement included in the original CROMERR application, the applicant would not have to obtain a new Attorney General statement; just include a copy of the original statement as part of the new application. EPA will advise the program on a case-by-case basis on specific elements and documentation in the original application that needs to be revised in the new submission, to the address the changes to the approved electronic reporting program.

One hard copy of the amended applications submitted using the 40 CFR Part 3 approval process must be sent to Connie Dwyer, 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,
Information Exchange and Services Division
1200 Pennsylvania Avenue, N. W.
Mail Code: 2823T
Washington, DC 20460

Overnight Courier/Mail Deliveries:

U.S. Environmental Protection Agency
Office of Environmental Information
Office of Information Collection
Information Exchange and Services Division
1301 Constitution Avenue, N.W. 6th Floor, #6416A
Washington, DC 20460
Phone: (202) 566-1691

Also, please submit an electronic courtesy copy to TRC@epa.gov, huffer.evi@epa.gov, and seeh.karen@epa.gov.

Step 5. EPA approval and notice.

Once EPA has sufficient information, the Agency will determine whether to approve or deny the change(s) to the approved electronic reporting program and will promptly notify the applicant. EPA review and approval of changes to approved electronic reporting programs will be based on compliance with the CROMERR requirements found in 40 CFR Part 3, § 3.2000(b) of the regulation, and discussed in section VI.E of the CROMERR Preamble. CROMERR's requirements reflect the need to ensure that electronically submitted documents have the same "legal dependability" as their paper counterparts. For changes to approved electronic reporting programs subject to EPA review and approval, the program must obtain EPA approval before implementing changes.

If EPA does not approve the change, the Agency will explain the reasons for the action, advise the applicant of the steps to remedy shortcomings, and work with the applicant to address issues that pose an obstacle to approval.