

ELECTRONIC CODE OF FEDERAL REGULATIONS

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Title 27: Alcohol, Tobacco Products and Firearms

PART 73—ELECTRONIC SIGNATURES; ELECTRONIC SUBMISSION OF FORMS

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SOURCE: 68 FR 58601, Oct. 10, 2003, unless otherwise noted.

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Subpart A—General Provisions

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SCOPE

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§73.1 What does this part do?

(a) This part provides the conditions under which we will allow you to:

(1) Use electronic signatures or digital signatures executed to electronic forms instead of traditional handwritten signatures executed on paper forms; and

(2) Electronically submit certain forms to TTB or, where applicable, to other agencies.

(b) This part does not require you to submit forms to us electronically.

[68 FR 58601, Oct. 10, 2003, as amended at 79 FR 17033, Mar. 27, 2014]

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DEFINITIONS

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§73.3 What terms must I know to understand this part?

You need to know the following terms to understand this part:

27 CFR. Title 27 of the Code of Federal Regulations, chapter I.

Biometrics. A method of verifying an individual's identity based on measurement of the individual's physical feature(s) or repeatable action(s) where those features and/or actions are both unique to that individual and measurable.

Digital signature. An electronic signature based upon cryptographic methods of originator authentication, computed by using a set of rules and a set of parameters such that the identity of the signer and the integrity of the data can be verified. A signer creates a digital signature by using **public-key encryption** to transform a message digest of an electronic message. If a recipient of the digital signature has an electronic message, message digest function, and the signer's public key, the recipient can verify:

- (1) Whether the transformation was accomplished with the private key that corresponds to the signer's public key; and
- (2) Whether the electronic message has been altered since the transformation was made.

Electronic document receiving system. Any set of apparatus, procedures, software, records, or documentation used to receive documents communicated to it via a telecommunications network.

Electronic signature. A computer data compilation of any symbol or series of symbols executed, adopted, or authorized by an individual to be the legally binding equivalent of the individual's handwritten signature, and that:

- (1) Identifies and authenticates a particular person as the source of the electronic message; and
- (2) Indicates such person's approval of the information contained in the electronic message.

Form(s). The term form(s), when used in this part, includes all documents required by 27 CFR, chapter I, to be submitted to TTB or any other agency.

Handwritten signature. The scripted name or legal mark of an individual handwritten by that individual and executed or adopted with the present intention to authenticate a writing in a permanent form. The act of signing with a writing or marking instrument such as a pen or stylus is preserved. The scripted name or legal mark, while conventionally applied to paper, may also be applied to other materials or devices that capture the name or mark.

Paper format. A paper document.

TTB. Refers to the Alcohol and Tobacco Tax and Trade Bureau within the Department of the Treasury.

You and I. "You" and "I" refer to the organization or person who must maintain records or submit documents to TTB to satisfy the requirements of 27 CFR, chapter I.

[68 FR 58601, Oct. 10, 2003, as amended at 79 FR 52199, Sept. 3, 2014]

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Subpart B—Electronic Signatures

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§73.10 What does subpart B cover?

This subpart provides the conditions under which TTB will allow you to use electronic signatures executed to electronic forms instead of traditional handwritten signatures executed on paper forms. Where electronic signatures and their associated electronic forms meet the requirements of this part, TTB will consider the electronic signatures to be the equivalent of full handwritten signatures, initials, and other general signings this chapter requires.

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§73.11 What are the required components and controls for acceptable electronic signatures?

(a) *Electronic signatures not based on biometrics.* If you use electronic signatures that are not based upon biometrics you must:

- (1) Employ at least two distinct identification components such as an identification code and a password;
- (2) Use both identification components when executing an electronic signature to an electronic document; and
- (3) Ensure that the electronic signature can only be used by the authorized user.

(b) *Electronic signatures based on biometrics.* If you use electronic signatures based upon biometrics, they must be designed to ensure that they cannot be used by anyone other than their genuine owners.

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§73.12 What security controls must I use for identification codes and passwords?

If you use electronic signatures based upon use of identification codes in combination with passwords, you must employ controls to ensure their security and integrity. These controls must include:

- (a) Maintaining the uniqueness of each combined identification code and password, such that no two individuals have the same combination of identification code and password;
- (b) Ensuring that identification code and password issuances are periodically checked, recalled, or revised (*e.g.*, to cover such events as password aging);
- (c) Following loss management procedures to electronically deauthorize lost, stolen, missing, or otherwise potentially compromised tokens, cards, or other devices that bear or generate identification code or password information, and to issue temporary or permanent replacements using suitable, rigorous controls;
- (d) Using transaction safeguards to prevent unauthorized use of passwords and/or identification codes, and to detect and report in an immediate and urgent manner any attempts at their unauthorized use to the system security unit and, as appropriate, to organizational management; and
- (e) Initial and periodic testing of devices, such as tokens or cards, that bear or generate identification code or password information to ensure that they function properly and have not been altered in any unauthorized manner.

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Subpart C—Electronic Filing of Documents with TTB

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§73.30 What does subpart C cover?

This subpart provides the conditions under which TTB will allow you to satisfy certain requirements to submit forms in this chapter by submitting forms electronically to TTB.

[79 FR 17033, Mar. 27, 2014]

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§73.31 May I submit forms electronically to TTB?

Yes; to satisfy any requirement to submit forms in this chapter (including a requirement to submit an original form or copies), you may submit an electronic form or you may submit, by electronic means, a copy of an original form, but only if:

- (a) You submit the form through an electronic document receiving system that TTB has designated for the receipt of that specific form and for which you have registered if so required; and

(b) The conditions in any one of the following paragraphs apply:

(1) It is an electronic form that bears valid electronic signatures, as provided in subpart B of this part, to the same extent that the paper submission for which it substitutes would bear handwritten signatures;

(2) It is a copy of an original form that requires the signature of a third party who is not the person required to submit the form (such as a bond form or a power of attorney form) or a corporate seal; you submit the copy of the form electronically along with a certification that the copy is an exact copy of the original; the original bears all signatures of all required parties and any required corporate seal; and you maintain the original along with any other records required by TTB and make it available or submit it to TTB upon request; or

(3) It is a copy of a TTB form that is not available in an electronic format or it is a document other than a TTB form (that is, other than a document issued by TTB that bears an Office of Management and Budget control number) that is required to be submitted to TTB; you submit the copy electronically along with a certification that the copy is an exact copy of the original; and you maintain the original along with any other records required by TTB and make it available or submit it to TTB upon request.

[79 FR 17033, Mar. 27, 2014]

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§73.32 May I electronically sign forms I submit electronically to TTB?

You may electronically sign the electronic form you submit to us if:

(a) You have registered with TTB to do so and have certified, prior to the time of such use, that the electronic signatures or digital signatures in your system are intended to be the legally binding equivalent of traditional handwritten signatures;

(b) The electronic or digital signature meets the standards of this part and is authorized by TTB in accordance with this part; and

(c) The electronic or digital signature is sufficiently trustworthy and reliable that the signing party may not repudiate the signature.

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§73.33 Am I legally bound by a form I sign electronically?

Yes; by electronically signing a form you submit to us, you are agreeing to be legally bound to the same extent as if you applied a traditional handwritten signature on a paper document submitted to satisfy the same requirement. Persons using electronic signatures shall, upon TTB's request, provide additional certification or testimony that a specific electronic signature is the legally binding equivalent of the signer's handwritten signature.

[68 FR 58601, Oct. 10, 2003, as amended at 79 FR 17034, Mar. 27, 2014]

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§73.34 When is an electronically submitted form considered timely filed?

If you submit a form to our electronic document receiving system, the document will be considered filed on the date of the electronic postmark given by that system.

[68 FR 58601, Oct. 10, 2003, as amended at 79 FR 17034, Mar. 27, 2014]

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§73.35 Do I need to keep paper copies of forms I submit to TTB electronically?

Nothing in this part alters any other regulatory or statutory requirement that records be maintained in paper format. If the regulations in this chapter require you to keep paper copies of certain forms, you must continue to do so unless TTB otherwise authorizes you to maintain electronic copies of these documents through an approved alternate method or procedure.

[68 FR 58601, Oct. 10, 2003, as amended at 79 FR 17034, Mar. 27, 2014]

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Subpart D—Electronic Filing of Documents With Other Agencies

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§73.40 May I satisfy TTB requirements to submit forms to other agencies by submitting those forms electronically?

You may satisfy any requirement in the TTB regulations to submit a form (as that term is defined in §73.3) to another agency by submitting such form to such agency by electronic means, as long as the agency provides for, and authorizes, the electronic submission of such form and you satisfy any registration or related requirement by that agency for that electronic submission. The submission of a form electronically to another agency does not alter any requirement regarding copies you must maintain.

[79 FR 17034, Mar. 27, 2014, as amended at 79 FR 52199, Sept. 3, 2014]

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