

# MEMORANDUM OF UNDERSTANDING

ON

DEVELOPMENT AND MAINTENANCE OF THE  
NPDES ELECTRONIC REPORTING TOOL (NeT)

BETWEEN THE

OFFICE OF COMPLIANCE

AND THE

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## **I. PURPOSE**

This Memorandum of Understanding (MOU) sets forth the terms and understanding between the Office of Compliance (OC) of the U.S. Environmental Protection Agency (EPA) and the Rhode Island Department of Environmental Management (RIDEM) to develop and maintain the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Tool (NeT) for RIDEM's Multi-Sector General Permit for Storm Water Discharge Associated with Industrial Activity (MSGP) in support of the NPDES Electronic Reporting Rule (40 CFR Part 127) (NPDES eRule).

## **II. BACKGROUND**

The NPDES eRule requires the electronic reporting and sharing of NPDES program data. Specifically, the rule requires regulated entities to report information electronically, instead of filing written paper notices and reports. These notices and reports include:

- Discharge Monitoring Reports (DMRs);
- Notices of Intent to discharge in compliance with a general permit; and
- Other specified program reports.

The rule also requires authorized NPDES programs and other regulatory authorities to share the data from these notices and reports electronically with EPA. Authorized NPDES programs must also share permit, compliance monitoring (e.g., inspection), violation determination, and enforcement action data with EPA. Implementation of the NPDES eRule for authorized NPDES programs is split in two phases. Phase 1 ended December 21, 2016, and included DMRs, and state compliance monitoring and enforcement action data. Phase 2 ends December 21, 2020, and includes general permit reports and annual program reports. In an April 2016 memorandum from RIDEM (Angelo Liberti) to EPA (John Dombrowski), RIDEM elected to opt-out of being the "initial recipient" for all NPDES data groups, including general permit reports.

As part of EPA's collaboration with the authorized NPDES programs to move forward with converting the NPDES program from paper to electronic reporting, a few options are being considered, including a

National Solution hosted by EPA. In recognition of RIDEM's decision to use NeT hosted by EPA to implement electronic reporting for its MSGP and EPA's desire to bolster its partnerships with authorized NPDES programs, EPA is entering into this agreement with RIDEM to clarify the roles and responsibilities of both parties.

The primary focus of this agreement covers the RIDEM MSGP data elements found in Appendix A of the NPDES eRule, which identifies the minimum set of NPDES data that authorized NPDES programs must enter or transfer to EPA's national NPDES data system, as well as, what NPDES-regulated entities covered by the RIDEM MSGP must report electronically to the RIDEM under the MSGP. Where RIDEM chooses to require NPDES regulated entities to submit more data than what is listed in 40 CFR Part 127, Appendix A, both parties to this agreement will work together to determine the most viable solution (e.g., additional fields on electronic form, PDF attachment, paper form) to collect and record those data.

### **III. AUTHORITIES**

EPA enters into this MOU pursuant to Sections 104(a) and (b) of the Clean Water Act, 33 U.S.C. 1314(a) and (b), which authorizes EPA to encourage, cooperate with and render technical services to individuals, including the general public, as well as public and private sector entities to promote the coordination and acceleration of demonstrations, studies and training relating to the causes, effects, prevention and elimination of water pollution.

### **IV. ROLES AND RESPONSIBILITIES**

RIDEM intends to provide adequate resources and staff to deliver or perform the following for each activity area listed below.

- a. Permit Review
  - i. Identify data to be included in each electronic submission, dependencies between form questions or sections and the related rules, dependencies between general permit forms and permit requirements (e.g., effluent limits), and schedules or dates for each submission.
  - ii. Ensure any new permit has clear, well described reporting requirements.
  - iii. Make any minor modifications to already issued permits necessary to adopt EPA's electronic reporting solution.
  - iv. Work with OC to clearly describe the permit requirements and review process (if any) for permit coverage approval.
  - v. Identify cases where a permit requires non-appendix A data elements for a discussion on the best approach on capturing these data elements.
  - vi. Specify any events that may result in a modification of monitoring requirements, particularly, but not limited to, instances where the monitoring requirements should be changed through an NOI or other electronic submission.
  - vii. Avoid referencing a specific technology implementation solution or electronic reporting application in permit language.
  - viii. Identify where a paper submission should be sent from facilities.
  - ix. Ensure the general permit specifies clear authority to collect each data element on the NOI or program report.

- x. Consult with OC early in the permit modification or development process if any questions or concerns arise regarding electronic reporting.
- b. NPDES Electronic Reporting Requirements Development
- i. Participate in teleconferences or meetings with OC staff to describe, document, and confirm requirements for general permit forms [e.g., Notices of Intent to discharge (NOIs)], and compliance monitoring reports (e.g., DMRs, program reports). This includes any requirements necessary for RIDEM's approval or review of these documents (e.g., public notice requirements, fee payments, approval routing).
  - ii. Assist OC, as needed, with the development and review of user stories, which are used by IT developers to implement the requirements.
- c. Electronic Reporting Solution
- i. Contribute to the development and implementation of a testing protocol for the reporting solution.
  - ii. Complete required testing as requested by the OC, which might include coordinating testers, gathering results, reconciling results, and providing feedback.
  - iii. Update the state's NPDES permitting program and electronic data system to electronically collect the minimum set of NPDES data (Appendix A to 40 CFR part 127) to facilitate compliance with the NPDES eRule.
  - iv. Report all NPDES data that supports electronic reporting (e.g., permitting, compliance monitoring, compliance determinations, and enforcement activities) to EPA's national NPDES data system three months prior to the electronic reporting start dates in Table 1 in 40 CFR 127.16(a) and maintain updates thereafter. Reporting will be timely, accurate, complete, and consistent (see 40 CFR 127.23).
- d. Customer Support and Training
- i. Provide timely Tier II customer support, which includes, for example, permit clarification or interpretation, questions about form content, and compliance assistance needed when filling out the form or program report. Requests for Tier II support will be forwarded to RIDEM by the NPDES eReporting Help Desk or OC staff.
  - ii. Respond to Tier II NPDES eReporting Help Desk customer support requests by either updating the NPDES eReporting Help Desk ticket generated to capture the customers inquiry or via e-mail, as appropriate, and managing the response to the inquiry.
  - iii. Identify the individual(s) who will be liaisons for developing and delivering outreach and training and providing Tier II customer support to resolve any customer support issues that cannot be addressed by the NPDES eReporting Help Desk or OC staff.
  - iv. Develop documentation, help content, FAQs, and any additional guidance specific to implementation of the permit or program report.
  - v. Develop jointly with OC staff outreach and training materials that inform regulated entities of their obligation to report electronically, provide information on how to report electronically and identify outlets for the material.
  - vi. With EPA training, develop and maintain expertise on using all aspects of the reporting solution so that training can be provided to permittees with the goal of minimizing OC support.

- vii. Review and approve, as appropriate, any requests by a regulated entity for the necessary roles and permissions to access structures, features, permits and functions in the reporting application in an expedited manner.
- viii. Communicate to OC any issues identified with the electronic reporting tool that RIDEM cannot address by documenting the issue via e-mail to the NPDES eReporting Help Desk.
- ix. Identify backup contacts should the primary support contact be unavailable.

e. Change Management.

- i. Provide notice to OC of any necessary changes to the electronic reporting tool six months prior to expected implementation (e.g., changing requirements during the general permit renewal, changes to program report submission requirements), or, if six months notification is not practicable, as soon as possible.

B. EPA intends to provide adequate resources and competent staff to deliver or perform the following for each activity listed below.

a. Permit Review

- i. Advise on electronic reporting matters related to the permit.
- ii. Utilize a liaison between the RIDEM subject matter experts and IT developers.
- iii. Work collaboratively with RIDEM to clarify reporting requirements for the permit.
- iv. Recommend permit minor modifications needed to utilize the national reporting solution. Provide model permit language that can be used to incorporate electronic reporting requirements into the general permit. See: <https://www.epa.gov/compliance/npdes-ereporting-information-and-resources-authorized-programs>.

b. NPDES Electronic Reporting Requirements Development

- i. Consult with RIDEM to develop permit or program report requirements for electronic reporting to include both data and business requirements.
- ii. Convert permit or program report requirements to user stories for IT development.
- iii. Keep RIDEM apprised of the development progress, including the completion of identified and agreed upon milestones.

c. Electronic Reporting Solution

- i. Work with RIDEM to develop a schedule for deployment in line with RIDEM's permitting schedule (i.e., to have NeT available prior to the effective date of the MSGP) and resource availability.
- ii. Assign appropriate resources to meet the agreed upon deployment schedule. If EPA will be unable to meet the scheduled deployment date, RIDEM will be notified at least sixty days prior to the scheduled deployment date, or, if sixty days notice is not practicable an alternative schedule will be proposed as soon as practicable. EPA will work with RIDEM to finalize any alternative deployment schedules.
- iii. Work with RIDEM staff to develop a testing protocol, which will clearly identify any user acceptance criteria, the schedule for testing, how to test, and how to provide feedback to the OC. At times, testing may occur concurrently with the tool development.

- iv. Inform the authorized NPDES program of any contingency plan in place to ensure regular and continuous operation of the electronic reporting solution. The contingency plan will address scenarios that could result in a disruption of operations. It can be expected that the plan will include notification, recovery and reconstitution phases.
  - v. Secure the integrity of the electronic reporting tool through the maintenance of a firewall.
  - vi. Ensure access to any Copy of Record (COR). According to 40 CFR § 3.3, a COR is a true and correct copy of an electronic document received by an electronic document receiving system, which 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.
  - vii. Provide a notice on the EPA's NPDES eReporting web page acknowledging this partnership between OC and RIDEM to provide electronic reporting services for the RIDEM's MSGP.
- d. Customer Support and Training
- i. Tier I support will be provided by the NPDES eReporting Help Desk. Tier I customer support is generally the initial support level responsible for basic or routine customer issues like, for example, accessing and navigating the NeT application, checking on status of forms, and aiding with the signature process.
  - ii. Provide training to RIDEM on updating NPDES eReporting Help Desk tickets.
  - iii. Train staff from RIDEM to use NeT and the EPA's Central Data Exchange (CDX), to implement the role of the Regulatory Authority in the electronic reporting tool application, and to use the application from the perspective of the regulated entity. OC will provide one webinar-based training for the authorized NPDES program on their roles. Additional support and training materials will be posted on the *NPDES eReporting Tool (NeT) Help Center* web portal.
  - iv. Collaborate on the development of outreach material for regulated entities on their electronic reporting obligation and on how to electronically report.
  - v. Collaborate on the development of training materials for regulated entities, including the format and delivery method. OC will support the authorized NPDES program on trainings for regulated entities as resources allow.
  - vi. Develop and make available documentation on IT and other technical/common system aspects.
  - vii. Establish a knowledgebase web portal for posting support materials available to the public, which is currently *NPDES eReporting Tool Help Center*.
  - viii. Maintain a customer relationship management tool to assist with managing customer support requests and/or inquiries received.
  - ix. Maintain the NPDES eReporting Help Desk that provides Tier I customer support. Tier I customer support is generally the initial support level responsible for basic or routine customer issues like, for example, accessing and navigating the application, checking on status of forms, and aiding with the signature process.
  - x. Direct the NPDES eReporting Help Desk to elevate Tier II customer support requests defined in IV(A)(d)(ii) above to the staff identified by RIDEM in accordance with applicable service level agreements.
  - xi. Make available a user managed subscription service to be used to widely communicate information about the permit or electronic reporting tool.

- e. Change Management
  - i. Consult with the authorized NPDES program on any plans to migrate, reconstitute, or otherwise significantly modify the structure of the information content, or access software for the Rhode Island MSGP, other than routine refreshing or updating of the resource.
  - ii. Maintain a list of desired changes identified by RIDEM and users after the tool is in production.
  - iii. Review and prioritize the list of requested changes on an on-going basis, keep the authorized NPDES program informed of any changes' status, and implement changes as resources are available.
  
- f. Data Access
  - i. Make all e-reported data received available to RIDEM in a format defined by the project team user story that results in data access for analysis/study.

**V. LIMITATIONS**

- A. All commitments made in this MOU are subject to the availability of appropriated funds and each party's budget priorities. Nothing in this MOU, in and of itself, obligates RIDEM or EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or other financial obligation.
- B. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures, and will be subject to separate subsidiary agreements that will be affected in writing by representatives of both parties.
- C. This MOU is a voluntary agreement that expresses the good-faith intentions of the parties, is not intended to be legally binding, does not create any contractual obligations, and is not enforceable by any party.
- D. This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against RIDEM or EPA, their officers or employees, or any other person. This MOU does not apply to any person outside of RIDEM and EPA.

**VI. POINTS OF CONTACT**

The following individuals are designated points of contact for the MOU:

<p>RIDEM:</p> <p>Joseph B. Haberek, P.E.          Supervising Sanitary Engineer          Rhode Island Department of Environmental          Management          235 Promenade Street          Providence, Rhode Island 02908  <a href="mailto:joseph.haberek@dem.ri.gov">joseph.haberek@dem.ri.gov</a></p>	<p>US EPA, Office of Compliance</p> <p>Robert Cannon          Chief, Data Systems and Information          Management Branch          US EPA, Office of Compliance          1200 Pennsylvania Ave, NW, MC 2222A          Washington, DC 20460  <a href="mailto:cannon.rob@epa.gov">cannon.rob@epa.gov</a></p>
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**VII. MODIFICATION/DURATION/TERMINATION**

This MOU will be effective when signed by all parties. This MOU may be amended at any time by the mutual written consent of the parties. Independent of any permit, the parties will review this MOU every five (5) years to determine whether it should be revised, renewed, or cancelled. This MOU may be terminated by either party by notifying the other party in writing 90 days in advance of the termination date. In addition, the contents of this agreement and/or the intent of this agreement may be superseded by other agreements, in which case, RIDEM will notify the OC that this agreement is nullified and can be terminated.

**VIII. APPROVAL**

**RI Department of Environmental Management**

**U.S. Environmental Protection Agency**

4/10/2019

4/11/2019

**X** Angelo S. Liberti

**X** Randolph L. Hill

Angelo Liberti  
Administrator, Surface Water Protection  
Signed by: Liberti, Angelo (DEM)

Randolph L. Hill  
Director, Enforcement Targeting and Data D...  
Signed by: RANDOLPH HILL