



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203

September 17, 1984

Honorable J. Joseph Garrahy  
Governor of Rhode Island  
Executive Chamber  
Providence, RI 02809

Dear Governor Garrahy:

It is with great pleasure that I am today approving the State of Rhode Island's request to administer the National Pollutant Discharge Elimination System (NPDES) program.

Your State is the thirty-seventh to request and receive approval for administration of this important environmental program. I am very pleased to inform you that Rhode Island is the first state delegated by a Regional Administrator. I congratulate you and the staff of the Rhode Island Department of Environmental Management on the efforts that have been made. I have also approved the Memorandum of Agreement between the Environmental Protection Agency (EPA) and the State reflecting this transfer (copy enclosed).

We look forward to working with you and the Department of Environmental Management in continued efforts toward the prevention and control of water pollution in the State of Rhode Island.

Sincerely,

Michael R. Deland  
Regional Administrator

Enclosure

cc: Robert Bendick  
Director, RIDEM

Thomas Wright  
Assistant Director for  
Regulations, RIDEM

Martha Prothro  
Director, Permits, EPA

*Sue*



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Environmental Management  
OFFICE OF THE DIRECTOR  
83 Park Street  
Providence, R.I. 02903

October 16, 1984

Michael R. Deland  
Regional Administrator  
U.S. EPA, Region I  
J.F. Kennedy Federal Building  
Boston, Massachusetts 02203

Re: Memorandum of Understanding -  
NPDES Permit Issuance and Compliance

Dear Mr. Deland:

As per your letter of September 27, 1984 please find enclosed a signed copy of the above-named agreement. The Rhode Island Department of Environmental Management agrees that this document will help improve the working relationship between the two agencies.

Sincerely yours,

Robert L. Bendick, Jr.  
Director

RLB/ms  
enc.

State of Rhode Island and Environmental Protection Agency Memorandum of Understanding for NPDES Permit Issuance and Compliance

Purpose:

This Memorandum of Understanding (MOU) provides a procedure for EPA Region I oversight of Rhode Island activities relative to NPDES permit issuance and compliance. This document will provide a framework clearly defining the roles of the State and EPA in managing the permit issuance and compliance process and serve as a basis for coordinated action on all permits issued and all instances of significant noncompliance (SNC).

Goal:

This agreement serves as the mutual understanding of the basic mechanisms for evaluation and oversight of the NPDES program in Rhode Island and a mutual understanding of the NPDES implementing commitments. The agreement covers three major operational aspects, of the NPDES program: permitting, compliance monitoring and enforcement response.

Scope:

To define the roles and responsibilities of the Rhode Island DEM and EPA Region I in ensuring that all NPDES permits are properly issued and that all instances of SNC for all major permittees and all PL 92-500 minor permittees are responded to in a timely and appropriate manner with the objective being continued long term compliance. NPDES violations such as non-permitted discharges, pretreatment violations and violations deemed less than significant must be addressed but are beyond the scope of this MOU.

PERMITTING:

The Rhode Island DEM agrees that procedures are in existence for maintaining a complete, accurate and current system which identifies all sources that are covered by or have applied for NPDES permits. Rhode Island DEM agrees to provide NPDES data to EPA for entry into Permit Compliance System (PCS). The DEM agrees to maintain complete, accurate and current files of each permittee or applicant. EPA will conduct an audit of the data system semi-annually and conduct a file audit on an annual basis in conjunction with the 106 review.

The State agrees to have or develop a strategy for the development and issuance of permits and/or modifications consistent with national priorities and which assures that significant backlogs do not develop. Annually, the State agrees to develop a priority list of permits proposed to be issued and a schedule by quarter, for such issuance. For FY 85, the list of permits to be issued and the schedule for issuance is shown on Attachment 1. EPA and the Rhode Island DEM agree that the list and schedule may be modified during the year by mutual agreement. EPA recognizes that a backlog of expired permits now exist that must be reissued as part of the priority in the next fiscal year.

EPA and the Rhode Island DEM agree that it is the DEM's responsibility to ensure that permits are consistent with regulatory requirements and national policy and that, it is EPA's responsibility to overview permit issuance through reviews and audits. Thus, it is agreed that the permits, as noted on Attachment 1 will be reviewed by EPA prior to issuance. It is also agreed that certain permits require coordination between EPA and the State during development and EPA will provide technical assistance as needed. Thus, as indicated on Attachment 1, these permits will be coordinated during development.

Compliance  
Documents:

Rhode Island DEM will prepare and submit to EPA in a timely manner, a State Quarterly Noncompliance Report (QNCR) for all major permittees and a statistical summary of the PL 92-500 minor permittees in accordance with Federal regulations and written policy guidance from EPA Headquarters. Specifically, the QNCR shall be submitted each February 28th, May 31st, August 31st, and November 30th; beginning on February 28, 1985. RI DEM will also provide EPA Region I with an annual compliance status of all municipal and industrial minors. Quarterly meetings will be held between EPA Region I and Rhode Island DEM to review select NPDES files. Prior to each quarterly meeting, Rhode Island will review all instances of SNC for all major permittees and all PL 92-500 minor permittees for the previous quarter. Rhode Island DEM will develop clear and concise strategies aimed at permit compliance. The meeting must result in a conclusive understanding by each of the agencies of actions that will be taken by a set date to cause compliance. Strategies for compliance for all permittees found to be in SNC will be maintained by Rhode Island DEM on a facilities control sheet. EPA will, following the QNCR meeting, send to DEM a letter signed by the Water Management Division Director of EPA Region I outlining the actions that the Rhode Island DEM and EPA Region I plan to take as a result of that meeting.

### Timely and Appropriate Enforcement Actions

All SNC violations must be responded to. Enforcement responses at the State level can include meeting with the permittee, conducting inspections, issuing Notice of Violation letters, providing technical assistance and taking formal enforcement actions (e.g. Administrative Orders and judicial action). Responses and formal enforcement should be consistent with EPA's Enforcement Response Guide (to be developed).

The discussion of a permittee's noncompliance between members of EPA Region I and Rhode Island DEM shall not in itself be viewed nor reported as an action to cause compliance.

All SNC permittees must be returned to compliance within one QNCR reporting quarter or a formal enforcement action taken. The formal enforcement action taken should be the one most appropriate given the nature of the violation and the circumstances surrounding it. EPA recognizes that a backlog of potential enforcement actions now exist, so that in determining SNC Rhode Island DEM may, but is not required to, consider non-compliance by a permittee that occurred prior to delegation. Where appropriate the enforcement response should take into account the procedures municipalities follow to raise revenue.

Rhode Island DEM recognizes that EPA Region I has a statutory responsibility to ensure that all instances of noncompliance are addressed. In instances where Rhode Island DEM does not or can not address the instances of SNC as described above, EPA as the delegator of the NPDES permitting authority to the State of Rhode Island has the responsibility to take appropriate enforcement actions. Normally this action involves the issuance of a Notice of Violation to the permittee in SNC and a copy to DEM. A period 30 days following the letter from EPA will be given to RI DEM by EPA Region I to initiate a formal enforcement action before EPA initiates its own formal enforcement action. There may be unique and unusual circumstances such as, but not limited to, instances of national significance or multistate jurisdictional issues where EPA may circumvent the normal Notice of Violation process and immediately initiate a formal enforcement action against a permittee. The intent of Region I EPA is to allow the RIDEM wherever possible, primacy in all compliance actions as long as these actions are timely and appropriate and within terms of this agreements. -4-

### Quarterly Meeting

#### Participants:

The lead participants shall be staff personnel from the appropriate branches in the EPA and State offices capable of making policy decisions. Other participants may be called upon to

attend as determined by the State and EPA lead individuals, based upon needs specific to the meeting (legal and technical expertise, construction grants, etc..)


When significant difference of opinion is apparent, opposing viewpoints should be made available to the State and EPA Water Division Directors immediately following the meeting. Each Director has the authority to make an independent decision on behalf of his/her respective agency.

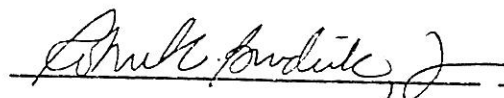
Inspections: The State of Rhode Island agrees as a minimum to inspect all majors and Public Law 92-500 minors on an annual basis. The state will develop a list annually and update that list on a quarterly basis and submit it to EPA. EPA will conduct joint inspections and may conduct unaccompanied inspections as the need arises but will notify the state prior to any inspection (in accordance with the MOU).

This memorandum of understanding was developed to serve exclusively as a guidance document to facilitate a well-coordinated EPA/state enforcement effort. Nothing in this document shall be deemed to alter, amend, or affect in any way the statutory authorities of the EPA or the State. The strategy or failure to conform to the strategy shall in no event be used by a discharger as a defense in an enforcement action or as justification for failure to achieve or maintain continuous compliance.

Effective Date:

This memorandum of understanding is effective upon the signature of the EPA Regional Administrator and the DEM Director. The Memorandum may be amended by written agreement of both agencies, or may be terminated upon notice by either Agency.

  
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Michael R. Deland  
Regional Administrator  
Date 9/26/84

  
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Robert Bendick, Director Date  
Rhode Island DEM

08/21/84

## PERMIT REISSUANCE AND COMPLIANCE INSPECTION DATES

FACILITY NAME	PERMIT NO.	REISSUANCE	INSPECTION
AMERICAN HOECHST	RI0000132	*1/87	2/85
BLACKSTONE VALLEY DISTRICT COMMISSION	RI0100072	4/88	1/85
BOSTITCH	RI0001139	2/85	2/85
BRADFORD DYE	RI0000049	*1/86	2/85
BRISTOL	RI0100005	4/85	4/85
BROWN & SHARPE	RI0000051	2/85	2/85
BURRILLVILLE	RI0100455	3/85	3/85
CRANSTON	RI0100013	1/85	1/85
EAST GREENWICH	RI0100030	1/85	1/85
EAST PROVIDENCE	RI0100040	4/85	4/85
FALVEY LINEN	RI0001228	4/88	2/85
GTE PRODUCTS	RI0001180	2/85	2/85
IMPERIAL WALLPAPER	RI0020508	1/85	1/85
JAMESTOWN	RI0100366	4/88	1/85
KENYON DYE	RI0000191	*1/88	2/85
MOBIL OIL	RI0001333	2/85	2/85
NARRAGANSETT	RI0100188	4/88	1/85
NARRAGANSETT ELECTRIC - MANCHESTER ST.	RI0000493	4/87	4/85
NARRAGANSETT ELECTRIC - SOUTH ST.	RI0000434	4/87	4/85
NEWQMD	RI0100315	4/85	4/85
NEW SHOREHAM	RI0100196	4/85	4/85
NEWPORT	RI0100293	4/85	4/85
NIFE	RI0020940	3/85	3/85
ORIGINAL BRADFORD SOAP	RI0000248	1/85	1/85
PEARSON BOAT	RI0021016	2/85	2/85
QUONSET POINT -RIFA	RI0100404	1/85	1/85
RAYTHEON	RI0000281	4/85	4/85
SMITHFIELD	RI0100251	4/84	4/84
SOUTH KINGSTOWN	RI0100374	3/85	3/85
TUPPERWARE - 146A	RI0000566	4/85	4/85
TUPPERWARE - BUTLER ST.	RI0000485	4/85	4/85
WARREN	RI0100056	4/85	4/85
WARWICK	RI0100234	4/85	4/85
WEST WARWICK	RI0100153	4/85	4/85
WESTERLY	RI0100064	3/85	3/85
WOONSOCKET	RI0100111	3/85	3/85