

US EPA ARCHIVE DOCUMENT

MEMORANDUM OF AGREEMENT
BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY
AND
THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
CONCERNING
OVERSIGHT AND IMPROVEMENT OF PERFORMANCE IN ADMINISTERING
FEDERALLY AUTHORIZED, DELEGATED AND/OR APPROVED ILLINOIS
ENVIRONMENTAL PROGRAMS AND WORK SHARING FOR THOSE PROGRAMS

THIS MEMORANDUM OF AGREEMENT (hereinafter "this MOA") is entered into this 13 day of November, 2010, by and between the U.S. Environmental Protection Agency (hereinafter U.S. EPA) and the Illinois Environmental Protection Agency (hereinafter Illinois EPA).

WITNESSETH, THAT:

WHEREAS, U.S. EPA has authorized, delegated and/or approved Illinois EPA to administer certain programs under federal environmental laws in Illinois.

WHEREAS, administration of those programs includes, but is not limited to, regulating, monitoring, permitting and/or inspecting persons or entities covered by those programs, gathering information, enforcing applicable requirements, assuring compliance, providing compliance assistance, and other activities relating to Illinois EPA's performance in administering those programs.

WHEREAS, U.S. EPA oversees Illinois EPA's administration of the federal environmental programs that U.S. EPA has authorized, delegated and/or approved, and retains certain authorities, including but not limited to, access, inspections, information gathering, enforcement, permitting and permit review, under those federal environmental laws.

WHEREAS, U.S. EPA and Illinois EPA have entered into agreements on the administration of federally authorized, delegated and/or approved programs in Illinois.

WHEREAS, U.S. EPA, as part of its oversight of those programs, is reviewing Illinois EPA's administration of and legal authorities for those programs and has recommended improvements.

WHEREAS, U.S. EPA, Region 5 issued a report on the results of an informal investigation of the National Pollutant Discharge Elimination System (NPDES) for Concentrated Animal Feeding Operations (CAFOs) in Illinois and recommended improvements in permitting, enforcement, compliance assurance, monitoring, legal authorities, and establishing a complete inventory of regulated facilities.

WHEREAS, U.S. EPA, Region 5 issued a report on an evaluation of Illinois EPA's Clean Air Act Title V program and recommended improvements in permitting, enforcement, compliance assurance, and monitoring.

WHEREAS, U.S. EPA, Region 5 conducted an evaluation of Illinois EPA's enforcement and compliance assurance program under U.S. EPA's State Review Framework, and recommended improvements for Illinois EPA's Clean Air Act, Clean Water Act and Resource Conservation and Recovery Act enforcement and compliance assurance programs.

WHEREAS, U.S. EPA and Illinois EPA want to cooperate to ensure timely, appropriate and effective administration of Illinois' federal environmental programs and adequate state authority and regulations for those programs in compliance with the applicable requirements for federally authorized, delegated and/or approved environmental programs.

NOW THEREFORE, it is agreed:

1. U.S. EPA and Illinois EPA agree to work together to assure the adequacy of federally authorized, delegated and/or approved environmental programs in Illinois and compliance with the requirements for such programs.
2. Illinois EPA and U.S. EPA will cooperate on inspections, information gathering, permitting, enforcement and compliance assurance under those programs; share information on those state programs, their administration and the entities regulated under those programs; and ensure that follow-up actions that result from U.S. EPA's review of such programs are carried out in a timely and effective manner, consistent with the applicable federal environmental statutes and implementing regulations, and agreements executed under those laws, including but not limited to agreements on permitting and enforcement, information sharing and the protection of confidential information.
3. Within 30 days of the effective date of this MOA, U.S. EPA and Illinois EPA will enter into an agreed work plan and schedule to improve Illinois EPA's federal environmental programs and assure compliance with the requirements for those federally authorized, delegated and/or approved environmental programs.
4. The work plan will set forth the actions Illinois EPA agrees to take to ensure that its programs are adequate and comply with the applicable federal requirements for authorized, delegated and/or approved federal environmental programs, including the commitments of the Director, Deputy Director or Directors, the Bureau Chiefs, and their successors or assigns, in completing the provisions of the work plan.
5. Illinois EPA agrees to implement the actions agreed to and set forth in the work plan pursuant to the schedule and indicia of progress set forth therein.
6. Through work sharing, U.S. EPA, Region 5 may undertake certain actions in Illinois to assist Illinois EPA in carrying out the federal Clean Water Act NPDES, Clean Air Act and Resource Conservation and Recovery Act permitting and enforcement programs.
7. To carry out the joint activities described in this MOA, Illinois EPA may need to disclose proprietary information to EPA. Proprietary information is defined as information that an

affected business claims to be confidential and is not otherwise available to the public. Illinois EPA agrees to clearly identify confidential business information disclosed to U.S. EPA in writing; and to clearly memorialize in writing, within a reasonable time, any confidential information initially disclosed orally. U.S. EPA agrees not to disclose, copy, reproduce or otherwise make available in any form whatsoever to any other person, firm, corporation, partnership, association or other entity information designated as proprietary or confidential information without consent of Illinois EPA except as such information may be subject to disclosure under the Freedom of Information Act (5 U.S.C. § 552), and EPA's regulations at 40 C.F.R. Part 2, or as otherwise authorized by law.

8. This MOA is in addition and subject to and does not alter or override agreements between U.S. EPA and Illinois EPA under the federal environmental laws, or limit U.S. EPA's or Illinois EPA's authorities or responsibilities under those federal environmental laws or their implementing regulations.
9. This MOA does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this MOA against Illinois EPA or U.S. EPA, their officers or employees, or any other person. This MOA does not direct or apply to any person outside of U.S. EPA and Illinois EPA.
10. This MOA is subject to all applicable laws and regulations including, but not limited to, the Anti Deficiency Act, 31 U.S.C. §§ 1341 and 1342. All commitments made by U.S. EPA in this MOA are subject to the availability of appropriate funds. Nothing in this MOA, in and of itself, obligates U.S. EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with Agency budget priorities. Illinois EPA agrees not to submit a claim for compensation for services rendered to U.S. EPA in connection with any activities it carries out in furtherance of this MOA. This MOA does not exempt Illinois EPA from U.S. EPA policies. Any transaction involving reimbursement or contribution of funds between the parties to this MOA will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.
11. This MOA is to take effect upon the signature of the parties and will terminate upon the completion of all of the activities set forth in the work plan. This MOA may be extended, modified or terminated at any time per the mutual written consent of the parties. The obligations the parties agree to in paragraphs 7, 8, and 10 continue after other provisions of this MOA have been terminated.

IN WITNESS WHEREOF, the parties hereto have executed this MOA, which shall become effective upon the date it is signed by both parties.



Douglas Scott, Director
Illinois Environmental Protection Agency

November 1, 2010
Date



Susan Hedman, Regional Administrator
U.S. Environmental Protection Agency, Region 5

11-1-10
Date