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## **I. GENERAL PURPOSE AND CONTEXT**

The Federal Fiscal Year 2012/2013 (FY12/13) Performance Partnership Agreement (Agreement) sets forth the mutual understandings reached regarding our state/federal relationship, and identifies the desirable environmental outcomes and performance expectations for the programs funded through the Performance Partnership Grant for the period of October 1, 2011 through September 30, 2013. The parties to this agreement are the Illinois Environmental Protection Agency (Illinois EPA) and Region 5 of the United States Environmental Protection Agency (Region 5). Illinois EPA and Region 5 entered into a separate Illinois Work Plan Agreement, dated February 24, 2011. This agreement contains references to that Work Plan, but does not supersede it.

### **A. State/Federal Environmental Partnership**

This agreement is designed to be consistent with the "environmental partnership" as described in the National Environmental Performance Partnership System (NEPPS). The parties concur with the principles that are enumerated in the NEPPS and are proceeding in accordance with the framework shown therein.

### **B. Relationship of Agreement to Grants**

Illinois EPA will operate under a Performance Partnership Grant (PPG) in FY2012/2013. The FY12/13 PPA implements a new format to integrate USEPA Strategic Plan Goals and Objectives into the PPA document and to provide a more user friendly template. The templates attached to this agreement serve as specific work plans for the grants included in the Illinois PPG. The templates contain the three Essential Elements required by Grants Policy Issuance 11-03, and will also be used to report accomplishments on an annual basis. The measures and commitments in the work plans will be reviewed and updated as needed on an annual basis.

Illinois EPA operates under a PPG to gain more flexibility in use of federal funds, to reduce the administrative burden of having numerous, specific categorical grants/work plans, and to continue some key resource investments in priority activities. To best achieve the administrative benefits of a PPG, fewer grant actions and awards are desirable. However, where an issue is identified in a single media program, Region 5 will move to award the remaining resources while seeking to resolve the issue. Both agencies commit to timely identification and appropriate level of engagement on all such issues.

The parties also recognize that some specific project grants will continue in effect and operate in concert with this Agreement. The FY12/13 federal Performance Partnership Grant to Illinois EPA includes the following programs for which this agreement serves as the program commitment:

1. Air pollution control program (CAA, Sec. 105)
2. TSCA compliance assurance
3. Hazardous waste management program
4. Underground injection control program
5. Water pollution control program (CWA, Sec. 106)
6. Public water system supervision program
7. Nonpoint source pollution control program (CWA, Sec. 319) (TMDL)

Non-PPG grant activity covered in the agreement includes components from the following sources:

1. Title V permitting and compliance activities under the Clean Air Act amendments.
2. Midwest Clean Diesel Initiative

In past agreements a separate section entitled Joint Environmental Priorities has been included to highlight and focus attention and resources to mutually concerned areas of interest. Joint Environmental Priorities did not receive additional funding. Joint Environmental Priorities continue to be areas of highlighted concern. Therefore Joint Environmental Priorities have been incorporated into the individual bureau workplans.

Congress requires USEPA to negotiate a fair share objective with each state for procurement dollars covering supplies, construction, equipment and services. The current negotiated rates require, to the fullest extent possible, that at least 18 percent of federal funding for prime and subcontracts awarded in support of USEPA programs be made available to businesses or other organizations owned or controlled by socially and economically disadvantaged individuals, including women and historically black colleges and universities, based on an assessment of the availability of qualified minority business enterprises (MBE) and women-owned businesses (WBE) in the relevant market. Accordingly, for any grant or cooperative agreement awarded in support of this agreement, the parties agree to ensure that a fair share objective will be made available to MBEs and WBEs.

**C. Joint Planning and Evaluation Process**

The parties believe it is important to clearly articulate how all the components of the performance partnership are interrelated and sequenced. We will carry out the following joint planning and evaluation process, a two-year agreement covering FY12/13.

<u>Actions</u>	<u>FY2012</u>	<u>FY2013</u>
Finalize FY12/13 Agreement	September 2011	
Senior Management Mid-Course Meeting	July 2012	
Mid-Course Updates	September 2012	
Illinois EPA Annual Performance Partnership Grant Report	December 2012	December 2013
Region 5 Evaluation of Annual Performance Partnership Grant Report	February 2013	February 2014

Throughout this agreement and in the attached documents, the timeframe is throughout FY2012/2013, unless specific timing/milestones are otherwise noted.

The Annual Performance Report for the PPG is a key component of the performance review. In addition, each media office has a documented post award management process, which they will continue to follow. These processes provide for periodic program meetings, conference calls, and program and file reviews, as appropriate. Finally, the two agencies have also developed a Reporting Requirement Inventory, which documents the various reporting requirements associated with grants and programs due to statutes, regulations and/or other policies and agreements. Illinois EPA will continue to fulfill these reporting requirements as outlined in the Inventory, unless a specific item is raised and/or renegotiated. All relevant information is taken into account as part of the joint evaluation process.

Another element in this joint evaluation process is the Senior Management Planning meeting, and the corresponding mid-year check-in meeting. It is expected that national program guidance should be available well before these meetings, allowing for identification of any critical commitment concerns. In addition, one agenda item for these meetings will be a senior level discussion of performance highlights and areas of concern. These discussions will be documented via joint meeting notes.

**II. Enforcement and Compliance Assurance**

Compliance and enforcement activities to be accomplished during the term of the FY12/13 Agreement are included in the individual media program plans. However, a summary of Region 5 and Illinois EPA roles in compliance and enforcement is helpful.

The following points serve as a foundation for the Region 5 and Illinois EPA relationships in respect to compliance and enforcement activities:

- Apply the most effective use of tools to encourage and maintain the compliance of sources of all sizes. This would include compliance assistance, administrative and/or civil enforcement, and criminal enforcement.
- Use joint up-front planning to coordinate priorities, maximize agency resources, avoid duplication of efforts, eliminate surprises, and institutionalize communication.
- Manage for environmental results which support each Agency's environmental goals and objectives,

- Ensure that compliance and enforcement information is complete, accurate, and timely consistent with Region 5 and Illinois EPA policies.

Under this Agreement, Region 5 and Illinois EPA retain their authorities and responsibilities to conduct compliance assistance, compliance monitoring, and enforcement. These activities will be conducted in the spirit of cooperation and trust. Specific compliance and enforcement data needs will be discussed and shared per each Agency's applicable policies and regulations.

Region 5 has recently conducted a review of Illinois EPA's Clean Air Act (CAA), and Clean Water Act (CWA), and Resource Conservation and Recovery Act (RCRA) compliance and enforcement programs. Both Region 5 and Illinois EPA are responsible for ensuring that agreed-upon follow-up actions that result from the review are carried out in a timely and effective manner. At the completion of the review, Region 5 provided a list of the actions to Illinois EPA as a basis of regular communication between the two parties to ensure follow-up. Certain actions may also be addressed, as appropriate, to the program workplans within this PPA.

### **III. Quality Management Plan**

All data reported under this agreement will be quality assured and the Illinois EPA will continue to operate in accordance with its approved Quality Management Plan (QMP). The QMP will be updated as needed, and changes will be submitted to Region 5 for approval. In addition, Quality Assurance Project Plans (QAPPs) will be developed as needed in each Bureau for project specific initiatives.

### **IV. Dispute Resolution Process**

Illinois EPA and Region 5 will use an agreed upon dispute resolution process to handle the conflicts that may arise as we implement our environmental programs and will treat the resolution process as an opportunity to improve our joint efforts and not as an indication of failure.

#### **A. Informal Dispute Resolution Guiding Principles**

Illinois EPA and Region 5 will ensure that program operations:

- Recognize conflict as a normal part of the State/Federal relationship.
- Approach disagreement as a mutual problem requiring efforts from both agencies to resolve disputes.
- Approach the discussion as an opportunity to improve the product through joint efforts.
- Aim for resolution at the staff level, while keeping management briefed. Seriously consider all issues raised but address them in a prioritized format to assure that sufficient time is allocated to the most significant issues.
- Promptly disclose underlying assumptions, frames of reference and other driving forces.
- Clearly differentiate positions and check understanding of content and process with all appropriate or affected parties to assure acceptance by all stakeholders.
- Document discussions to minimize future misunderstandings.
- Pay attention to time frames and/or deadlines and escalate quickly when necessary.

#### **B. Formal Conflict Resolution**

There are formalized programmatic conflict resolution procedures that need to be invoked if the informal route has failed to resolve all issues. 40 CFR 31.70 outlines the formal grant dispute procedures. There is also an NPDES conflict resolution procedure. Generally, disputes should be resolved as quickly as possible but within two weeks of their arising at the staff level. When there is no resolution and the two weeks have passed, there should be a comparable escalation in each organization, accompanied by a statement of the issue and a one-page issue paper. A conference call between the parties should be held as soon as possible. Disputes that need to be raised to a higher level should again be raised in comparable fashion in each organization.

**V. Reporting**

Information will continue to be reported to Region 5 and the National Data Systems. Programs authorized under Title 40 for which the Illinois EPA receives or wishes to receive reports or documents electronically must meet and comply with the Cross-Media Electronic Reporting Regulation (CROMERR), Part 3, Title 40 effective November 11, 2006. In accordance with the CROMERR regulation before the implementation of such reporting, the designated State program system must be approved by EPA.

