

State of Rhode Island and Providence Plantations  
Department of Environmental Management  
Office of Water Resources

**NOTICE OF PROPOSED RULE-MAKING**

**ADOPTION OF NEW RULES RELATED TO  
ELECTRONIC DOCUMENT SUBMISSIONS**

The Director of the Rhode Island Department of Environmental Management (“DEM”) proposes adoption of the *Rules Related to Electronic Document Submissions*. In accordance with State law and pursuant to the Rhode Island Administrative Procedures Act (R.I. Gen. Laws § 42-35-1, *et seq.*), DEM gives notice of the intent to hold a public hearing, accept public comment and afford interested parties an opportunity to submit data, views, or arguments orally or in writing. The public hearing will held at 3:00 p.m. on December 19, 2011 in Room 300 of the Foundry Building at 235 Promenade Street, Providence, RI 02908. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. A request for this service can be made in writing or by calling (401) 222-4700, Extension 7611 or dialing 711 (RI Relay).

The primary purpose of the proposed *Rules* is to allow various programs administered through DEM to accept documents such as data and reports electronically through the internet via electronic document receiving systems to be developed by DEM. The proposed *Rules* would provide the regulated community and general public with the option to submit documents electronically in lieu of paper submissions and will not impact the routine electronic submittal of information that currently occurs.

The need for new *Rules* was first recognized by the Rhode Island Pollution Discharge Elimination System Program staff at DEM in their effort to comply with new EPA requirements for receiving discharge monitoring reports; however, the proposed *Rules* are written broadly so that any DEM program that decides to create an electronic document receiving system can do so by posting the availability of the system and the system requirements on the DEM website.

DEM has complied with the requirements of R.I. Gen. Laws §§ 42-35.1-3, 42-35.1-4 and 22-12-1.1 by determining that the proposed *Rules* will not result in a significant adverse economic impact on small business or any city or town, and by submitting copies of the proposed regulations to the Governor’s Office, RI Economic Development Corporation, and RI Budget Office.

The proposed *Rules* can be viewed on the DEM website at [www.dem.ri.gov](http://www.dem.ri.gov). These documents can also be reviewed in person at the DEM Offices at 235 Promenade Street, Providence, RI by contacting Lisa McGreavy at 222-4700 Ext. 7611.

All interested parties are invited to submit written comments on the proposed *Rules* by 4:00 p.m. on December 20, 2011, the close of the comment period, to:

Lisa McGreavy  
Office of Water Resources  
RI Department of Environmental Management  
235 Promenade Street  
Providence, RI 02908  
or by e-mail to  
[lisa.mcgreavy@dem.ri.gov](mailto:lisa.mcgreavy@dem.ri.gov)

Signed this 17th day of November 2011.

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Angelo Liberti, Chief  
Surface Water Protection  
Office of Water Resources  
RI Department of Environmental Management

## **Fact Sheet on Proposed Rulemaking**

### **RULES RELATED TO ELECTRONIC DOCUMENT SUBMISSIONS**

The primary purpose of the proposed *Rules* is to allow various programs administered through RIDEM to accept documents such as data and reports electronically through the internet via electronic document receiving systems to be developed by the department. The proposed *Rules* would provide the regulated community and general public with the option to submit documents electronically in lieu of paper submissions and will not impact the routine electronic submittal of information that currently occurs.

The need for new rules was first recognized by the RI Pollution Discharge Elimination System Program staff at RIDEM in their effort to comply with new EPA requirements for receiving discharge monitoring reports; however, the proposed *Rules* were written broadly so that any RIDEM program that decides to create an electronic document receiving system can do so by posting the availability of the system and the system requirements on the RIDEM website.

TO: Todd Leveille, RI Department of Administration, Budget Office  
Sharon Savicki, RI Department of Administration, Budget Office

FROM: Angelo Liberti, Chief  
Surface Water Protection/Office of Water Resources  
Department of Environmental Management

DATE: October 26, 2011

SUBJECT: **Fiscal Note Review**  
Proposed new *Rules Related to Electronic Document Submissions*

Enclosed for your review and in accordance with Rhode Island General Laws § 22-12-1.1, RIDEM is requesting a Fiscal Note review for the new proposed *Rules Related to Electronic Document Submissions*.

The primary purpose of the proposed *Rules* is to allow various programs administered through RIDEM to accept documents such as data and reports electronically through the internet via electronic document receiving systems to be developed by the department. The proposed *Rules* would provide the regulated community and general public with the option to submit documents electronically in lieu of paper submissions and will not impact the routine electronic submittal of information that currently occurs.

If you have any questions or comments on the proposed regulations, please contact Lisa McGreavy in the Office of Water Resources at 222-4700, Extension 7611.

Enclosure

*State of Rhode Island and Providence Plantations  
Department of Administration  
Budget Office*

Fiscal Note for Proposed Administrative Rules (R.I.G.L. 22-12-1.1)

**Name of Administrative Rule:** *Rules Related to Electronic Document Submissions*

**Date of Notice:** To be determined, anticipated November 11, 2011

**Date of Hearing:** To be determined, anticipated December 14, 2011

**RIGL:** The *Rules Related to Electronic Document Submissions* is adopted in accordance with Chapter 42-17.1, Environmental Management Department, and Chapter 42-127.1, Uniform Electronic Transactions Act, in accordance with 42-35, Administrative Procedures Act, of the Rhode Island General Laws of 1956 (“RIGL”), as amended.

**FISCAL IMPACT**

	<i>State Revenues</i>		<i>State Expenditures</i>		<i>City/Town Expenditures</i>
FY 2012	\$0	FY 2012	\$0	FY 2012	\$0
FY 2013	\$0	FY 2013	\$0	FY 2013	\$0
FY 2014	\$0	FY 2014	\$0	FY 2014	\$0

**Summary of Rule Change:**

The primary purpose of the proposed *Rules* is to allow various programs administered through RIDEM to accept documents such as data and reports electronically through the internet via electronic document receiving systems to be developed by the department. The proposed *Rules* would provide the regulated community and general public with the option to submit documents electronically in lieu of paper submissions and will not impact the routine electronic submittal of information that currently occurs.

**Summary of State Fiscal Impact:**

The RIDEM has determined that implementing an electronic document receiving system can be accomplished with no effect on state revenues and expenses as the necessary RIDEM staff resources are in place to develop, implement and maintain the proposed electronic document receiving systems.

**Summary of City or Town Fiscal Impact:**

The proposed *Rules Related to Electronic Document Submissions* do not impose any new requirements on existing cities and towns and therefore no fiscal impact on cities or towns is anticipated.

Approved:

\_\_\_\_\_  
Thomas Mullaney  
Executive Director/State Budget Officer

\_\_\_\_\_  
Date

TO: Peter Dennehy, RI Department of Administration  
Sherri Lynn Carrera, RI Economic Development Corporation  
Rita Menard, Governor's Legal Office

FROM: Angelo Liberti, Chief  
Surface Water Protection/Office of Water Resources  
Department of Environmental Management

DATE: October 26, 2011

SUBJECT: **Economic Impact and Regulatory Flexibility**  
*Proposed new Rules Related to Electronic Document Submissions*

Enclosed for your review, in accordance with Rhode Island General Law 42-35.1 (REG-FLEX), are proposed new *Rules Related to Electronic Document Submissions*.

**Authority:**

The *Rules Related to Electronic Document Submissions* is adopted in accordance with Chapter 42-17.1, Environmental Management Department, and Chapter 42-127.1, Uniform Electronic Transactions Act, in accordance with 42-35, Administrative Procedures Act, of the Rhode Island General Laws of 1956 ("RIGL"), as amended.

**Summary of Proposed New Rule:**

The primary purpose of the proposed *Rules* is to allow various programs administered through RIDEM to accept documents such as data and reports electronically through the internet via electronic document receiving systems to be developed by the department. The proposed *Rules* would provide the regulated community and general public with the option to submit documents electronically in lieu of paper submissions and will not impact the routine electronic submittal of information that currently occurs.

**Economic Impact:**

Per RIGL § 42-35.1-3

1) "An identification and estimate of the number of small businesses subject to the proposed regulation."

The need for new rules was first recognized by the RI Pollution Discharge Elimination System Program staff at RIDEM in their effort to comply with new EPA requirements for receiving discharge monitoring reports; however, the proposed *Rules* were written broadly so that any RIDEM program that decides to create an electronic document receiving system can do so by posting the availability of the system and the system requirements on the RIDEM website. An estimate of the number of small businesses that will eventually utilize the option to submit documents electronically can not be identified at this time.

- 2) “The projected reporting, record keeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.”

The proposed *Rules* do not impose any new requirements for compliance on small businesses that would involve additional reporting, record keeping or other administrative costs. The proposed *Rules* pertain to the way in which documents are submitted to the department and offer an alternative to paper submissions.

- 3) “A statement of the probable effect on impacted small businesses.”

Small businesses will not be impacted by the proposed *Rules* as the rules do not impose any new requirements on small business and offer an alternative to the way in which documents are submitted to the department.

- 4) “A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.”

The proposed *Rules* do not impose any new requirements on small business and offer an alternative that may lead to cost savings through reduction or elimination of document reproduction and mailing costs.

**Regulatory Flexibility:**

Per RIGL § 42-35.1-4

- 1) “The establishment of less stringent compliance or reporting requirements for small businesses.”

The proposed *Rules* do not impose any new compliance or reporting requirements on small businesses.

- 2) “The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.”

The proposed Rules do not impose any new schedules or deadlines for compliance or reporting requirements for small businesses.

- 3) “The consolidation or simplification of compliance or reporting requirements for small businesses.”

The proposed *Rules* do not impose any new compliance or reporting requirements on small business and offer an alternative to the way in which documents are submitted to the department.

- 4) “The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation.”

The proposed *Rules* do not require any new design or operational standards of small businesses.

- 5) “The exemption of small businesses from all or any part of the requirements contained in the proposed regulation.”

The proposed *Rules* do not impose any new requirements on small businesses.

If you have any questions or comments on the proposed regulations, please contact Lisa McGreavy in the Office of Water Resources at 222-4700, Extension 7611.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**RULES RELATED TO ELECTRONIC DOCUMENT SUBMISSIONS**



DRAFT  
OCTOBER 2011

**AUTHORITY:** These rules and regulations are adopted pursuant to Chapter 42-17.1, Environmental Management Department, and Chapter 42-127.1, Uniform Electronic Transactions Act, in accordance with 42-35, Administrative Procedures Act, of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULES RELATED TO ELECTRONIC DOCUMENT SUBMISSIONS

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULES RELATED TO ELECTRONIC DOCUMENT SUBMISSIONS

**RULE 1. PURPOSE**

The purpose of these rules and regulations is to allow electronic document submissions to an electronic document receiving system in lieu of paper documents required by DEM-administered programs as announced and specified by the Director on DEM's public website.

**RULE 2. AUTHORITY**

These rules and regulations are adopted pursuant to Chapter 42-17.1, Department of Environmental Management, and Chapter 42-127.1, Uniform Electronic Transactions Act, and in accordance with Chapter 42-35, Administrative Procedures Act, of the Rhode Island General Laws of 1956, as amended.

**RULE 3. APPLICATION**

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

**RULE 4. DEFINITIONS**

For the purposes of these regulations, the following terms shall have the following meanings:

(A) **“DEM administered program”** means any program implemented by DEM under laws of the State of Rhode Island, or a federal program that the United States Environmental Protection Agency (EPA) has delegated to, authorized, or approved the DEM, on behalf of the State of Rhode Island, to administer, or a program that the EPA has delegated to, authorized, or approved the DEM to administer in lieu of a federal program, under provisions of Title 40 of the Code of Federal Regulations (CFR) and for which the delegation, authorization or approval has not been withdrawn or expired.

(B) **“Copy of record”** means 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. A copy of record includes:

- (1) any electronic signature contained in or logically associated with the document;
- (2) the date and time of receipt; and
- (3) any other information used to record the meaning of the document or the circumstances of its receipt.

(C) **“Electronic document”** means any information that is submitted to the DEM's electronic document receiving system in digital form to satisfy requirements of a DEM administered program and may include data, text, images, sounds, codes, computer programs, software, or databases.

(D) **“Electronic document receiving system”** means the apparatus, procedures, software, or records established by the Director and used by the DEM to receive electronic documents in lieu of paper.

(E) **“Electronic signature”** means any information in digital form attached to or logically associated with a record submitted to the DEM's electronic document receiving system and executed or adopted by a person with the intent of expressing the same meaning as would a handwritten signature if affixed to an equivalent paper document with the same content.

(F) **“Electronic signature agreement”** means a written agreement in a format prepared by the Director and signed by an individual with respect to an electronic signature device that the individual will use to create his or her electronic signature.

(G) **“Electronic signature device”** means a code or other mechanism, assigned to an individual who is uniquely entitled to use it and that is then used to create the individual's electronic signature.

(H) **“Handwritten signature”** means the scripted name or legal mark of an individual made by that individual with the intention to authenticate a seal in a permanent form.

(I) **“Signatory”** means an individual authorized to and who signs a document submitted to the DEM's electronic document receiving system pursuant to an electronic signature agreement in a format acceptable to the DEM.

(J) **“Valid electronic signature”** means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, provided the device has not been compromised and provided the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf the signature is created.

## **RULE 5. USE OF ELECTRONIC DOCUMENT RECEIVING SYSTEM**

(A) Once an electronic document receiving system has been made available, the Director shall announce on the DEM's public website that the DEM is accepting specified electronic documents in lieu of paper to satisfy requirements under a DEM administered program. Individuals who submit such electronic documents must use the electronic document receiving system indicated by the Director in the online announcement.

(B) Documents subject to the United States Environmental Protection Agency's Cross Media Electronic Reporting Rule (CROMERR) may only be submitted through a receiving system approved by the EPA based on the requirements outlined in 40 CFR § 3.1000.

(C) The Director may exercise discretion to select alternative system standards for documents not subject to subsection (B) above in compliance with the R.I. Gen. Laws § 42-127.1-1, et seq., the Uniform Electronic Transactions Act. Alternative system standards shall also be announced on the DEM's public website.

(D) Any electronic document submitted must bear the valid electronic signature of a signatory, if that signatory would be required under the DEM-administered program to provide a handwritten signature on the paper document for which the electronic document substitutes.

(E) If no signature is required under the DEM authorized program, individuals may submit electronic documents in lieu of paper to satisfy requirements of such programs through the appropriate electronic document receiving system without an electronic signature or an electronic signature agreement, however, users shall be required to comply with the authorization and validation requirements of the electronic document receiving system.

## **RULE 6. ELECTRONIC SIGNATURE AGREEMENT**

(A) In the case of an electronic document that must bear the electronic signature of a signatory under a DEM administered program, each signatory must execute an electronic signature agreement.

(B) All agreements shall be in writing and filed with the electronic document receiving system administrator via the U.S. postal service or by hand delivery. The agreement shall include the information and follow the appropriate format specified by the Director on the DEM's public website.

(C) The identity and authority of each individual submitting an electronic signature agreement shall be verified by the DEM. After the DEM has satisfactorily completed the verification, the DEM shall notify the individual electronically, issue a unique electronic

signature device to the individual, and request that the individual establish a password to be used in connection with the device.

#### **RULE 7. VALID ELECTRONIC SIGNATURE**

(A) An authorized signatory may not allow another individual to use the electronic signature device unique to his or her electronic signature.

(B) When the electronic signature device is used to create an individual's electronic signature, the code or mechanism must be unique to that individual at the time the signature is created and the individual must be uniquely entitled to use it. The signatory shall:

- (1) protect the electronic signature device from compromise; and
- (2) report to the DEM, within one business day of discovery, any evidence that the security of the device has been compromised.

#### **RULE 8. EFFECT OF ELECTRONIC SIGNATURE**

(A) Absent any evidence of fraud or information indicating otherwise, the presence of an electronic signature on an electronic document submitted to the DEM establishes that the signatory intended to sign the electronic document and to submit it to the DEM to fulfill the purpose of the electronic document.

(B) Where an electronic document submitted to satisfy a reporting requirement of an authorized or state program bears an electronic signature, the electronic signature legally binds, obligates, and makes the signatory responsible to the same extent as the signatory's hand-written signature on a paper document submitted to satisfy the same reporting requirement. If an applicable law or rule requires a handwritten signature on a document, an electronic signature shall be deemed to have satisfied said requirement.

#### **RULE 9. ENFORCEMENT**

(A) If the submitter or signatory fails to comply with a reporting requirement by failing to comply with the provisions of this subchapter, the electronic signature agreement, or other applicable reporting requirements, the submitter or signatory shall be subject to any appropriate civil or criminal penalties or other remedies under State or federal law.

(B) Nothing provided herein shall limit the use of an electronic document, copy of record, or other information derived from an electronic document as evidence in enforcement proceedings.

**RULE 10. SEVERABILITY**

If any provisions of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

**RULE 11. EFFECTIVE DATE**

The foregoing “Rules Related To Electronic Document Submissions”, after due notice, are hereby adopted and filed with the Secretary of State this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 42-17.1 and 42-35 of the General Laws of Rhode Island of 1956, as amended.

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Janet L. Coit, Director  
Department of Environmental Management

Notice Given on:  
Public Hearing held:  
Filing Date:  
Effective Date: