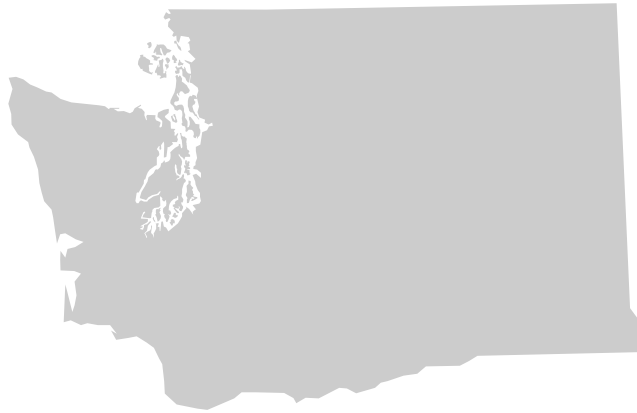


Environmental Performance Partnership Agreement



The Washington State Department of Ecology
And
The US Environmental Protection Agency

State Fiscal Year 1998
July 1, 1997 - June 30, 1998
Publication # 97-754



August 1997



Environmental Performance Partnership Agreement
For July 1, 1997 - June 30, 1998

***Between The Washington State Department of Ecology And
The US Environmental Protection Agency - Region 10***

We, the undersigned, Tom Fitzsimmons, Director for the Washington State Department of Ecology and Chuck Clarke, Regional Administrator for the United States Environmental Protection Agency, Region 10, enter into this Environmental Performance Partnership Agreement for the protection of Washington's air quality and water quality and sound management of hazardous waste.

This Agreement is a reflection of the relationship Ecology and EPA Region 10 have been moving toward over the last several years: a partnership with each other and with Washington's citizens in protecting, enhancing and restoring our natural environment. In this Agreement we have identified clear environmental priorities and desired results.

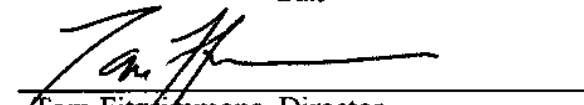
Both Ecology and EPA Region 10 will exert their best efforts in the performance of this Agreement. Disputes regarding the performance of either party to this Agreement will be resolved, consistent with applicable regulatory dispute resolution procedures, at the lowest level possible within our organizations. If this is not feasible or successful, the next level for dispute resolution will be the managers responsible for the program area in question. The final level of appeal will be the Director of Ecology and the Regional Administrator for EPA Region 10.

It is our belief that this Environmental Performance Partnership Agreement will improve environmental protection in Washington State. In addition, we hope this Agreement communicates to local communities, tribal governments and citizens our mutual goals and priorities for the upcoming state fiscal year.

Signed,

8-26-97

Date



Tom Fitzsimmons, Director
Washington Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

8/27/97

Date



Chuck Clarke, Regional Administrator
US Environmental Protection Agency
Region 10
1200 Sixth Avenue
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SECTION ONE

General Information

I. PURPOSE

The Department of Ecology [Ecology] and the Environmental Protection Agency [EPA] support a shared responsibility in meeting the environmental and public health priorities of Washington State. The purpose of this Environmental Performance Partnership Agreement for state fiscal year 1998 (July 1, 1997 through June 30, 1998) is to:

- Establish mutual environmental goals, objectives, activities and performance measures for state fiscal year 1998.
- Maintain a core level of environmental protection for all of Washington's citizens.
- Measure environmental progress using environmental indicators that are reflective of environmental conditions, trends and results.
- Allocate Ecology and EPA Region 10 resources to the highest environmental priorities of the State.
- Establish a joint work plan for administering the federal grant dollars that EPA Region 10 provides to Ecology for air quality, water quality and hazardous waste management.

In addition to this partnership between Ecology and EPA, both agencies have relationships with the 27 federally recognized tribes of Washington State, who are sovereign nations with regulatory authorities and Treaty Reserved rights. Tribal resources are not limited by the boundaries of Indian Reservations and will be impacted by the actions detailed in this Agreement. Ecology and EPA are each committed to working with tribal governments in the development of priorities and approaches to environmental protection on a government to government basis. This Agreement is not intended to define or modify these relationships and tribal lands are not included under this Agreement. Ecology and EPA each have and will continue to develop cooperative management relationships and environmental agreements with individual tribes outside of this Environmental Performance Partnership Agreement.

II. GUIDING PRINCIPLES AND STRATEGIES

Ecology and EPA Region 10 agree to the following principles to further our partnership approach to protecting Washington's environment and its people:

We will:

- Continue to work as partners to build trust, openness, and cooperation,
- Manage our collective resources to meet the highest environmental needs in the state,
- Capitalize on each other's strengths and expertise,
- Communicate more frequently and openly between ourselves and others, and
- Carry out the compliance assurance principles as stated in Section Three of this Agreement.

In addition, Ecology and EPA firmly support the following concepts which are reflected throughout this Agreement:

- Service to the public,
- Cooperation and coordination with other federal, tribal, state and local government agencies,
- Clearly stated expectations, and
- Activities that demonstrate environmental or public health improvement.

III. ECOLOGY AND EPA'S MISSION AND GOALS

Ecology and EPA have similar missions, goals and objectives that guide agency operations and decisions. It is important that each respect the roles and responsibilities of the other.

The Department of Ecology

The mission of the Department of Ecology is to protect, preserve and enhance Washington's environment, and promote the wise management of our air, land and water for the benefit of current and future generations.

To achieve this mission, Ecology has adopted the following goals.

- Prevent pollution from getting into the environment
- Clean up pollution already in the environment
- Support sustainable natural resource management.

The Environmental Protection Agency, Region 10

On behalf of the people of the United States, our mission is to protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

To accomplish this mission, EPA Region 10's environmental objectives are:

- Protect diverse ecosystems and ensure healthy airsheds and watersheds.
- Clean up contaminated sites.
- Minimize the discharge of pollutants to land, air and water.
- Prevent pollution through source reduction.
- Reduce the generation of air, land and water pollutants.

IV. ECOLOGY/EPA JOINT PRIORITIES

Ecology and EPA have agreed to the following priorities:

- Emphasize environmental results through the improved use of environmental indicators:
 - ◇ Incorporate, where practicable, national core measures.
 - ◇ Improve data systems and ensure accurate information is input into national data sets.
 - ◇ Incorporate environmental indicators into program evaluations.
- Explore the opportunity to collaborate on an environmental justice effort.
- Incorporate pollution prevention into media workplans.
- Work to bring innovative initiatives and strategies into the mainstream.
- Increase public education.
- Increase emphasis on protection of children (EPA national priority).
- EPA will work to fulfill their responsibility on tribal lands, including program implementation and compliance assurance.
- EPA will work to assure compliance at federal facilities and on federal lands.
- Ecology will work to assure compliance with environmental laws.

V. ECOLOGY/EPA ENVIRONMENTAL GOALS

Ecology and EPA have agreed to the following environmental goals:

Air

1. Attain air quality standards in air sheds that violate federal and/or state air quality standards.
2. Maintain air quality in air sheds that meet federal and/or state air quality standards.

3. Prevent unacceptable degradation of air quality in order to protect public health and welfare.
4. Improve service to the public and business community.

Hazardous Waste

1. Minimize environmental threats caused by mismanagement of hazardous waste by implementing effective compliance assurance activities including fair and firm enforcement;
2. Continue to improve the Dangerous Waste Regulations and maintain an authorized program;
3. Work toward reducing the production of hazardous waste in the state to 50% of the 1990 level;
4. Accomplish safe, timely permitting, closure and corrective action; and
5. Improve access, internally and externally, to meaningful, quality information for use in accomplishing our work including collecting information to measure our success.

Water

1. Work with Tribal governments to achieve government to government innovative solutions.
2. Continue to develop and implement the Watershed Approach to water quality management and to increase EPA and other federal agency involvement.
3. Develop and implement a strategy to complete Total Maximum Daily Loads (TMDLs) for waters on the federal Clean Water Act (CWA) Section 303(d) impaired waters list for 1996 which will settle the TMDL litigation.
4. Continue to enhance the state's Nonpoint Source Program through planning, coordination, technical assistance, and increased voluntary compliance at the local level.
5. Target improvements to the state's surface water quality standards that will enhance the effective and efficient protection of beneficial uses, threatened or endangered species, and critical habitats.
6. Promote the protection of ground water resources through coordinated state and federal technical assistance and outreach to local jurisdictions.

7. Assess compliance with existing standards and develop new methods for measuring environmental results.
8. Promote coordinated local, state, interstate, federal, and international pollution prevention and abatement efforts in special geographic areas, including implementation of the Mid-Columbia Basin Memorandum of Understanding (MOU).
9. Continue to pursue resources and legislative action as necessary to allow Ecology to adequately address animal waste-caused problems in Washington state.

VI. MEASURING FOR ENVIRONMENTAL RESULTS

One of the key benefits in the preparation of this Agreement has been the recognition that we need to measure and communicate environmental results through the use of environmental indicators. Environmental indicators are aspects of the environment (known as parameters) which are monitored regularly to show trends or changes in a particular environmental condition.

In short, they help us evaluate if something is improving or getting worse. An environmental indicator may include an animal or plant that is particularly sensitive to an environmental change, a chemical or pollutant in water, soil or air, or simply a measure of the physical quantity of a resource.

Ecology has already been using environmental indicators to help make informed decisions. An additional benefit to developing and using environmental indicators is the ability to communicate actual environmental health to the public. Ecology will be producing a second environmental indicator report, *Washington's Environmental Health 1997*, in September 1997.

VII. AGREEMENT COVERAGE

This Agreement is between the Department of Ecology and EPA Region 10. Indian Country and tribal resources are not included under this Agreement. EPA and the state each have and will continue to develop separate environmental agreements with individual tribes outside of this Agreement.

Following is a table of the air, hazardous waste management and water grants to Ecology from EPA which are covered in this Agreement. This Agreement constitutes the Ecology and EPA work plan for the award or continuation of these grants.

ECY #	EPA #	ECOLOGY TITLE	EPA CATALOG TITLE	\$ AMT	END DATE
<u>AIR QUALITY</u>					
BB96-02	66.001	Air Base FY96	Air Pollution Control (105)	1,139,052	6/30/98
BB96-03	66.001	Local Air FY96	Air Pollution Control (105)	1,371,358	6/30/98
BP96	66.001	Air Quality	Air Pollution Control (105)	unknown	6/30/98
<u>WATER PROGRAMS</u>					
EA96	66.461	Wetlands Functional Assessment	Wetlands Protection	29,991	9/30/97
F061	66.460	319(h) Nonpoint FY 93	Clean Water Act 319(h)	48,950	12/31/97
F063	66.460	319(h) Nonpoint FY 94	Clean Water Act 319(h)	183,520	12/31/97
F067	66.460	319(h) Nonpoint FY 95	Clean Water Act 319(h)	802,238	6/30/98
F076		Puyallup River Mediation	Capacity Bldg: Watershed Permit	22,277	9/30/97
F079	66.438	State Mgmt Asst Grant 205(g): FY 94	Construction Mgmt Asst 205(g)	376,711	6/30/2000
F081	66.460	319(h) Nonpoint FY96	Clean Water Act 319(h)	1,239,544	1/31/99
FA97	66.460	319(h) Nonpoint FY97	Clean Water Act 319(h)	1,810,784	4/8/2000
F086		Tribal Coordination	Clean Water Act 104(b)(3)	61,821	9/30/98
F---		Operator Outreach	Clean Water Act 104(g)	35,000	9/30/98
F090		Integrate Grants to Watershed Approach	SRF Framework Development	22,154	9/30/97
F091		Watershed Approach Liasion with EPA	Watershed Approach Training	7,719	8/31/97
F092		Agriculture Economic Analysis		5,091	7/31/97
F094		Riparian Buffer Monitoring	Clean Water Act 104(b)(3)	5,000	12/31/98
F971		Multimedia Innovative Compliance	Toxic Substances Control Account	478,922	12/31/2001
FB98		Water Grant	Performance Partnership Grant	1,101,069	6/30/98
G301 93	66.458	SRF Loan Program 93	State Revolving Fund	2,989,462	9/30/98
G301 94	66.458	SRF Loan Program 95	State Revolving Fund	20,656,847	9/30/99
G507	66.438	Construction Mgmt Asst 205(g)	Clean Water Act 205(g)	1,227	6/30/98
G606	66.454	Water Quality Planning: FY 95	WQ Mgmt Planning 205(j)(2)	195,842	6/30/98
<u>HAZARDOUS WASTE</u>					
M203	66.801	Hazardous Waste RCRA FY97	Haz Waste Mgmt Support	2,186,761	6/30/98
NB93	66.463	Biosolids Management Program	Clean Water Act 104(b)(3)	38,604	6/30/98
N401	66.463	Conversion to Watershed/Biosolids	Clean Water Act 104(b)(3)	65,000	12/31/98

Both Agencies recognize that numerous on-going relationships and commitments will continue, as negotiated. Unless superseded by this Agreement, all existing commitments and requirements remain in effect. These include, but are not limited to:

- Delegation of the National Pollutant Discharge Elimination System (NPDES) Program
- Compliance Assurance Agreements for water, air and hazardous waste management
- State Revolving Loan Fund Operating Agreement
- State Revolving Loan Fund Intended Use Plan
- National Estuary Programs
- Nonpoint Source Assessment Report
- Nonpoint Source Statewide Management Plan
- Enforcement Response Policy for Resource Conservation and Recovery Act
- Resource Conservation and Recovery Act Memorandum of Understanding

Please note that this Agreement also includes joint Ecology and EPA Region 10 activities in air, hazardous waste management and water which are not necessarily funded by federal dollars but have been identified as areas of partnership for the two agencies. This Agreement does not cover all Ecology programs receiving EPA grant assistance. However, the guiding principles and concepts stated above are reflected in all Ecology and EPA interactions.

Ecology and EPA have relationships with the 27 federally recognized Indian tribes of Washington State, who are sovereign nations with regulatory authorities and with rights and resources reserved by treaties or by other means. The United States government has a unique trust responsibility to tribal governments arising from Indian treaties, statutes, executive orders and court decisions. The EPA Indian Policy is that EPA will operate within a government-to-government relationship with federally recognized Indian tribes and will support the principle of tribal self-government in the implementation and administration of federal environmental programs in Indian Country. EPA also encourages cooperation between state, tribal and local governments to resolve environmental issues of mutual concern. This Agreement is not intended to define or modify these relationships, and “Indian Country” and tribal trust resources are not included under the Agreement. Ecology and EPA each have and will continue to develop separate environmental agreements with individual tribes outside of this Environmental Performance Partnership Agreement.

Performance Partnership Grant

Ecology and EPA are entering into a Performance Partnership Grant for state fiscal year 1998. The following water grants are included in the Performance Partnership Grant:

- Surface Water 106 Grant (Basic Water Grant)
- Groundwater 106 Basic Grant

- Groundwater Pesticides Grant
- Water Quality 104(b)(3) Grant
- Underground Injection Control Grant
- Pollution Prevention Incentives for States Grant

The purpose of the Performance Partnership Grant is twofold:

1. Reduce administrative burden by consolidating several grants into one.
2. Increase the flexibility of moving resources among grants/programs to meet the highest environmental water quality needs in the State.

VIII. EVALUATION PROCESS

Ecology and EPA Region 10 will assess progress, as well as identify adjustments and additional actions that need to be taken, throughout the term of this Agreement. This assessment will include the following elements:

- Effectiveness: how readily the Agreement enabled Ecology and EPA to direct resources to improve environmental outcomes.
- Public credibility: how credible and reliable the public finds the measures used to report environmental outcomes.
- Fiscal soundness and program accountability: how well this Agreement enabled Ecology and EPA to manage public funds in an efficient, effective and economical manner.

The findings from these evaluations will be used to develop any further refinements that might be needed.

IX. PUBLIC INVOLVEMENT OPPORTUNITIES

Public comment on the draft Environmental Performance Partnership Agreement was accepted through July 25, 1997. Comments were received from six responders. The comment letters and responses to the the comments are included in Section Seven: Responsiveness Summary of this Agreement.

This Environmental Performance Partnership Agreement is available on both Ecology's and EPA's Internet Home Page at the following addresses:

Ecology:

<http://www.wa.gov/ecology>

EPA:

<http://www.epa.gov/docs/region10/www/r10.html>

Further information can be obtained by contacting:

For Ecology: Dee Peace Ragsdale
 WA Department of Ecology
 PO Box 47600
 Olympia, WA 98504-7600
 Phone: 360-407-6986
 FAX: 360-407-6989
 Email: drag461@ecy.wa.gov

For EPA Region 10: Jack Boller
 US EPA, Region 10
 Washington Operations Office
 300 Desmond Drive, Suite 102
 Lacey, WA 98503
 Phone: 360-753-9428
 FAX: 360-753-8080
 Email: oller.jack@epamail.epa.gov

SECTION TWO

Special Projects

INFORMATION INTEGRATION

I. DESCRIPTION

In 1995, Ecology began a long-term project to integrate its environmental and business information and make it more accessible to others. The reasons Ecology decided to integrate its information, are:

- Ecology's business is changing from program by program decision-making to a multi-media (air, water, land) and geographically based process.
- Access to our data is a growing need by local government decision-makers and the public.
- Ecology has many autonomous data management systems with little access or consistency across the agency. Combining information is functionally very difficult.
- Much of our environmental information is used once and then effectively lost for future use.

II. GOAL

From their desktop, users will be able to evaluate multi-media, multi-program data and geographically summarize or depict information. Ecology staff will have access to the administrative information about the facilities and sites we manage. External users (via the Internet) will also have access to facility related information.

The integrated information management goal has five critical components:

- Multi-media information integration across program areas (air, water, land).
- Cross-functional integration of information (for example, between enforcement and release data).
- Ecology expenditures linked to activities which are linked to environmental conditions and results.
- Geographic-based analysis. Multiple modes of access (or, query capabilities) is another highly desirable feature.
- Data are of known quality and are presented using consistent standards.

III. OBJECTIVES AND ACTIVITIES

Ecology's objectives and activities for fiscal year 1998 are:

Increase the ability of Ecology to collect, analyze, report and share multi-media information throughout the state.

- Scope, design and implement the Environmental Information Management Business Area Analysis (one of several business areas defined within Ecology). This is defined as the collection and analysis of analytical data which helps determine the environmental condition of air, land and water throughout the state.
- Move data from our older legacy systems to the newly constructed Facility and Site Identification System and the Environmental Information System.
- Partner with other agencies and tribes in order to make our activities more complete and beneficial to a wider audience in a shorter period of time.

In support of Ecology's Integrated Information Project, EPA will:

- Work with Ecology Information Integration staff to explore ways to fund and increase state-wide Geospatial Information System (GIS) coverage of environmental significance.
- Explore ways to pilot cooperative programs designed to provide the public and local communities access to information.
- Explore ways to improve and fund greater data collection and storage consistency, reduce duplication, improve consistency across the regulatory programs (for example, air, water and waste) and diminish duplicative reporting burdens placed on the regulated community.
- Work with Ecology to make maps of Facility/Site Information available to the public via the Internet.

REGIONAL SALMON RELATED ENVIRONMENTAL INDICATORS

I. DESCRIPTION

Ecology and EPA are participating in a work group to identify a set of environmental indicators for use on a region-wide basis. The mission of the Pacific Northwest Environmental Indicator Work Group (Work Group) is to promote the ongoing development and use of integrated environmental indicators for decision makers to protect or restore the environmental quality of the Pacific Northwest for present and future generations. Other members of the Work Group include Alaska, Oregon, Idaho, British Columbia and Environment Canada (Pacific and Yukon Region).

II. GOALS

The Work Group is undertaking the identification and development of environmental indicators at the direction of the heads of Pacific Northwest federal, state and provincial environmental agencies to:

- Determine the current condition of the environment as a whole;
- Develop a tool that can assist in comprehensively measuring the effectiveness of the agencies' environmental programs; and
- To use environmental data to set management priorities.

III. OBJECTIVES AND ACTIVITIES

Ecology and EPA in collaboration with the five other environmental agencies have chosen to pilot one region-wide issue: Salmon stocks at risk. This pilot effort is focused on developing a set of water quality and quantity and habitat protection indicators linked to salmon stocks at risk.

The selected indicators will be those most important to the environmental agencies of the seven jurisdictions. However, the Regional Workgroup is collaborating with other state and federal agencies, tribes and public interest groups in this effort. Other similar efforts will be evaluated for consistency and linkages. The following will take place over the next year.

The objective is to identify the specific indicators that best capture the critical aspects of factors contributing to healthy habitat for salmon. This will be done by the following activities:

- Factors have been identified and initial indicators selected in a Regional Salmon Indicators Work Shop held in mid-June. Participants at that workshop included regional representation from state and federal fisheries agencies, water quality and quantity resource managers and public interest groups.
- Based upon the outcome of the work shop, the Pacific Northwest Environmental Indicators Work Group, of which Ecology and EPA are members, will identify data sources in collaboration with others to support the development of selected indicators.
- The Pacific Northwest Work Group will identify data gaps and strategies for filling those gaps.
- Ecology will incorporate the selected indicators, as feasible and practicable, into its indicator selection process as described in the Water Section of this Agreement.

STATE ENVIRONMENTAL EXCELLENCE PROGRAM

I. DESCRIPTION

The Washington State legislature recently authorized a new approach to environmental protection. This new law (Laws of Washington, 1997, Chapter 381), authorizes and directs state agencies to solicit and support environmental excellence agreements that use innovative environmental measures or strategies to achieve environmental results more effectively or efficiently.

- More effective environmental results are defined as results that are better **overall** than those that would be achieved under the legal requirements superseded or replaced by the environmental excellence agreement.
- More efficient environmental results are defined as results that are achieved at reduced cost under the legal requirements superseded or replaced by the agreement, but the **overall** environmental results achieved by the participating facility can not be decreased.

For the regulated community, this is a voluntary program and will depend on facilities coming in with proposals for environmental excellence agreements.

While the principles for agreements are under development, they are expected to include the following:

- Require approaches that meet or exceed overall environmental results, including protection of public health.
- Opportunity for stakeholder involvement during all phases of any proposal.
- Adequate monitoring and reporting, including providing public access to information.

- Adequate enforcement and compliance assurance mechanisms.
- Transferability of new approaches to others.
- Environmental justice.
- Encouraging agreements that result in pollution prevention.

II. GOALS

Respond to proposals to develop projects that will provide improved environmental results while providing protection to human health and the environment.

The success of any such projects will depend on:

- Effective Notice and Opportunity for comment.
- Enforceable limits as well as non-enforceable goals.
- Adequate monitoring and reporting.
- Periodic review and evaluation.

III. OBJECTIVES AND ACTIVITIES FOR FISCAL YEAR 1998

Ecology's objectives and activities for fiscal year 1998 are:

Inform the public and potential applicants regarding opportunities and challenges provided by this new law. To accomplish its goals Ecology will do the following:

- Develop principles for environmental excellence program agreements.
- Communicate with a wide range of stakeholders, including representation from public interest groups, EPA, labor representatives, municipalities, tribes, the regulated community and concerned citizens.
- Provide education and outreach presentations and materials for interested parties.
- Develop a web site for electronic access to information related to environmental excellence program agreements.

In support of Ecology's Environmental Excellence Agreements Program, EPA will:

- Provide information on the lessons learned from the national environmental excellence program.

- Provide a timely review and response to any proposed state projects. EPA’s criterion of “superior environmental performance” as it is defined in the Federal XL program will be used in evaluating proposed agreements. EPA’s criterion of superior environmental performance was clarified in its April 23, 1997 Federal Register notice.
- Help the state provide public access to information related to state projects .

POLLUTION PREVENTION INCENTIVES TO STATES SMALL COMMUNITY PROJECT

I. DESCRIPTION

The Department of Ecology will work with approximately four small communities in the state implementing pollution prevention strategies related to water usage and disposal. A small community can be any incorporated town, unincorporated area or recognized tribe or area within a tribal reservation with a population less than 2,500 people.

Small Communities in the state face the same regulatory requirements and responsibilities as larger cities. They often lack the financial and technical resources to address those responsibilities. Many communities have grown to rely on outside expertise and grant funds to meet requirements. These communities have not been empowered or expected to take full responsibilities for their infrastructure and compliance issues.

The wastewater collection and treatment system is one of the most costly and important infrastructure systems that a community operates. The system begins at the source - home or business - and ends at the outfall. We will work with communities to identify and implement strategies to reduce pollutant and hydraulic loading of the wastewater system. The wastewater treatment plant will be monitored to evaluate success.

II. GOAL

To use pollution prevention strategies to improve the operation of wastewater treatment systems in small communities by reducing the volume, toxicity and organic component of wastewater flows into the sewer systems and wastewater treatment plants. It is anticipated that through pollution prevention, these facilities will operate better and have increased capacity at the treatment plant for the community.

III. ENVIRONMENTAL INDICATORS

Reduced pollutant and hydraulic loading at the treatment plant to less than 85 percent capacity.
Reduction of toxic materials disposed into the wastewater system.
Extended life of the wastewater treatment systems.

IV. OBJECTIVES AND ACTIVITIES

Approximately four small towns will be identified to carry out the three-year pollution prevention project. Towns with wastewater treatment plants that are at 85 percent of capacity or above, but are relatively new plants or are in a condition that they need not be replaced or rehabilitated *if capacity problems can be solved* will be targeted as primary candidates.

Wastewater treatment plants and sewer systems in the selected towns will be evaluated. A report will be prepared by the public works personnel in accordance with the general format developed by Ecology in 1994 under EPA's Municipal Wastewater Pollution Prevention Program. Ecology will provide substantial technical assistance. But the report will not be prepared by Ecology. The report will be submitted to the town council showing the efficiency and effectiveness of the treatment plant and recommend specific improvements. It will identify problems that need to be addressed, capacity, treatment, sources - commercial, industrial and residential, etc.

The report will focus on seven basic applications of pollution prevention and waste reduction. These applications will be used in this first real attempt to implement pollution prevention at the local wastewater treatment plant and sewer system level in small communities. These applications include process modification, product modification, waste segregation, material substitution, housekeeping, in-plant/closed loop recycling and material and energy conservation

Results Anticipated:

Through application of p2 strategies, the efficiency and effectiveness of the wastewater treatment plant and sewer system will be improved by reducing toxics loading, organic loading, and the quantity of influent water. This should improve effluent quality, and may eliminate the need for immediate capital investment by extending wastewater treatment plant life.

An additional result is a master financing plan for the facility that includes an evaluation of the rate structure and recommendations on how the plant would become self-sustaining. The plan would look not only at current operation and maintenance costs, but would also include long-term upgrades, expansion, and replacement needs. Influent will be reduced, so more hook ups will be paying rates thus providing additional funds for plant improvement capital funds to pay for short and long-term needs identified.

The wastewater treatment plant and sewer system will realize reduced operating costs, improved operation, reduced toxic and organic loading, reduced influent flow; and a better quality effluent will likely be produced.

SECTION THREE

Compliance Assurance Principles

Reprinted as adopted and signed by Washington, Idaho, Oregon, Alaska and EPA Region 10

Background

As part of the Performance Partnership process, EPA Region 10 and the environmental agencies of Alaska, Idaho, Oregon and Washington (State Agencies) have been working on a set of principles to guide our relationships and actions in compliance and enforcement matters. This document memorializes the discussions that have taken place amongst EPA and the State Agencies in February, March and April, 1997.

There are four major categories of principles described below. They cover: Collaborative Planning, EPA/State Role Definition, Performance Measurement/Oversight, and Information Sharing and Data Responsibilities. These principles also contain some significant agreements that have been reached. These include:

- commitment to "up front" planning within the EnPPA process to avoid problems, duplication, and surprises.
- recognition of the State Agencies' "right of first refusal" on agreed upon work in a delegated program, except in those situations where regional or national initiatives warrant an EPA lead. Such exceptions would occur only after full and open consultation with the State Agency.
- recognition that the State Agencies should make a commitment to define and negotiate EPA's role in a given year, and that the identified role must be a meaningful one and EPA must agree to it.
- Recognition that the State Agencies and EPA should work together to define expectations and program review criteria.

The partnership/delegation relationship that exists between EPA and State Agencies clearly has paradoxical qualities that can lead to confusion regarding respective roles. Delegation often implies that the state or local agency is in the front lines, with EPA in a support role. Partnership, on the other hand, implies that both the State Agency and EPA are "shoulder to shoulder" on the front-line. These principles are designed to help EPA and State Agencies cope with this situation by emphasizing planning, joint priority setting, and complementary role definition.

COLLABORATIVE PLANNING

General

EPA and the State Agencies will coordinate their respective enforcement and compliance assurance planning efforts to complement the EnPPA process as appropriate. Planning should cover goals; priorities; resources; key activities and performance measures; and respective roles and responsibilities of the agencies.

Collaborative Planning Process

EPA and the States will engage in collaborative planning on a regular basis. The overarching principles for these interactions will include:

- Managing for environmental results and high compliance rates.
- Clearly articulating the enforcement and compliance assurance program mix and philosophy.
- Each party bringing to the planning effort its entire body of compliance work, and committing to: 1) exploring the full range of regulatory tools, including compliance assistance approaches, and 2) addressing both large and small sources as part of its implementation efforts.
- Establishing up-front agreements on roles, goals, priorities, and measures.
- Adhering to the principle of "No Surprises".
- Maximizing the effectiveness of agency resources, reflecting respective agency capabilities, and avoiding duplication of efforts.
- Eliminating conflicting messages.
- Including discussions of disinvestments and resource adjustments in any planning for new initiatives that arise during the course of the year.
- Complying with existing interagency agreements, such as Compliance Assurance Agreements and the Ecology/EPA agreement on multimedia inspections.

The process should begin with each agency developing priority activity areas for a given year (or other planning cycle that the parties agree to). As part of the preliminary planning, each agency will consider the following guidance:

- Office of Enforcement and Compliance Assurance (OECA) Memorandum of Agreement and Core Measures guidance. EPA is responsible for filtering this guidance into key

performance expectations and measures, and for clarifying roles in support of these activities and measures. EPA Region 10 will work with OECA to avoid surprises and support the planning process;

- the Region 10 regional strategy and any specific program strategies; and
- EPA and State Agency program specific guidance.

EPA will solicit State Agency input on, and then communicate at the start of the planning process, the following:

- Specific targeting priorities, including multimedia targeting, sector priorities, and other national compliance priorities.
- Priorities for sharing state and EPA capacity.
- Strategic directions for compliance assistance efforts.
- Priority areas based on compliance rates or concerns regarding State Agency performance.
- The mix of program specific versus general enforcement priorities. In particular, EPA will communicate cross-program priorities at the start of the planning process, and work internally to avoid conflicting messages to the State Agencies.

The State Agencies will bring to the preliminary negotiations the following:

- State Agency enforcement and compliance priorities,
- A description of State Agency core program activities, and
- State Agency proposals for EPA's role in the priority target areas identified by EPA.

In the planning negotiations, clear procedures to implement the agreed on priorities and define respective roles should be developed. For EPA proposed efforts in delegated programs, State Agencies should have the "right of first refusal" to take on the work themselves, except in those situations where regional or national initiatives warrant an EPA lead. Such exceptions would occur only after full and open consultation with the State Agency. In turn, State Agencies will propose a role for EPA so that resources of both agencies are maximized and a federal enforcement presence is maintained.

The following are possible mechanisms for implementing the priorities that either EPA or the State Agencies identify, and should be specific outcomes of the EnPPA process:

- The State Agency as primary implementor. This would generally represent the core

program work in delegated programs. This core program work should be defined through either the delegation process, or defined between the State Agencies and EPA in such a form as the Compliance Assurance Agreement.

- The State Agency accepts the EPA priority as its priority and does the work per agreed upon expectations.
- EPA performs the agreed on priority action at the State Agencies request. This would typically happen in cases where resources or State Agency capability would cause the State Agencies to request this.
- EPA does the work even if the State Agency does not want them to. One example of this would be where delegated State Agency programs are not performing adequately. Criteria and processes for this determination should be incorporated into program specific compliance assurance agreements.
- The work does not get done. This should be jointly agreed to by both EPA and the State Agency during the EnPPA process.

EPA/STATE AGENCY ROLES

EPA Roles

In Delegated Programs. EPA's principal role in delegated programs should be as "back-up" for the State Agency program. However, EPA should initiate an enforcement action under the following circumstances:

- At a State Agency's request,
- If a State Agency action is determined to be not adequate (In this situation, EPA will adhere to the "no surprises" principle).
- As part of its agreed on role established in the annual planning process.

In non-delegated programs under the federal Clean Air Act, Clean Water Act or Resource Conservation and Recovery Act authorities. Although a State Agency may implement a program under analogous state authorities, here EPA often is the lead on compliance and enforcement issues. However, EPA will also follow a policy of "No Surprises" in carrying out its responsibilities in these situations, and in the three categories of activities described below, unless inconsistent with Tribal sovereignty rights.

Role on Tribal Lands. EPA has a duty to address environmental issues on reservations, stemming from treaties the US government has signed with the Tribes. EPA and Tribal governments are usually the only regulators on reservations, and no enforcement programs have

yet been delegated to any Region 10 Tribes. Consequently, EPA has enforcement responsibilities with regard to all enforcement programs on reservations.

Role at Federal Facilities. EPA should be prepared take a lead role in dealing with Federal Facilities where requested by a State Agency program. Here State Agencies should play a significant role in identifying areas where a stronger enforcement presence is needed.

Coordination of civil and criminal programs. EPA and the State Agency will operate in a cooperative manner to define the criminal program role in the overall compliance and enforcement process.

State Agency Role

In delegated programs, the State Agency role is as the "front line" agency in program implementation. This includes helping to define EPA's role in the regulated community for a given program. Exceptions to this include those situations where regional or national initiatives warrant an EPA lead. These would be exceptional situations, such as the implementation of new federal regulations, or those instances where an individual state program does not have a comparable deterrence capability, e.g., against a single entity with facilities in more than one state, or to ensure a level playing field by recovering economic benefit and commensurate penalties from entities involved in a national market. Such exceptions would only occur after full and open consultation with the State Agency concerning the appropriate roles of the respective agencies in taking the action.

EPA/State Agency Joint Roles

Capacity sharing. In some instances EPA can help a State Agency improve its performance by providing technical assistance in a variety of forms. However, capacity sharing is a two way street. There are many areas where State Agencies have knowledge and skills that EPA staff would benefit from. EPA and the State Agencies should actively seek opportunities in both these situations.

These general principles should be reflected in EnPPA discussions, and in Compliance Assurance Agreements.

PERFORMANCE MEASUREMENT/OVERSIGHT

General Principles

- EPA will use differential oversight and a range of responses to assess State Agency performance, including "system level" reviews.
- The primary focus of oversight should be on a whole program or "holistic" basis. Oversight inspections at individual facilities are a necessary part of developing this "holistic" approach.
- EPA will limit its review of State Agency decisions to a standard of whether the delegated entities made factual errors in technical calculations, or errors in interpretations of federal law, regulations or guidelines.

Performance Measures

Within available resources,

- EPA and the State Agencies will strive to measure accomplishments for the full spectrum of enforcement and compliance assurance activities.
- EPA and the State Agencies will continue to count traditional activities, such as inspections and enforcement actions, but will also strive to measure environmental results where feasible.
- EPA and the State Agencies will analyze, and present available information about: a) actions taken by the regulated community, b) the benefits of those actions to human health and the environment, and c) the level of compliance in priority industry sectors
- EPA and the State Agencies will continue to refine measures of success.

Oversight Inspections

Oversight inspections will focus on evaluating a State Agency's inspection and compliance assurance program. This will be done by evaluating the State Agency inspector and his/her compliance determination during the inspection and subsequent follow-up process. Part of this evaluation will include an off-site debriefing with the State Agency inspector to discuss EPA's initial compliance findings. Care will be taken to ensure that the facility does not receive conflicting messages from EPA and the State Agency. If there is a disagreement on compliance issues, the dispute resolution process of these principles should be used. If the State Agency does not address in a timely and appropriate manner compliance issues raised by EPA, then the State Agency understands that EPA may overfile. In this situation EPA's action should be timely and

appropriate.

INFORMATION SHARING AND DATA RESPONSIBILITIES

Working with Current Data Base Systems

It is important that both state and EPA programs are committed to using at a minimum the existing (national) compliance data systems. EPA and the State Agencies are working to make these program specific systems more user friendly, and better able to link data from the various media. However, along with that effort must come a commitment to using the systems we now have to their full advantage. These systems include AFS, PCS and RCRIS.

Ensuring Sufficient Information to Assess the Adequacy of Program Implementation

In addition to maintaining data systems, program offices should work with their State Agency counterparts to clarify the kinds of information and records that are critical for making these determinations. This work also needs to be integrated with current developments in how we define and measure success.

Collaboration to Define Critical Elements

In order to ensure that staff in both EPA and State Agency programs are fully aware of reporting priorities, improved and consistent definitions of common terms are needed. EPA and the State Agencies should collaboratively identify and clarify the most critical data elements.

MISCELLANEOUS

Integration with Existing Agreements

These compliance assurance principles reflect the current positions of the State Agencies and EPA Region 10. As appropriate they can be used to assist in the implementation of existing agreements. EPA Region 10 and the State Agencies will adhere to these principles when developing any future state/EPA agreements addressing enforcement and compliance matters.

Dispute Resolution

EPA and the State Agencies recognize that disputes may occur. All parties will attempt to resolve these disputes promptly and at the lowest level. If disputes cannot be resolved within seven days, they will be referred to the supervisor level. This supervisory referral and resolution process will continue, if necessary, to the level of State Director and EPA Regional Administrator.

Disclaimer

Nothing in these principles shall be construed to constitute a valid defense by regulated parties in violation of any state or federal environmental statute, regulation or permit. This agreement is not intended to, and does not, waive any authorities available to the states and EPA. Nor can this agreement be used to create a cause of action not otherwise available against the states or EPA.

SECTION FOUR

Air Quality

I. DESCRIPTION

To work as partners with government agencies, Indian Tribes, affected parties and the public to prevent, reduce and control air emissions and improve the air quality and health of the citizens of Washington State.

II. GOALS

1. Attain air quality standards in air sheds that violate federal and/or state air quality standards.
2. Maintain air quality in air sheds that meet federal and/or state air quality standards.
3. Prevent unacceptable degradation of air quality in order to protect public health and welfare.
4. Improve service to the public and business community.

III. JOINT PRIORITIES-(EPA/Ecology/Local Air Authorities)

- Prepare for revised Federal National Ambient Air Quality Standards (NAAQS)
- Expand inter-governmental and Indian Tribe partnerships
- Prepare attainment and maintenance State Implementation Plans (SIPs), and re-designate as appropriate
- Update phase 1 of the visibility SIP
- Implement the Compliance Assurance Agreement and Principles
- Ecology/Local Air Authorities continue to implement and improve the core activities such as:
 - ◇ Operating Permits
 - ◇ Vehicle Emission Check Program
 - ◇ Indoor and Outdoor Burning
 - ◇ Public Education
 - ◇ Air Monitoring
 - ◇ Pollution Prevention

- ◇ Notice of Construction, New Source Review, Prevention of Significant Deterioration
- ◇ Maintenance Plan Implementation
- ◇ Business /Technical Assistance

IV. ENVIRONMENTAL INDICATORS

- Quantity of emissions reduced or prevented by point source strategies, motor vehicle strategies and area source strategies.
- Total number of air pollution measurements each year that exceed the concentrations established by federal and state ambient air quality standards.
- Total number of person exposure days each year to air pollution levels exceeding federal and state ambient standards.
- Long term monitoring trends by pollutant and SIP monitoring location
- Reductions in air emissions attributed to permitting activities.
- Cumulative hours of visibility impairment between July 1, and Labor Day for each Class 1 area in Washington state where Ecology monitors.
- Status of non-attainment areas
 - ◇ Number of designated non-attainment areas
 - ◇ Number of designated non-attainment areas that are in monitored attainment of the NAAQS
 - ◇ Number of areas which are re-designated from non-attainment to attainment

V. OBJECTIVES AND ACTIVITIES

Assumed within the listed Objectives and Activities are a set of “Core” or ongoing program activities that both Ecology and EPA commit to continue. Examples of these “Core” activities would include; maintenance and operation of the vehicle emissions program, air monitoring, and outreach and education. In addition, both EPA and the State will continue to work together to assess and refine the list of indicators as adequate measures of the State’s air program success. Both agencies will address any emerging air quality issues in a proactive manner.

1. National Ambient Air Quality Standards (NAAQS) are being met in all areas of the state and all non-attainment areas have been re-designated to attainment by the year 2000. (goals 1, 2)

◇ Ecology FTE: 67 EPA FTE: 2 Local Air Authorities: 20

Ecology, in partnership with Local Air Authorities, will:

EPA Region 10 will:

- | | |
|---|---|
| a) Assure appropriate action is taken to bring Spokane into attainment and maintenance for carbon monoxide (CO). | a) Based on data gathered in Spokane, make a decision regarding the administrative requirements for the Spokane CO plan . |
| b) Submit the Seattle, Kent, and Tacoma Particulate Matter (PM) ₁₀ Maintenance Plans by 3/1/98. | b) Propose approval of the Seattle, Kent, and Tacoma PM ₁₀ Maintenance Plans in a reasonable time. |
| c) Begin to prepare the CO and PM ₁₀ Maintenance Plans for Yakima and make significant progress by 6/30/98. | c) Provide continuing feedback on the CO and PM ₁₀ Maintenance Plans for Yakima. |
| d) Submit the PM ₁₀ Maintenance Plan for Lacey by 8/1/97. | d) Propose approval of the PM ₁₀ Maintenance Plan for Lacey by 3/1/98. |
| e) Begin to prepare the PM ₁₀ Maintenance Plan for Spokane with significant progress by 6/30/98. | e) Provide continuing feedback on the PM ₁₀ Maintenance Plan for Spokane. |
| f) Operate and evaluate the National Ambient Air Monitoring/State and Local Ambient Monitoring (NAMS/SLAM) network. Submit data into Aerometric Information Retrieval System (AIRS). | f) Approve changes to and provide feedback on National Ambient Air Monitoring/State and Local Ambient Monitoring (NAMS/SLAM) network. Participate on Ecology/Local Air Authorities network advisory committee. Provide technical assistance as requested and respond to annual and biennial evaluations within 60 days. |
| g) Conduct data analysis and report trends during the yearly "Trends Meeting" and participate in mid-year reviews with EPA. | g) Participate in mid-year reviews with Ecology and the Local Air Authorities. |
| h) Continue to operate the Vehicle Emission Check Program. | h) Provide technical assistance as requested. |
| i) Undertake a comprehensive review of the Vehicle Emission Check Program to determine the most effective way of identifying the highest emitting vehicles and ensuring they operate cleanly. | i) Provide technical assistance as requested. |

2. Programs are in place to address existing and anticipated problems associated with violations of current and future NAAQS and other air quality guidelines by June 30, 1998. (goals 1,2)

◇ Ecology FTE: 13.5 EPA FTE: 2 Local Air Authorities: 4

Ecology, in partnership with Local Air Authorities, will:

EPA Region 10 will:

- | | |
|--|--|
| <p>a) Analyze data from Ozone field studies to determine if volatile organic compounds (VOC) or Nitrogen Oxides (NOx) need to be limited to prevent forming Ozone .</p> <p>b) In response to new Federal PM NAAQS, begin to develop inventory, modeling, and monitoring expertise.</p> <p>c) Prepare revisions to the Visibility SIP based on recommendations from the “Review of the Washington State Visibility Protection State Implementation Plan-Final Report”.</p> <p>d) Work with stakeholders and the agricultural community to reduce emissions from agriculture sources of air pollution.</p> <p>e) Analyze data from CO saturation studies, in non-attainment areas of the state, to determine compliance with NAAQS and help verify CO monitoring needs.</p> <p>f) Implement all approved Maintenance Plans in required areas of Washington State.</p> <p>g) Submit a PM 2.5 monitoring SIP in accordance with national guidance set by EPA.</p> <p>h) Coordinate and monitor the Columbia Plateau Project, (who’s purpose is to determine best management practices for farmers ,enabling them to help reduce PM in this area), consistent with the approved work plans.</p> | <p>a) Peer review Ozone studies.</p> <p>b) Funding guidance and technical support.</p> <p>c) Participate on Visibility work group and provide continuous feedback on the Visibility SIP revisions.</p> <p>d) Work with Federal agencies to address air pollution on Federal lands. Assist Ecology and Local Air Authorities in negotiations with the U.S. Department of Agriculture on forest land burning and private agriculture burning.</p> <p>e) Participate in a peer review. Comment on a continuous basis during the process.</p> <p>f) Begin to develop federally enforceable implementation plans for Indian Country.</p> <p>g) Provide technical support and implementation funding; act on the monitoring SIP no later than 18 months after a completed submittal of the promulgation of the PM 2.5 standard.</p> <p>h) Provide technical support, coordination and funding of the Columbia Plateau project consistent with the approved work plans.</p> |
|--|--|

3. Regulated community achieves and maintains a high rate of compliance with air quality requirements by June 30, 1998. (goals 1,2,3)

◇ Ecology FTE: 26.5 EPA FTE: 4.5 Local Air Authorities: 70.5

Ecology, in partnership with Local Air Authorities, will:

- a) Implement the Compliance Assurance Agreement and principles.
- b) Participate in identifying compliance priorities, with EPA, as noted in the Compliance Assurance Principles Guidance.
- c) Assure all required Air Operating Permit program elements are in place for final approval of the Washington State program.
- d) Issue half of the air operating permits by 12/1/97, and all permits in the state by 7/1/98.
- e) Participate in monthly significant violators conference calls.
- f) Air Facility System (AFS) data updated on a regular basis. Track and maintain AIRS significant violators. Attend AIRS training.
- g) Local Air Authorities and Ecology Regions with local authority, submit quarterly, core grant activity information on enforcement, permitting, monitoring, public education, planning and technical/business assistance .
- h) Implement Notice of Construction, Prevention of Significant Deterioration (PSD), and Part 60 regulations. Request updated Part 60 delegations each year.
- i) Conduct training on Notice of Construction, PSD, Part 60 and other training needs as identified.

EPA Region 10 will:

- a) Implement the Compliance Assurance Agreement and principles.
- b) Solicit, from Ecology and Local Air Authorities, input on compliance priorities as noted in the Compliance Assurance Principles Guidance.
- c) Issue final approval of Operating Permit program for Washington state.
- d) Feedback and technical assistance on individual permits.
- e) Conduct monthly significant violators conference calls.
- f) Assist with AFS. Provide AIRS training and technical support.
- g) Feedback and technical assistance on information provided.
- h) Provide technical assistance in PSD and Part 60. Respond to request for delegation of Part 60 within 90 days of Request.
- i) Provide funding and technical assistance.

- j) Ecology and Local Air Authorities, with assistance from EPA, will perform 2 performance evaluations on the Core grant program, per year, and provide a summary report.
- k) Either request delegation of all Part 61 and 63 of the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) or submit 112(l) requests.
- l) Implement delegated NESHAPs and develop a training program for staff.
- m) Ecology and Local Air Authorities will develop a list of suggested inspections of facilities in the operating permit program, & conduct inspections jointly with EPA.
- j) EPA, with assistance from Ecology and Local Air Authorities, will set criteria for a Air Quality Program Review.
- k) Respond to delegated NESHAPs within 90 days of request, approve 112(l) within 180 days of request.
- l) Provide funding and technical support for training and implementation.
- m) Assist in the development of identifying facilities to be jointly inspected with Ecology and the Local Air Authorities.

4. Programs are in place that improve service to the public and the business community.

◇ Ecology FTE: 15 EPA FTE: 2 Local Air Authorities: 15

Ecology , in partnership with Local Air Authorities, will:

EPA Region 10 will:

- a) Implement the Chlorofluorocarbons (CFC) Memorandum of Understanding (MOU) as signed by Ecology and EPA.
- b) Implement the Asbestos MOU as signed by Ecology and EPA. Local Air Authorities will continue to implement asbestos strategy and input data into the National Asbestos Registry System/Alternative Control Technology data, quarterly.
- c) Educate citizens regarding their role in achieving clean air.
- d) Continue to update Ecology and Local Air Authorities Air Quality home page's on the Internet with valuable air quality information, including real time monitoring data, SIP table of contents and Washington Administrative Codes.
- a) Implement the CFC MOU as signed by Ecology and EPA
- b) Implement the Asbestos MOU as signed by Ecology and EPA. Maintain National tracking systems and provide technical assistance.
- c) Provide technical assistance and funding to help educate public on clean air issues.
- d) Attempt to link or refer EPA Region 10 home page to Ecology and Local Air Authorities home pages.

SECTION FIVE

Hazardous Waste Management

I. DESCRIPTION

The Hazardous Waste Program is implemented pursuant to the federal Resource Conservation and Recovery Act (RCRA) and the state Dangerous Waste Regulations. The purpose of the program is to assure that generators and processors of hazardous waste manage the waste in a manner that minimizes the risk of releases of hazardous materials to air, water, and land. This is accomplished by assuring compliance with the hazardous waste regulations and by encouraging waste minimization practices.

Work to be done by Ecology will be performed by the Hazardous Waste and Toxics Reduction Program (HWTR), The Industrial Section and the Nuclear Waste Program. Ecology will collect and track all information needed to adequately report on all indicators and performance measures. EPA work will be performed by the Region 10 RCRA program in the Office of Waste and Chemicals Management (OWCM).

II. GOALS AND PRIORITIES

The EPA Region 10 RCRA Program and the Ecology HWTR Program will strive to achieve the following program goals and priorities in Washington State in FY98.

1. Minimize environmental threats caused by mismanagement of hazardous waste by implementing effective compliance assurance activities including fair and firm enforcement;
2. Continue to improve the Dangerous Waste Regulations and maintain an authorized program;
3. Work toward reducing the production of hazardous waste in the state to 50% of the 1990 level;
4. Accomplish safe, timely permitting, closure and corrective action; and
5. Improve access, internally and externally, to meaningful, quality information for use in accomplishing our work including collecting information to measure our success.

III. ENVIRONMENTAL AND PERFORMANCE INDICATORS

The following environmental and performances indicators will be used to determine the long term success of the RCRA Program. During FY98 EPA and Ecology will assess the progress on these indicators using data available in the RCRIS data base, Biennial Reporting System, and the Toxics Release Inventory data base. This assessment will be done at the end of the year.

1. Pounds per year of hazardous waste generated per facility (sorted by SIC and ZIP code) from Biennial Reporting System (BRS). See goals 1 through 5.
2. Pounds per year of toxic chemicals released to air, land, and water as measured by the Toxics Release Inventory (TRI). See goals 1 through 5.
3. Number and percentage of sites subject to RCRA corrective action that have (a) human exposures under control and (b) ground water contamination under control. Measured in RCRIS data base. See goals 1, 2, 4 and 5.
4. Percent of high and medium priority facilities subject to RCRA corrective action where a final remedy or interim measure is in place for any portion of the facility. Measured in RCRIS data base. See goals 1, 2, 4 and 5.
5. Percent of facilities that require either an operating or post closure permit where a final permit decision has been made. Measured in RCRIS data base. See goals 1 through 5.
6. Percent incidence of "Environmental Threats" per inspection by calendar year. Measured in RCRIS data base. See goals 1 and 5.

IV. ACTIVITIES TO BE PERFORMED BY ECOLOGY AND EPA

Ecology and EPA will conduct the following activities which will be reported in a mid-year and end-of-year report. These reports will include a narrative and tracking data and will be due January 31, 1998 and July 31, 1998. Ecology will agree to continue reporting in the National database (RCRIS etc.). Unless stated otherwise these activities will be completed by June 30, 1998. The level of effort section of each Ecology activity identifies the Ecology FTE funded by federal grant dollars and the Ecology FTE funded by state matching funds. The level of effort section for EPA identifies EPA resources devoted to work in Washington. Ecology's work plan for the HWTR program is incorporated into this agreement by reference.

Information Management

Ecology will:

1. Input into the RCRIS data system all hazardous waste inspections, enforcement actions, return to compliance information, corrective action milestones, closure/post-closure milestones, permit milestones and any other data necessary to track indicators 3, 4, 5 & 6. Ecology will establish a system to assure that each inspector, permit writer, and corrective action/closure lead will review the data for each facility they are responsible for on a monthly basis and submit revisions for data input. At no time should the data for any facility be more than two months behind. See goal 5 and indicators 3, 4, 5 & 6.
 - ◇ See work plan section 6B.
 - ◇ Level of effort in FTE: 1.0 (grant) 0.3 (match) Total 1.3

2. Collect and process annual reports. Information will be provided to EPA for the National Biennial Report System as agreed in the program MOA. Ecology will also maintain the hazardous waste notification program and input notification data into the RCRIS data base. (This activity includes the maintenance of the HWIMSY data base). See goal 1, 2, 3 & 5 and indicators 1 & 2.
 - ◇ See work plan section 6.
 - ◇ Level of effort in FTE: 2.8 (grant) 0.7 (match) Total 3.5

EPA will:

- Assist in maintaining RCRIS and keeping data current.
 - ◇ Level of effort in FTE: 0.2.

Compliance Assurance

Ecology will:

1. Conduct statutorily mandated and state priority inspections. Data will be input into RCRIS and quality assured monthly. Should Ecology decide not to conduct a Federally mandated inspection they will immediately notify EPA in writing of this decision along with justification for this decision. See goals 1, 2, 3 & 5 and indicators 1, 2 & 6.
 - ◇ See work plan section 1A,1B,1C,&1D.
 - ◇ Level of effort in FTE: 5.7 (grant) 1.4(match) Total 7.1

1. Address violations and compliance issues in a manner consistent with the Ecology Hazardous Waste and Toxics Reduction Program Compliance Assurance Policy and the Ecology/EPA Compliance Assurance Agreement (orders, NOC's, compliance letters, and penalties). Data including SNC's will be input into RCRIS and quality assured monthly. See goals 1, 2 & 4 and indicators 1, 2, 4 & 6.
 - ◇ See work plan section 5.
 - ◇ Level of effort in FTE: 1.6 (grant) 0.4 (match) Total 2.0

EPA will:

- Coordinate with Ecology on compliance issues and will perform the hazardous waste portion of multi-media inspections and will implement compliance activities in Indian Country in cooperation with the various tribal governments.
 - ◇ Level of effort in FTE: 0.5.

Ecology and EPA will:

- Work together to revise the compliance assurance agreement for the hazardous waste program

Technical Assistance

Ecology will:

- Conduct technical assistance for compliance, waste minimization and pollution prevention through site visits, answering phone calls, outreach publications and workshops. Technical assistance work, including effectiveness (e. g. compliance rates and reductions in waste generation), will be tracked for inclusion in the mid-year and end of year reports. See goals 1, 3 & 5 and indicators 1, 2 & 6.
 - ◇ See work plan sections 1G through 1HH.
 - ◇ Level of effort in FTE: 6.2 (grant) 1.6 (match) Total 7.8

EPA will:

- Provide technical assistance to Ecology including work at Kalama Chemical and Hanford.
 - ◇ Level of effort in FTE: 0.45.

Closure and Corrective Action

Ecology will:

- Invest the designated level of effort in making progress on completing closure of regulated units and conducting corrective action at SWMUs. Site specific priorities and expectations for this work will be negotiated with EPA and revised throughout the year as situations change. These negotiations will be conducted through sites meetings. The meetings will be documented and agreements will be signed off on by staff from both agencies. Data including RCRIS measures CA725 and CA750 will be input into RCRIS and quality assured monthly. See goals 2, 4 & 5 and indicators 3, 4 & 5.
 - ◇ See work plan section 4A,4B,4C,& 4E.
 - ◇ Level of effort in FTE: 6.7 (grant) 1.6 (match) Total 7.8

EPA will:

- Conduct corrective action and closure work at Kalama Chemical, Rhone Poulenc, Northwest Petrochemical and Boeing Plant II.
 - ◇ Level of effort in FTE: 1.0.

Permitting

Ecology will:

- Invest the designated level of effort in making progress on issuing hazardous waste permits. Site specific priorities and expectations will be negotiated with EPA and revised throughout the year as situations change. These negotiations will be conducted through sites meetings and facility specific permit discussions. Agreements reached in these negotiations will be documented and signed off on by staff from both agencies. Data for milestones achieved will be input into RCRIS and quality assured monthly. See goals 4 & 5 and indicators 1, 4, 5 & 6.
 - ◇ See work plan section 4D & 4F.
 - ◇ Level of effort in FTE: 3.0 (grant) 0.7 (match) Total 3.7

EPA will:

- Conduct permitting work to include training to be provided to the state, program coordination, and work on Yakima Training Center, Reichhold, and ATG.
 - ◇ Level of effort in FTE: 1.2.

Authorization

Ecology will:

- Maintain an authorized program in compliance with federal requirements found at 40 C.F.R. Part 271.21. See goals 1 thru 5 and indicators 1 thru 6.
 - ◇ See work plan section 2.
 - ◇ Level of effort in FTE: 1.0 (grant) 0.3 (match) Total 1.3

EPA will:

- Work with Ecology to develop, review and process the next authorization package. Level of effort in FTE: 0.4.

EPA Coordination and Contracts

Program Coordination

- This is general program coordination done by the EPA state coordinator in the EPA regional office and the RCRA coordinator position in the EPA operations office. This work includes a minimum of six joint inspections and other oversight work, grant administration, planning, training and assuring open communication between Ecology and EPA.
 - ◇ Level of effort in FTE: 1.1.

Contract Work

- This includes contract work EPA funds to assist in implementing the waste program. Included in this work are RFA's for corrective action, permit reviews and technical assistance.
 - ◇ Level of effort in FTE: 0.5

Total FTEs Covered in the Hazardous Waste Management Section

The total state FTE covered by this agreement is 35.0 (28.0 funded by the grant and 7.0 by state match). For the purpose of this agreement 1 FTE is equal to \$62,357.00. The total federal resource involved in implementing the program in Washington is 5.35 FTE.

SECTION SIX

Water Programs

I. GOALS AND PRIORITIES

Both EPA and Ecology have agreed on a common set of environmental goals and priorities to cooperatively pursue under this agreement. These goals and priorities set the general direction of the agencies' efforts over the coming year and form the basis for the performance measurements and specific activities of each agency as described below. This part of the agreement covers water quality, wetlands, biosolids, sediments, and environmental indicators. As such, it involves the following parts of the two organizations:

EPA - Region 10
Office of Water
Office of Ecosystems and Communities
Washington Operations Office

Ecology
Water Quality Program
Program X (Lands Program)
Solid Waste and Financial Assistance Program
Central Programs
Environmental Investigations and Laboratory Services

The water goals and priorities for state fiscal year 1998 (SFY 98) are:

1. Work with Tribal governments to achieve government-to-government innovative solutions.
2. Continue to develop and implement the Watershed Approach to water quality management and to increase EPA and other federal agency involvement.
3. Develop and implement a strategy to complete Total Maximum Daily Loads (TMDLs) for waters on the federal Clean Water Act (CWA) Section 303(d) impaired waters list for 1996 which will settle the TMDL litigation.
4. Continue to enhance the state's Nonpoint Source Program through planning, coordination, technical assistance, and increased voluntary compliance at the local level.
5. Target improvements to the state's surface water quality standards that will enhance the effective and efficient protection of beneficial uses, threatened or endangered species, and critical habitats.

6. Promote the protection of ground water resources through coordinated state and federal technical assistance and outreach to local jurisdictions.
7. Assess compliance with existing standards and develop new methods for measuring environmental results.
8. Promote coordinated local, state, interstate, federal, and international pollution prevention and abatement efforts in special geographic areas, including implementation of the Mid-Columbia Basin Memorandum of Understanding (MOU).
9. Continue to pursue resources and legislative action as necessary to allow Ecology to adequately address animal waste-caused problems in Washington state.

II. MEASURING PROGRESS

A. Environmental indicators (now under development)

Continue the development of water-related environmental indicators for Washington State.

A list of potential water quality related environmental indicators has been identified for research into the feasibility and usefulness in describing the condition of Washington's waters. Over the next state fiscal year, a set of indicators will be selected and included in the FY99 PPA. That process will involve EPA and Ecology staff input and external consultation with stakeholders. In addition, a monitoring and data management strategy will be developed to support the long-term use of the selected environmental indicators.

B. Performance measures

1. **Performance Outcome Measures and Reporting for the state enforcement and compliance program:** Ecology and EPA agree to continue existing reporting on inspections and formal enforcement (penalties and orders) until further or new program performance measures are agreed upon and agree to continue the existing collaborative process to identify Significant Noncompliance for Majors.

2. **Core Program Outcome Measures and reporting requirements for other NPDES program elements (e.g., Point Source Pollution):** Ecology and EPA will do the following:

- a) Continue the collaborative process of getting Discharge Monitoring Reports into the Permits Compliance System data base such that EPA can compute toxic loading.
- b) Ecology will report semi-annually to EPA the status of permitting including the number and percent of facilities (1) which are covered by a current National Pollutant Discharge Elimination System (NPDES) permit, (2) with expired permits, (3) which have applied for a permit but have not yet been issued a permit, and (4) which are under administrative or judicial appeal. Number of non-storm water general permits issued and the number of facilities covered.
- c) Ecology will report annually to EPA on the number and percent of delegated municipal pretreatment programs on which Pretreatment Compliance Inspections and Audits are conducted.
- d) Ecology will cooperate with EPA in estimating the percent of municipal Pretreatment facilities that beneficially reuse their biosolids and the percentage reuse on an annual basis.
- e) Ecology will report annually to EPA and EPA annually to Ecology on actions taken to reduce NPDES compliance monitoring for facilities exhibiting good performance in accordance with the national initiative and estimates of reductions.
- f) Ecology will report annually to EPA on Ecology's legal ability to implement the NPDES program.

3. **Core Performance Measures and Associated Reporting Requirements for Watershed Restoration and Protection**

Core Environmental Indicators:

- a) Percent of assessed waterbodies that protect public health and the environment by supporting a) fish and shellfish consumption, b) safe recreation, and c) healthy aquatic life use designations. (The states and tribes designate uses for the waterbodies within their jurisdiction.)
- b) Percent of assessed rivers and estuaries with healthy aquatic communities
- c) Percent change of selected substances found in surface waters

Associated Reporting Requirements:

- a) Describe the major achievements in developing and implementing comprehensive watershed management programs including how water quality standards will be used in managing water quality improvements and how interrelated programs will be coordinated using a watershed approach. Such programs include, for example, those pertaining to monitoring, assessments (including TMDLs), wetlands, nonpoint sources, point sources, coastal and marine waters, drinking water, and ground water.
- b) Describe the review and revisions of the State Section 319 programs undertaken to adequately reflect the nine key program elements of an effective nonpoint source program as outlined in the national *Nonpoint Source Program and Grants Guidance for FY 1997 and Future Years* jointly transmitted by EPA and ASIWPCA.
- c) Describe changes in statewide monitoring program to conform with section 106 guidelines (transmitted 10/17/94) and the 305(b) guidance so that comprehensive assessment of water quality over 5 years is achieved.
- d) Describe the status of compliance with Section 303(d) list submittal requirements and completing necessary TMDLs, including any requirements from court orders, consent decrees, or settlement agreements.
- e) Percent of assessed rivers and lakes in the state containing fish that the state, in order to protect public health, has determined should not be eaten, or should be eaten in only limited quantities.

4. Core Measures and Associated Reporting Requirements for Source Water Protection and Underground Injection Control

See following Section III.A.2. "Ecology Will" for the Form 7520 reporting related to this core measure.

III. Activities to be undertaken by both Ecology and EPA

Ecology and EPA Region 10 agree to perform the following activities at the specified level of effort and with the identified deliverables during state fiscal year 98.

A. Watershed approach, water quality standards, and nonpoint source pollution control

1. Roles & Responsibilities for 303(d) and TMDL Activities

Ecology and EPA agree to complete and implement an MOA under which roles and responsibilities for both Ecology and EPA with respect to 303(d) and TMDL activities are delineated. Such activities would include, but not be limited to, the 303(d) list completion and approval process, TMDL development, approval and implementation, finalizing 303(d) TFW and NPS guidance, updates to the WQMP, and enhanced coordination on issues of shared interstate and international waters.

◇	FTEs:	3.5 Federal Funded	5.5 State Funded	9.0 Total
◇	FTEs:	EPA 1.75		

2. Coordination of Cross-Cutting Ground Water Issues and Activities

Ecology and EPA agree to utilize the Inter-agency Ground Water Committee to coordinate on cross-cutting ground water issues and activities, including the Comprehensive State Ground Water Protection Plan (CSGWPP), ground water monitoring and data management, State Pesticide Management Plan, Source Water Assessment Program and the Mid-Columbia Basin MOU.

◇	FTEs:	EPA 1.0		
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Ecology will:

- Continue to integrate ground water protection activities into the watershed approach, including development of the Geographic Information System (GIS) data layers and susceptibility modeling analysis for the Cedar-Green and Spokane watersheds by June 1998, continuation of the existing Underground Injection Control (UIC) program and related 7520 report submittals, and development of a technical assistance and outreach strategy for the UIC program by January 31, 1998

◇	FTEs:	5.0 Federal Funded	1.0 State Funded	6.0 Total
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3. Roles & Responsibilities for Coordination of Activities to Implement the Watershed Approach

EPA will:

- Work cooperatively with Ecology and tribal governments to identify the roles, responsibilities, and processes necessary to ensure adequate coordination and involvement in the adoption of water quality standards, delegation of permit authority (including phase I municipal stormwater requirements, with the exception of Tribes, to whom this delegation is not allowed), and implementation of the watershed approach.

◇	FTEs:	7.0 Federal Funded	5.3 State Funded	12.3 Total
◇	FTEs:	EPA 0.35		

4. Development of Partnerships and Consolidation of Environmental Efforts in the Watersheds

Ecology and EPA will use the scoping process and the watershed approach to develop strong working partnerships and collaboration with appropriate State, interstate, Tribal, regional, Federal and local entities in the watersheds and to consolidate and coordinate priorities, funding sources and environmental efforts in the watersheds.

Ecology will:

- Continue to build opportunities to integrate, coordinate, and focus base program delivery through the watershed approach. Specifically, Ecology will:
 1. Conduct scoping in Cedar/Green, Eastern Olympic, and Spokane WQMA's
 2. Continue implementation of year 2 through 5 activities elsewhere in the state
 3. Continue to build strong partnerships with other agencies, tribes, and local governments
 4. Coordinate priorities, funding sources and environmental efforts in WQMA's
 5. Continue to foster government-to-government processes to implement 303(d) related activities.
- | | | | | |
|---|-------|--------------------|------------------|-----------|
| ◇ | FTEs: | 2.0 Federal Funded | 1.5 State Funded | 3.5 Total |
|---|-------|--------------------|------------------|-----------|

EPA will:

- Participate in the watershed approach. Specifically, EPA will:
 6. Prepare briefing papers for the scoping efforts in Cedar/Green, Eastern Olympic, and Spokane WQMA's;
 7. Attend Ecology's scoping workshops for the above water quality management areas (WQMA's);
 8. Review resulting priority issues and actions identified during the scoping process and identify follow-up activities in coordination with Ecology;
 9. Coordinate the participation of federal agencies and tribes in the scoping process;
 10. Provide resources and technical assistance as able in response to Ecology's requests;
 11. Continue support of Ecology liaison position to assist with this involvement process.
- | | | | | |
|---|-------|----------|--|--|
| ◇ | FTEs: | EPA 0.35 | | |
|---|-------|----------|--|--|

5. Improve Effectiveness and Coordination of Nonpoint Source Controls

Ecology and EPA will pursue opportunities for improving the effectiveness and coordination of

nonpoint source controls.

Ecology will:

1. Complete the CWA Section 319 Nonpoint Source (NPS) Plan by February, 1998.
2. Develop a plan involving a wide spectrum of interest groups that is widely supported;
3. Incorporate the 9 key elements required for enhanced benefit status;
4. Incorporate the Coastal Zone Act Reauthorization Amendments (CZARA) Section 6217 findings;
5. Develop a long-term communication and coordination strategy that furthers the directions for NPS in the Plan by August, 1997;
6. Evaluate the opportunity for an agency/tribal strategy decision making process to address NPS priorities and funding by the fall of 1997;
7. Sponsor a statewide NPS workshop in October 1997.
◇ FTEs: 6.0 Federal Funded 2.5 State Funded 8.5 Total

EPA will:

- Participate in the development of Washington's 319 plan and review and comment by April 1998. Assist with planning for NPS workshop in October 1997.
◇ FTEs EPA 0.05

6. Timber-Fish-Wildlife

Ecology will:

- Continue development of a forest module with Timber-Fish-Wildlife (TFW) designed to address Clean Water Act and Endangered Species Act requirements. Review rules, watershed analysis and other forest management programs and approaches.
◇ FTEs: 3.0 Federal Funded 2.5 State Funded 5.5 Total

7. Dairy Operations Pollution Reduction

Ecology will:

- Work cooperatively with other appropriate agencies and organizations to build the infrastructure and partnerships to reduce pollution from dairy operations. Continue implementing the watershed approach to dairy permitting by targeting the Sumas, Snohomish and Chehalis River drainages.
◇ FTEs: 1.0 Federal Funded 3.0 State Funded 4.0 Total

EPA will:

- Continue implementation of Region 10 Confined Animal Feeding Operation (CAFO) compliance initiative in Washington until state resources and legislation are sufficient to allow Ecology to adequately address animal waste-caused water quality problems. EPA and Ecology will continue to communicate on these activities.

8. Water Quality Standards

Ecology will:

- Adopt proposed phase I revisions (nutrient criteria, short term modification of water quality standards (STM) language, wetland definitions, etc.) of the state surface water quality standards by December 31, 1997, and prepare phase II revisions (antidegradation and use-based criteria) for public workshops to be held in winter of 1997-1998. Ecology will also begin the public scoping and prioritization process for the next round of potential standards revisions by the spring of 1998.
- | | | | | |
|---|-------|--------------------|------------------|-----------|
| ◇ | FTEs: | 2.0 Federal Funded | 1.0 State Funded | 3.0 Total |
|---|-------|--------------------|------------------|-----------|

EPA will:

- Coordinate review and comment of proposed changes to the water quality standards by federal resource agencies under ESA consultation early in standards revision process. EPA will work with Ecology to identify dates by which such input is required in order to avoid delays in the state's standards development processes and present this schedule to the resource agencies by December 31, 1997.
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|---|------|----------|--|--|
| ◇ | FTEs | EPA 0.25 | | |
|---|------|----------|--|--|

9. Water Quality 305b Assessment Data

Ecology will:

- Submit Clean Water Act, Section 305(b), water quality assessment data on or as close to April 1, 1998 as changes in federal guidance and/or litigation allow, and will also work with EPA, other state and federal entities, local government, tribes and the private sector to leverage and prioritize the resources needed to measure the performance of environmental management programs through the monitoring of environmental indicators and results.
- | | | | | |
|---|-------|--------------------|------------------|-----------|
| ◇ | FTEs: | 5.0 Federal Funded | 2.0 State Funded | 7.0 Total |
|---|-------|--------------------|------------------|-----------|

10. Puget Sound Plan Implementation

Ecology will:

- Continue providing technical assistance and funding to implement programs in Puget Sound including:
 1. Participate in the Puget Sound/Georgia Basin Task Force with EPA and others.
 2. Coordinate of Puget Sound Water Quality Management Plan priorities with other Ecology activities;
 3. Prepare annual technical reports for Ecology's components of Puget Sound Ambient Monitoring Program (PSAMP)
 4. Convene an interagency group to develop options for measuring/ evaluating loadings of toxic and conventional pollutants to Puget Sound or parts of Puget Sound.
- ◇ FTEs: 11.0 Federal Funded 3.2 State Funded 14.2 Total

11. Columbia River Implementation

Ecology will:

- Continue providing technical assistance and funding to implement programs in the Columbia River including:
 5. Participation on the Policy and Management Committee of the Lower Columbia River National Estuary Program (NEP);
 6. Working toward attainment of water quality standards on the Columbia River and Snake River mainstem.
 7. Continued support of efforts in the Columbia Basin ground water management area(GWMA).
- ◇ FTEs: 1.0 Federal Funded 1.0 State Funded 2.0 Total

EPA will:

- Continue providing technical assistance and funding to implement programs in Columbia River including:
 8. Participation on the Policy and Management Committee of the Lower Columbia River NEP;
 9. Working toward attainment of water quality standards on the Columbia River and Snake River Mainstem.
- ◇ FTEs: EPA 3.0

12. Columbia Basin Memorandum of Agreement & Technical Assistance

EPA will:

- Identify by September 1997, the specific activities proposed for meeting the commitments identified in the Columbia Basin Memorandum of Agreement (MOA), including the type and level of federal support available for the Columbia Basin GWMA.
 - ◇ FTEs EPA 0.10

B. NPDES, Pretreatment, and Biosolids

- 1.a. Ecology and EPA will implement an effective NPDES program per the delegation agreement (Memorandum of Understanding) and the NPDES Compliance Assurance Agreement (CAA) as well as written modification to the agreements as agreed to by both agencies. Core NPDES program elements include permitting; enforcement; technical assistance; inspections; monitoring; pretreatment; biosolids; stormwater; public involvement; pollution prevention; and developing and maintaining systems and procedures for efficient and consistent implementation. Ecology's Water Quality Program and EPA agree that the state Watershed Approach to Water Quality Management is a key mechanism for prioritizing available resources.
- 1.b. Key resources to be applied to the NPDES program are represented in the table. Note that these FTE estimates are preliminary and are subject to change as Ecology program budgets are set, overall priorities are set, and final federal grant awards are established by Congress and EPA. These activity categories are not mutually exclusive, and judgment calls were made to determine in which activities to show the FTEs. EPA FTEs include review of records, reports, data to determine compliance, and assistance to regulated entities (support to state is included in program development.) Biosolids are included.

<u>Activity</u>	<u>Federal</u>	<u>Ecology</u>	<u>EPA</u>
Program Development	0	14.5	0.50
Permit Processing	0	26.0	0.50
Inspections	0	19.0	0.90
Report Review	0	10.0	0.20
Pretreatment	0	3.0	0
Data Management	0	5.0	1.0
Technical Assistance	0	12.0	0.30
Enforcement	0	6.0	0.30

- 1.c. One objective of the Watershed Approach to Water Quality Management is to assess the status of all permits in the watershed and reduce or eliminate the backlog of extended and expired permits. The current goal is to eliminate the backlog in each watershed in year 5 of the 5-year cycle. The first permitting year begins July 1, 1997, for the

Skagit/Stillaguamish, Columbia Gorge, Horseheaven/Klickitat, Upper Columbia, and Pend Oreille Water Quality Management Areas.

2. EPA and Ecology will review and revise as necessary the NPDES CAA. EPA will provide the initial review of the CAA and provide comments to Ecology by October 30, 1997. Ecology and EPA will determine if revision of the CAA is needed by January 30, 1998. Any revisions to the CAA will be completed by June 30, 1998.
3. EPA and Ecology will work cooperatively to develop NPDES and pretreatment program evaluation criteria, an evaluation process, and performance measures. EPA will lead this effort. This effort will be coordinated with Region 10's and Region 10 states' effort to develop compliance/enforcement, program evaluation criteria, processes, and performance measures. Ecology will participate in this effort. Performance measures will be available for use by March 1998, at the latest for incorporation into next year's Performance Partnership Agreement.
4. EPA's Office of Enforcement and Compliance Assurance (OECA) will identify information that is needed from Ecology to satisfy national or other requests. Ecology and EPA will meet to discuss the need and reach agreement on what needs will be filled and how. Ecology will cooperate in filling needs to the extent practicable. Letter agreement by January 31, 1998.
5. EPA and Ecology agree to continue discussion of regulation of federal facilities by the state. A decision by Ecology relative to assuming this workload will be communicated to EPA by October 1, 1997. Pending an affirmative response to that decision, both agencies will develop a strategy for funding and transfer of this responsibility.
6. EPA will take the lead to work with the tribes and Ecology to develop an implementation strategy for bringing the Puyallup and Muckleshoot tribes into compliance with Phase I of the municipal stormwater program. An approach will be completed and agreed upon no later than May 1, 1998.
7. Ecology and EPA will continue to work together to make delegation of the biosolids program a reality. Ecology will submit an application for biosolids delegation three months after adoption of the biosolids regulation.
- 8.a. Using the watershed approach to water quality management, Ecology will inspect all major dischargers in the following watersheds during the state fiscal year 98.
 - Island/Snohomish
 - South Puget Sound
 - Okanogan
 - Crab Creek/EsquatzelEcology will also inspect targeted major and minor permitted facilities in these and other basins.

- 8.b. Ecology's Industrial Section is responsible for multi-media regulation of the pulp and paper mills, oil refineries and primary aluminum smelters in Washington State. The Industrial Section intends to continue to conduct NPDES compliance inspections of these facilities at least annually.
- 8.c. Ecology will provide to EPA information on planned inspections annually and will report the results of the major inspections conducted.
9. Ecology will continue to coordinate pretreatment activities using a work group comprised of staff and management. EPA's pretreatment coordinator will participate in work group meetings and conference calls as necessary to help facilitate program implementation and promote communication.
10. EPA will continue to participate in Water Quality Program management meetings where topics are relevant to NPDES program implementation.
11. Ecology will provide wastewater treatment outreach technical assistance for small communities.

C. Small Community Assistance Project

The Small Community Assistance Project provides technical assistance to communities 2,500 or less in population. In implementing this modestly funded effort Ecology must control expectations due to the limited resources available for this activity. The primary focus of the project has been in wastewater through the Small Towns Environment Program (STEP) and through participation in the President's Northwest Timber Recovery Initiative. The project has designed an approach to implementing multimedia assistance using EPA's Regulatory Flexibility Policy for Small Communities and will be initiating a unique pollution prevention strategy through the PPIS. The agency themes of cleanup, prevention and sustainability are all being realized through this effort.

EPA is an important partner. EPA's sustainable communities efforts need to be partnered and coordinated with Ecology's efforts in order to maximize limited resources from both agencies. To that end EPA and Ecology agree that:

EPA and Ecology will:

- Make personnel resources mutually available, to the extent possible, to assist communities achieve environmental success.

Ecology will:

- Actively participate in the EPA Region 10 Small Communities Clearinghouse; Ecology will invite EPA as an active participant in its assistance efforts with small communities.
◇ FTEs: 0.0 Federal Funded 1.0 State Funded 1.0 Total

EPA will:

1. Communicate its intentions when working with specific communities, working with Ecology as a partner in those communities;
2. Support public information, education and outreach on environmental protection and sustainability in mutually agreed targeted communities;

D. Program coordination and efficiency improvements

1. Ecology and EPA agree to pursue a performance partnership grant (PPG) for water covering eligible federal grants.
2. EPA and Ecology will continue to work together on a range of activities begun in the previous year and will keep the improved lines of communication open at both the staff and manager levels of the two agencies as well as other interested parties and local, state and federal agencies.
3. In addition to routine communication, key managers of EPA and Ecology, will meet at least twice per year to discuss progress on Performance Partnership Agreement commitments, new issues, needed communication improvements and program implementation successes and problems. Ecology will take the lead on meeting schedules and agendas. Meetings in November 1997, and March 1998.
◇ FTEs: 1.0 Federal Funded 1.0 State Funded 2.0 Total

E. Financial management

Clean Water Act, Section 319, for nonpoint source pollution prevention.

Ongoing EPA will actively participate in Ecology’s Water Quality Program’s Financial Advisory Committee and subcommittee as meetings are scheduled. The committee will, among other items, actively work to develop strategies to use Ecology’s Watershed Approach in the distribution of grant and loan funding insofar as possible. This effort will be in conjunction with similar ongoing efforts of other state and federal funding sources.

7/15/97 Draft FFY 98 Section 319 Project List issued.

9/19/97	Final FFY 98 Section 319 Project List issued.			
10/31/97	FFY 98 Grant issued to Ecology.			
1/2/98	FFY 99 Application Period opens (tentative)			
2/28/98	FFY 99 Application Period closes (tentative)			
◇	FTEs:	12.5 Federal Funded	17.2 State Funded	29.7 Total

F. Wetlands Restoration and Protection

◇	FTEs:	1.0 Federal Funded	2.0 State Funded	3.0 Total
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1. Hydro Geomorphic-based Function Assessment (HGM)

Ecology is currently coordinating with EPA to adopt new methods to quantitatively assess and measure the functions and values of individual wetlands on the landscape in Washington.

Ecology will:

- HGM methods will be completed on the following classes
 1. Riverine wetland class western Washington (by Spring of 1998)
 2. Depressional wetland class western Washington (by Fall of 1998)
 3. One class to be determined in eastern Washington (by Fall of 1998)

EPA will:

- Continue to provide technical assistance to Ecology in the development of HGM wetland function classes.

Performance Measure: Number of successful functional assessment methods completed within specified time-frame.

2. Puget Sound Wetland Restoration Program

Ecology will:

1. Continue their wetland restoration program in the Snohomish and Skagit Basin
2. Develop a case study report of wetland restoration analysis in the Skagit River

EPA will:

- Provide technical assistance in the ongoing work that is occurring in the Snohomish Basin and the Skagit Basin.

3. Long Beach Peninsula Wetland Management Program

Ecology and EPA are working jointly with federal and state agencies, local governments, the business communities, and citizens in the development of a wetlands management plan for the Long Beach peninsula. Currently efforts have been focused on the city of Long Beach, “Coastal Dune Habitat Management Plan”.

Ecology will:

1. Continue to participate in planning meetings so that by the Winter of 1997 the City of Long Beach Coastal Dune Management Plan will be completed.
2. Continue to participate in future efforts that will branch off from this planning effort.

4. Wetland Enforcement Program

EPA is currently working with local governments and private groups and citizens in the enforcement of unauthorized fills in waters of the United States including wetlands.

5. Water Quality Certifications and Section 10 Permits

Ecology will:

1. Process USCOE and US Coast Guard 404 and Section 10 permits.
2. Provide coordinated state response to ensure wetland protection and mitigation of unavoidable impacts.
3. Coordinate with EPA and other federal agencies to ensure wetland protection on federal and tribal lands.

G. Sediments

EPA and Ecology will:

1. Continue to work with other state and federal agencies to complete and implement the Interagency/Intergovernmental Agreement. This agreement is between the EPA, U.S. Army Corps of Engineers and several Washington state agencies (DNR, Ecology, PSAT) which will include a cooperative approach to sediment management issues and initiatives.

2. Continue to work with the U.S. Army Corps of Engineers, the Department of Natural Resources, the Puget Sound Action Team and the Washington Public Ports Association to evaluate and select a Multi-User Disposal Site in Puget Sound. Finalize study plan and cost-sharing agreement by June 1997.
3. Continue to work with other state and federal agencies and the public to develop and maintain sediment quality standards (i.e., Puget Sound, other marine areas, freshwater, and human health criteria) which protect beneficial uses and reflect current scientific information. By May 1998, develop (1) a technical studies plan and (2) a streamlined approach for using current scientific information to update sediment quality criteria.
4. Continue to work with other federal, state and local agencies, tribes and the public to implement the Bellingham Bay Demonstration Pilot Project.
5. Continue to work with other state and federal agencies to promote the beneficial reuse of dredged material. Complete and implement users manual by December 31, 1997.
6. Continue to work with other Washington, Oregon and federal agencies to establish and implement coordinated programs to manage dredged material from the Columbia River. Prepare dredged materials management manual by January 1998.

Ecology will:

1. Adopt revisions to the state sediment quality standards by May 1998. Revisions will address public comments raised during the Triennial Review Process.
 2. Develop strategy for evaluating and addressing sediment quality problems identified on the 303(d) list.
 3. Water Quality Certifications and Section 10 Permits including (1) process USCOE and US Coast Guard 404 and Section 10 permits, (2) provide coordinated state response to ensure compliance with Sediment Management Standards, Water Quality Standards and Puget Sound Dredged Disposal Analysis (PSDDA) requirements and (3) coordinate with EPA and other federal agencies to ensure compliance with applicable requirements.
- ◇ FTEs: 1.5 Federal Funded 0.0 State Funded 1.5 Total

SECTION SEVEN

Responsiveness Summary

Comment from Katie Krueger

1. Under Section 1, page 3, under IV (Joint Priorities), the last bullet states that EPA "will work to assure compliance at federal facilities and on federal lands." We think it would be good to have a parallel bullet that "DOE will work to assure compliance at state facilities and on state lands."

2. In the introduction to Section 1 and elsewhere, the parties inform the reader that this document is not an agreement with the Tribes. It is just between the EPA and the DOE. Nonetheless, there are several places where you acknowledge the need to involve the Tribes (and we appreciate this). For example:

a. On page 3, under Joint Priorities, the EPA "will work to fulfill their responsibility on tribal lands..."

b. On page 25, under Section 4, Air Quality, Description: "Work as partners with ... Indian Tribes ... ; and under Joint Priorities, "Expand intergovernmental and Indian Tribe partnerships."

c. on page 38, under Section 6, Water Programs, Water Goals and Priorities--you have as #9: "work with Tribal governments to achieve government to government innovative solutions.

With respect to Water Goals, while we would like to be a higher priority than last, we are pleased to be present.

3. Since it makes sense to mention that Tribes should be involved in making air and water policy, we would like to see a similar sentence that recommends involving Tribes, in the following:

a. On page 10, Section 2, Information Integration (data gathering). Our tribal staff (legal, policy, and technical) have degrees from the same colleges as state officials, and have comparable training. Their field data are often relied on for 303(d), watershed prescriptions, and other programs. It would make sense to include them in discussions regarding data.

b. On page 12, Regional Salmon-related Environmental Indicators. Here, you say you will work with Alaska, Oregon, Idaho, and Canada. After U.S. v. Washington, and general agreement that Tribes are co-managers of the fish, would you not want to be explicit that you would work with the Tribes? Surely we rank with Idaho, when it comes to a Washington agency's planning for salmon environmental indicators. (The named states are not parties to this agreement, either.)

c. On page 15, Pollution Prevention, again, a sentence or two saying that you will work with the Tribes is suggested.

d. Under Section 3, on page 17, re Compliance--if you can work with Alaska and Idaho, why not mention in that paragraph that you will work with the Tribes? We are a more likely candidate for co-enforcement efforts, as we are contiguous neighbors. (Those other states are not parties to this agreement, either.)

4. You make reference on page 13 to a new state statute on environmental excellence, that involves environmental justice features. It would be helpful to have its citation.

Response to Katie Krueger

Comment 1: Compliance on state lands.

This is a good comment and has been incorporated into the final Agreement.

Comment 2: Priority with water goals.

When the PPA Water goals were drafted, the numerical order of the goals was not intended to be an indicator of the priority of the goals. Because the numerical order may give some readers an appearance of priority, the goal dealing with Tribal Governments will be moved to the upper part of the list.

Comment 3: Include tribes in discussions regarding data.

This comment has been incorporated into the final Agreement.

Comment 4: Include tribes in discussions regarding salmon indicators.

This comment has been incorporated into the final Agreement.

Comment 5: Work with tribes in pollution prevention.

A statement has been added to the agreement indicating that tribes and tribal reservations can be included in the definition of small communities.

Comment 6: Work with tribes on compliance issues.

The State and EPA work in partnership regarding compliance issues with the Tribes; the Puyallup Agreement is a good example.

Comment 7:

The citation is Chapter 381 of the Washington State Laws 1997 (Engrossed Second Substitute House Bill 1866 - Environmental Excellence Program Agreements).

Comment 4 (WQ): Relating to Water Goals & Priorities: “With respect to Water Goals, while we would like to be a higher priority than last, we are pleased to be present.”

The goals are numbered only for convenience, and are not in priority order.

**NORTHWEST
PULP & PAPER**

July 20, 1997

Dee Peace Ragsdale
WA Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Re: Draft Environmental Performance Partnership Agreement 6/97-Comments

Dear Ms. Ragsdale:

Thank you for the opportunity to review the draft Environmental Performance Partnership Agreement State FY 1998 (June 1997). NWPPA Washington member pulp and paper mills recognize that a good working relationship between EPA Region 10 and the Washington State Department of Ecology is very important to the smooth implementation of environmental regulations, particularly those which are jointly run.

The following comments address those sections of the draft which are of particular interest to us.

Regional Salmon Related Environmental Indicators (page 12)

The issue of salmon stock protection and enhancement which was selected by the working group as a pilot issue is a complex one. It's not clear how the indicators to be selected will coordinate or integrate with salmon protection efforts of other state and/or federal agencies which are more directly charged with this responsibility (i.e.; NMFS).

State Environmental Excellence Program (pages 13 &14)

Description

NWPPA was actively involved in drafting and supporting the adoption of ESSHB 1866 to establish a state authorized environmental excellence program. The draft state and EPA agreement, on page 13, includes a list of six "criteria for approval under development which they are expected to include the following....." The law itself contains general criteria for approval of these voluntary agreements. It also makes it clear that Ecology may choose not to enter into an agreement for any reason and that such a decision cannot be appealed by the project proponents.

Objectives and Activities for Fiscal Year 1998

It is not clear why the draft states that there is "confusion surrounding the scope of environmental excellence projects". It might be more accurate to state that there is a need to better inform the public and potential applicants about the opportunities provided by the new law.

Is it the agencies intent that the state should only enter into one or two project agreements for FY 1998? How would this decision support the goals of the program as described in the previous section?

The Governor has asked Ecology to develop guidance for implementing the law, as noted in this section. However, the guidance document should not rewrite the legislation or be so restrictive and detailed that the guidance becomes a subject for formal rulemaking as required under Washington's APA.

We appreciate the Region's recognition that a timely review and response to any proposed state project is necessary to ensure the viability of the program. The law provides for early notification and involvement of EPA Region 10.

Compliance Assurance Principles (pages 17-19)

Background

It appears that this portion of the agreement has already been adopted and signed by Washington, Idaho, Oregon, Alaska and EPA Region 10. Regardless NWPPA offers the following comments because this section of the agreement is extremely important to NWPPA members. It addresses key compliance and enforcement concepts and addresses a concern that "the partnership/delegation relationship" between the two agencies "clearly has paradoxical qualities that can lead to confusion regarding respective roles."

The "principles" outlined in this section include a "recognition of the State Agencies' "right of first refusal" on agreed upon work in a delegated program, except in those situations where "regional or national initiatives warrant an EPA lead." This broad sweeping statement raises numerous questions. Why does a situation where "regional or national initiatives" exist warrant an EPA lead in a delegated program? Is there a federal or state statutory basis for federal supremacy in delegated programs in these special situations? How will the state, the regulated community and the public know when such a circumstance occurs? Is there a underlying policy or philosophy behind this "regional or national initiatives" concept?

Collaborative Planning and EPA/State Agency Roles

The "overarching principles" in this section in support of collaborative planning appear to be appropriate. However the process described for developing priority areas seems a bit premature and confusing. It appears to require that, as part of the preliminary planning, each agency will consider other guidance documents including, the Office and Enforcement and Compliance Assurance MOA between the regions and Headquarters for FY 1998-99. In the cover memo to that OECA agreement Steve Hermann, Assistant EPA Administrator, recognized "...that States face unique situations and that flexibility is important to ensure that their most significant environmental problems are addressed."

Hermann further states that it is in the state and regional agreements themselves that final decisions on priorities and directions must be made. Region 10 and Ecology should keep this flexibility in mind in finalizing this EEPA. As currently drafted, the Agreement does not appear to recognize the benefits of the years of experience the State has gained in administering delegated programs such as the NPDES program.

Both the planning and agency roles section here also incorporate the concept, discussed above, of EPA enforcement and compliance supremacy in situations of “regional or national initiatives”. The only subsection which deals with this issue in more detail is the one on State Agency Role at page 21. Here the draft describes these initiatives as including

“..exceptional circumstances, such as the implementation of new federal regulations, or those instances where an individual state program does not have a comparable deterrence capability, e.g. against a single entity with facilities in more than one state, or to ensure a level playing field by recovering economic benefit and commensurate penalties from entities involved in a national market.”

This definition of "exceptional circumstances" is so broad that it could be seen as covering almost all facilities and programs covered by a delegated state program. Most businesses, even very small ones, arguably operate in a national or even international market. This approach does not allow for consideration of each state's "unique situations" or allow sufficient flexibility by the state in addressing those priority area the state believes are important.

Performance Measurement/Oversight

Oversight

Section VII of the FY 98/99 OECA MOA Consolidated Technical Guidance provide guidance from EPA Headquarters on Implementing the EPA/State Partnership: MOA and State Agreements. This section describes a new approach which "acknowledges the need to ensure the most effective use of scarce public resources by assuring that the appropriate tasks are assigned to each level of government and recognizes the increased capacity of States to manage environmental programs by providing for reduced Federal oversight in delegated programs based on program performance." The guidance recognizes the importance of revising oversight practices to reflect a move away from case by case review to an "after the fact" review.

The Oversight Inspections approach proposed in the review draft seems to run counter to the OECA guidance. The draft proposes oversight inspections to evaluate State performance both during the inspection and subsequent follow-up. The draft proposes that the State and EPA inspectors meet after an inspection to "discuss EPA's initial compliance findings." This approach does not seem to fit into an oversight model. Such a discussion should include findings by both agency with the State taking a lead in presenting its initial findings. The proposed oversight approach fails to recognize the State's increased capacity to manage environmental programs.

Concluding Comments

We appreciate the opportunity to comment on the overall EPA/State agreement, however it seems that much of the detail has been or will be established through the program specific compliance assurance agreements for the air, water and solid waste programs. If these agreements are available now we would like to request copies. If the agreements are still in the draft form, and there is a public comment period, we would like the opportunity to participate. Please call if you have any questions or concerns about these comments.

An identical version of these comments has been sent to Jack Boller at EPA, Region 10.

Sincerely,

Kristine Holm

Response to Northwest Pulp & Paper

Comment 1: Regional salmon related environmental indicators.

The Workgroup for the seven Environmental Agencies, including Ecology, held a workshop in June 1997 for the purpose of bringing experts from other agencies and organizations together to help in this pilot project. This included state and federal (Canada and US) fisheries and natural resource agencies and public interest groups. Their expertise and knowledge about salmon related environmental indicators will continue to be used in the development of indicators for use by the environmental agencies.

Comment 2: State Environmental Excellence Program - Description.

The draft EPPA wording is changed to reflect some of the general criteria listed in the law for environmental excellence program agreements.

Comment 3: State Environmental Excellence Program - Objectives/Activities.

The draft EPPA wording is changed to reflect the need to better inform the public and potential applicants on the opportunities and challenges provided by the new law.

Comment 4: State Environmental Excellence Program - Objectives/Activities.

The draft EPPA wording is changed to emphasize that the limiting factor on the number of potential projects will be agency resources and the interest expressed by the regulated community.

The agency is also sensitive of the need to not attempt to “rewrite the legislation” when developing guidance or principles.

Comment 5, 6, and 7: Compliance Assurance Principles.

We don't consider the statement of “warranting EPA lead” to be broad and sweeping. The State has always been the lead enforcer for delegated programs and will continue to be. This statement was added by Chuck Clarke at the request of the Air Quality Program to allow for some potential flexibility if EPA might need it for a regional issue (i.e., exceptional circumstances).

You will note that elsewhere in the Compliance Assurance Agreement it indicates that EPA will always consult with the State before any action is taken. In conversations with EPA, we interpret this to mean that if the State wants to take the appropriate action, then EPA will defer. Only if the State is unwilling or incapable (not Washington State) will EPA take action. It was also understood that EPA ultimately has overfile authority, which it has used very rarely and will continue to use very infrequently, if at all.

Another reason this “exceptional circumstances” language is in here is that there may be a case when the State requests EPA take the lead (if the penalty or approach might be better served under a specific federal law).

In conclusion, the State does not see the language as a practical problem.

Comment 8: Performance Measurement/Oversight

Oversight Inspections has been clarified in a separate memo from Greg Sorlie and Joe Williams to Anita Frankel. Again, this was an Air Quality issue. There will not be joint compliance inspections with the possibility of a separate enforcement action from EPA. EPA's oversight inspection role is to evaluate the State's performance (much like an audit) and provide specific feedback to Ecology on what needs improving.

Comment 9:

We agree that the real meat of the compliance Assurance issue is spelled out in the program specific Compliance Assurance Agreements. Waste is done, Air is almost complete, Water needs to be revised.

People for Puget Sound
South Sound Office
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Room No. 201
Olympia, WA 98507
(206) 754-9177
Fax 786-5054

July 21, 1997

Mr. Jack Boiler
US EPA, Region 10
Washington Operations Office
300 Desmond Drive, Suite 102
Lacey, WA 98503

Re: Draft Environmental Performance Partnership Agreement

Dear Mr. Boller:

Thank you for the opportunity to comment on the Draft Environmental Performance Partnership Agreement. We do have a number of concerns with the draft that I will explain in the following letter.

Overall, we found this document to be too general to be meaningful. With a few exceptions, it fails to establish clear goals with specific outcomes. The role of EPA is to ensure that the state fully carries out its delegated responsibilities under the Clean Water Act and other federal laws. This document can and should create a framework to ensure that this occurs. Unfortunately, the Agreement stresses the "partnership" relationship over and above the need to achieve firm outcomes. Terms like "continue existing programs" or "continue to pursue," which are repeated over and over in the document, lead us to believe that there will be no improvements in most programs. Many areas of the agreement identify the need for "more discussion" or even "negotiation" between DOE and EPA, which give us little or no indication of the direction that will be taken.

While we appreciate the need for good relationships between the two agencies, we wonder who will ensure that DOE's programs meet Clean Water Act requirements if EPA is unwilling to provide this type of oversight? Ironically, the drafters of the Agreement identify this problem:

The partnership/delegation relationship that exists between EPA and State Agencies clearly has paradoxical qualities that can lead to confusion regarding respective roles. (Draft Agreement, p. 17).

If water quality problems in the state were rare, and if DOE programs were generally effective, we could see the value in a vaguely stated agreement. As you know, however, most water bodies, including nearly all estuaries, in the state fall to meet standards. In many cases, the state legislature has actually undermined the state's regulatory programs to the point at which they are ineffective.

Given that, we urge you to reexamine the agreement and insert clear and specific goals which relate directly to performance of various programs. The "performance measures" which are referred to in the document do not, from our standpoint, serve as a real substitute for this type of direction (see comments ahead).

Beyond this general concern, we had a number of specific comments on various sections of the agreement.

On the State Environmental Excellence Program, we urge EPA to play an active role in the design of the state program. HB 1866 contains language which would require EPA to sign off on any project which involves a federally delegated program. EPA should play a role in defining what criteria should be considered in reviewing these projects. In particular the projects should achieve "superior results" and no backsliding should be allowed. There should also be requirements for meaningful public involvement, including complete access on the part of the public to any information which is useful in analyzing the impacts of the project. These are all concepts embodied in model EPA - State Draft Agreement for Regulatory Reinvention (May 1997).

Under Compliance Assurance Principles we feel that EPA should play a larger role reviewing adequacy of DOE's enforcement program. There have been a number of reports and at least one major newspaper article on this topic over the past year. Enforcement actions have dropped off in recent years, raising questions about the adequacy of the compliance program. In particular we would like to see EPA conduct a review of DOE enforcement actions to determine if they are adequate and appropriate to achieve compliance. While there is some suggestion that some of this will occur in the sub-section on "Performance Measures / Oversight" (p. 22), the level of review is extremely limited.

The goals outlined in Section 6 on Water Programs are mostly vague and suggest, in many cases, a continuation of existing policies. We also had a number of problems with the sub-section on "Measuring Progress."

Core Program Outcome Measures for the NPDES program included a continuation of the "collaborative process" to getting DMR information into the Permit Compliance System data base so that EPA can compute toxic loading. It seems to us that EPA should simply establish a timeline for entering this data, and that should be a condition of the agreement and the funding. We were similarly puzzled by 2(e) of this subsection which called for DOE to reduce NPDES compliance monitoring. Why would you seek to reduce compliance monitoring requirements?

We have just completed a year long study of the DOE NPDES Program, which culminated with the publication of a report entitled "Toxic Soup" (Kent, People for Puget Sound, December 1996). In that report we found that DOE routinely adopts technology based standards which are 15-20 years outdated. In the few months since the publication of the report, we have reviewed several permit renewals that were even less protective of the environment. In these cases, there is no ratcheting down of the standards as the Clean Water Act requires.

We strongly urge EPA to review this area more closely and develop an Outcome Measure on the

updating of these technology based standards. We were disappointed that the Outcome Measures in subsections (2)(b) - (d) all revolve around the quantity of permits issued, not the quality of the product.

We are aware that these are issues that may also be dealt with in the EPA - State agreement on the NPDES program. Unfortunately, these issues have not been adequately addressed in that agreement. Nor does the existence of this separate agreement reduce your responsibility, when awarding funding under Performance Partnership Agreement, to insure that the state is working to achieve the goals of the Clean Water Act.

Similarly the "Core Performance Measures" in subsection 3, while useful, do not necessarily tell us whether DOE administered programs are effective. Improvements in overall waterbodies may or may not signal that DOE programs are successful. There are simply too many other factors at play. We would suggest that, in addition to those identified, you designed performance measures that relate directly to the program, such as percent reductions in specific chemicals from given source categories.

Thank you for taking the time to review our comments. Please contact us if you have questions.

Yours,

Bruce Wishart
Policy Director
People for Puget Sound

cc: Chuck Clark
Dee Ragsdale

Response to People For Puget Sound

Comment 1: Ecology programs meeting CWA requirements.

Ecology's implementation of the federal Clean Water Act's requirements is a very open and public endeavor. Citizens and stakeholders have numerous forums for engaging in these activities and providing public oversight, in addition to the contractual oversight role EPA plays. In addition, citizens and affected parties have numerous legal recourses to ensure Ecology is meeting CWA requirements. Finally, the State Legislature plays an important role in program evaluation, budget and policy control over Ecology's implementation of water quality programs. We believe the partnership and oversight role EPA plays is only one of many different oversight opportunities available to not only governmental agencies, but to citizens as well.

Comment 2: EPA's role in State Environmental Excellence Program.

EPA will be provided with an opportunity to review and as appropriate object to any proposed agreement developed under Chapter 381 of the Washington State Laws 1997 (Engrossed Second Substitute House Bill 1866). EPA has stated that it intends to use EPA's criterion of superior environmental performance as it is currently defined in the Federal XL program. EPA's criterion of superior environmental performance was clarified in its April 23, 1997 Federal Register notice. The draft EPPA wording will be changed to reaffirm EPA's position on the use of superior environmental performance as a criterion when reviewing proposed agreements.

For any agreement there will be an opportunity for stakeholder involvement through out the process. To be "meaningful" any information used to document overall environmental results and or impacts will need to be available and presented in a way that allows for an accurate evaluation of the proposal. The draft EPPA wording ;will be changed to clarify the importance of providing access to information needed to evaluate the environmental benefits and impacts for any proposal. Additionally, the draft EPPA wording will be changed to clarify the importance of stakeholder involvement throughout the process.

It is also important to realize that approval of an agreement does not in itself modify environmental permits. To modify any such permits would require the application of all ordinary permit modification requirements including public notice, opportunity to comment, and opportunity to file appeals. Also for any permits subject to federal jurisdiction, the responsible Federal agency must be given an opportunity to review, and as appropriate object to the proposed permit conditions.

Comment 3: EPA's role of State enforcement program.

We welcome EPAs review/audit of State programs, including enforcement. The State has a strong program and is a leader in the country when it comes to focusing on achieving compliance. Enforcement actions rise and fall for a number of reasons, including putting more effort/ resources of technical assistance to achieve the end result of compliance. The State continues to issue strong penalties and enforcement orders when and where appropriate.

Comment 4: Reduced compliance monitoring.

Reductions in compliance monitoring are given to facilities having at least two years demonstrated good performance (no violations) for a given parameter. This is a financial incentive to facilities to achieve compliance. This compliance incentive was developed through the Permit Program Partnership, of which the People for Puget Sound is a member and agreed to the report recommending this policy. The policy implements EPA federal reduced monitoring guidance which was released in spring 1996.

Comment 5: Outcome Measure on the updating of these technology based standards.

Ecology agrees federal effluent guidelines need to be updated for some industries. This is because the State does not have the financial resources needed to conduct the technical and economic analyses of these industry-wide standards. However, the PPA between Washington and EPA Region 10 is not the appropriate forum for EPA's effluent guidelines development plan. These guidelines are nationwide in scope. Additionally, Ecology does plan on developing a rule defining all known available and reasonable levels of treatment and prevention as required by State law when resources are available.

Comment 6: Core Performance Measures.

These Core Performance Measures were developed at the National level. EPA Region 10, however, will pass these comments on to EPA Headquarters.

July 25, 1997

Jack Boller
US EPA, Region 10
Washington Operations Office
300 Desmond Drive, Suite 102
Lacey, WA 98503

Dee Peace Ragsdale
WA Department of Ecology
PO Box 47600
Olympia, WA 99504-7600

Mr. Boller and Ms. Ragsdale:

We appreciate the opportunity to review and to provide our comments regarding the Environmental Performance Partnership Agreement between the Washington State Department of Ecology and the US Environmental Protection Agency for state fiscal year 1998. We understand that, since we are only now reviewing a document that was intended to take effect at the beginning of this month, there will be a desire to finalize this document as quickly as possible. Therefore, our comments have focused only on our major areas of concern.

We were encouraged to see that some of our comments regarding the fiscal year 1997 Performance Partnership Agreement have been reflected in the language of this new Agreement; specifically the acknowledgment that the state lacks regulatory jurisdiction on the more than 3 million acres that lie within the exterior boundaries of Indian Reservations. However, we are disappointed with the continuing failure to recognize the full extent of tribal rights and resources; rights which have been reserved by treaties and which extend far beyond Reservation boundaries and into virtually every watershed within the State. The United States Supreme Court considers rights secured by treaties and statutes to be vested property rights, and has determined that tribes have the right to cooperatively manage those resources to ensure their protection,

Through the Treaty of 1855 (12 Stat. 951), the Yakama Nation reserved to themselves and future generations the right to access and utilize natural and cultural resources throughout the 11 million acres which were ceded to the federal government, and beyond into Usual and Accustomed areas. The Yakama Nation and its more than 8,600 members continue to exercise their treaty-reserved rights in Washington State and throughout the Pacific Northwest.

The stated purpose of the Environmental Performance Partnership Agreement is to allocate resources to the highest environmental priorities of the State and to maintain a core level of environmental protection for all of Washington's citizens by using a holistic, watershed-based approach. We are convinced that the only way to achieve this purpose is through a cooperative management strategy that involves tribes as equal partners with EPA and the State. Rather than excluding tribes and tribal lands and resources by perpetuating the traditional federal/state approach to environmental protection, we believe future efforts should emphasize including tribal governments as partners in the management of all resources. As discussed above, tribal resources exist throughout the region and are certainly not limited by the boundaries of Indian Reservations. EPA and the State must realize that it is not possible to exclude tribal lands and tribal resources from the scope of this agreement. Tribal resources will be directly impacted by the actions detailed in this Agreement, and therefore tribal governments must be involved in the development of priorities and approaches to environmental protection and must share management responsibility with their federal and state partners.

Again, we appreciate the opportunity to provide our comments on this Performance Partnership Agreement. Tribal people have been caretakers of the resources of this region since time immemorial, and we hope that recognition of tribal knowledge, expertise, and rights in managing these resources will be reflected in this and future agreements.

Sincerely,

Carroll E. Palmer, Deputy Director
Yakama Nation Division of Natural Resources

cc: Yakama Tribal Council
Moses Dick Squeochs, YN Environmental Program
Kathleen Hill, EPA Region 10

Response to The Confederated Tribes And Bands Of The Yakama Indian Nation

Page One, Paragraph Two has been changed:

In addition to this partnership between Ecology and EPA, both agencies have relationships with the 27 federally recognized tribes of Washington State, who are sovereign nations with regulatory authorities and treaty reserved rights. Tribal resources are not limited by the boundaries of Indian Reservations and will be impacted by the actions detailed in this Agreement. Ecology and EPA are each committed to working with tribal governments in the development of priorities and approaches to environmental protection on a government to government basis. This Agreement is not intended to define or modify these relationships and tribal lands are not included under this Agreement. Ecology and EPA each have and will continue to develop ~~separate~~ cooperative management relationships and environmental agreements with individual tribal governments outside of this Environmental Performance Partnership Agreement.

Water Quality Comments:

#1: Relating to Water Goals and Priorities: “A specific area in need of innovative solutions: Protect and enhance tribal boundary waters and waters where there is tribal fishery rights through water quality standards and other means.”

Response:

We agree. Ecology and EPA are exploring with the Tribes options for better coordination on identifying threatened and impaired waters, and on watershed approaches to develop TMDLs and other corrective actions. See page 41, section 3.

#2: Relating to Columbia River issues: “Comparison of FTE’s between Puget Sound and the Columbia River illustrates institutional neglect of the Columbia Basin. With new ESA listings, new rule making for flows...etc. the Columbia River needs significant new resources.”

Response:

We agree that there needs to be more resources directed at identifying and correcting environmental problems in the Columbia River Basin. Both EPA and Ecology will begin to give these more attention. A new full-time EPA position has been assigned to Columbia Basin water issues. EPA and Ecology are both actively involved in the Columbia and Snake River temperature and dissolved gas issues, the contaminated sediments in the Spokane River, and the development of British Columbia water quality objectives.

#3 Relating to NPDES and watershed planning: “Tribes need to be involved in this process on a government to government basis. To date too much planning has taken place behind agency doors. Relationship of this program to 2054 needs to be worked out.”

Response:

We agree; tribes are welcome partners in all watershed activities. Ecology makes an effort to consult with all affected tribes during the scoping process and planning processes for each water quality management area. At this time the relationship between these activities and watershed planning under HB 2054 is still to be determined.

#4: Relating to Sediments and 303(d): “Needs to include Columbia River above Grand Coulee Dam and the Spokane River.”

Response:

We agree for listed waters. The strategy developed will apply to sediments in both freshwater and marine environments, since all waters on the 303(d) list must be addressed.

WASHINGTON ENVIRONMENTAL COUNCIL

July 25, 1997

Dee Peace Ragsdale
WA Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Jack Boller
US EPA, Region 10
Washington Operations Office
300 Desmond Drive, Suite 102
Lacey, WA 98503

Dear Ms. Ragsdale and Mr. Boller,

The Washington Environmental Council (WEC) is pleased to comment on the review draft of the FY 1998 EPA/DOE Partnership Agreement.

WEC notes with some concern the change in purpose of the 1998 agreement. In the purpose statement, the public has been dropped as members of the partnership. As the ultimate funders of all activities covered in this agreement, we believe that citizens are essential partners. We strongly support the purpose of the FY 97 Agreement that stated "a partnership with each other and with Washington's citizens in protecting, enhancing and restoring our natural environment" [emphasis added].

This current Agreement, like its predecessor, focuses on bureaucratic planning, rather than on reporting on where, how and how much pollution has been reduced. It now includes some of the necessary specific products and a few deadlines, but the outcomes are still not directly related to achieving the purpose of the Agreement. The key question in evaluating this draft Agreement is: How will the expenditure of large sums of money directly protect, enhance and restore or natural environment? A related question arises as to why the dollar amounts are not shown in the draft agreement.

This Agreement should provide the same degree of accountability for the public's money, as would be required in such an agreement in the private or non-profit sectors. Justification for the need for funding with expected outcomes and timelines remains deficient.

We feel that Washington citizens want their tax money spent on activities that directly protect, enhance and restore our natural environment in a timely manner. There are several ways to build accountability and work toward that goal. One option is to establish an independent citizen advisory

committee to review and publicly comment on the Agreement. Such a committee would need to include representatives of the general public, the public interest groups actively concerned with Department of Ecology programs, as well as the regulated community. This group might help the agencies focus on direct results (i.e. reductions in pollution, number enforcement actions taken and their ultimate result). Clear, concise reporting on direct progress made toward specific goals would also improve accountability.

We applaud the move toward using quantitative and qualitative environmental indicators. Performance standards, with financial and public relations penalties for failure to perform, can only help to move forward issues which have been bogged down for years. We encourage you to move forward with this program and put it into operation as soon as possible.

The health of our environment continues to decline and projected population growth will make reversing this trend all the more difficult. To face this challenge, we need to spend every dollar to its maximum benefit. Greater public accountability and a focus on measurable results will move us in the right direction.

Thank you for considering our comments. If you have questions, please feel free to call me or WEC Board Member Marcy Golde at 206.527.6350.

Sincerely,

Joan Crooks
Executive Director

SPECIFIC COMMENTS

Section One: General Information

- VII. **Agreement Coverage:** Include the projected dollar amounts here and the FTEs funded.
- VIII. [mislabeled VI.] **Evaluation Process:** Report the results to the public with a press release and on the WEB and by mail to commenting and other interested parties.

Section Two:

Regional Salmon Related Environmental Indicators: Incorporate this work in the State Wild Salmon Policy, the State Salmon Recovery Plan and the TFW Forestry Module of that plan.

Section Three: We are pleased to see this section added. Public reporting of your activities is important and has a very good effect of focusing public attention on the bad actors, who provide unfair competition to the companies working to reduce pollution at the source.

Performance Measurement/Oversight:

General Principles: "EPA will limit its review of State Agency decisions to a standard of whether the delegated entities made factual errors in technical calculations, or errors in interpretations of federal law, regulations or guidelines." This limitation is grossly inadequate. It is vital that EPA evaluate the level of effort, or lack thereof. Ecology may make a decision to make no effort to carry out a commitment and yet not meet this standard of review of decisions.

Section Six:

I. Goals and Priorities

- 2. Develop and implement a strategy to complete Total Maximum Daily Loads (TMDLs)... ." The TMDLs must include at least one non-point source and one in-stream flow TMDL.
- 3. Enhance state Non-point Program: add enforcement to the other tools listed.
- 4. Surface Water Quality Standards: Don't just target improvements - complete them with a deadline of June 30, 1998.
- 5. Protection of groundwater resources: add enforcement to coordination and technical assistance.
- 6. We are pleased to see this.

II. Measuring Progress

- A. **Environmental Indicators will be completed for FY99 PPA.** Good. At least some of these indicators need to be measurable.
- B. **Performance measures:**
 - 1. Outcomes for state enforcement and compliance program: Restart the reporting of enforcement and fines to the public.
 - 2. Core Outcome Measures for Point Source Pollution: Include a description of 5 examples of significant reductions in point source

pollution achieved in FY98 as a direct result of this program and funding.

3. Core Outcome Measures for Watershed Restoration and Protection: Include a description of 5 examples of significant improvements in Watershed Restoration and Protection achieved in FY98 as a direct result of this program and funding. Include one example of reductions in non-point source pollution.
4. Core Measures for Source Water Protection and Underground Injection Control: Include a description of 5 examples of significant improvements in Source Water Protection and Underground Injection Control achieved in FY98 as a direct result of this program and funding.

III. Activities undertaken by both Ecology and EPA.

Please include additional information on the FTEs indicated under each heading. In at least some instances the number of FTEs working now is much less than the numbers shown. Unless Ecology anticipates major increases in those programs, the discrepancy must be explained.

1. 303(d) & TMDLs. There appears to be a typographical error on the number of FTEs with a total of 35 FTEs, when the federally funded FTEs are 3.5 and the state funded FTEs are 5.5, which totals 9.0 FTEs.
5. WEC is unable to identify even two FTEs working on the TFW Forestry Module, much less the 5.5 indicated. We are aware of perhaps 1 to 1.75 FTEs working on the Forestry Module plus other TFW projects, but less than 1 FTE working directly on the Forestry Module. Certainly that Module would produce more and have a much better chance of success, if Ecology were committing 5.5 FTEs to this effort.
8. A prioritization process for the anti-degradation and use-based Water Quality Standards is a totally inadequate product and deadline for a process started in January, 1993. Review is mandated every three years. As we stated in the FY97 PPA agreement comments, a deadline is vital and it needs to be within this FY98PPA Agreement. In addition, we are aware of only 1.0 FTE working on this project who is assisted to a small extent from public involvement staff, not the 3.0 FTEs listed.

Response to Washington Environmental Council

Comment 1: Washington's citizens.

The language in question, "a partnership with each other and with Washington's citizens in protecting, enhancing and restoring our natural environment" was in the draft and in the final Agreement: Page "i", second paragraph.

Comment 2: Accountability.

Ecology and EPA are actively developing and in many cases already using environmental indicators and other measures to monitor trends and conditions in the environment. Many of Ecology's annual reports now include these measures. In addition, Ecology has developed measures as part of our budget to the Office of Financial Management (these measures are being updated to reflect the budget that passed during the 1997 Legislative Session). Ecology's "Washington's Environmental Health 1997" Report will be available to the public beginning in November. Ecology and EPA conduct a "mid-year" evaluation together on the implementation of this Agreement (typically in February/March).

Comment 3: Agreement Coverage.

The actual grant award (dollars) is shown in the final Agreement on page 6. In addition, Ecology and EPA FTE's are shown with each major activity throughout the Agreement.

Comment 4: Evaluation Process.

Providing the results of the Ecology/EPA mid-year evaluation to the public is a good idea, especially utilizing the Internet. We will pursue this idea. Thank you.

Comment 5: Regional Salmon Related Environmental Indicators.

Ecology, along with the other Pacific Northwest environmental agencies, are working with other key agencies within their jurisdictions to inform and coordinate the development and use of any resulting indicators.

Comment 6: Compliance Assurance Principles: Performance Measurement.

The point of the language referenced here was misunderstood. This part of the compliance assurance principles refers to review of specific products (PSD determination) and makes sure EPA is NOT wasting its time or the states resources by second guessing specific authority/procedures already delegated. The State and EPA agree that we don't want to have people doing the same thing - resources are too scarce. Regarding the evaluation of the level of effort - that's what the whole PPA is all about.

Comment 7: Water Quality Goals and Priorities.

7.2: TMDLs

The strategy referred to is meant to settle the lawsuit over 303(d) lists and development of TMDLs. The strategy will address all waters on the 1996 303(d) list, including development of TMDLs (where required) or other corrective actions for those waters. In some cases, other pollution control measures may solve the problems prior to the development of TMDLs for those

waters, or the problems may not be amenable to correction through TMDLs. Ecology expects to develop many nonpoint source TMDLs for listed waters, and has in fact already had some nonpoint source TMDLs approved by EPA. Ecology is continuing to explore the relationship between the 303(d) list and instream flows.

7.3: Enhance state Non-point Program: add enforcement to the other tools listed.

Ecology agrees that compliance, including enforcement, is an important component of the overall nonpoint source program. Both the state's 319 Nonpoint Source Plan and CZARA 6217 Coastal Nonpoint Source Program address the use of regulatory and enforcement measures in the mix of tools available to achieve nonpoint source goals. In the coming months, as both of these programs are revised, Ecology expects to involve all stakeholders in helping to determine the appropriate use of enforcement in the nonpoint arena.

7.4: Surface water quality standards: Don't just target improvements - complete them with a deadline of June 30, 1998.

Response

While this is a laudable goal, it will not be met; therefore, adding a deadline of June 30, 1998 would mislead the public.

Response (WQ)

The date for adoption of the Phase I revisions to the standards (December 31, 1997) is given later in the document (page 44). Timeframes for the Phase II public workshops and hearings are also shown. Ecology does not expect to complete adoption of Phase II revisions during this fiscal year.

7.5: "Protection of groundwater resources: add enforcement to coordination and technical assistance."

Response:

The primary intent of this goal is to provide technical assistance and outreach to local governments. However, Ecology agrees that enforcement is an important component of ground water protection programs. Currently, enforcement primarily occurs through the Underground Injection Control Program and the state wastewater discharge permit program for discharges to ground and land application of wastes.

7.6: "We are pleased to see this." [Assess compliance with existing standards and develop new methods for measuring environmental results.]

Response: None required.

Comment 8: Measuring Progress

8.1: "...restart the reporting of the enforcement and fines to the public.." Response:

At this time, Ecology is not producing a report on enforcement and fines.

8.2: “...include a description of 5 examples of significant reductions in point source pollution achieved in FY98...” Response:

As stated above, we are following core performance measures developed at the national level by EPA headquarters.

8.3: “...include a description of 5 examples of significant reductions in Source Water Protection and UIC control achieved in FY98...” Response:

As stated above, we are following core performance measures developed at the national level by EPA headquarters.

8.4: Specific Comments #8 (3) (WQ) “...include a description of 5 examples of significant reductions in point source pollution achieved in FY98...”,
and

8.5: Specific Comments #8 (4) (Description noted as in #4 above) WQ Response:

The performance measures included in the PPA are core measures developed at national level for all states.

Comment 9: Explain discrepancy in numbers of FTEs shown

9.1: “303(d) & TMDLs. There appears to be a typographical error on the number of FTEs...”

Response:

There is a typographical error for the total number of FTEs for this activity—the correct total is 9.35 FTEs.

9.5: “WEC is unable to identify even two FTEs working on the TFW Forestry Module, much less the 5.5 indicated...”

Response:

The total of 5.5 FTEs shown represent all of Ecology’s resources directed towards forest practices, including the Forestry Module, forest practices rules, watershed analysis, and other related activities.

9.4: “A prioritization process for the anti-degradation and use-based Water Quality Standards is a totally inadequate product and deadline for a process started in January, 1993...” and “...we are aware of only one FTE working on this project...”

Response:

The scoping and prioritization process referred to is for the next round of triennial review, i.e.,

what issues should Ecology tackle for the following round of revisions after completion of the Phase I and Phase II revisions associated with the current triennial review. The prioritization of antidegradation and use-based issues occurred some time ago. The FTEs shown include all staff working on both the Phase I and Phase II issues, and is the correct number.

THE CONFEDERATED TRIBES
OF
THE COLVILLE RESERVATION

ENVIRONMENTAL TRUST DEPARTMENT
July 25, 1997

Dee Peace Ragsdale
WA Department of Ecology
P.O. Box 47600
Olympia WA 98504-7600

RE: Ecology/EPA Performance Partnership Agreement Comments

Dear Ms. Ragsdale:

Due to time constraints I have to confine my comments to water programs.

Water Programs

Page 39, #9: A specific area in need of innovative solutions: Protect and enhance tribal boundary waters and waters where there is tribal fishery rights through water quality standards and other means.

Page 45, #s 10 and 11: Comparison of FTE's between Puget Sound and the Columbia River illustrates institutional neglect of the Columbia Basin. With new ESA listings, new rule making for flows, temperature and flow problems in the mid-Columbia and tribes, dissolved gas problems, resident fishery concerns, contaminated sediments in the Spokane River and Lake Roosevelt, development of British Columbia water quality objectives, international issues concerning the 1909 boundary waters treaty and storage agreements, etc. the Columbia River needs significantly more resources. Current federal resources directed at these problems are biased towards lower Columbia and Snake River issues. They are also being managed by the agencies which created the problems in the first place.

Page 46, #1c: Tribes need to be involved in this process on a government to government basis. To date too much planning has taken place behind agency doors. Relationship of this program to 2054 needs to be worked out as well.

Page 52, #2 at bottom: Needs to include Columbia River above Grand Coulee Dam and the Spokane River.

Thank you for the opportunity to comment.

Sincerely,

Gary W. Passmore, Director

c: Jack Boller, EPA

Response to The Confederated Tribes Of The Colville Reservation

Comment 1: Protect and enhance tribal boundary waters and waters.

This need was addressed on page 41, section 3.

Comment 2: Comparison of FTEs between Puget Sound and the Columbia River.

We agree that there needs to be more resources put into the Columbia River issues. EPA will begin to give these greater attention. A new full-time EPA position has been assigned to Columbia Basin water issues.

Comment 3: Involve Tribes on a government to government basis.

We agree. Tribes are welcome partners in all watershed activities.

Comment 4: Include Columbia River above Grand Coulee Dam and the Spokane River.

(Dave Peeler will provide.)