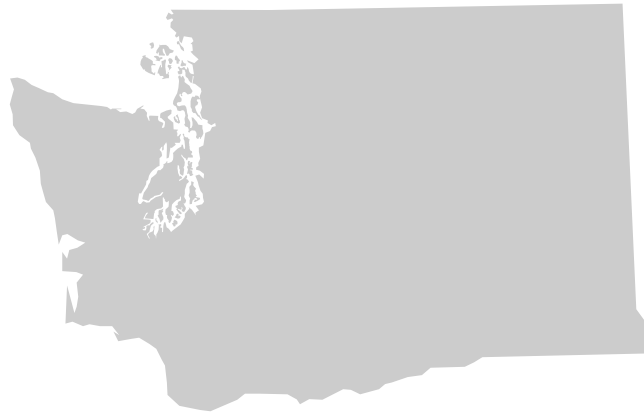
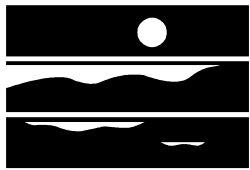


# *Environmental Performance Partnership Agreement*



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

***State Fiscal Year 1997  
July 1, 1996 - June 30, 1997  
Publication # 96-764***



WASHINGTON STATE  
DEPARTMENT OF  
E C O L O G Y

***September 1996***



# Environmental Performance Partnership Agreement For July 1, 1996 - June 30, 1997

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

We, the undersigned, Mary Riveland, 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 replaces our previously executed State/Environmental Protection Agency Agreement, as well as several other work plans and agreements previously negotiated between our two agencies. It 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 begun to identify success in terms of environmental health through the use of environmental indicators.

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, this day \_\_\_\_\_, September 1996.

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Mary Riveland, Director  
Washington Department of Ecology  
PO Box 47600  
Olympia, Washington 98504-7600

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Chuck Clarke, Regional Administrator  
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# SECTION ONE

## *Environmental Performance Partnership Agreement*

### I. INTRODUCTION

In May 1995, EPA along with the 50 States proposed a new environmental partnership to encourage continuous improvement and foster excellence in state and federal environmental programs. This new approach is called the National Environmental Performance Partnership System.

This partnership approach, which Ecology and EPA Region 10 have embraced, means mutually agreeing on priorities and both parties working toward accomplishing those priorities. Ecology and EPA are formalizing this partnership approach in this Environmental Performance Partnership Agreement for state fiscal year 1997 (July 1, 1996 through June 30, 1997). The purpose of this Agreement is to:

- Establish mutual environmental goals, objectives, activities and performance measures for state fiscal year 1997.
- 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.

Both agencies support a shared responsibility in meeting the environmental and public health priorities of the state. This Agreement will evolve over the next few years. In subsequent years, it may include a broader range of program areas and other agencies and will include improved development and use of environmental indicators to measure environmental results. In addition, Ecology will be evaluating the benefits of combining two or more of the EPA assistance grants it receives into one grant for greater flexibility in addressing state priorities.

Both Ecology and EPA are committed to improving the public participation process in helping us determine our goals and objectives. In addition, over the next year, Ecology and EPA will be discussing with other state and federal environmental, health and natural resource agencies and tribal governments the benefits of including them in future Environmental Performance Partnership Agreements.

Ecology and EPA have relationships with the 27 federally recognized tribes of Washington State, who are sovereign nations with regulatory authorities and Treaty Reserved rights. 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 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,
- Coordinate our work for more efficient use of resources and to avoid duplication of effort,
- Communicate more frequently and openly between ourselves and others, and
- Cooperate and communicate with Indian tribes on a government to government basis in the development, implementation and evaluation of all activities undertaken pursuant to 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. Both agency's' entire mission and goal statements are included in Appendix A.

## *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 four goals. Ecology will:

- Reduce risks to human health and protect Washington's land, air and water.
- Work for environmental solutions which respect local values and contribute to economic vitality.
- Strengthen our organization to meet new challenges and provide high quality services.
- Continue to build a supportive work environment.

## *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. 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. In the past, Ecology and EPA Agreements and work plans have focused solely on the number and types of actions Ecology completes with respect to the federal grant assistance it receives. This has lead both agencies to develop reporting systems that revolve around such actions as, the number of permits issued, the number of enforcement actions and the number and type of inspections conducted.

While this type of information is informative in developing staff work loads and performance, it does not tell us if our actions are resulting in environmental or public health improvement. For

this reason, Ecology and EPA are committed to improving the indicators Ecology currently uses and developing new environmental indicators in other areas.

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.

By June 30, 1997 a core set of environmental indicators will be developed to provide both Ecology and EPA information to track the condition of Washington's air, water and land. In some program areas, Ecology has already been using indicators to help make informed decisions, in particular air quality and hazardous waste management.

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 indicator report, *Washington's Environmental Health 1996*, in January 1997. During the Spring of 1997, Ecology and EPA will be seeking public participation and input into the selection of appropriate environmental indicators.

Accessible agency-wide information is key to evaluating indicators as well as moving toward consolidated permitting, community based decision-making and reducing regulatory burdens for our customers. Ecology is committed to a long-term initiative to make cross-program information readily accessible to staff and others. Understanding that EPA has similar interests, we are looking for ways to mutually benefit from a collaboration on information integration activities at the state and federal level.

## V. AGREEMENT COVERAGE

The Washington State Departments of Ecology, Health and Agriculture and the US Environmental Protection Agency, Region 10, for the past several years, have negotiated what was called the State/Environmental Protection Agency (EPA) Agreement. The State/EPA Agreement was the work plan for federal grant assistance in air quality, water quality and hazardous waste management at Ecology, drinking water at Health and pesticides at Agriculture. This year, Ecology, Health and Agriculture are negotiating separate Agreements with EPA Region 10.

This Agreement is between the Department of Ecology and EPA Region 10 only. 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 air, hazardous waste management and water grants to Ecology from EPA. The grants highlighted in **boldface** are covered in this Agreement. This Agreement constitutes the Ecology and EPA work plan for the award or continuation of those grants.

ECY #	EPA #	ECOLOGY TITLE	EPA CATALOG TITLE	\$ AMT	END DATE
<b><u>CENTRAL PROGRAMS AND ENFORCEMENT</u></b>					
<b>BB96-02</b>	<b>66.001</b>	<b>Air Base FY96</b>	<b>Air Pollution Control (105)</b>	<b>1,139,052</b>	<b>6/30/97</b>
<b>BB96-03</b>	<b>66.001</b>	<b>Local Air FY96</b>	<b>Air Pollution Control (105)</b>	<b>1,371,358</b>	<b>6/30/97</b>
<b>BP96</b>	<b>66.001</b>	<b>Air Quality</b>	<b>Air Pollution Control (105)</b>	<b>unknown</b>	<b>6/30/97</b>
B010	66.951	Clean Air Week Teacher Workshop	Environmental Education Grants	5,000	12/31/96
B012	66.951	National Environmental Education	Environmental Education Grants	5,000	6/30/97
C001	66.456	Sediment Mgmt & Aquatic Protection	National Estuary Program (320)	438,000	9/30/96
C002	66.999	Pollution Prevention/Industrial Sites	Pollution Prevention	100,000	1/30/97
D009	66.505	REMAP	Water Pollution Control: R,D&D	440,000	10/26/96
D016	66.505	Willapa Bay Project	Water Pollution Control: R,D&D	332,000	9/30/99
<b><u>WATER AND SHORELANDS</u></b>					
<b>EA95</b>	<b>66.461</b>	<b>Wetlands Protection</b>	<b>Wetlands Protection</b>	<b>106,000</b>	<b>5/31/97</b>
<b>EA96</b>	<b>66.461</b>	<b>Wetlands Functional Assessment</b>	<b>Wetlands Protection</b>	<b>164,942</b>	<b>9/30/97</b>
<b>F041</b>	<b>66.419</b>	<b>Nonpoint Source Management</b>	<b>Water Pollution Control 205(j)(5)</b>	<b>166,756</b>	<b>9/10/96</b>
<b>F048</b>	<b>66.460</b>	<b>Nonpoint Source 319(H) FY92</b>	<b>Nonpoint Source 319(h)</b>	<b>834,000</b>	<b>13/30/96</b>
<b>F049</b>	<b>66.900</b>	<b>Storm Water 104(b)(3)</b>	<b>Multimedia Grants</b>	<b>178,000</b>	<b>9/30/96</b>
<b>F061</b>	<b>66.460</b>	<b>Nonpoint Source 319(H) FY93</b>	<b>Nonpoint Source 319(h)</b>	<b>961,665</b>	<b>5/31/97</b>
<b>F063</b>	<b>66.460</b>	<b>Nonpoint Source 319(H) FY94</b>	<b>Nonpoint Source 319(h)</b>	<b>1,513,579</b>	<b>5/31/97</b>
<b>F065</b>	<b>66.463</b>	<b>WQ 303(d) Tribes (NPDES)</b>	<b>NPDES Program Grant 104(b)(3)</b>	<b>90,000</b>	<b>9/1/96</b>
<b>F067</b>	<b>66.460</b>	<b>319(h) CWA</b>	<b>Nonpoint Source 319(h)</b>	<b>1,809,306</b>	<b>1/31/97</b>
<b>F072</b>	<b>66.600</b>	<b>Basic 106 Water FY97</b>	<b>Consolidated -- 66.419</b>	<b>1,371,161</b>	<b>6/30/97</b>
<b>F084</b>	<b>66.600</b>	<b>UIC Water FY97</b>	<b>Consolidated -- 66.433</b>	<b>107,700</b>	<b>6/30/97</b>
<b>F085</b>	<b>66.600</b>	<b>Groundwater FY97</b>	<b>Consolidated -- 66.419</b>	<b>129,900</b>	<b>6/30/97</b>
	<b>66.545</b>	<b>WQ Management Planning 205(j)</b>	<b>Clean Water Act 604(b) was 205(j)</b>	<b>227,366</b>	<b>6/30/98</b>
<b>F073</b>	<b>66.454</b>	<b>WQ Management Planning 205(j)</b>	<b>WQ Mgmt Planning 205(j)(2)</b>	<b>216,362</b>	<b>6/30/97</b>
<b>F074</b>	<b>66.461</b>	<b>Watershed Approach</b>	<b>Clean Water Act 303CD</b>	<b>74,745</b>	<b>8/30/96</b>
<b>F075</b>	<b>66.463</b>	<b>Watershed Permitting 104(b)(3)</b>	<b>NPDES Program Grant 104(b)(3)</b>	<b>6,000</b>	<b>8/30/96</b>
<b>F076</b>		<b>Capacity Bldg: Watershed Permit</b>	<b>Puyallup River Mediation</b>	<b>75,000</b>	<b>9/30/96</b>
<b>F077</b>	<b>66.463</b>	<b>Dairy Waste NPDES &amp; TMDL</b>	<b>NPDES Program Grant 104(b)(3)</b>	<b>50,000</b>	<b>9/30/96</b>
<b>F087</b>	<b>66.600</b>	<b>GW Pesticides FY97</b>	<b>Consolidated -- or 66.700</b>	<b>43,460</b>	<b>6/30/97</b>
<b>F079</b>	<b>66.438</b>	<b>State Mgmt Asst Grant</b>	<b>Construction Mgmt Asst 205(g)</b>	<b>400,000</b>	<b>6/30/00</b>



ECY #	EPA #	ECOLOGY TITLE	EPA CATALOG TITLE	\$ AMT	END DATE
		205(g)			
F080	66.420	Operator Outreach	Clean Water Act 104(g)	35,000	10/1/96
F081	66.460	319(H) Nonpoint FY96	Clean Water Act 319(h)	1,805,380	1/30/99
F086		Tribal Coordination	Clean Water Act 104(b0(3)	110,000	
F089		Dollars to Sense Workshop	AC&C Discretionary	2,500	11/30/96
		Operator Outreach	Clean Water Act 104(g)	35,000	
		Integrate Grants to Watershed Approach	Clean Water Act 104(b)(3)	50,000	8/31/97
		Watershed Approach	Clean Water Act 104(b)(3)	18,000	8/31/97
		Liaison w/EPA			
		Riparian Buffer Monitoring	Clean Water Act 104(b)(3)	5,000	
G301 92	66.458	SRF Loan Program 92	State Revolving Fund	33,789,195	9/30/97
G301 93	66.458	SRF Loan Program 93	State Revolving Fund	33,425,073	9/30/98
G301 94	66.458	SRF Loan Program 94	State Revolving Fund	20,739,807	9/30/99
G301 95	66.458	SRF Loan Program 95	State Revolving Fund	21,419,838	9/30/99
G407	66.435	Clean Lakes/Lake Fenwick	Clean Lakes Program (CWA 314)	100,000	10/31/96
G410	66.435	Clean Lakes/Lake Sawyer	Clean Lakes Program (CWA 314)	50,000	9/30/96
G505	66.438	Construction Mgmt Asst 205(g)	Clean Water Act 205(g)	400,000	6/30/97
G507	66.438	Construction Mgmt Asst 205(g)	Clean Water Act 205(g)	400,000	6/30/98
G605	66.454	WQM 205(j) FY95	WQ Mgmt Planning 205(j)(2)	365,590	6/30/97
<b><u>WASTE</u></b>					
MC94	66.802	SARA 104(k)	Haz Subst Trust Fund (Superfund)	45,984	6/30/97
MD95	66.999	Puget Sound Geographic Initiative		68,001	12/31/96
M202	66.801	Hazardous Waste RCRA FY97	Haz Waste Mgmt Support	1,590,707	6/30/97
M501	66.900	HWTAP Roundtable P2	Multimedia Grant	100,000	9/30/97
M502	66.708	Multi-Media P2	Pollution Prevention Grants	59,000	8/30/96
M503	66.808	Waste Minimization Pilot Project	Solid Waste Mgmt Asst 8001	65,000	11/1/96
NW94	66.808	NW Regional Roundtable	Solid Waste Mgmt Asst 8001	5,000	12/31/96
NB93	66.463	Biosolids Management Program	NPDES Program Grant 104(b)(3)	212,438	6/30/97
N401	66.463	Conversion to Watershed/Biosolids	NPDES Program Grant 104(b)(3)	65,000	6/30/97

\*\* Please note: The dollar amount shown is the original grant dollar award. Some of these grants were initiated in past fiscal years, therefore the remaining dollar amount for this current fiscal year may be less than that shown.

This Agreement places special emphasis on key environmental priorities within air quality, hazardous waste management and water quality. In addition, three priority areas both agencies are cooperatively pursuing are included: Environmental Compliance and Enforcement, Beyond Compliance and Integrated Information Management.

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

- Delegation of the 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.

## VI. EVALUATION

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.

## VII. PUBLIC INVOLVEMENT OPPORTUNITIES

Ecology will be publishing its next report on the condition of Washington's air, land and water in a report titled, *Washington's Environmental Health 1996*, in January 1997. This report will provide a status on the environmental indicators outlined in this Agreement. Following the release of that report and prior to the initiation of the next fiscal year Environmental Performance Partnership Agreement, Ecology will be asking the public for input on the selected indicators. For more information please contact Dee Peace Ragsdale at the address below.

The 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:

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## SECTION TWO

### *Compliance And Enforcement Beyond Compliance and Information Integration*

#### COMPLIANCE AND ENFORCEMENT

##### I. DESCRIPTION

The Department of Ecology and EPA Region 10 agree ensuring compliance with environmental requirements is an essential element of an effective environmental protection program. Fostering innovation, pollution prevention and a “beyond compliance ethic” are important elements which must be accompanied by the certainty of adequate compliance monitoring and effective deterrent enforcement by the regulators.

##### II. GOAL

Ecology and EPA each have important and valuable roles in ensuring compliance, even where a state has program primacy. Our goal is to maximize use of our combined resources by implementing complementary strategies to promote and maintain compliance.

##### III. OBJECTIVE

Until more specific agreements concerning roles, strategies and relationships are developed, we are committed to working in a spirit of partnership and will specifically promote trust and mutual respect for the contributions of the other agency within our respective agencies.

##### IV. PERFORMANCE MEASURE

Ecology and EPA will review existing compliance and enforcement agreements as appropriate.

## BEYOND COMPLIANCE

### I. DESCRIPTION

For the past 25 years, Ecology and EPA have relied on “command-and-control” regulation as its primary tool for environmental management. The returns on “command-and-control” have been dwindling and do not address some of the environmental problems faced by our society. The existing regulatory scheme is too rigid, in effect, stifling innovation. In looking to the future we need to examine a wider range of approaches. We need to develop ways to change the regulatory structure to remove barriers to innovation, and even create incentives to effect environmental improvement. This will only happen when private enterprise and public agencies work together.

### II. GOAL

Ecology and EPA’s goal is to reinvent - not roll back - the regulatory scheme, to encourage and even reward environmental leadership.

### III. OBJECTIVE

- Shift the regulatory scheme to promote innovation.

Ecology and EPA are committed to working as partners and will make efforts to shift the regulatory scheme to promote innovation. It is anticipated that such efforts will include a state based environmental leadership program, improved coordination for national programs (for example, Environmental Leadership Program and Project XL), multi-media permitting, a greater focus on pollution prevention and sector based assistance programs. Descriptions of the nation Project XL and Environmental Leadership Program are attached in Appendix C.

The national Project XL has been reasonably well received by the regulated community as it allows flexibility in achieving environmental goals. However, one of the concerns raised in Washington is that Ecology is the lead regulatory agency not EPA. The development of a state-based program would address this concern.

### IV. PERFORMANCE MEASURES

- Develop a state-based environmental leadership program.

A significant lesson from recent reinvention efforts is that it takes resources to develop effective new approaches. Without such resources the overall effect of new approaches is limited, and in the worse case, leads to frustration on the part of the regulated community.

Ecology will seek delegation to run a state-based version of EPA’s national environmental excellence program (Project XL). Ecology will seek EPA grant assistance

to develop this program. If such funding is unavailable, Ecology and EPA would need to disinvest in current command-and-control programs.

Selection for this program would be based on the same criteria used for the national program, but it is anticipated that the state would be in a better position to develop incentives.

## 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. Users will also have access to the administrative information about the facilities and sites we manage. ("Users" are Ecology staff initially, and then other interested parties having access via Internet)

The integrated information management goal has four 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.

### III. OBJECTIVES AND ACTIVITIES FOR FISCAL YEAR 1997

Ecology's objectives and activities for fiscal year 1997 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.
- Partner with other agencies 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, eliminate duplication consistency across the regulatory programs (for example, air, water and waste) and diminish duplicative reporting burdens placed on the regulated community.

## SECTION THREE

### *Air Quality*

#### I. DESCRIPTION

The Mission of the Air Quality Program is:

*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 airsheds that violate Federal and/or State air quality standards.
2. Maintain air quality in airsheds which meet Federal and/or State air quality standards.
3. Prevent unacceptable degradation of air quality in order to protect public health and welfare.

#### III. PRIORITIES

##### Ecology/Local Air Authorities

- Control commercial and industrial emissions.
- Educate citizens regarding their role in achieving clean air.
- Continue to integrate and emphasize pollution prevention and geographic initiatives.
- Prepare for revised Federal standards and new initiatives.
- Expand inter-governmental partnerships and assistance to local air authorities.
- Prepare attainment and maintenance State Implementation Plans (SIPs) and redesignate as appropriate.
- Prepare updated visibility SIP.
- Develop an air toxic strategy.
- Issue major source permits under approved Title V program.
- Develop and implement rule to phase out grass seed burning.
- Improve database and information sharing to federal, state, local and other agencies.

##### EPA

- Provide regulation interpretation, technical assistance and training to state and local air authorities and Indian Tribes.



- Assist the State, local air agencies and Indian Tribes in preparing approvable SIPs.
- Review and process Washington SIPs in a timely manner.
- Take action regarding the Spokane Carbon Monoxide (CO) Violations and provide assistance to the state and local air authority in developing a plan to bring the area back into attainment.
- Publish Final approval of the WA Title V program.
- Provide technical assistance and oversight of the State and local Agencies implementation of the Title V operating permit program.
- Provide compliance assistance and ensure appropriate enforcement actions are taken against significant sources of air pollution.
- Assist Ecology in revising the Visibility SIP.
- Delegate Part 61 and 63 of the National Emission Standards for Hazardous Air Pollutants.
- Work with other federal agencies to address air pollution on Federal Lands.
- Facilitate resolution of interstate air pollution issues.
- Ensure coordination between governmental agencies and affected Indian Tribes in airshed management areas.

#### IV. ENVIRONMENTAL INDICATORS

*These are examples of the types of indicators that will be used*

1. Quantity of emissions reduced or prevented by point source strategies, motor vehicle strategies and area source strategies.
2. Total number of air pollution measurements each year that exceed the concentrations established by federal and state ambient air quality standards.
3. Total number of person exposure days each year to air pollution levels exceeding federal and state ambient standards.
4. Total reportable actual emissions of top ten Hazardous Air Pollutants (HAP).
5. Long term monitoring trends by pollutant and SIP monitoring location
6. Status of nonattainment areas
  - a. Number of designated nonattainment areas
  - b. Number of designated National Ambient Air areas that are in monitored attainment of the National Ambient Air Quality Standards (NAAQS)
  - c. Number of areas which are redesignated from nonattainment to attainment

#### V. OBJECTIVES AND PERFORMANCE MEASURES

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, implementation of the Compliance Assurance Agreement, 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.

The following objectives and activities contain a few remaining issues to be negotiated in compliance and operating permits between Ecology and EPA.

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

Ecology, in partnership with Local Air Authorities, will:

- a. Ensure appropriate action is taken to bring Spokane into attainment for carbon monoxide (CO) (section 187 of the Clean Air Act (CAA)).
- b. Work with local air authorities and EPA on the development and anticipated submittal to EPA of maintenance plans and redesignation requests.
- c. Submit the Portland -Vancouver ozone redesignation\maintenance plan to EPA by November 1996).
- d. Submit the Seattle, Kent and Tacoma Particulate Matter less than 10 microns in size (PM-10) maintenance plans to EPA by June 30, 1997.
- e. Ensure tasks listed in the Tri-Cities Memorandum of Agreement (MOA) are completed.
- f. Maintain and operate the ambient monitoring network and submit data into Aerometric Information Retrieval System (AIRS) in accordance with 40 CFR Part 58. (Ongoing)
- g. Conduct data analysis and report trends during the yearly trends meeting held in early 1997, with Ecology's internal and external stakeholders. These data trends characterize the air quality in both non-attainment and attainment areas.

EPA Region 10 will:

- h. Review and process redesignation\maintenance plans within the time frame provided for in the CAA or as expeditiously as practicable.
  - - CO Seattle-Tacoma-Everett
  - - Ozone Seattle-Tacoma-Everett
  - - Ozone Portland-Vancouver
  - - CO Vancouver
- i. Review and process the transportation conformity State Implementation Plan (SIP). (12/96)
- j. Assist Ecology, local air authorities and Indian Tribes in preparing technically sound redesignation requests and maintenance plans for PM-10 areas.
- k. Take action regarding the Spokane CO violations and assist Ecology and Spokane Air Pollution Control Authority in adequately addressing the Spokane CO violations. (Section 186 & 187 of the CAA)

3. 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, 1997. (goals 1,2)

Ecology, in partnership with Local Air Authorities, will:

- a. Conduct studies to determine the causes and the most effective ways to reduce ozone in Western Washington. Results will be reported annually.
- b. In response to new Particulate Matter (PM) NAAQS, begin to develop inventory, modeling, and monitoring expertise. (6/97)
- c. Review and initiate revisions for the Visibility SIP according to the visibility work plan and submit to EPA. (Spring 1997)
- d. Continue progress on the Columbia Plateau Project consistent with agreed upon time line contained in the project work plan.
- e. Evaluate alternatives to grass seed burning while phasing the practice out.
- f. Ecology and PSAPCA will implement the commitments in the CO and O3 maintenance plans for central Puget Sound.

EPA Region 10 will:

- g. Provide technical assistance, review and determine approvability of revisions to the visibility SIP.
  - h. Continue to coordinate the Columbia Plateau agricultural dust initiative.
  - a.
  - i. Provide technical, legal and policy assistance and training on the development of SIP revisions to meet new EPA requirements.
  - j. Provide both direct and indirect support to Ecology and local air authorities for special studies and provide peer review where appropriate.
  - k. Work with Idaho, Oregon, and Washington and Indian Tribes to develop regional grass seed burning reductions.
4. Programs are in place to address existing and anticipated problems associated with toxic air pollutants by June 30, 1997. (goal 3)

Ecology, in partnership with Local Air Authorities, will:

- a. Develop a comprehensive air toxic strategy plan. (Spring 1997)
- b. Adopt federal National Emissions Standards for Hazardous Air Pollutants (NESHAPs) (Part 61 and 63), or more stringent toxic control requirements, including source category Reasonable Available Control Technologies (RACT) as appropriate, no more than 18 months after EPA promulgation.
- c. Request delegation for Part 61 and 63 NESHAP regulations as they apply to both major and area sources within 24 months.

EPA Region 10 will:

- d. Review state NESHAP delegation requests (Section 112(l)) and determine approvability.
  - e. Provide technical assistance and outreach for new Maximum Achievable Control Technology (MACT ) standards as appropriate.
5. Regulated community achieves and maintains a higher rate of compliance with air quality requirements by June 30, 1997. (goals 1,2,3)

Ecology, in partnership with Local Air Authorities, will:

- a. Submit appropriate Title V Program changes and correct as needed for final EPA approval no later than September 1996.
- b. Issue permits/take action for 2/3 of the Title V sources by December 1996.
- c. Provide leadership and technical assistance to local air authorities to assure consistent statewide implementation of Title V operating permit program. Special focus on agencies with limited resources. (Ongoing)
- d. Conduct technical assistance for compliance and pollution prevention through site visits, answering phone calls, outreach publications and workshops. (Ongoing)
- e. Work with EPA and local air authorities to determine the need to revise the Compliance Assurance Agreement.

EPA Region 10 will:

- f. Take final action on the Title V program. (December 1996)
- g. Provide technical assistance to state and local permitting authorities, industry and Indian Tribes on permitting issues and acid rain program applicability.
- h. Comment on submitted Title V draft permits within 30 days of receipt, if appropriate.
- i. Provide technical assistance and oversight of Ecology's and local air agencies implementation of the Title V operating permit programs.
- j. Provide assistance to state and local agencies in adopting revisions to their permit programs to conform to EPA's New Source Review (NSR) reform regulations.
- k. Continue to review and comment on selected NSR permit application and permits, and conduct oversight of the state and local preconstruction permitting programs, including minor source SIP permits, Prevention of Significant Deterioration (PSD) permits, and nonattainment area (Part D) permits.

## SECTION FOUR

### *Hazardous Waste*

#### I. PROGRAM GOALS AND PRIORITIES

The EPA Region 10 Resource Conservation and Recovery Act Program (RCRA) and the Ecology Hazardous Waste and Toxics Reduction Program (HWTR) will strive to achieve the following program goals/priorities in Washington State for fiscal year 1997.

1. Continue to improve the Dangerous Waste Regulations.
2. Facilitate self implementation of pollution prevention and safe waste management.
3. Assist in building pollution prevention skills within Ecology.
4. Accomplish safe, timely permitting, closure and corrective action.
5. Address environmental threats through effective response including fair and firm enforcement.
6. Improve access, internally and externally, to meaningful, quality information for use in accomplishing our work including collecting information to measure our success.

#### II. ENVIRONMENTAL INDICATORS

The following environmental indicators will be used to determine the long term success of the RCRA Program. During fiscal year 1997 EPA and Ecology will work together to assess the appropriateness and measurability of these indicators. Based on these efforts modifications may be made to improve the indicators for use in future agreements.

1. Pounds per year of hazardous waste generated per capita. See goals 1 through 6.
2. Pounds per year of toxic chemicals released to air, land, and water. See goals 1 through 6.
3. Percent per year of hazardous waste (a) reduced, (b) recycled, or (c) treated at industries participating in pollution prevention efforts. See goals 1 through 6.
4. Number of pounds of contaminate stabilized, treated, or removed under RCRA corrective action per year. See goals 1 through 6.
5. Volume of contaminated media remediated or contained under RCRA corrective action per year. See goals 1 through 6.

#### III. PERFORMANCE MEASURES FOR WORK TO BE PERFORMED BY ECOLOGY

The following are performance measures including level of effort that Ecology will report on in a mid-year and end-of-year report. These reports will include a narrative and tracking data and will be due January 31, 1997 and July 31, 1997. Ecology will agree to continue reporting in the National Resource Conservation and Recovery Information System database (RCRIS). Unless

stated otherwise the activities in each measure will be completed by June 30, 1997. Ecology will collect and track all information needed to adequately report on all performance measures.

1. Conduct statutory mandated and state priority inspections. Input data into RCRIS and quality assure monthly. Should Ecology decide not to conduct a Federally mandated inspection, they will immediately notify EPA in writing of this decision along with documentation of why this decision was made. See goals 1,2 & 5 and indicators 1 & 2.
  - a. FTE's:           4.2 (EPA)                   1.4 (Ecology)                   Total FTE: 5.6
  
2. Address violations and compliance issues in a manner consistent with the Ecology Dangerous Waste enforcement guidance (orders, Notice of Corrections (NOC's), compliance letters, and penalties). Input data into RCRIS and quality assure monthly. See goals 1, 2 & 5 and indicators 1 & 2.
  - a. FTE's           1.3 (EPA)                   .43 (Ecology)                   Total FTE: 1.73
  
3. Develop and implement an improved process for measuring compliance rates of hazardous waste handlers. Continue reporting return to compliance in RCRIS. See goal 6 and indicators 1, 2, & 3.
  - a. FTE's:           .75 (EPA)                   .25 (Ecology)                   Total FTE: 1.0
  
4. Conduct technical assistance for compliance and pollution prevention through site visits, answering phone calls, outreach publications and workshops. Track technical assistance work including effectiveness for inclusion in the mid-year and end of year reports. See goals 1, 2 & 3 and indicators 1, 2, & 3.
  - a. FTE's:           4.6 (EPA)                   1.53 (Ecology)                   Total FTE: 6.13
  
5. Invest the designated level of effort in making progress on completing closure of regulated units and conducting corrective action at Solid Waste Management Units (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 documented and agreements will be signed off on by staff from both agencies. Input data into RCRIS and quality assure monthly including RCRIS measures Corrective Action 725 and Corrective Action 750. See goals 4 & 5 and indicators 4 & 5.
  - a. FTE's:           3.75 (EPA)                   1.25 (Ecology)                   Total FTE: 5.0
  
6. 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 documented and signed off on by staff from both agencies. Input data for milestones achieved into RCRIS and QA monthly. See goal 4 and indicators 1, 2, and 3.
  - a. FTE's:           3.5 (EPA)                   1.17 (Ecology)                   Total FTE: 4.67
  
7. Collect and process annual reports. Provide information to EPA for the National Biennial Report Systems as agreed in the program Memorandum of Agreement (MOA). See goal 6 and indicators 1 through 5.

- a. FTE's:           .5 (EPA)                   .17 (Ecology)                   Total FTE: 0.67
- 8. Maintain authorized program in compliance with federal requirements found at 40 C.F.R. Part 271.21. See goals 1 through 6 and indicators 1 through 5.
  - a. FTE's:           .75 (EPA)                   .25 (Ecology)                   Total FTE: 1.0

Ecology and EPA will continue discussions to resolve the RCRA Notification processing responsibilities. Ecology and EPA will also continue to work to develop better ways to measure program success (e.g. correlation of work done to compliance rates and waste generation rates).

#### IV. EPA COMMITMENTS

EPA commits to dedicating the following resources to implementation of the RCRA Program in Washington.

1. Compliance work
  - a. This will include program coordination, work at Kalama Chemical, Washington Chemical, Puget Sound Naval Shipyard, and International Paper Company
  - b. 1.5 FTE
2. Permitting work
  - a. This will include training to be provided to the state, program coordination, and work on Cameron, Yakima Training Center and the Advanced Processing Engineering Laboratory permits
  - b. 1.3 FTE
3. Authorization
  - a. This will include working with Ecology to develop and review the next authorization package
  - b. 0.4 FTE
4. Technical Assistance
  - a. This will include technical assistance at Cameron, Kalama Chemical and Hanford
  - b. 0.45 FTE
5. Information Management
  - a. This will include assistance in maintaining RCRIS and keeping data current
  - b. 0.2 FTE
6. Program Coordination
  - a. This is general program coordination done by the state coordinator in the regional office and the RCRA coordinator position in the operations office. This work includes a minimum of

six joint inspections and other oversight work, grant administration, planning, and assuring open communication between Ecology and EPA.

b. 1.3 FTE

Total FTE Support: 5.15 FTE

EPA will work with Ecology during the year to assess the adequacy of the current environmental indicators for the program and make modifications as necessary to develop a list of indicators for future use.



## SECTION FIVE

### *Water Quality*

#### I. GOALS

##### 1. Interagency Partnership, Cooperation, and Coordination

EPA and Ecology will foster a new relationship in the spirit of the Performance Partnership Agreement and will initiate a collaborative approach to aquatic resource protection in Washington State among state and federal agencies, tribal governments, and local governments.

##### 2. Watershed Management

EPA and Ecology will work in partnership to ensure delivery of ecologically and cost-effective environmental services through the joint implementation of the Watershed Approach to Water Quality Management as well as other geographically targeted actions.

##### 3. Aquatic Biodiversity Protection and Restoration

Ecology and EPA will work collaboratively to protect and restore Pacific Northwest aquatic ecosystem integrity and biodiversity.

##### 4. Streamlining Program Services

Revise systems and procedures to improve environmental results, inspire public confidence, reduce time and costs, increase flexibility, and maintain accountability.

#### II. OBJECTIVES AND ACTIVITIES

##### 1. **Facilitate coordination and involvement by other federal and state agencies, tribes, and local governments in water quality management.**

- a. Finalize and initiate implementation of a Nonpoint Source Pollution Control Strategy incorporating Clean Water Act (CWA) 319, CZARA 6217, and modular elements and tools, to be focused through the Watershed Approach and leveraged using resources at local, state, federal, and tribal levels.
- b. Provide financial and technical assistance for local, state, tribal, and federal implementation of ground water and watershed management plans and strategies as

appropriate and consistent with the State's CWA Section 319 and CZARA Section 6217 nonpoint source plans.

- c. Collaborate on revisions to the state surface water quality standards, including early involvement and review by the National Marine Fisheries Service and U.S. Fish and Wildlife Service for consistency with the Endangered Species Act, guidance on consistency with federal requirements for an antidegradation implementation plan, and clarifying and resolving conflicts between FIFRA and CWA regulatory requirements for aquatic pesticides.
- d. Develop and implement a cooperative sediment management approach per the "Cooperative Sediment Management Program Interagency/ Intergovernmental Agreement."

**2. Increase partnership, cooperation, and coordination between EPA and Ecology using the Performance Partnership Agreement.**

- a. Develop and use effective mechanisms for involving affected federal, state, tribal, and local entities in the formation and implementation of coordinated ground water protection and Underground Injection Control (UIC) strategies. Better define roles and responsibilities and share technical knowledge with state, local, and tribal, health and planning agencies and industry organizations.
- b. EPA and Ecology will collaborate with the Washington Department of Agriculture on their Pesticide State Management Plan to protect ground water.
- c. Ecology and EPA will implement an effective NPDES program per the delegation agreement (Memorandum of Understanding) and the NPDES Compliance Assurance Agreement as well as written modifications to these agreements as agreed to by both agencies. Core NPDES program elements include permitting; enforcement and inspections; monitoring; pretreatment; biosolids; stormwater; public involvement; pollution prevention; and developing and maintaining systems and procedures for efficient, effective and consistent implementation. Inadequate resources for full program implementation necessitates that priorities be established. One key mechanism for priority development is the State's Watershed Approach to permitting.
  - 1) During the term of this agreement, the State and EPA will develop mutually acceptable procedures which satisfy requirements that EPA maintain sufficient knowledge regarding the status of NPDES program implementation in Washington.
  - 2) The State and EPA will strive to streamline information transfer between the agencies.
  - 3) The State will coordinate pretreatment activities using a workgroup comprised of technical and program management staff. EPA's pretreatment coordinator will participate in periodic meetings of this workgroup to help facilitate program implementation and promote communication.

- 4) EPA agrees to coordinate, facilitate, and serve as a focal point for information on permitting related to mining activities. Ecology will attend coordination meetings and provide reasonably available information.
- 5) Pending the planned directors meeting, EPA and Ecology intend to resolve programmatic issue(s) concerning implementation of NPDES requirements for confined animal feeding operations.
- 6) Contingent upon Ecology's receipt of additional implementation funding, Ecology and EPA will work together to make delegation of the federal biosolids program a reality. Ecology will assemble an application for delegation of federal program authority. EPA will make use of all available flexibility in assisting the State with preparation and approval of its application for delegation.
- 7) EPA and Ecology will discuss and come to a decision regarding Ecology's role in federal facilities regulation. EPA agrees to update the report on status of federal facilities as more information becomes available. Ecology will complete an assessment of the costs and benefits of Ecology assuming the role of regulating federal facilities. EPA understands that acceptance of federal facilities regulation by the State will depend on increased funding.
- 8) EPA and Ecology will employ the Watershed Approach to Water Quality Management as a vehicle to explore additional opportunities for tribal involvement in NPDES permitting compliance, and enforcement activities.

**3. Facilitate effective state, tribal, and local leadership on aquatic ecosystem protection through scientific, technical, and financial assistance and cooperation.**

- a. Ecology and EPA will collaborate to develop technically sound and scientifically defensible state surface water quality standards.
- b. Ecology and EPA will establish a collaborative government-to-government 303(d) listing process and TMDL process with EPA, Ecology, the tribal governments, and other states where appropriate.

**4. Improve communication between EPA and Ecology:**

- a. Managers will set the tone, expectations, and framework for effective staff communication and will actively support the new relationship developed under the Performance Partnership Agreement.
- b. Provide opportunities for learning, mid-course correction, program reaffirmation, team and individual recognition, and mutual accountability.

**5. Ecology's FY 1997 Watershed Approach to Water Quality Management: Integrate, coordinate, and focus base program delivery.**

- a. EPA will participate in Ecology's scoping efforts in the following Water Quality Management Areas (WQMAs): Mid-Columbia River, Lower Columbia River, Upper Yakima River, and Kitsap Peninsula.
- b. EPA will participate in four additional WQMAs corresponding to stages two through five of Ecology's Watershed Approach and identified by an EPA/Ecology team with the assistance of EPA's geographic targeting methodology.
- c. Jointly incorporate ground water protection activities in the Watershed Approach by completing development and implementation of the vulnerability and susceptibility model, continuing to enhance ground water data integration using GIS capabilities, targeting prevention and inspection efforts to areas of highest priority within the watershed, such as susceptible wellhead protection areas, and continuation of the UIC program.
- d. Jointly develop and pilot implementation of specific tools to address watershed issues, including revision of the General TMDL process document; a Nonpoint Source TMDL development process (incorporating, where both parties agree, State TFW and federal forestry watershed analysis); and guidance on effectiveness monitoring.
  - 1) EPA will provide assistance to Ecology in TMDL development and modeling where opportunities exist.
- e. Cooperate in the development of watershed based wetland management plans.

**6. Special Geographic Focus Actions:**

- a. EPA and Ecology will seek additional opportunities for collaboration including evaluation and strengthening of ongoing partnerships in the Puget Sound and lower Columbia River National Estuary Programs as well as the mainstem Columbia River.
  - 1) Ecology and EPA will continue to participate in the Puget Sound/Georgia Basin International Task Force to restore and protect the shared marine waters and resources of Puget Sound and Georgia Basin.
  - 2) Highest priorities for Puget Sound Water Quality Management Plan implementation will be determined jointly through discussions by EPA, Ecology, and the Puget Sound Action Team.
  - 3) Strengthen EPA/Ecology working relationships in the Lower Columbia River NEP.
  - 4) EPA will establish a position to better coordinate EPA involvement in Columbia River environmental issues. This individual will work with Ecology, Oregon Department of Environmental Quality, tribes, and other affected parties to identify

opportunities for interaction on the main stem of the Columbia river using Ecology's Watershed Approach. Opportunities may include identification of priority monitoring needs to address risks to humans, fish, and wildlife from toxics, total dissolved gas, temperature and other stressors.

7. **Jointly develop water-related environmental indicators for Washington State, including surface water, ground water, sediments, wetlands, and living resources. Evaluate needs and opportunities for statewide and watershed indicators, defining how indicators are used to communicate the status of water quality to the public, and how indicators are used in program management, including the Performance Partnership Agreement and 305(b) reporting.**
  - a. Create an interagency team including Ecology and EPA, as well as inviting the Puget Sound Action Team, tribal governments, and others to develop environmental indicators:
    - 1) Develop a framework and process for indicators based on water goals, uses, and key issues;
    - 2) Identify and select indicators, including those that can be implemented now and those that will require additional or new monitoring and methods prior to implementation;
    - 3) Link indicators and the 305(b) report to Ecology's Watershed Approach;
    - 4) Outline monitoring requirements for initial and future indicators;
    - 5) Develop a schedule and format for reporting environmental indicator results;
    - 6) Provide input to the development of environmental information management systems to ensure adequate future support of environmental indicators (i.e., Ecology's Information Integration Project and EPA's Environmental Information Management System).
8. **Improve protection and restoration of threatened and endangered species through EPA and Ecology watershed partnerships.**
9. **Facilitate and support state salmonid protection and restoration efforts through interagency coordination of state, federal, tribal and local governments as well as through the watershed protection approach.**
  - a. EPA and Ecology will work to increase understanding of tribal, state, and federal salmon protection and restoration policies and initiatives as well as integrating activities where feasible. Additionally, EPA and Ecology will identify opportunities via the Watershed Approach to support state, tribal, and federal salmon protection and restoration actions.
10. **Facilitate and support ecosystem protection and restoration efforts.**
  - a. Complete development of wetland function assessment methods.
  - b. Improve aquatic resource protection through the development of mitigation banks for one or two watersheds or specific geographic areas.

- c. Ecology and EPA will emphasize wetland restoration in state and local wetland programs as a viable and important risk reduction approach to wetland resource protection.
11. **Revise systems and procedures to improve environmental results, inspire public confidence, reduce time and costs, increase flexibility, and maintain accountability.**
- a. Use the Comprehensive State Ground Water Protection Program (CSGWPP) approach to better prioritize ground water activities and issues, identify gaps, barriers, and inconsistencies, and increase programmatic flexibility.
12. **Increase the flexibility and effectiveness of grants to support watershed management and the implementation of the Performance Partnership Agreement.**
- a. Ecology in consultation with EPA will develop a plan that integrates Water Quality Program grants into the Watershed Approach.
  - b. If Ecology so elects, EPA and Ecology will work toward development of a Performance Partnership Grant in FY 1998.
  - c. All eligible EPA water grants awarded or available to Ecology for state fiscal year 1997 noted on pages 5 and 6 are covered by this agreement. Any additional eligible grants are to be included by amendment to this agreement.
  - d. Ecology and EPA will streamline the grants process for the life cycle of the grant including grant application, award, disbursement, tracking, and close-out.
13. **Involve other agencies with shared responsibilities to participate in Performance Partnership Agreement related activities where such opportunities are mutually identified by EPA and Ecology.**
- a. EPA will seek opportunities to involve appropriate federal agencies and tribal governments in the Watershed Approach.
  - a. Ecology will continue to involve appropriate state and local agencies and tribal governments in the Watershed Approach.
14. **Identify specific program actions or processes for review and potential revision.**
15. **Ecology and EPA will begin evaluating the relationship of environmental equity considerations and current water quality standards and develop recommendations relating to the development and/or implementation of water quality standards.**

### III. ENVIRONMENTAL INDICATORS

1. Water-related environmental indicators will be developed jointly by EPA and Ecology as described under subsections II.7 and IV.17.

#### IV. PERFORMANCE MEASURES

1. **Finalize and initiate implementation of a Nonpoint Source Pollution Control Plan which incorporates CWA Section 319 and CZARA Section 6217 requirements:**

- a. Provide opportunities for stakeholder, tribal, and other agency cooperation in development of the plan.
- b. Meet with the Governor's Watershed Coordinating Council - August 1996.
- c. Conduct public workshops - September 1996 and November 1996.
- d. Meet with Conservation Districts - October 1996.
- e. Meet with Washington Association of Conservation Districts - November 1996.

##### EPA Funding Mechanism: CWA Section 319

- a. Ecology and EPA will work together to develop and draft the final Nonpoint Source Pollution Control Plan:
  - 1) Ecology will provide a draft outline; EPA will provide comments - August 1996.
  - 2) Ecology will provide the draft plan to EPA; EPA will provide comments - November 1996.
  - 3) Ecology will submit the final plan to EPA - January 1997.
  - 4) EPA will provide comments and/or approval to designate Washington as an "Enhanced Benefits State" for purposes of the CWA Section 319 program - EPA will respond within 45 days of receiving Ecology's submittal.

##### EPA Funding Mechanism: CWA Section 319

- a. Develop modules to address riparian restoration and watershed planning:
  - 1) Module development in progress - August 1996.
  - 2) Module development completed - June 30, 1997.

##### EPA Funding Mechanism: CWA Section 319

2. **EPA and Ecology will jointly develop internal and external guidelines and procedures for award, review, and evaluation of CWA Section 319 projects:**

- a. Develop draft guidelines - September 30, 1996.
- b. Finalize guidelines - November 30, 1996.
- c. Finalize and distribute guidelines to public - December 31, 1996.

EPA Funding Mechanism: CWA Section 319

3. **Ecology will award and administer FY 97 CWA Section 319 funds to local, tribal, federal, or state agencies for on-the-ground nonpoint source implementation or education projects. All sub-agreements that Ecology develops to award Section 319 funds are hereby incorporated by reference as work plan elements for the CWA Section 319 funds:**
  - a. See agreed upon procedures in "Ecology/EPA Partnership for Management of the CWA Section 319 Grants Program." This document is hereby incorporated by reference.
    - 1) Ecology will provide EPA with a list of proposed projects for funding - October 1, 1996.
    - 2) EPA will award FY 97 grants to Ecology - November 15, 1996.

EPA Funding Mechanism: CWA Section 319

4. **Ecology and EPA will provide nonpoint source technical assistance in the following areas:**
  - a. Develop and implement nonpoint source education programs including volunteer monitoring assistance.
  - b. Conduct nonpoint source project monitoring and evaluation.
  - c. Provide dairy waste management assistance and enforcement in the Nooksack watershed.
  - d. Provide forest practices implementation in the Upper Yakima.
  - e. Develop and implement a suspended sediment TMDL for the Lower Yakima River.
  - f. Continue the National Monitoring Project in the Totten/Little Skookum and Eld Inlets.

Due Date: Individual project due dates are per individual work plans and sub-agreements on file at the Department of Ecology.

EPA Funding Mechanism: CWA Section 319



5. **EPA and Ecology will jointly develop a framework for collaboration on revising the state surface water standards:**

- a. Establish procedures for early and ongoing involvement by Services to identify ESA needs and options to address these needs - October 31, 1996.
- b. Jointly continue to highlight FIFRA/CWA issue to EPA Headquarters - June 30, 1997.

Due Date: December 1997

EPA Funding Mechanism: CWA Section 106

6. **EPA and Ecology will use the Interagency Ground Water Committee (IGWC) as a key mechanism to coordinate, prioritize, advise, and educate on cross-cutting ground water issues:**

- a. EPA and Ecology will complete the submittal and endorsement process for the core Comprehensive State Ground Water Protection Program (CSGWPP).
- b. EPA and Ecology will work with the IGWC to continue developing and implementing the Comprehensive State Ground Water Protection Program (CSGWPP) process and submittals.
- c. Participate in IGWC and subcommittee meetings.

Due Date: Ongoing

EPA Funding Mechanism: CWA Section 106

7. **EPA and Ecology will collaborate in the updating of UIC program strategies and their implementation. Ecology will complete revision of their UIC strategy within 270 days of the effective date of the EPA class V rule revision:**

- a. Ecology will prepare and submit to EPA quarterly and annual injection well reports per federal requirements, and update and correct identified errors in the UIC well inventory.

Due Date: September 30, 1996; December 31, 1996; March 31, 1997; June 30, 1997

EPA Funding Mechanism: SDWA Section 1443(a)

8. **EPA and Ecology will collaborate in providing program/technical assistance to Washington State Department of Agriculture (WSDA) in the development of prevention and enforcement strategies and in classifying hydrogeologically susceptible areas through the ground water vulnerability project:**

- a. Complete phase 2 of the vulnerability project. In cooperation with EPA, WSDA, and WDH, Ecology will develop and initiate a workplan for phase 3, the susceptibility study.

Due Date: June 30, 1997

EPA Funding Mechanism: CWA Section 106

9. **NPDES Program:**

- a. Conduct initial meeting during October 1996 to jointly develop procedures for EPA to maintain knowledge of the program. Other topics associated with NPDES activities to be discussed include: clarification of roles and responsibilities for NPDES communication; and data and information transfer:
  - 1) Document decisions on procedures, roles, responsibility, and information transfer by January 31, 1997.
- b. EPA will participate in Water Quality Program, Cross-Program Operations meetings where topics are relevant to NPDES program implementation. These meetings are scheduled as necessary, but are typically held monthly.
- c. EPA will participate in Ecology's pretreatment workgroup meetings or conference calls on a monthly basis, or as needed to discuss relevant pretreatment topics/issues.
- d. Ecology will submit an application for biosolids delegation - three months after implementation funding is secured.
- e. By November 15, 1996, Ecology completes its assessment of regulating federal facilities. By January 1, 1997, Ecology will communicate its decision to EPA (regarding procedures to pursue funding for regulating federal facilities). Subsequent milestones for this activity will be jointly determined based on Ecology's decision.

EPA Funding Mechanism: N/A

10. **EPA and Ecology will collaborate to develop technically sound and scientifically defensible water quality standards:**

- a. Complete Triennial Review on lake nutrient standards, streamlining the short-term modification allowance process, wetlands definitions, and numeric criteria updates - June 30, 1997.

- b. Make recommendations on development of wildlife water quality criteria based on Ecology's draft report reviewing available methods - June 30, 1997
- c. Develop a waterbody use-designation approach and associated criteria - September 30, 1998.
- d. Develop antidegradation implementation procedures - September 30, 1998.

Due Date: September 1998

EPA Funding Mechanism: CWA 106

**11. Develop a co-management (EPA/WDOE/Tribes) Section 303(d) and TMDL process:**

- a. Continue support for the federal/state/tribal cooperative Section 303(d) partnership project, further defining EPA/State/Tribal roles in 303(d) implementation (especially focusing on the 1998 listing process) and TMDL development, and integrating this partnership into the State's Watershed Approach.
  - 1) Develop draft cooperative agreements for review and consideration by EPA, tribal policy officials, and WDOE - August 1996.
  - 2) Develop Phase II interim 303(d) project summary report including signed cooperative agreements - June 1997.
  - 3) Develop a basic state/federal/tribal cooperative participation module for consideration in future revisions of 303(d), tribal and watershed management procedures - January 1997.

EPA Funding Mechanism:

CWA 104(b)(3): federal/state/tribal cooperative Section 303(d) partnership project - October 1, 1996 to September 30, 1997.

CWA 104(b)(3): federal/state/tribal cooperative Section 303(d) partnership project - July 1996 to February 1997 and February 1997 to January 1998..

- a. Complete pilot projects in the Yakima River basin (and others) to test the 303(d) and TMDL cooperative process. As part of the Yakima project, complete the technical analysis for the Lower Yakima River Basin TMDL - December 1996.

EPA Funding Mechanism:

Regional Geographic Initiative funding to 1) partially support a Yakima Tribal TMDL Coordinator (see CWA 104(b)(3) funding below for additional information); 2) develop "living classrooms" for environmental education; 3) partially support an economic analyst to compile and evaluate data relative to the benefits of adopting more environmentally protective irrigation

practices; and 4) support a Nonpoint Source Assessment and Management Plan Coordinator for the Yakima Indian Nation.

CWA 104(b)(3) Grant to the Yakima Indian Nation in support of an FTE to coordinate the implementation of the TMDL on the Yakima Reservation.

Possible use of Section 319 funds to support the development of the Yakima Tribal Nonpoint Source Plan.

- a. Initiate testing of the 303(d) and TMDL process in two additional basins - June 1997, depending on tribal involvement.

**12. Improve communication between EPA and Ecology:**

- a. Communicate regularly at the senior management level through face-to-face meetings or conference calls held once every two months. In addition to the bi-monthly meetings, senior management at EPA and Ecology will continue to interact on a regular (weekly) basis to discuss: issues, dispute resolution, progress reviews, and assessment and improvement of interagency relations.
- b. EPA and Ecology will meet once in the fall, early in 1997, and at the end of the year to evaluate the Performance Partnership Agreement process.

EPA Funding Mechanism: N/A

**13. Watershed Approach to Water Quality Management:**

- a. Ecology will conduct scoping efforts, as described in its Watershed Approach, on four Water Quality Management Areas (WQMA): Mid-Columbia River, Lower Columbia River, Upper Yakima River, and Kitsap Peninsula.
  - 1) "Needs assessments" will be completed for each of the four WQMAs - June 1997.

Based on Ecology's Watershed Approach, EPA staff will prepare "briefing papers" for each of the four WQMAs cited in (a) and EPA will attend Ecology's scoping workshops for the four WQMAs. EPA will review resulting priority issues and actions identified during the scoping process and will identify follow-up activities in coordination with Ecology. EPA will coordinate the participation of appropriate federal agencies and tribal governments in the scoping process. EPA will respond as appropriate to Ecology's requests for resources or technical assistance.

- b. Ecology will continue to implement years 2 through 5 of its Watershed Approach, coordinating involvement of appropriate state and local agencies, and tribal governments.
  - 1) Year 2: Data Collection: Nooksack/San Juan, Western Olympic, Wenatchee, Upper and Lower Snake.

- 2) Year 3: Data Analysis: Island/Snohomish, South Puget Sound, Okanogan, Crab Creek, Esquatzel. Data analysis reports will be completed for these WQMAs by June 1997.
  - 3) Year 4: Technical Reports: Skagit/Stillaguamish, Columbia Gorge, Horseheaven/Klickitat, Upper Columbia, Pend Oreille. Technical reports will be completed for these WQMAs by June 1997.
  - 4) Year 5: Implementation: Cedar, Green, Eastern Olympic, Lower Yakima, and Spokane.
- c. EPA and Ecology will jointly identify four of the WQMAs in (c) for active EPA involvement. The four WQMAs and EPAs role and expectations will be determined by September 1, 1996.
  - d. EPA and Ecology will evaluate their collaborative watershed management efforts at the completion of FY 1997.
  - e. Revise the "General TMDL Process Document" (WDOE TMDL Implementation Policy) - December 1996.
  - f. Develop and implement a State Nonpoint Source TMDL development process, incorporating, where both parties agree, State TFW and federal forestry watershed analysis - March 1997.
  - g. The Trout Creek Watershed Analysis (U.S. Forest Service) will be reviewed by both parties to determine acceptability as a potential model for meeting TMDL objectives.
  - h. Ecology and EPA will jointly develop a document on integrating the CSGWPP approach into the watershed process.

EPA Funding Mechanism: N/A

**14. Development of watershed based wetland management plans:**

- a. Completion of the Port of Skagit project; Mill Creek Special Area Plan; and the City of Everett project - July 1997.
- b. Initiate projects in Snohomish County and Long Beach peninsula - January 1997 with completion by December 1997.

EPA Funding Mechanism: N/A

**15. Puget Sound Plan and Georgia Basin Initiative:**

- a. Ecology and EPA staff will continue to: 1) attend (and chair, as appropriate) Puget Sound/Georgia Basin Task Force and workgroup meetings; 2) develop and present

recommendations for actions to the Washington/British Columbia Environmental Cooperation Council; 3) seek funds for supporting Puget Sound/Georgia Basin activities; and 4) work to increase agency visibility and support for Puget Sound/Georgia Basin watershed activities.

- b. EPA and Ecology will coordinate Puget Sound Water Quality Management Plan priorities with other Ecology activities, including Ecology's Watershed Approach to Water Quality and WAC 400-12 watershed planning.
- c. Ecology will prepare annual technical reports for Ecology's components of the Puget Sound Ambient Monitoring Program (PSAMP). EPA will promptly and constructively critique drafts of Ecology's PSAMP reports.
- d. EPA, Ecology, and the Puget Sound Action Team staff will meet by December 1996, to discuss effective integration of relevant permittee and permit-related ambient monitoring data into Puget Sound assessment and protection activities.

EPA Funding Mechanism: N/A

**16. Columbia River:**

- a. EPA will participate on the Policy and Management Committee of the Lower Columbia River National Estuary Program.
- b. Ecology will participate on the Policy and Management Committee of the Lower Columbia River National Estuary Program and provide support staff.
- c. EPA will establish a Columbia River Coordinator to significantly increase EPA's ability to become involved in and influence key decisions of federal, interstate, state, and tribal organizations that impact the Columbia River system. Ecology will work with the Columbia River Coordinator, Oregon Department of Environmental Quality, and affected tribes to identify environmental and habitat stresses resulting from operation of the Columbia River system for irrigation, hydropower, shipping, and other uses; and to implement management measures that alleviate those stresses while attaining water quality standards, and protecting and restoring quality habitat for aquatic species.

EPA Funding Mechanism: N/A

**17. Environmental indicator development:**

- a. Agree on initial environmental indicators for water - October 1996.
- b. Summarize and report on water conditions and trends as part of the state of the environment report for Washington - December 1996.
- c. Agree on future environmental indicators for water - February 1997.

- d. Describe the status of data for each indicator - February 1997.
- e. Propose conceptual monitoring plans for FY 98 and future years, including how to migrate monitoring systems from short-term to long-term indicators - April 1997.
- f. Complete an implementation plan describing use of indicators in management and reporting - June 1997.

EPA Funding Mechanism: N/A

**18. Salmon protection and restoration:**

- a. Ecology will participate in the development of the State's Wild Salmonid Policy and inform and involve EPA. EPA will provide support as requested.
- b. Ecology and EPA will evaluate their collaborative salmon protection efforts at the end of FY 1997.

EPA Funding Mechanism: N/A

**19. Federal and Non-Federal Land linkages:**

- a. Establish coordination linkages between Ecology's geographic approaches (e.g., watershed approach, local action teams, and watershed analysis) and federal approaches (e.g., federal watershed analysis and Northwest Forest Plan).
- b. Ecology and EPA will participate in a "scoping" process for Forest Plan watershed analyses; share information; coordinate data management; and identify data gaps relevant to basin-wide assessments.
- c. Ecology and EPA will participate in a Forest Plan process for identifying priority restoration projects; provide coordination linkages between restoration activities on federal lands with those on state and private lands.

EPA Funding Mechanism: N/A

**20. Interdisciplinary wetland function assessment:**

- a. Ecology and EPA technical staff will serve on interdisciplinary wetland function assessment teams to develop and field test models - December 1997.

EPA Funding Mechanism: CWA 104(b)(3)

- a. Policy and management staff will work with the Interagency Wetlands Review Board to develop recommendations on policy issues.

EPA Funding Mechanism: N/A

**21. Establish and operate one or more wetland mitigation banks - December 1996.**

EPA Funding Mechanism: N/A

**22. Apply the Stillaguamish wetland restoration model developed by Ecology to other watersheds:**

- a. A second watershed will be selected to implement Ecology's restoration model - September 1996.
- b. Approximately 50% of workplan implementation (restoration) activities will be completed for the selected watershed - December 1997.

EPA Funding Mechanism: CWA 104(b)(3)

**23. EPA and Ecology will collaborate in using the watershed process to implement a Comprehensive State Ground Water Protection Program (CSGWPP) approach for identifying potential ground water concerns and affected parties, and assessing how existing programs, such as the Home-a-syst, wellhead protection, ground water standards, and UIC, may be most efficiently and effectively used to respond to these concerns:**

- a. EPA and Ecology will collaborate on a document to effectively address ground water issues in watersheds - June 1997.
- b. Complete watershed scoping papers and participate in the public scoping workshops - June 1997.

EPA Funding Mechanism: CWA Section 106

**24. EPA will coordinate the review and endorsement of the core Comprehensive State Ground Water Protection Program and give full consideration to state requests for CSGWPP assistance and flexibility following EPA endorsement. EPA will act as the lead federal agency.**

EPA Funding Mechanism: N/A



25. **EPA will actively participate in Ecology's Water Quality Program's Financial Assistance Advisory Committee:**

- a. Attend scheduled full Committee meetings and/or appropriate subcommittee meetings as scheduled - Ongoing.

EPA Funding Mechanism: N/A

26. **EPA and Ecology will identify key milestones and areas of concern related to FY 1998 Performance Partnership Agreement/Grant development.**

- a. Ecology and EPA will 1) convene a FY 97 Performance Partnership Agreement "Lessons Learned" meeting; 2) identify means to improve the FY 98 process; and 3) develop a schedule for completion of the FY 98 Performance Partnership Agreement/Grant.
- b. EPA will develop guidance and definitions of key Performance Partnership Grant elements.

Due Date: September 1, 1996

EPA Funding Mechanism: N/A

27. **EPA will request assistance from the national EPA office to develop a case study of water quality standards and sub-population exposure risks in Washington State, evaluate environmental equity issues related to the case study, and make general recommendations for follow-up related to development or implementation of water quality standards.**

- a. EPA will request national office assistance and, if assistance is offered, EPA and Ecology will select a case study by October 1, 1996.
- b. EPA and Ecology will develop the case study and hold a workshop by April 1, 1997 and summarize findings and develop recommendations by June 30, 1997.

28. **Ecology in consultation with EPA will develop a plan that integrates Water Quality Program grants into the Watershed Approach by June 30, 1997.**

29. **Ecology and EPA will establish a joint water grants streamlining work group by February 1, 1997 and make recommendations to EPA and Ecology water managers by June 1, 1997.**

\* Additional information regarding funding mechanisms:

“N/A” indicates that no EPA federal funds currently apply to this performance measure.

Dollar amounts may be augmented by other funds. Any additional eligible grants will be included by Agreement amendment. Additionally, substantial state resources are being used to implement this Agreement.

Three evaluation and assessment meetings will be conducted to discuss performance measure progress and resource adequacy. Where changes are required to complete performance measures, modifications including justifications will be documented in the Agreement.

# APPENDIX A

## Department of Ecology Goals and Strategies

**Mission:** *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.*

**Vision:** *Washington is a beautiful state in which to live and work. Our vision is to preserve our quality of life through environmental stewardship. Environmental stewardship means citizens, business, tribes and local, state and federal governments each take responsibility to protect our environment.*

**Goal:** Ecology will reduce risks to human health and protect Washington's land, air and water. We will do this by:

- Making pollution prevention our top priority.
- Using appropriate tools to help the regulated public meet environmental requirements. In addition to upholding environmental standards, we will develop and support alternative approaches to protect public health and the environment.
- Monitoring land, air and water to measure environmental status, trends and results.
- Educating and involving citizens to achieve positive, long-term environmental results.
- Assuring that citizens, businesses and local governments have access to environmental information.
- Tailoring and integrating our activities to meet the needs of different businesses and provide site-specific, helpful assistance.
- Using a common sense approach to cleaning up contaminated areas.

**Goal:** Ecology will work for environmental solutions which respect local values and contribute to economic vitality. We will do this by:

- Working cooperatively with communities through local action teams to develop and carry out programs that meet local economic and environmental needs.

- Creatively integrating the land use laws we administer to make it easier for communities to protect the environment.
- Using market forces to encourage people to go beyond compliance to stewardship.
- Investing in programs that support the environment and help communities prosper.
- Promoting a safe and healthy environment for all people.

**Goal: Ecology will strengthen our organization to meet new challenges and provide high-quality services. We will do this by:**

- Committing to excellent public service.
- Working cooperatively with other agencies and governments.
- Using and integrating environmental information for sound agency decisions.
- Following sound business and management practices.
- Provide a diverse workforce to serve the public.
- Streamlining and improving the way we do business.

**Goal: Ecology will continue to build a supportive work environment. We will do this by:**

- Providing an environment where employees can learn, solve problems, and successfully meet the challenges of public service.
- Maintaining clear and consistent communication between management and employees.
- Ensuring that employees have a safe environment in which to work.

# US ENVIRONMENTAL PROTECTION AGENCY REGION 10 MISSION STATEMENT

## EPA REGION 10 VISION

Our Vision is a future where government, industry, and the public work together as stewards to protect, preserve, and improve the environment and health for all species in the Pacific Northwest and Alaska.

## THE EPA REGION 10 MISSION

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.*

Our environmental objectives are to:

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

We will use sound science and wise decision-making to accomplish these objectives by:

- Maintaining an in-depth understanding of Region 10 and focusing our efforts on the greatest risks to human health and the environment;
- Ensuring compliance with federal environmental laws within and across boundaries, while considering national consistency and local circumstances;
- Working effectively with state and local governments, tribes, citizen groups, and industry to solve environmental problems;
- Assisting state, local, and tribal governments to develop environmental programs;
- Talking with the public about our actions and steps they can take to protect the environment;

- Promoting faster and more efficient solutions to advance sustainable environmental quality;
- Advocating regional needs and perspectives at the national level.

We are accountable for achieving our mission. Our success as stewards of the public trust will be measured by meaningful and lasting environmental improvements.

## APPENDIX B

Project XL	Environmental Leadership Program
Aims to test a variety of <b>regulatory management systems</b> as alternatives to traditional command and control approaches to <b>regulation</b>	Aims to test a variety of environmental <b>compliance management systems</b> as alternatives to traditional command and control approaches to <b>enforcement</b>
Projects grant <b>flexibility from regulation</b>	Projects work <b>within existing regulatory requirements</b>
Grew out of a desire to test innovative regulatory approaches such as <b>performance standards</b>	Grew out of a desire to test innovative compliance approaches such as <b>third party auditing</b>
Both XL and ELP projects will include innovative concepts in environmental protection, such as pollution prevention	
Projects must produce environmental performance <b>superior to what would be achieved by full compliance</b> with law and regulations	Current projects aim to reduce compliance costs and burdens in achieving the <b>existing environmental results</b> required by law and regulations
Both XL and ELP aim ultimately to foster higher levels of environmental protection through flexible laws and regulations	
Aims to test a variety of models of collaborative decision-making with increased citizen involvement	Community involvement consists of dialogue concerning nature of what it takes to be accepted into ELP
Both XL and ELP hope to use greater information as a way to employ citizens and communities	

APPENDIX C  
Responsiveness Summary

Summary of Comments and Responses on the  
June 21 Review Draft of the  
Environmental Performance Partnership  
Agreement between the  
Washington Department of Ecology and the  
US Environmental Protection Agency,  
Region 10



**Summary of Comments and Responses on the June 21 Review Draft of the Environmental Performance Partnership Agreement between the Washington Department of Ecology and the US Environmental Protection Agency, Region 10**

**OVERALL COMMENTS**

Tribal Issues

1. If this agreement is only between the Department of Ecology and EPA, there needs to be a recognition that tribal reservation lands, waters and air resources are not included. Responsibility for protection of the reservation environment rests with EPA and individual tribal governments. (Yakama Nation)

We agree and have revised the Agreement accordingly.

2. EPA must recognize that it retains a Trust responsibility for the protection of Treaty-reserved resources in tribal Ceded Areas and at Usual and Accustomed Sites throughout virtually the entire State of Washington. (Yakama Nation)

We agree and have revised the Agreement accordingly.

3. It is unfortunate that this agreement seems to perpetuate the old [command and control] management style and fails to recognize that sovereign nations, with regulatory authorities and Treaty-reserved rights, exist within the boundaries of the state of Washington and share responsibilities for the management of air and watersheds. Continued disregard for tribal participation and failure to acknowledge the role in which tribal sovereigns have in resource management will only work to diminish the quality of the resources and the rights of tribes in the management of our resources, our air, our water, and our land. (Yakama Nation)

We agree and have revised the Agreement accordingly.

4. Regarding the last paragraph which states that Ecology and EPA will be discussing with other agencies the benefits of including them in future agreements, tribes probably want separate agreements and not be pulled into a state pass-through funding situation. (Spokane Tribe)

EPA and the State each have and will continue to develop separate environmental agreements with individual tribes outside of this performance partnership agreement.

5. Language should be added to the agreement that recognizes EPA's trust responsibility to Indian tribes. Though not a specific program, EPA's trust responsibility is a fundamental "existing commitment." EPA must ensure the protection of Treaty-reserved resources both on tribal reservations and in Tribal Ceded Areas and at Usual and Accustomed Sites. (NWIFC)

We agree and have revised the Agreement accordingly.

6. Language promoting cooperation and coordination with Indian Tribes on a government to government basis should be included in this agreement. (NWIFC)

We agree and have revised the Agreement accordingly.

14. This agreement is much too vague. It lacks the necessary **specific** products and deadlines, outcomes directly related to achieving the purpose of the agreement. We must question whether enough structure and accountability is built into the work plan provided within this Agreement, especially as related to water quality (Section Five). (Washington Environmental Council)

We agree and have revised the Agreement accordingly. In particular, we have provided specific program measures, milestones, due dates and products in the Water Quality Section.

#### Partnerships with the Public and other Agencies

15. The WEC agrees with the purpose of the agreement "a partnership with each other and with Washington's citizens in protecting, enhancing and restoring our natural environment." (Washington Environmental Council)

EPA and Ecology appreciate the confirmation of our purposes.

16. [How will] the people of the state become **active** participants in this partnership...If the people are to be equal and active participants how will they express their views and concerns on the action decisions being made? [How will] you differentiate between the public and regulated community. (Washington Environmental Council)

Ecology and EPA strive to improve our inclusion of the general public as well as special interest groups as much as possible in our activities. We maintain public involvement calendars, extensive mailing lists, public information centers and phone lines, web sites and newsletters in efforts to provide and exchange information with others interested in our activities. For all major actions, such as this Agreement, we provide opportunities for public comment and input. In addition, EPA and Ecology managers and staff are available for meeting with interested parties upon request.

#### Environmental Performance Measures

17. We strongly urge EPA and the state to specify performance measures that are based on environmental outcomes. Nothing in this agreement requires the state to accomplish real environmental results. (People for Puget Sound)

EPA and Ecology strongly agree that performance measures for both agencies should be based, much as possible, on environmental indicators and we acknowledge that the FY97 agreement lacks adequate environmental measures. A core set of indicators is under development, however, and both agencies are committed to having environmental indicators selected and in use by June 30, 1997.

# SECTION ONE

## I. Introduction

22. Under the listed purposes item two should reference environmental justice. Example wording: "Maintain a core level of environmental protection for Washington's citizens, using indicators of environmental justice to ensure that all communities are afforded equal levels of protection." (Tulalip Tribes)

We are unable to incorporate this comment due to the fact that "indicators of environmental justice" have not yet been agreed to and are not in use at this time. The phrase "equal levels of protection" would also need more discussion as it relates to comparative risks. For example, EPA and Ecology might find that the tribes need more level of protection than other communities due to their subsistence consumption of certain foods.

23. *Paragraph 2, bullet 4:* We hope that this does not mean that EPA will be allocating all of its resources available to work on issues within the state of Washington based solely on the priorities set forth within this agreement, without consultation with the tribes. EPA has an equal responsibility to consult with the tribes within the state of Washington concerning their highest environmental priorities and to evaluate these priorities in association with the state priorities before allocating EPA resources. (Yakama Nation)

The statement "Allocate Ecology and EPA Region 10 resources to the highest environmental priorities of the State" does not mean that EPA will be allocating all of its available resources to the State. Language has been incorporated into the agreement that addresses the tribe's concerns about consultation with tribes. Tribes have the opportunity to identify their highest environmental priorities in Tribal Environmental Agreements (TEA's).

24. We recommend that language be included in the introduction which limits the scope of this agreement to resources under the jurisdiction of Ecology, specifically noting EPA's responsibilities for (and Ecology's lack of jurisdiction over) implementing environmental protection measures on reservation lands. This statement would be appropriate either as a part of, or following, the third paragraph on page 1 of the agreement. (Yakama Nation)

We agree and have revised the Agreement accordingly.

25. Active participation [of all Washington's citizens] at this stage of development will allow input from all groups and help the public accept ownership in the management changes necessary to meet environmental objectives. We would strongly encourage your agencies to initiate the process of bringing other state and federal environmental, health and natural resource agencies and tribal governments into future Environmental Performance Partnership Agreements. (WSU Cooperative Extension)

Ecology and EPA are very interested in bringing other stakeholders into subsequent agreements. The logistics and scope of such an undertaking, however, are unclear at this time. As we begin our planning for the FY98 agreement, Ecology and EPA will be evaluating how best to accomplish such a task.

26. Partnering with extension programming in these areas has the ability to increase the effectiveness of both your and our activities. In the areas of outreach and education, WSU has a proven ability to reach clientele on a state-wide basis as well as having the technical information to support programs related to environmental and resource management issues. (WSU Cooperative Extension)

EPA and Ecology are aware of and appreciate WSU Cooperative Extension's excellent skills and abilities in outreach, education and technical assistance. We hope to be able to continue to expand our respective agency's cooperation and partnership while implementing the FY96 agreement and in development of subsequent agreements.

27. Greater flexibility in funding should only be granted after much, much better accountability for establishing and **measuring** the environmental indicators is accomplished and demonstrated for at least one year. (Washington Environmental Council)

Environmental Performance Partnership Agreements between EPA and the States are a direct result of an agreement between the leaders of ECOS, an organization of State agencies, and the U.S. EPA called the "Joint Commitment to Reform Oversight and Create a National Environment Performance Partnership System" (NEPPS). The cornerstone of this national agreement is a commitment to fundamentally change the federal and state relationship so that EPA and the States work in partnership on the management of environmental programs with minimal oversight where states have the lead role.

We believe that to delay flexibility in funding until the states can establish and measure environmental results, which could take several years, would be contrary to the spirit and the word of the national agreement.

28. The partnership should be expanded **immediately** to include the general public and the Tribes as implementing governments. The sunshine in such an arrangement would help counteract the current disproportionate influence of the polluting agencies. (Washington Environmental Council)

While it is not feasible to include the general public as signatories to a performance agreement, we will strive to inform and exchange information with the public and special interest groups through all available means as described in Comment #16 above.

EPA and the State each have and will continue to develop separate environmental agreements with individual tribes outside of this performance partnership agreement.

## II. Guiding Principles and Strategies

29. Under the second set of bullets, a new bullet should be added to read, "Cooperation and coordination with Indian tribes on a government-to-government basis." (Tulalip Tribes)

We agree and have revised the Agreement at Section 1, the Introduction, to include such language.

30. We request that the following bullet be added to the first paragraph. We will: "Recognize Tribes as sovereigns who are an important partner in all environmental management activities within the state of Washington." It is only through recognizing the partnerships which both EPA and the State of Washington have committed to at the highest policy levels that EPA and Ecology can further an honest partnership approach to protecting the environment of the State of Washington. (Yakama Nation)

While we have not included this specific suggested language, we have revised the agreement to include language which we believe reflects its intent.

31. Cooperate and coordinate with Indian Tribes in a Government to Government relationship. (Washington Environmental Council)

We agree and have revised the Agreement at Section 1, the Introduction, to include such language.

34. Develop measurable benchmarks in this PPA and not vague "expectations." (Washington Environmental Council)

We agree and have revised the Agreement accordingly.

## III. Ecology and EPA Mission and Goals

35. Under Ecology's mission, bullet number two might be revised to read, "Seek to create environmental solutions that stabilize ecological, social and economic values." (Tulalip Tribes)

EPA and Ecology are not prepared to revise their mission statements at this time. We have, however, included our entire mission, value and vision statements which we believe reflect the concepts requested here.

36. Under EPA's mission, the first bullet implies that only "diverse" ecosystems should be protected. Suggest possible wording change to the effect, "Protect the diversity and health of *all* ecosystems, including air and watersheds." (Tulalip Tribes)

EPA and Ecology are not prepared to revise their mission statements at this time. We have, however, included our entire mission, value and vision statements which we believe reflect the concepts requested here.

#### IV. Measuring for Environmental Results

40. Your joint effort to develop environmental indicators for Washington State will help develop an improved set of parameters to evaluate the effect of management decisions on environmental quality. WSU is interested in helping to develop these indicators as well as relating these parameters to current best management practices. (WSU Cooperative Extension)

Ecology will be releasing an environmental indicator report soon at which time there will be an opportunity to review and provide. For more direct involvement in indicator development, please contact Dee Peace Ragsdale, WA Department of Ecology, PO BOX 47600, Olympia, WA 98504. Her phone number is 360-407-6986.

41. Environmental indicators definitely need to be functioning and monitoring provided by the end of the 1996 PPA agreement. The indicators can be expanded and refined over time. Specific areas and sub-areas where indicators are needed, a minimum number of indicators for each sub-area, and timelines for development and adoption of these indicators must be shown. June 30, 1997 must be final adoption date, regardless of the predictable opposition of the polluting industries. (Washington Environmental Council)

Ecology and EPA intend to have environmental indicators adopted by June 30, 1997. Please refer to Performance Measure #17 in Section 5 of the Agreement for a detailed schedule.

42. The 1997 PPA agreement needs to include attainment levels and penalties for nonattainment [such as] a clear delineation of financial and public relations penalties to be imposed for failure to meet the deadline. (Washington Environmental Council)
43. Pleased with the development of a core set of environmental indicators to track the condition of Washington's air, water and land. (Spokane Tribes)

Ecology and EPA appreciate the support and encouragement for our plans to develop environmental indicators.

#### V. Agreement Coverage

44. Second paragraph references all existing commitments and requirements. We suggest adding, "Federal trust responsibility to Indian tribes" as a bullet. Though not a specific program, EPA's trust responsibility is a fundamental "existing commitment". (Tulalip Tribes)

We have revised the agreement at Section One to acknowledge EPA's ongoing commitment to its federal trust responsibility.

45. A statement should be added after the first sentence of [the second] paragraph stating that this agreement does not cover EPA's work or responsibilities on Indian Lands. The following sentence is recommended: "This Agreement does not cover work to be performed by EPA Region 10 on Indian Lands within the state of Washington." (Yakama Nation)

We agree and have stated in Section 1 of the Agreement that tribal lands are not included in the Agreement.

46. There are several grants listed in the table on Page 4 which appear to be provided for program areas which lack any mention in the discussion within the water quality section. Specifically, we would like to have some understanding of the commitments which EPA is making towards Tribal Coordination and Tribes NPDES (first and last Water Quality Project Titles listed). The latter grant is especially questionable since Ecology lacks authority for implementation of the NPDES program on tribal lands. (Yakama Nation)

EPA is committing Clean Water Act 104(b)(3) funds to support a federal/state/tribal cooperative CWA Section 303(d) and TMDL development partnership project. This purpose of this project is to develop a co-management (EPA/Tribes/WDOE) Section 303(d) and TMDL process. Both of the grants identified in the chart are for this project.

47. Please describe what the tribal coordination grant referenced in the chart. Should it be included? (Spokane Tribes)

Please see response to the comment above. We believe that it should be included because it represents a joint commitment between EPA and Ecology to work with the tribes on improving the Section 303(d) and TMDL programs.

48. Distribution of any EPA funds to the state that are above and beyond federal mandates should not be distributed before tribal trust responsibilities are fulfilled. It would be a function of environmental racism to fund the state beyond their federally required programs prior to fulfilling the requirements of the individual Tribal Environmental Agreements. (NWIFC)

EPA does not yet fully fund the state to meet federal mandates. In addition, individual Tribal Environmental Agreements are yet completed.

49. It is much less important to add other government agencies. What is important is to add the **public** and the **Tribes** in meaningful, active, cooperative ways. (Washington Environmental Council)

Please see response to comment #16.

50. [The] chart of grants with their DOE and EPA titles...fails to tell the public any meaningful information. Please include the dollar amount of each grant, the term of the grant and a one sentence statement of the purpose of the grant. (Washington Environmental Council)

The final Agreement includes the dollar amount of the grants. Performance measures in the individual sections describe what activities will be funded with each. Terms of grants are lengthy, vary widely and can change over the life of the grant, therefore, we have decided to not include the terms of each of the grants in the Agreement. They are on file at the EPA and Ecology office and are available for public review upon request.

# SECTION TWO: COMPLIANCE AND ENFORCEMENT, BEYOND COMPLIANCE AND INFORMATION INTEGRATION

## COMPLIANCE AND ENFORCEMENT

### I. Description

54. Performance standards are needed here. i.e. After one warning enforcement should be swift and sure. Repeated violations should bring higher penalties which are sufficient to really deter. Record keeping must allow detection of repeat violators. The agency should provide clear guidance to allow and encourage full and equitable enforcement. The internal climate of the agency should not label employees who conscientiously protect the public's resources and the environment as "troublemakers." (Washington Environmental Council)

Ecology has clear, written guidance, procedures and policies on when and what type of enforcement is appropriate. However, we believe enforcement action is not always swift and mandatory, we use discretion. Our goal is to achieve compliance. We have a range of tools to use, including formal enforcement, criminal sanctions, if appropriate, technical assistance and regulatory orders to correct problems. Ecology and EPA are working toward better ways to achieve environmental results, such as, encouraging self-auditing and going beyond the standards in exchange for flexibility in enforcement.

Regarding the internal climate labeling employees as "troublemakers," we are not aware of this being an issue at all. Our employees are provided clear guidance on policies and procedures.

### III. Objective

55. As specific agreements concerning roles, strategies and relationships are developed, we urge EPA and DOE to involve tribes in the discussion. There is more that tribes themselves can be doing in terms of compliance assurance (e.g. providing monitoring data from their own data collection efforts). (Tulalip Tribes)

We agree with the need to involve tribes in this effort. As strategies evolve, EPA and Ecology will work with the tribes.

57. Clear listing of the responsibilities of each agency needs to be listed. (Washington Environmental Council)

Ecology and EPA's existing *Enforcement Policy and Guidelines* and existing *Compliance Assurance Agreement* clearly spell out each agency's role and responsibility in enforcement. These documents are available for public review upon request.



## V. Performance Measure

58. The statement concerning reviews of existing compliance agreements does not bind either party to any action. It does not specify time intervals at which this should be done (e.g. annually or quarterly) what items should be looked at or who will conduct the evaluations. (Tulalip Tribes)

See next response.

59. This section is very weak and many specifics **MUST** be added to this agreement. (Washington Environmental Council)

The Beyond Compliance Section is general. This is a general concept of the direction we want to head -- improving compliance and getting better environmental results. This is because we are not sure yet what form that will take and what will be implemented. Our goal is to ensure that there is no degradation of the environment and we get increased compliance and pollution prevention in the long-run. There are several experiments and new state laws that need to be evaluated before we move ahead. We will have a public process in determining what direction to take that will involve all stakeholders and will have established criteria.

## BEYOND COMPLIANCE

### I. Description

60. The greatest incentive is the understanding of the public for the importance of the protections proposed by DOE and EPA. Clear and appropriate environmental indicators, evidence of the improvements and of need for change will really help the public understand what and why greater protections are needed. (Washington Environmental Council)

We agree fully with this comment. Ecology and EPA are committed to having in place by June 30, 1997 environmental indicators that are both understandable to the public and give good information to policy makers. Ecology's second indicator report, *Washington's Environmental Health 1997*, will be published in January 1997.

### II. Goal

61. The language is good, but the agencies remain frightened, despite the public support for the environment shown in the last 18 months. The public clearly said, "Leave the environmental laws alone." Now the agencies need to have the courage to continue to use them. If the agencies give away their authority, then the foes of the environment will have won, despite the public support for the environment. "Reinvent" must mean better methods, not less protection. (Washington Environmental Council)

We use the environmental laws that are in place. Going beyond compliance does not equate with giving away our authority. We agree that reinventing means better methods, not less protection.

### III. Objective

62. First paragraph: What does this bureaucratic double talk mean? (Washington Environmental Council)

The concept is to encourage improved environmental results through programs that offer incentives to businesses.

63. In implementing the proposed shift in the regulatory scheme to promote innovation, remember that your compliance goal is to "reinvent - not roll back" the regulatory scheme. While we can be supportive of programs that reward the good players and help to move the marginally good actors to good actors, we must remember that there will always be those who would rather pollute than spend the money required to do what is right for the environment. (Yakama Nation)

We agree.

64. Your greatest concern needs to be public not the regulated community. Flexibility is fine, if it means a better way of achieving the same protection. If it means less protection, then it is probably a bad, and self-serving, proposal. (Washington Environmental Council)

We couldn't agree more.

### IV. Performance Measures

66. First sentence: What does this mean? (Washington Environmental Council)

We have not developed an Ecology/EPA model yet, except there are two projects underway; Bremerton Shipyards and Simpson Tacoma.

- 67.a We would like to point out that the command and control system, while largely flawed, is not entirely broken. Until better systems are in place, it would seem drastic to cut back on that which does actually benefit the environment. (Tulalip Tribes)

We agree.

- 67.b Not all regulations and laws are bad, just because they can be tarred with the label of "command-and-control." Often that is the best way to gain improvements, but it needs to be accompanied with performance standards when possible, and the needs for the commands must be clearly understood. (Washington Environmental Council)

We will not stop our existing enforcement of laws and regulations, but we may allow flexibility in monitoring or permit renewal, for example, if it leads to getting pollutants out of the environment. It could also mean not taking an enforcement action if the company finds the problem, reports it and promptly fixes it. For any permit violation, complaint or investigation we find, we will take enforcement action. We agree with performance standards as a way to gain environmental improvements.

70. If Project XL is not funded, will the agencies really "disinvest" in current programs? We would suggest alternative wording. The sentence might read, "If such funding is unavailable, Ecology and EPA will seek other resources to supplement and eventually take precedence over the command and control programs." (Tulalip Tribes)
71. Suggestions as in the last sentence on page 8 which suggest that Ecology and EPA will divest in enforcement efforts against bad actors if grant money is not available to develop programs to encourage the good actors to do an even better job is disheartening. (Yakama Nation)

## **INFORMATION INTEGRATION**

### **General Comment**

73. This is a noble goal, but may be very expensive and difficult to actually accomplish. Care should be taken before committing significant resources or people to the project. (Washington Environmental Council)

### **III. Objectives and Activities**

74. What does "multi-media" mean in this context? (Washington Environmental Council)

Multi-media refers to air, water and waste issues.

75. This section is totally obscure. What are EPA and Ecology really going to do? When? What specifically is success for one year? (Washington Environmental Council)

This section has been rewritten for clearer explanation of what will be accomplished over the next year.

# SECTION THREE: AIR QUALITY

## General Comments

76. We have been working closely with EPA staff to further reduce SO<sub>2</sub> emissions from the Centralia power plant. Seattle City Light believes this effort merits mention in the Air Quality section of the Agreement. (Seattle City Light)

EPA agrees that the effort to further reduce SO<sub>2</sub> emission from sources that contribute to visibility impairment should be mentioned in the Air Quality section of the Agreement. Section V, second objective, 1st EPA bullet now reads, "provide technical assistance, review and determine approvability of revisions to the visibility SIP including addressing sources that contribute to visibility impairment."

77. Doesn't address Yakima's carbon monoxide nonattainment status. Yakima is currently listed as "unclassifiable" which means that they are stuck in limbo. Yakima's CO nonattainment status must be defined and a State Implementation Plan or Maintenance Plan must be developed. Without action from Ecology and EPA, Yakima will undergo the most stringent air quality conformity tests for their transportation system, even though they are arguable in better shape than other nonattainment areas. (WSDOT)

This Agreement is for the state fiscal year 1997 (July 1, 1996 through June 30, 1997). The time frame for the development of a Yakima CO maintenance plan has not been established yet. Therefore, it would be premature to include this as an action item in this years Agreement.

### I. Description

78. Add Indian tribes and revise the following sentence to read: "To work as partners with government agencies, *Indian tribes*, affected parties, etc..." (Tulalip Tribes)

The mission of the Air quality program has been revised to include Indian tribes.

79. Is this the mission statement for Ecology's, EPA'S, or both Ecology's and EPA's air quality program? (Yakama Nation)

The mission statement is unique to this agreement and applies to both Ecology and EPA and will be reflected as such in the Agreement.

80. The mission statement should specifically include working with Tribes as a key partner in improving the air quality for those living within the state of Washington. Both Ecology and EPA must acknowledge that many airsheds within the state cross reservation and state boundaries. (Yakama Nation)

The mission of the Air quality program has been revised to include Indian tribes.

## II. Goals

81. 1st Goal - must be a misprint? "Attain standards that *violate* fed/state standards ...?" Is this intended to read, "Attain air quality standards in airsheds that meet Federal, Tribal and/or State air quality standards." (You may even want to state "*meet or exceed . . .*" ) (Tulalip Tribes)

The first goal is correct as stated. The goal is to bring those areas which are currently in violation of the Federal or State standards into attainment.

## III. Priorities

82. EPA Priorities - first bullet, add Indian tribes: "Provide regulation interpretation, technical assistance and training to state, local and *tribal air* authorities." Follow suit with bullet number two. (Tulalip Tribes)

Indian tribes has been added to both the first and second bullet.

## IV. Environmental Indicators

83. The environmental indicators listed are only as good as the available data from which the indicators are evaluated. Currently there are many airsheds in the state in which no air quality data has been collected and thus no baseline from which to measure either change or attainment status. Efforts should be made to identify indicators which will help quantify problems in rural and agricultural airsheds as well as urban airsheds. (Yakama Nation)

EPA and the state agree that any environmental indicator is only as good as the available data from which the indicator is evaluated. In the future EPA and the State will attempt to establish better, more reliable base lines for areas where in the past there has not been air quality data collection.

## V. Objectives and Performance Measures

84. First paragraph: Due to the integral interrelationship between tribal and state airsheds, one of the "Core" activities which should be identified in this agreement is tribal coordination in airshed management. In all non-attainment areas which are located either on Indian lands, in whole or in part, or which have the potential to affect the health of a tribal population and impact Tribal Treaty-reserved rights, the affected Tribe should be involved in the planning and implementation of all attainment strategies. (Yakama Nation)

A bullet has been added to EPA's priorities to reflect the integral inter-relationship between tribal and state air sheds and the importance of coordination between agencies and Indian tribes within these air sheds.

***NO. 1. National Ambient Air Quality Standards.....***

85. EPA Region 10 section: Third bullet - add Indian tribes. (Continue throughout document where appropriate.) (Tulalip Tribes)

Indian tribes have been incorporated throughout the document where appropriate.

*NO. 2 Programs are in place to...*

86. 5th bullet under EPA activities: EPA should commit to working with the affected tribes in developing a regional grass seed burning reduction program, not just the states of Idaho, Oregon and Washington. (Yakama Nation)

The EPA commitment now includes the states of Idaho, Oregon, Washington and affected tribes.

## SECTION FIVE: WATER QUALITY

### General Comments

92. Although couched in terms of partnerships and the Watershed Approach, the desire for Ecology to remain in control of all which occurs in the watershed is evident throughout this section. Through this agreement EPA appears to show a willingness to accept, and reinforce We request that EPA reevaluate the statements regarding implementation of a Watershed Approach in light of your guidance, policies and your knowledge of the responsibilities which EPA has to ensure the protection of Treaty-reserved resources both on Tribal reservations an in Tribal Ceded Areas and at Usual and Accustomed Sites. (Yakama Nation)

EPA remains committed to fulfilling its tribal trust responsibilities.

Please see additions to the Performance Partnership Agreement's Introduction and Guiding Principles Sections as well as Objective #13(a) and (b), revised and Performance Measure #13(b) and (c).

93. Please identify those watersheds where Ecology actually has exclusive authority to implement a Watershed Approach without coordination with a Tribe as an equal sovereign. Your review will indicate very few watersheds within the boundaries of the state of Washington which lack the presence of a Tribal reservation and even fewer in which at least one tribe does not retain federally-reserved Treaty rights. EPA has a federal responsibility to help protect those rights and resources. We respectfully request that you honor that responsibility in this Agreement. (Yakama Nation)

See response #92.

### I. Goals

#### *General Comments*

94. Three of the four Water Quality Goals involve improved bureaucratic and management processes and not direct actions to protect or restore water quality. Goal three should be the first and primary goal. (Washington Environmental Council)

We agree that the primary goal is protection and restoration of the state's waters. The agreement is designed to help us achieve that goal recognizing that management mechanisms and processes are the necessary instruments to make real environmental progress.

#### *1. Interagency Partnership, Cooperation and Coordination*

95. Yes, please work cooperatively with other governments, but most importantly please work cooperatively with the people of the state, who are your funding partner. (Washington Environmental Council)

Ecology and EPA strive to improve our inclusion of the general public as well as special interest groups as much as possible in our activities. We maintain public involvement calendars, extensive mailing lists, public information centers and phone lines, web sites and newsletters in efforts to provide and exchange information with others interested in our activities. For all major actions, such as this Agreement, we provide opportunities for public comment and input. In addition, EPA and Ecology managers and staff are available for meeting with interested parties upon request.

We intend to continue to work cooperatively with the people of the state. In addition to working with many citizens individually, we work with their elected officials, private organizations, the media and other groups that are a voice for the public, as well as our tribal and governmental partners.

## *2. Watershed Management*

96. The exclusive language found in this draft agreement seems contradictory to the idea of watershed based management, as has been adopted by both EPA and Ecology. Please clarify how EPA and Ecology can develop a partnership exclusive of the Tribes and still deliver water quality protection throughout Washington State. We believe this approach is contrary to EPA's Indian Policy as well as its commitment to work directly with tribes. (NWIFC and Yakama Nation)

It is not EPA or the state's intention to exclude the tribes from participation in this agreement. On the contrary, the objectives and performance measures outline activities where tribal participation is encouraged. Additionally, Ecology's Watershed Approach to Water Quality Management directs the agency to seek involvement of all affected federal, state, and local agencies, tribes, and stakeholders in the development and implementation of watershed plans.

Please see additions to the Performance Partnership Agreement's Introduction and Guiding Principles Sections as well as Goal #1; Objectives #1(a) and (b), 2(a), 3, 7(a), 9 and 9(a), and 13(a) and (b), revised; and Performance Measures #4, 11(a),(b), and (c), 13(a),(b), and (c), and 16(c).

## II. Objectives and Activities

### *General Comments*

97. Several general points need to be made: (1) All of the objectives and activities seem to be planning and paper exercises, not restoring, fixing or even recovering anything on the ground. (2) We should focus on the most effective, not politically expedient, ways of doing that in the shortest time. The search for total consensus has often lasted two or three years without success. Get on with the job of doing the possible NOW. (3) Beyond preventing additional pollution, must be added active restoration where appropriate. (Washington Environmental Council)

We value results over planning. That is why we make available over 80 percent of our water quality grant and loan funding to communities for implementation of result-oriented watershed projects. Less than 20 percent of the funds are used for local planning activities (Centennial Clean Water Fund/State Revolving Fund).



Please see Performance Measures #21 and 22.

98. Missing from these objectives and activities are monitoring, review and conditioning or denial of new pollution, enforcement of existing regulations, or any projects or support of restoration activities. (Washington Environmental Council)

Please see responses #94, 97, 102, 103, 109, 119, 123, 124, and 131 as well as Performance Measures #4, 5, 10, 11, 13, 17, 21, and 22.

***NO. 1 Facilitate coordination and involvement....***

***a) re: development and implementation of a Nonpoint Source Pollution Control Strategy***

99. Provide technical and financial assistance to Indian tribes as well. (Tulalip Tribes)

Please see Objective #1(b).

100. If Ecology's Nonpoint Source Pollution Control Strategy will rely on tribal resources for implementation, this plan needs to be closely coordinated with the Tribes from which those expectations are being sought. If Ecology seeks to leverage Tribal resources to help address nonpoint pollution in the tribe's Treaty reserved waters, consultation should occur with individual tribes before a plan is drafted and finalized. (Yakama Nation)

Development of a Nonpoint Source Pollution Control Strategy is identified as an activity under Objective #1 which states, "Facilitate coordination and involvement by other federal and state agencies, tribes, and local governments in water quality management."

In addition, please see Performance Measure #1(a).

***b) re: revisions to the state surface water quality standards:***

101. The greatest need is to move forward on water quality standards for non-point pollution protection for salmon. The interim benchmarks should be:
- Point sources through technical and public workshops and review by Dec., 1996;
  - Non-point sources through technical workshops by Dec. 1996; public workshops and comment completed by March, 1997;
  - Final revisions completed, final comments and adoption of both Point and Non-Point Revised Water Quality Standards by June 30, 1997.
- Delay is chronic on WQ Standards Revisions. If the final schedule is not met, EPA should be prepared to appropriately restrict funding to DOE. (Washington Environmental Council)

To clarify, single rather than separate standards for point and nonpoint sources of pollution are developed and adopted.  
Please see Performance Measure #10.

Additionally, the state is moving toward use-based rather than class-based water quality standards. Use-based standards identify designated uses on a waterbody or watershed specific basis and assign criteria protective of each designated use. Anticipated date of completion is October 1998. However, funding limitations may slow this process.

102. Recommendations should be brought by DOE to TFW and FPB for mechanisms to fill current gaps and in narrative as well as numeric WQ Standards. This will need to be repeated after WQ Standards Revisions are completed. (Washington Environmental Council)

Ecology and EPA will continue to work with the TFW process to ensure that forest practices recognize the need to protect waters of the state and that both narrative and numeric water quality standards apply to these waters. The development of proposed use-based standards and antidegradation implementation procedures in the water quality standards triennial review will be vehicles to engage in further discussion with stakeholders on these points.

103. FP Permits should only be issued for activities which produce a net reduction in pollution on sites where current standards are not being met. This will take either new guidelines or regulations. (Washington Environmental Council)

Under the current statutes, permits for new activities cannot be conditioned to require restoration of historic problems. All activities will have some impact, at least locally; the intent is to mitigate those effects and avoid cumulative impacts. However, if Total Maximum Daily Loads (TMDLs) for pollutants are established on waterbodies where standards are not being met, and permits are issued for activities which would contribute to the pollutant loading targeted in the TMDL, the pollutant contribution for the new permitted sources must be considered against the overall pollutant water quality goal or target condition for the waterbody or watershed.

***NO. 2 Increase partnership, cooperation ....using the Performance Partnership Agreement***

***a) re: formation and implementation of coordinated ground water protection and underground injection control strategies:***

104. The exclusion of tribes in the second sentence of this subsection has been noted. By not including the Tribes in efforts to define roles and responsibilities and to share technical knowledge it will be very difficult to build the type of trust relationships necessary to implement cooperative and coordinated ground water protection programs. (Yakama Nation)

Please see Objective #2(a), revised.

***c) re: implementation of an effective NPDES program and compliance assurance agreement:***

105. Add new bullet: "Establish additional opportunities for tribal involvement in NPDES permitting, compliance and enforcement activities." (Tulalip Tribes)

Please see Objective #2(c), revised.

106. Institute full review of a random selection of the top \_\_\_% of the most damaging point source polluters. Provide for reduction or elimination of pollution on these permits, bringing them fully into compliance with the WQ Standards. (Washington Environmental Council)

All NPDES permits include water quality-based effluent limitations when determined necessary to protect water quality. The potential of a discharge to cause a violation of water quality standards is evaluated during permit issuance. EPA and Ecology believe that discharges in compliance with requirements of current permits, including those being issued under the state's Watershed Approach to Water Quality Management, are adequate to protect state waters from violation of water quality standards. Requiring reduction or elimination of pollution beyond that required to meet water quality standards, or technology based standards, would require authorization by federal or state law.

107. Seventh bullet re: federal facilities regulation: Either DOE or EPA **MUST** take over this obligation and **DO IT**. (Washington Environmental Council)

EPA currently has responsibility for federal facilities regulation. Please see Objective #2(c) and Performance Measure #9(e).

EPA and Ecology agree that more resources are needed to adequately address discharges and potential impacts to water quality from federal facilities. EPA has focused limited resources on regulating the largest federal facilities in Washington. Permits for these dischargers are current and are protective of water quality. The Agreement addresses the state's assumption of federal facilities regulation recognizing that it would require an appropriation from the state legislature. It has been determined that federal facilities would be required to pay permit fees to the state if Ecology were to accept this workload.

### *NO. 3 Facilitate effective...leadership on aquatic ecosystem protection...*

#### *a) re: state surface water quality standards:*

108. See schedule above for completion of WQ Standards Review. DOE must issue draft revised standards and send them out for comment and then adopt them. Consensus and policy agreement from the regulated community is most unlikely. (Washington Environmental Council)

Please see response #101.

The Administrative Procedures Act requires that draft standards be circulated for public comment prior to adoption by the state; they are then subject to review and approval by EPA. Although we hope to achieve consensus and agreement on new policies and criteria, we are prepared to move ahead in the absence of such consensus if necessary to protect water resources.

***b) re: collaborative 303(d) listing and Total maximum Daily Load processes:***

109. The process **MUST** include enforcement of the agreements. They must use their power to deny permits that add any new pollution within TMDL sites. DOE must take an active leadership role in TMDLs and not be a passive distributor of money. A good 303(d) list is usually without implementation of Watershed Restoration Plans (TMDLs). (Washington Environmental Council)

The 303(d) listing and TMDL process agreements with the tribes are intended to address cooperation and coordination issues related to the development of 303(d) lists and TMDLs, and are not intended to be enforceable in themselves. New permits are subject to the limitations of any adopted TMDLs for the specific waterbody. Prioritization of 303(d) listed water-bodies and subsequent development of restoration plans (and TMDLs, if appropriate) takes place within Ecology's Watershed Approach to Water Quality Management process.

110. DOE should complete two non-point Watershed Restoration Plans (TMDLs) each for forestry, agriculture, grazing, and sub-and ex-urban development by July, 1997. (Washington Environmental Council)

Ecology is developing nonpoint source (NPS) TMDL guidance, and intends to develop and/or assist others in developing NPS TMDLs through our Watershed Approach to Water Quality Management. NPS TMDLs will likely not be land-use or activity specific, but instead will use a more integrated approach designed to address the variety of causes of water quality problems occurring within a watershed.

***NO. 4 Improve communication between EPA and Ecology.***

***a) re: EPA and Ecology senior management communicating regularly***

111. We request that EPA seek to make a similar commitment to communication with tribal management. As with the states, senior EPA management will set the tone for effective communications and working relationships between EPA and Tribal water quality staff. This commitment must extend beyond the Tribal Operations Office. (Yakama Nation)

***NO. 5 Ecology's FY 1997 Watershed Approach...***

113. We are concerned that EPA, through this agreement, is giving unrestricted discretion to the Department of Ecology for watershed management throughout the state. This flexibility leaves Ecology's resource protection priorities increasingly vulnerable to state political and industrial pressures. Historically,

EPA was able to provide a strong backup to environmental protection, however with this proposed "hands off" approach, EPA can no longer serve in that capacity. (NWIFC)

This is not a "hands-off" approach. It is not the intent of this Performance Partnership Agreement to weaken or dismiss EPA and Ecology commitments and responsibilities. On the contrary, it is the goal of this Agreement to "initiate a collaborative approach to aquatic resource protection in Washington State among state and federal agencies, tribes, and local governments...and to improve environmental results" (Goals 1 and 4).

Please see additions to the Performance Partnership Agreement's Introduction and Guiding Principles Sections as well as Objective #13(a) and (b), revised.

***b) re: EPA participating in Ecology's scoping efforts:***

114. The EPA/Ecology team selected to identify the four focus watersheds should include some form of tribal representation. Virtually any watershed selected by the team will include either reservation lands or usual and accustomed lands. (Tulalip Tribes)

The statement, "EPA will participate in four additional Water Quality Management Areas (WQMAs) corresponding to stages two through five of Ecology's Watershed Approach (revised)" is intended to reflect specific EPA commitments to Ecology. It is not intended to exclude the tribes or other affected parties from participating in Ecology's Watershed Approach to Water Quality Management. On the contrary, the Agreement specifically invites tribal participation.

Please see Performance Measure #13(a),(b), and (c).

115. Special focus watersheds within the boundaries of the state of Washington should not be identified without equal input from the tribes who have reservations and Treaty-reserved rights within potential candidate watersheds. (Yakama Nation)

Please see response #114.

117. Are physical, actual improvements in watersheds being made, or only more paper and more plans? DO REAL PHYSICAL RESTORATION IN THE BASINS TOO. (Washington Environmental Council)

Please see response #97.

***d) re: joint development of watershed tools including TMDLS:***

118. DOE should complete two non-point Watershed Restoration Plans (TMDLs) each for forestry, agriculture, grazing, and sub-and ex-urban development by July,

1997. The General Watershed Restoration Plans should be developed simultaneously with the specific pilots. 18 months at the most should be allowed for the General Plans to be adopted. (Washington Environmental Council)

Please see response #110.

Note, the "plans" referred to are in fact guidance for staff developing TMDLs.

***NO. 7 Jointly develop water-related environmental indicators...***

120. Dates and deadlines need to be developed, but a working set of environmental indicators for surface water, ground water, sediments and wetlands need to be adopted and integrated into the 303(d) and 305(b) lists. In addition, the permitting processes need to reflect the status of the waters as shown by these indicators. The mechanisms to accomplish this need to be adopted and functioning by the end of the next agreement in July 1, 1998. (Washington Environmental Council)

As we develop indicators, we will be reviewing the 303(d) and 305(b) processes to see how indicators may be linked to their development and application. Note that 303(d) is criteria oriented, and is likely to offer less direct potential integration with the indicator effort than is 305(b).

Please see Objective #7 and Performance Measure #17.

***a) re: creation of interagency team to develop environmental indicators:***

121. Invite tribes to sit on the interagency team in order to help develop the environmental indicators. (Tulalip Tribes)

Please see Objective #7(a), revised.

122. It is inappropriate to develop environmental indicators for waters within the state of Washington without tribal involvement. (Yakama Nation)

Please see response #121.

123. Fourth bullet: Cooperate with the State's infant forestry monitoring program. It must use "natural conditions" as defined in WAC 173-201A-020 as the baseline against which changes are measured. (Washington Environmental Council)

Ecology is working within the TFW process to develop forest monitoring programs that are consistent with the need to meet water quality standards. "Natural conditions" as defined in WAC 173-201A-020 is referred to under the antidegradation provisions as the justification for allowing lower water quality when the natural conditions are at that water quality. Development of indicator monitoring will need to consider natural conditions, where appropriate, as well as other conditions, when natural conditions are not attainable.

***NO. 8 Improve protection and restoration of threatened and endangered species...***

124. The lead sentence of this section does not appropriately reflect the contents of the subsection. (Yakama Nation)

Please see Objective #8, revised.

The performance measures included in Section IV. reflect EPA and Ecology's commitment to the protection and restoration of threatened and endangered species. Specifically, performance measures #1, 9, 10, 11, 13, 14, 15, 16, 18, 19, 21, and 22 enhance the agencies ability to protect and restore "... aquatic ecosystem integrity and biodiversity" (Goal 3).

125. Neither of these two projects are appropriate to include in an exclusive EPA and Ecology watershed partnership as both projects require, at a minimum, that tribes be an integral part of that partnership. (Yakama Nation)

Please see Objective #6(a), revised, Performance Measure #16(c), and response #127.

***a) re: project addressing mainstem Columbia River ecological toxicity and temperature issues:***

126. It is completely inappropriate for the Yakama Nation to hear of plans for EPA, states and tribes to develop and implement a project addressing ecological toxicity and temperature issues on the mainstem of the Columbia River in a draft agreement between EPA and Ecology. When will the Yakama Nation and our Environmental Protection Program be formally informed of your desire to initiate this project? Is this a project which EPA and Ecology intend to develop and implement and then, as an afterthought decide that the tribes with interests on the Columbia should be included? Please do not commit the Yakama Nation to participation in any project within this Agreement to which our Tribal Council has not previously approved. (Yakama Nation)

Please see response #125.

***b) re: Phase 2 of the Columbia River Tribal Fish Consumption and Human Health Risk Assessment:***

127. This study on Tribal fish consumption and the associated risks posed to tribal populations does not belong in this section. The project is being done under a cooperative agreement between the Columbia River Tribes and EPA. Ecology is not a partner in this agreement and, while coordination with Ecology may be important, it is inappropriate to include this project under EPA and Ecology watershed partnerships. We request that EPA honor their commitments to the tribes and not feel a need to include the state in the center of agreements, projects, and partnerships made between EPA and individual tribes or tribal consortia. (Yakama Nation)

References to the Columbia River fish consumption study have been deleted from this Agreement. The "Phase II, Columbia River Tribal Fish

Consumption and Human Health Risk Assessment" is a study being conducted through a Cooperative Agreement between EPA and the Columbia River Inter-Tribal Fish Commission. This study was originally included in the Performance Partnership Agreement to stress its importance to overall Columbia Basin investigations and actions.

***NO. 9 Facilitate and support state salmonid protection and restoration ...***

128. This section needs specifics and is **VERY IMPORTANT**. (Washington Environmental Council)

Please see Performance Measure #18.

Note also that various other performance measures have the effect of supporting salmon protection and restoration.

***a) re: understanding and integration of state and federal salmon policies and initiatives:***

129. Include tribes in the following sentence: "EPA and Ecology will work to increase understanding of (*tribal*), state and federal protection and restoration policies and initiatives..." (Tulalip Tribes)

Please see Objective #9(a), revised.

130. The four Columbia River Tribes have recently passed a salmon recovery and restoration plan for the Columbia Basin which has been recognized by the Bonneville Power Administration and several federal agencies. All efforts to protect and restore salmon resources in the state of Washington must include consultation and coordination with the affected Tribes as mandated by the federal courts in US vs Washington. (Yakama Nation and NWIFC)

Please see Objectives #6(a), 9 and 9(a), and 13(a) and (b), revised as well as Performance Measures #13(a),(b), and (c) and 16(c).

***NO. 10 Facilitate and support ecosystem protection and restoration efforts.***

***c) re: wetland restoration and use of Stillaguamish wetland restoration model:***

131. Has it been evaluated and show to be successful by an unbiased analysis? Until it is shown effective in resource restoration, it should not be applied elsewhere. In Florida such an assessment found few non-marine wetlands had been successfully created or even restored. (Washington Environmental Council)

This model was developed and has been applied as a means to identify multiple locations in a river basin where wetland restoration would provide water quality, natural resource, floodwater attenuation, and other benefits important to residents of the watershed. The approach is based on careful analysis of surface and subsurface water flows, landscape position, and other factors related to how restored wetlands will function, combined with a strong component of community based planning and interaction. By



combining these two features, sites are identified that have the highest probability of restoring wetland functions in the most cost effective way, and where land is available and projects will have both community and landowner support. Thus, the model lays the groundwork for successful restoration. Implementation depends on local initiative and availability of funds; however, we are finding that a sound blueprint for restoration such as that provided by the Stillaguamish approach, is a powerful factor for acquiring funds to direct toward restoration.

***NO. 12 Increase the flexibility and effectiveness of grants...***

132. More flexibility and less accountability for DOE should not be granted, unless and until the department shows significant accomplishments in protecting and restoring our water quality. Only when they include, give real power to and show accountability to the public who pays for the program, as opposed to the regulation polluting publics, should they be allowed more flexibility. (Washington Environmental Council)

Objective #12 to "Increase the flexibility and effectiveness of grants...." will not reduce accountability. Instead, this provision will result in greater cooperation and coordination. Funding will be used more effectively to continue progress in environmental protection.

***NO. 13 Involve other agencies... to participate in Performance Partnership Agreement related activities...***

***a) re: EPA involving appropriate federal and tribal agencies in the Watershed Approach:***

133. It seems contrary to the Watershed Approach to involve appropriate federal and tribal agencies only when "such involvement is particularly important." Appropriate federal and tribal agencies must be involved as equal partners in all activities under a Watershed Approach if this approach is to be effective. (Yakama Nation)

Please see Objective #13(a) and (b), revised.

134. What about the general public? We pay the bills; make us a partner too! (Washington Environmental Council)

Please see response #95.

***b) re: Ecology involving appropriate state and local agencies in the Watershed Approach:***

135. Ecology can not implement a Watershed Approach without continual involvement of appropriate tribal governments. (Yakama Nation)

Please see responses #93 and 96.

136. What about the general public? We pay the bills; make us a partner too!  
(Washington Environmental Council)

Ecology and EPA strive to improve our inclusion of the general public as well as special interest groups as much as possible in our activities. We maintain public involvement calendars, extensive mailing lists, public information centers and phone lines, web sites and newsletters in efforts to provide and exchange information with others interested in our activities. For all major actions, such as this Agreement, we provide opportunities for public comment and input. In addition, EPA and Ecology managers and staff are available for meeting with interested parties upon request.

### III. Environmental Indicators

137. The agreement simply states that "water related policies and of environmental indicators will be developed," without providing criteria or a specific deadline for this work. The agreement should specify a deadline and least at least some environmental indicators ... as it does in the air quality and hazardous waste sections. (People for Puget Sound)

Please see Objective #7(a) and Performance Measure #17.

138. Get on with the job, and establish the penalties for not completing it NOW. (Washington Environmental Council)

Please see Performance Measure #17.

Three evaluation and assessment meetings will be conducted to review mutual performance measure progress and resource (i.e., funding and staffing) adequacy. Where changes are required to complete performance measures, modifications including justifications will be documented in the Agreement.

### IV. Performance Measures

139. The water quality section of the proposed agreement lacks the specific commitments, measurable outcomes and performance deadlines that are needed to make our state's water quality programs more effective. (People for Puget Sound)

Please see Section IV. Performance Measures.

140. Without BOTH the environmental indicators and the performance measures, there should be **no renewals** of the WQ Grants in the Performance Partnership Agreement. (Washington Environmental Council)

Please see responses #119, 137, and 139.

Specifically, Performance Measure #12(b) addresses the need to assess and evaluate the Performance Partnership Agreement. EPA and Ecology will schedule three management-level meetings to evaluate progress toward specific EPA and Ecology commitments and to address potential barriers and solutions to performance measure completion.

## LIST OF COMMENTERS

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