Environmental Performance Partnership Agreement

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

State Fiscal Years 2000-2001
July 1, 1999 - June 30, 2001

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WASHINGTON STATE DEPARTMENT OF ECOLOGY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

Ecology: http://www.wa.gov/ecology

EPA: http://www.epa.gov/r10earth

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Environmental Performance Partnership Agreement
For July 1, 1999 - June 30, 2001

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

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

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

Both Ecology and EPA Region 10 will exert their best efforts in the performance of this Agreement. Disputes regarding the performance of either party to this Agreement will be resolved, consistent with applicable regulatory dispute resolution procedures, at the lowest level possible within our organizations. If this is not feasible or successful, the next level for dispute resolution will be the mangers 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 1999-2001 state biennium.

Signed,

DATE: 7-8-99

Tom Fitzsimmons, Director
Washington Department of Ecology
Olympia, Washington 98504

DATE: 7-12-99

Chuck Clarke, Regional Administrator
US Environmental Protection Agency Region 10
Seattle, Washington 98101

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SECTION ONE – PERFORMANCE PARTNERSHIP OVERVIEW

This Environmental Performance Partnership Agreement (PPA) documents proposed contractual commitments between the Washington Department of Ecology (Ecology) and the U.S. Environmental Protection Agency (EPA). The proposal includes activities of the water, waste and air programs of Ecology and EPA for the period from July 1, 1999 to June 30, 2001. This agreement will be the first biennial PPA for this state; it is scheduled to coincide with the state biennial budget process.

From the early 1980s through 1995, the State of Washington and EPA Region 10 participated in a State-EPA Agreement (SEA). This agreement encompassed the environmental priorities shared by several state agencies (Ecology, Health and Agriculture) and EPA Region 10. In 1995, state environmental agencies and EPA agreed to move to a National Environmental Performance Partnership System (NEPPS), with an Environmental Performance Partnership Agreement (PPA) taking the place of the SEA. The purpose of the change has been to put greater focus on the environmental results of the activities that address our shared activities, and to provide states with more flexibility in managing environmental programs.

As priorities for environmental investment evolve, the PPA will continue to reflect those changes. The basis for the commitments and plans contained in this PPA are the result of joint Ecology and EPA management and staff agreements developed this year. Comments on the Draft PPA were taken into consideration in preparing the final FY 2000-2001 Agreement.

In developing this Environmental Performance Partnership Agreement, particular attention has been paid to assessing reporting requirements and planning collaborative projects in all three environmental media. The nationally recommended Core Performance Measures have been assessed by both agencies, using common criteria, in order to limit reporting commitments to measures that are cost-effective and provide useful information to the agencies and to the general public.

PURPOSE

The Department of Ecology and the EPA support a shared responsibility in meeting the environmental and public health priorities of Washington State. The purpose of this Environmental Performance Partnership Agreement for the 1999-2001 biennium (July 1, 1999 through June 30, 2001) is to:

- Establish mutual environmental goals, strategies, activities and performance measurement for state fiscal years 2000 and 2001.

- Maintain a core level of environmental protection for all of Washington's citizens.
- Measure environmental progress using 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.

GUIDING PRINCIPLES AND STRATEGIES

Ecology and EPA Region 10 agree to the following principles in working together to protect Washington's environment:

We will:
- Provide service to the public;
- Continue to work as partners to build trust, openness, and cooperation;
- Manage our collective resources to meet the highest environmental needs in the state;
- Capitalize on each other's strengths and expertise;
- Communicate frequently and openly between ourselves and others;
- Cooperate and coordinate with other federal, tribal, state and local government agencies; and
- Carry out the compliance assurance principles as stated in this Agreement.

ECOLOGY AND EPA'S MISSIONS AND GOALS

Ecology and EPA have similar missions, goals and objectives that guide agency operations and decisions. Our respective missions, goals and objectives are:

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

To achieve this mission, Ecology has adopted the following goals.
- Prevent Pollution
- Clean Up Pollution
- Support Sustainable Communities and Natural Resources

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.

ECOLOGY/EPA JOINT PRIORITIES

Ecology and EPA have agreed to the following priorities:
- Emphasize environmental results through the improved use of environmental indicators:
- Incorporate, where practicable, national core performance measures.
- Incorporate environmental indicators into program evaluations.
- Explore opportunities for coordinated work in watersheds and on issues related to Salmon and the Endangered Species Act.
- Explore opportunities to incorporate alternative methods to achieve compliance into national data reporting systems.
- Work to bring innovative initiatives and strategies into the mainstream.
- EPA will work to fulfill their responsibility on tribal lands, including program implementation and compliance assurance.
- Ecology will work to assure compliance with environmental laws.

ECOLOGY/EPA ENVIRONMENTAL GOALS

Ecology and EPA Region 10 have agreed to the following environmental goals:

AIR
- Ensure that every community in Washington state has safe and healthy air to breathe.
- Continuously improve air quality throughout Washington state.

Water
- Meet water quality standards in waterbodies that are currently polluted.
- Meet the biological needs of endangered and threatened species; enhance their chances for recovery.
- Restore and protect water quality through inclusive watershed planning.
- Achieve environmental protection through compliance assurance.

Hazardous Waste

- Minimize environmental threats caused by mismanagement of hazardous waste and unnecessary use of toxic chemicals.
- Reduce the production of hazardous waste in the state to 50% of the 1990 level.
- Minimize and remediate contamination of water and soil through permitting, closure, and corrective action activities.

ECOSYSTEMS

- Improve the water quality and ecosystem function in high priority watersheds.
- Protect wetlands functions and values.
- Protect endangered and threatened fish species using coastal zone management regulatory tools.

MEASURING FOR ENVIRONMENTAL RESULTS

A key purpose of the National Environmental Performance Partnership System is to focus attention on the environmental results of state environmental agencies' and EPA's activities. State environmental agencies have worked with EPA over the past several years to develop a national set of Core Performance Measures to track progress in our environmental efforts. The August 20, 1997 agreement between the Environmental Council of the States (ECOS) and EPA on Core Performance Measures stated a commitment to work together to reduce the overall reporting burden as we move toward more outcome-related reporting measures. To that end, Ecology and EPA Region 10 agreed, as part of the FY 2000-2001 PPA process, to review current reporting requirements to see if they could be reduced substantially and re-focused to provide essential information needed for environmental management and fiscal accountability.

The Air Quality, Hazardous Waste, Water Quality and Ecosystem Programs in each agency reviewed the media–specific performance measures appropriate to their programs, as well as core performance measures proposed for tracking Compliance Assurance and Enforcement activities. The review included current additional reporting requirements not included in Core Measures. The Core Performance Measures reviewed are those in the current draft of the proposed FY2000 ECOS-EPA Core Performance Measures. The combined reporting requirements were evaluated for their ability to provide the environmental and fiscal information required. After the separate evaluations were completed, Ecology and EPA each prepared tables identifying reports each agency felt should be retained, deleted or added. The Ecology and EPA Region 10 program staff then negotiated resolution of the disposition of performance measures on which they initially disagreed. This process enabled the programs to come to agreement on the majority of performance measures without debate, and thus focus their attention on the few where there were issues to resolve.

The review and evaluation yielded the following overall results:

Number of Core Performance Measures and Associated Requirements retained:	27
Number of Core Performance Measures and Associated Requirements deleted:	10
Number of Core Performance Measures and Associated Requirements added:	2
Total number of reports retained:	38
Total number of reports deleted:	19
Total number of reports added:	4
Net Reduction:	15

It is clear from this assessment that reduction in reporting was achieved. It is also clear that Ecology is already reporting information to support most of the environmentally related Core Performance Measures. Most of the remaining reports are required to satisfy EPA audit requirements or provisions of statutes or regulations.

Most of the activity reporting is accomplished through direct data submittal to federal databases, such as RCRIS, TRI and AIRS. This is an efficient mechanism which provides data to both agencies simultaneously. In the Water Programs, Ecology provides data to EPA Region X which their staff input into national databases. Currently EPA and Ecology are experiencing difficulty maintaining data in EPA Water Program's PCS system. During the FY2000-2001 biennium, the EPA Region 10 Water Office and Ecology's Water Quality Program will work to develop an electronic data submittal system to provide accurate data to PCS on a monthly basis. The success of this project will depend on collaborative efforts of staff in both agencies.

Thus, while some progress has been made in reducing and re-focusing the reporting requirements, more work will yield additional efficiencies in reporting, at both the regional and national level. Ecology and EPA are committed to continue review of reporting requirements to realize those efficiencies where possible.

AGREEMENT COVERAGE

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

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

- Delegation of the National Pollutant Discharge Elimination System (NPDES) Program
- Compliance Assurance Agreements for water, air and hazardous waste management
- State Revolving Loan Fund Operating Agreement
- State Revolving Loan Fund Intended Use Plan
- National Estuary Programs
- Nonpoint Source Assessment Report
- Nonpoint Source Statewide Management Plan
- Enforcement Response Policy for Resource Conservation and Recovery Act
- Resource Conservation and Recovery Act Memorandum of Understanding
- Operating Agreement for Clean Water Act Section 319 Nonpoint Source Grants Management

TRIBAL RELATIONS

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 intends to emphasize to other agencies that implement environmental programs the importance of working with tribes and tribal interests. EPA also encourages cooperation between state, tribal and local governments to resolve environmental issues of mutual concern. The Endangered Species Act and current and proposed listings of several species in Washington state as threatened or endangered make it extremely important that Ecology and EPA pay particular attention to working with and coordinating activities with tribes and tribal interests as plans are made to address ESA issues.

This Agreement is not intended to define or modify these relationships, and Indian Country and tribal trust resources 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. Since, however, work on all environmental issues within Washington state is important to EPA Region 10 and Ecology, both agencies will provide copies of their separate environmental agreements with tribes to each other.

EPA GRANTS TO ECOLOGY

This Agreement 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.

Following is a table of the air, hazardous waste management and water grants to Ecology from EPA which are covered in this Agreement. This Agreement constitutes the Ecology and EPA work plan for the award or continuation of these grants. Many of the grants listed were initiated prior to the 1999-2001 biennium and/or extend beyond this biennium. The dollar amounts listed are for the entire length of the grant.

ECY #	EPA #	ECOLOGY TITLE	EPA CATALOG TITLE	ESTIMATED EPA GRANT AMOUNT	END DATE
AIR QUALITY					
BB99-02	66.001	Air Base FY00	Air Pollution Control (105)	$2,516,410	6/30/00
BP99	66.001	Air Quality	Air Pollution Control (105)	1,500,000	6/30/00
PF01-02	66.606	PM Fine Particulate	Air Pollution Control (105)	861,463	6/30/00
HAZARDOUS WASTE					
M203	66.801	Hazardous Waste RCRA FY00	Hazardous Waste Management Support	$1,780,764	6/30/00
WATER PROGRAMS					
F925	66.438	State Management Assistance Grant 205(g): FY99	Construction Mgmt Assistance 205(g)	400,000	6/30/03
F---	66.438	State Management Assistance Grant 205(g): FY00	Construction Management Assistance 205(g)	400,000	6/30/04
FA99	66.460	319(h) Nonpoint FY99	Clean Water Act 319(h)	3,832,800	12/31/01
FA00	66.460	319(h) Nonpoint FY00	Clean Water Act 319(h)	3,832,800	12/31/02
F092	66.606	Agriculture Economic Analysis	Regional Multimedia Initiatives	35,000	9/30/99
F094	66.606	Riparian Buffer Monitoring	Regional Multimedia Initiatives	5,000	12/31/99
FB00	66.605	Water Grants	Performance Partnership Grant	2,605,659	6/30/00
FB01	66.605	Water Grants	Performance Partnership Grant	2,605,659	6/30/01
G301-99	66.458	SRF Loan Program 99	State Revolving Fund	23,419,000	9/30/04
G301-00	66.458	SRF Loan Program 00	State Revolving Fund	23,419,000	9/30/05
F---	66.454	Water Quality Planning: FY00	WQ Management Planning 205(j)(2)	236,557	6/30/00
F---	66.454	Water Quality Planning: FY01	WQ Management Planning 205(j)(2)	236,557	6/30/01
F103	66.463	Puyallup River Pollution Trading	NPDES Related State	30,000	8/31/99
F102	66.456	Hardship Grants for Rural Communities	Hardship Grant Program	936,500	6/30/03
F---		Landscape TMDL	EPA Program	88,000	6/30/00
F---	66.467	Wastewater Operator Training FY00	Wastewater Operator Training	34,750	6/30/00
F---	66.467	Wastewater Operator Training FY01	Wastewater Operator Training	34,750	6/30/01
E107	66.461	Wetlands Functional Assessment Implementation	Wetlands Protection	70,000	12/31/00

ECOSYSTEMS

NB93	66.463	Biosolids Management Program	Clean Water Act 104(b)(3)	39,000	9/30/99
E---	66.461	Wetlands Functional Assessment Implementation	Wetlands Protection	70,000	12/31/00
C003	66.606	Contaminated Sediment Criteria, Prevention and Cleanup	Clean Water Act 104(b)(3)	165,100	9/30/99

PERFORMANCE PARTNERSHIP GRANT

Ecology and EPA are entering into a Performance Partnership Grant for state fiscal years 2000 -2001. The following water grants are included in the Performance Partnership Grant:

- Surface Water 106 Grant (Basic Water Grant)
- Groundwater 106 Basic Grant
- Groundwater Pesticides Grant
- Water Quality 104(b)(3) Grant
- Underground Injection Control Grant

The purpose of the Performance Partnership Grant is twofold:

- Reduce administrative burden by consolidating several grants into one.
- Increase the flexibility of moving resources among grants and programs to meet the highest environmental water quality needs in the state.

QUALITY ASSURANCE AND EVALUATION PROCESS

In order to assure the quality of environmental data collection activities, Ecology will revise the state's agency-wide Quality Management Plan (QMP) to reflect EPA's new Quality Assurance (QA) Order and QA requirements. The QA Plan should reflect the state's QA policy and management structure used to implement the QA program and provide for the development of QA projects and Standard Operating Procedures. The revised plan will be submitted to EPA Region 10 for approval during calendar year 1999.

A draft agency-wide QMP will be submitted to EPA Region 10 within six months of the grant award (anticipated to be December 31, 1999) and a final agency-wide QMP will be

submitted to EPA Region 10 within nine months of the grant award (anticipated to be March 31, 2000). In addition to revising the QA Plan, Ecology will also participate in EPA's Performance Evaluation Studies for laboratory performance, Air Monitoring, and Hazardous Waste and Discharge Monitoring Report QA programs.

At mid-year and year-end, 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.

Program reviews from EPA and other federal agencies are to be expected. Reviews from the General Administration Office and Inspector General Office occur periodically, but will generally not be scheduled in advance. EPA Programs and the Office of Enforcement and Compliance Assurance (OECA) have the ability to schedule and establish program reviews or audits with the state agency. It is important that EPA considers the workload component of such reviews, and coordinates their scheduling of review with those of other federal agencies.

PUBLIC INVOLVEMENT

The Draft Environmental Performance Partnership Agreement for SFY 2000-2001 was published May 21, 1999. Notice of the draft PPA's availability was published in the May issues of Ecology's Public Involvement Calendar and in issue 99-10 of the Washington State Register. Approximately 1000 notices were mailed directly to interested parties throughout Washington. Copies of the Draft Environmental Performance Partnership Agreement were mailed to each person or organization requesting a copy. Written comments on the draft PPA were accepted through June 21, 1999. The comments received were summarized and responses are provided in Section Seven, Responsiveness Summary. All comments that result in changes to the PPA are specifically noted in the Responsiveness Summary.

SECTION TWO: COMPLIANCE ASSURANCE OVERVIEW

COMPLIANCE ASSURANCE PRINCIPLES

The Department of Ecology and EPA share a desire for a strong compliance assurance program that achieves environmental protection by identifying non-compliance problems, punishing violators, deterring future violations, and ensuring a level playing field for law abiding companies. At the same time both agencies advocate the use of a broader range of solutions to noncompliance, including compliance assistance and compliance incentive approaches.
The Department of Ecology, along with the other Region 10 states, endorsed a set of principles with EPA Region 10 to guide the relationship and actions in compliance and enforcement matters, "EPA/State Agency Agreement on Compliance Assurance Principles June 1997." The principles cover collaborative planning, agency roles, performance measurement/oversight and information sharing/data responsibilities. The principles are intended to help EPA and Ecology achieve maximum results with available state and federal resources.

These principles provide a framework in which the media-specific workplans associated with this agreement are developed and implemented and in which media-specific Compliance Assurance Agreements are developed. The Department of Ecology and EPA will use these principles to guide our interactions and to work together to improve our use of the principles, based on an evaluation now underway on how well the principles are working.

EPA NATIONAL PRIORITIES/REGION 10 INITIATIVES

As part of the collaborative planning and work share elements of the Compliance Assurance Principles, EPA identifies national and regional priorities for compliance assurance. Ecology and EPA Region 10 can then identify actions that will be taken jointly or separately to support these priorities.

The national priorities are identified in the April 1999 FY 2000/2001 OECA Memorandum of Agreement (MOA) Guidance, and in summary, are:

(1) Control wet weather runoff -- combined sewer overflows, sanitary sewer overflows, animal feeding operations, storm water;

(2) Conduct investigations into compliance with Air New Source Review or Prevention of Significant Deterioration;
(3) Achieve Maximum Achievable Control Technology for air toxics;
(4) Target companies which handle hazardous wastes illegally;
(5) Continue focus on the petroleum refining sector, and on;
(6) The metal services sector (electroplating and coating).

EPA Region 10's proposed work plan will be developed in September 1999. To the extent possible, regional and state activities in support of these priorities have been identified in this document. Some plans have not, however, been developed in sufficient detail to be detailed in this document. Therefore, in accord with the Compliance Assurance Principles, as EPA Region 10 develops its work plan and identifies activities to support national or regional initiatives, these plans will be discussed and coordinated with Ecology. One initiative Region 10 anticipates undertaking is a reconnaissance (RECON) project in a specified geographic area. This project will combine fieldwork and data reviews to improve knowledge about the status of the regulated community so that inspections and other activities can be better targeted.

POLICY

EPA's policy on the issuance of environmental penalties includes a requirement to consider the economic benefit of non-compliance in penalty calculations. EPA further provides a computer program called the BEN model for optional use in calculating economic benefit. Questions have been raised in various audits regarding Ecology's consideration of economic benefit in penalty calculations.

To address these questions, Ecology is evaluating its consideration of economic benefit in penalty calculations in the Water Quality Program. That program recently began an evaluation of its entire enforcement program with the assistance of an advisory group. The issue of economic benefit considerations in penalties was included in the scope of the overall evaluation. Ecology's current policy is that staff are to consider economic benefit, but are not required to include it in the final penalty calculation. It has been found that the primary reason that staff do not routinely use the BEN model, is that the version of the model available to them is an older DOS-based version, which is difficult to use.

EPA has recently provided an updated WINDOWS-based version of BEN and has committed to providing training in its use in Fall 1999. After the training is provided, the Water Quality Program will reassess its policy on the use of economic benefit in penalty calculations. Ecology expects to use the results of that work to consider the policy in other media programs.

TRAINING

The Department of Ecology has requested EPA's assistance in development and implementation of its investigator (inspector) training course to meet the Governor's Executive Order 98-2, "Training and Protocols for State Investigators." EPA Region 10 will work with Ecology to provide an adequate level of support including pre-planning, review of draft materials, preparation of training materials and actual presentations. Specifically, EPA Region 10 will make available (1) any on-going national or regional training resources that support specific needs identified by Ecology that relate to the Order and (2) up to .25 FTE of EPA Region 10 staff effort to support development of the program and delivery of the federally related aspects of the curriculum that is developed.

COMPLIANCE ASSISTANCE

In February 1999, the Department of Ecology, the other Region 10 states and EPA Region 10 collaborated in development of the Pacific Northwest States and EPA Compliance Assistance Strategy to affirm the importance of compliance assistance, determine the compliance, environmental and other benefits of providing compliance assistance and make compliance assistance activities and results more visible. The strategy (1) provides background information about what compliance assistance is, suggested priorities for focused efforts, and EPA/state roles in compliance assistance; (2) establishes a process for sharing information about compliance assistance activities and results among states and EPA Region 10; and (3) recommends guidelines for designing measurable compliance assistance efforts. The Strategy asks that both EPA and the states identify significant compliance assistance initiatives in the PPA. In accordance with the strategy, the Department of Ecology's priorities for significant compliance assistance initiatives in this PPA cycle are described in the media-specific sections of this Agreement. To the extent that its resources allow, Ecology's Air Quality Program will focus on improvements to compliance assistance activities which support early contact and communication with the agricultural community to reduce emissions from field burning. Due to resource limitations, Ecology will be unable to initiate any other significant compliance assistance efforts during the FY 2000-2001 biennium.

EPA's planned compliance assistance activities:

- Region 10 Clean Water Act - NPDES: Issue Confined Animal Feeding Operations (CAFO) compliance fact sheet -- fall 1999;
- Region 10 Air – Chlorofluorocarbons (CFC): Presentations to Customs and import brokers at the Ports of Seattle and Tacoma about CFC importation regulations (in conjunction w/ TSCA) – summer/fall 1999;
- Region 10 Air - CFC: Send information letters to demolition contractors– fall 1999;
- Headquarters- OECA - Compliance assistance Tool Development (FY 2000/2001 MOA guidance):

Comprehensive Clean Air Act environmental audit protocol for all requirements that impact the chemical sector or POTW sector.

The Department of Ecology intends to provide information on the following completed compliance assistance initiatives to EPA Region 10 for inclusion in the Annual Report called for by the strategy:

- Ecology's Air Quality Program will report on the development and implementation of compliance assistance activities which reduce emissions from agricultural field burning.
- Ecology will provide a quarterly report of its compliance assistance activities to EPA.

EPA will assemble information submitted by all of the states and the Region 10 EPA programs by the end of October into an annual report.

ALTERNATIVE METHODS OF ACHIEVING COMPLIANCE

The Department of Ecology is involved in a number of activities intended to assure compliance with applicable environmental laws and regulations. These efforts include traditional enforcement and compliance activities such as inspections, fines and other types of penalties. In addition, alternative inspection, compliance assistance initiatives, educational programs, public awareness and notification and pollution prevention are part of the enforcement program. Each program uses a number of different approaches to achieve compliance. These alternative methods to achieve compliance and their overall effect at reaching desired environmental outcomes will be discussed during mid-year and year-end reviews with EPA.

MEASURING SUCCESS

EPA and the states, through the Environmental Council of the States (ECOS), have been working together to develop a set of core performance measures. The current EPA/ECOS agreement distinguishes between measures with required activity reporting and those where states are invited to pilot or implement measures intended to better describe results from compliance or enforcement or alternative compliance approach activities.

The traditional activity reporting agreements in accord with the EPA/ECOS accountability measures are reflected in the respective media-specific workplans. The Department of Ecology and EPA are, however, very interested in improving their ability to identify results and environmental protection from compliance assurance activities. In support of this shared goal, the Department of Ecology intends to develop and implement an outcome

measure called the Regulatory Compliance Indicator for Hazardous Waste Generators. This measure will be developed as a "pilot measure" through an OECA grant to demonstrate how an outcome measure regarding compliance can be developed in a practical manner.

PROGRAM EVALUATIONS

An additional set of principles has been developed by the Department of Ecology, the other Region 10 states, and EPA Region 10 to further clarify expectations for program evaluations – "Compliance Assurance Program Evaluation Principles - 1998." These principles address (1) Program Evaluation Goals and Objectives, (2) Frequency of Evaluations, (3) Evaluation Areas, (4) Information Sources, (5) Communications and (6) Process Management. These principles were applied to NPDES and RCRA focused program evaluations conducted in 1999. An additional broader evaluation of the Air Quality Program (Contextual Review) was piloted in 1999. Ecology and EPA are committed to implement agreed upon corrective measures as a result of these evaluation findings, recognizing that adjustments to work plans and resource allocations may be necessary. Plans for additional focused program evaluations in accordance with these principles are identified in the respective media program workplans.

SECTION THREE: AIR QUALITY PROGRAM

DESCRIPTION

The air in every Washington community should be safe and healthy to breathe. Given that air pollution crosses local, state, tribal and federal borders, there is a clear need for coordinated leadership on the part of the Environmental Protection Agency, the Washington State Department of Ecology, and Washington's seven local air pollution control agencies. Effective partnering on the part of these agencies has produced significant improvement to Washington's air quality over the past decade. This Environmental Performance Partnership Agreement is dedicated to improved environmental quality by strengthening and extending that partnership. To achieve that end, partners to this agreement commit to the following goals.

GOALS

1. Every community in Washington state has safe and healthy air to breathe.
2. Air quality is continuously improved throughout Washington state.
3. There is accountability on the part of local, state, and federal air quality agencies.

ENVIRONMENTAL INDICATORS

* Quantity of emissions reduced or prevented by point source strategies, motor vehicle strategies and area source strategies.
* Reductions in air emissions attributed to permitting activities.
* Total number of air pollution measurements each year that exceed the concentrations established by federal and state ambient air quality standards.
* Total number of person exposure days each year to air pollution levels exceeding federal and state ambient standards.
* Long term monitoring trends by pollutant and State Implementation Plan (SIP) monitoring location.
* Status of non-attainment areas.
* Number of designated non-attainment areas.
* Number of designated non-attainment areas that are in monitored attainment of National Ambient Air Quality Standards (NAAQS).
* Number of areas which are re-designated from non-attainment to attainment or are otherwise declared in attainment (e.g. New NAAQS or PM10 (particulate matter smaller than 10μ).

JOINT ENVIRONMENTAL INITIATIVES

The five priorities listed below represent important areas upon which the joint resources of signatories to this PPA will be focused. While these five priorities, and the activities listed to meet those priorities, are critical to meeting the partners' overarching goals, they represent only a portion of the ongoing dedicated efforts of the agencies involved. It is understood that existing core elements of the air quality programs of all parties will be actively supported during the two-year life of this PPA. These core elements include enforcement, monitoring, outreach and education, technical assistance, planning, reporting, permitting, the required activities under the Clean Air Act (CAA) and all of the work activities that comprise those core elements.

JOINT ENVIRONMENTAL INITIATIVE: TOXICS

Ecology FTE: 3.0 EPA FTE: 0.5 LAA FTE: 2.0

GOAL : Every Washington community will be free of air pollutants at levels that have the potential to increase risk of cancer or respiratory and other health problems.

OBJECTIVE: Using available resources wisely, further our knowledge of air toxics in the environment and our ability to control them effectively.

ACTIVITY 1: Develop and implement a statewide toxics regulatory program.

Ecology, in partnership with local air agencies, will:

* Coordinate rule development efforts, including tracking and communicating the efforts and intentions of Ecology, local air authorities and other appropriate agencies.
* Coordinate implementation efforts in a manner which will allow all parties to understand roles and responsibilities and promote sharing of information.
* Adopt and implement 100 percent of the National Emission Standards for Hazardous Air Pollutants (NESHAPs), or equivalent, that apply to major emission sources and to area sources in Washington. Request delegation updates of these standards within 12 months.
* Report major and area source information into the Aerometric Information Retrieval System (AIRS) database annually before September 30.
* Coordinate special studies and other data development efforts, such as monitoring and emission inventory development.
* Establish a multi-agency regulatory plan to address toxic air pollution (planned completion: April 2000).
* Coordinate responsibilities with EPA and local air agencies to implement CAA Section 112 (r).
* Each agency will submit CAA Section 112(g) certifications to EPA as expeditiously as possible.
* Coordinate implementation of 40 CFR (Code of Federal Regulations) Part 63 Subpart A with EPA regarding NESHAP requirements.

* When issuing permits, each agency will ensure that permits are consistent with Maximum Achievable Control Technology (MACT) requirements.
* Provide technical assistance to industry upon request.
* Each agency will report semiannually the information updates requested for the MACTRAX database. This information includes the following:
    - Delegation status,
    - Number of initial notification received,
    - Number of compliance certification received,
    - Number of compliance extension granted,
    - Number of inspections (actual and projected),
    - Number of sources not meeting emission requirements.
* Each agency will ensure compliance with MACT requirements.

EPA will:

* Distribute toxics-pertinent documents to Ecology and local air agencies, and organize regional air toxics conference calls (at least twice a year).
* Complete final NESHAPs delegation within six months of receipt of Ecology's delegation request. Complete delegation updates within three months of receipt.
* Provide CAA Section 112(r) assistance or implement as requested by Ecology and local air agencies.
* Provide information and contact points on federal initiatives to appropriate Ecology staff.
* Continue to share pertinent information/updates, including early notice of MACT adoptions and pertinent schedules, in order to facilitate the ability of implementing agencies to plan their own activities and to inform sources of upcoming requirements.
* Provide timely requests and supplemental information such a current MACTRAX summary and EPA source list, for semi-annual updates of MACTRAX.

ACTIVITY 2: Develop a statewide toxic pollutant monitoring strategy.

Ecology, in partnership with local air agencies, will:

* Draft a statewide monitoring strategy by December 1999.
* Continue discussions among agencies to determine the best ways to use limited resources, the short term and long-term goals of toxics monitoring and potential locations and pollutants of interest for monitors.
* Plan and begin the implementation of a study to sample for urban air toxics in south Seattle. Begin sampling once the plan and Quality Assurance (QA) protocols are in place. (planned completion in summer 1999)
* Coordinate toxics monitoring with other ongoing air quality monitoring, to the extent possible, given resources and monitoring plan constraints.
* Determine if historical ambient toxics data (if any) can be added to the (AIRS) database.
* Identify data quality objectives, roles and responsibilities for reporting of toxics monitoring data into AIRS.

EPA will:

* Work with Ecology and local air authorities to establish criteria for long-term toxics monitoring locations.

* Keep Ecology informed of toxics monitoring initiatives which EPA is sponsoring in the region (for example, special studies being conducted through local air authorities).
* Provide EPA technical support for toxics monitoring efforts.
* Keep Ecology and local air authorities apprised of funding opportunities.
* Work with Ecology to establish protocols and monitoring priority preferences.
* Communicate the extent of air toxics monitoring in Washington state to interested segments of EPA headquarters.
* Communicate updates to AIRS methodology to Ecology and local air agencies in a timely manner.

ACTIVITY 3: Assess current toxics data and upgrade toxics emission inventory.

Ecology, in partnership with local air agencies, will:
* Submit existing toxics emission inventory data from sources to EPA.
* Develop a plan identifying sources, pollutants and quality assurance issues and refine the toxics inventory.
* Improve data collected and make data collection more uniform among agencies. Develop a list of chemical names, and references to synonyms and Chemical Abstract Service (CAS) numbers for all agencies to use when inputting and tracking data, as an early step toward agency report uniformity. (Note: emissions data may not be available for all names on the list. Continue defining which chemicals have emissions data available and are most important to track.)

EPA will:
* Advise the state and local air agencies well in advance of proposed or upcoming program changes, and supply guidance, technical assistance and other inventory information as it becomes available.
* Assist Ecology in refining the toxics inventory.
* Collaborate with Ecology and local air agencies to set priorities.
* Conduct regional meetings to provide training and promote information exchange between Region 10 states.
* Work with EPA HQ toward the goal of finalizing the Consolidated Emission Reporting Rule and other inventory guidance.

JOINT ENVIRONMENTAL INITIATIVE: AMBIENT AIR MONITORING

Ecology FTE: 4.0 EPA FTE: 0.25 LAA FTE: 4.0

GOAL: Provide air quality agencies with information to protect human health and the environment.

OBJECTIVE: Characterize air quality in Washington for the six criteria pollutants.

ACTIVITY 1: Develop and implement an integrated air monitoring strategy (planned for SFY 2000).

Ecology, in partnership with local air agencies will:
* Develop a decision making process to determine the appropriate composition of the air monitoring network.
* Develop monitoring priorities.
* Operate and evaluate the National Ambient Air Monitoring State and Local Ambient Monitoring (NAMS/SLAM) Network.
* Continue to submit required data into the AIRS database.
* Continue to conduct and report an Annual Review of ambient network design and siting for all NAMS/SLAM/SPMS (special purpose monitoring).
* Meet all federal NAMS/SLAM monitoring requirements of 40 CFR parts 53 and 58.

EPA will:
* Review and comment on network reviews for all priority pollutants.
* Participate in the decision making process.
* Participate in priority setting activities.
* Provide technical assistance and regulatory guidance.
* Approve or disapprove changes to and provide feedback on NAMS/SLAM network. Participate on network advisory committee. Provide technical assistance as requested.
* Review and comment on a draft of each report of the annual network review within 60 days. EPA will review revised network review reports within 60 days.

ACTIVITY 2: Establish a fully operational statewide PM2.5 monitoring network.

Ecology, in partnership with local air agencies will:
* Modify the existing 1998 plan to meet new EPA program goals (completed in July 1999).
* Implement the second phase of PM2.5 monitoring network (to be completed in January 2000).
* Develop a speciation plan.
* Operate the PM2.5 monitoring network to meet regulatory requirements.
* Deploy PM2.5 monitors as identified in the detailed PM2.5 network description as approved by EPA.

EPA will:
* Review and approve changes to the 1998 plan, as appropriate.

* Provide timely funding and grant coordination.
* Actively participate in PM2.5 monitoring decision making, as appropriate.
* EPA will review and comment on drafts of the PM2.5 network description within 45 days of receipt. EPA will review and comment on drafts of the PM2.5 103 grant workplan within 15 days of receipt.

JOINT ENVIRONMENTAL INITIATIVE – REGIONAL HAZE / VISIBILITY

Ecology FTE: 4.0 EPA FTE: 0.5 LAA FTE: 2.0

GOAL: Preserve, protect and enhance the visibility in areas of scenic importance in the State of Washington.

OBJECTIVE: Establish programs that result in reasonable progress in improving and protecting visibility.

ACTIVITY 1: Establish an overall strategy to begin implementing the Regional Haze (RH) rules.

Ecology, in partnership with local air agencies will:
* Conduct a thorough analysis of existing data to define the scope of visibility and regional haze problems (performed on a three year cycle).
* Develop an information base (emission inventories and modeling) which will establish the scientific basis for decision making.
* Conduct stakeholder forums for policy guidance (facilitated by the Visibility Improvement Effort in Washington [VIEW] workgroup).
* Establish partnerships with regional governments and tribes through the Western Regional Air Partnership Process.
* Develop the Regional Haze SIP and establish timelines for the implementation of Regional Haze rules in accordance with federal regulations.
* Establish an IMPROVE monitoring network.

EPA will:
* Provide timely guidance and advice on the Regional Haze Rule.
* Participate on visibility work group (VIEW) and provide feedback on the Visibility SIP revisions.
* Work with Ecology to address air quality concerns in the Columbia Gorge.
* Assist the state in the establishing the IMPROVE monitoring network.

ACTIVITY 2: Act to reduce pollution from wheat stubble burning and other agricultural burning.

Ecology, in partnership with local air agencies will:
* Continue ongoing assessment of pollution from wheat stubble burning and other agricultural burning.
* Coordinate research into, and development of, alternatives to burning.
* Implement MOA with Washington Department of Agriculture and agricultural burners.
* Implement a seven percent per-year emission reduction from agricultural burning.
* Conduct an agricultural burning field compliance and enforcement program.

EPA will:
* Consult with tribes on inclusion of rules for agricultural burning as part of its overall Federal Implementation Plan (FIP) development process.
* Continue to advocate for alternatives to agricultural burning throughout the Region.
* Respond to complaints on tribal lands.

ACTIVITY 3: Develop improved communication and coordination relating to forestry and management of burning on tribal lands.

Ecology, in partnership with local air agencies will:
* Continue to develop partnerships with the US Forest Service, Washington Department of Natural Resources, tribes, US National Park Service, the agricultural community and other agencies, on these matters to reduce emissions from agricultural sources of air pollution.
* Support, if requested, the installation of air monitoring sites on tribal lands in exchange for data from any such sites.
* Refer complaints to Region 10 in those cases where smoke and/or emissions are suspected of coming from tribal lands or from out of state.

EPA will:
* Support the formation of a forum for both land managers and regulatory agencies to address and track the environmental impacts of burning to promote forest health.
* Work to decrease effects of agricultural burning in neighboring states.

BASE OBJECTIVES AND ACTIVITIES

OBJECTIVE: National Ambient Air Quality Standards (NAAQS) are being met in all areas of the state and all non-attainment areas have been re-designated to attainment by the year 2001.

Ecology FTE: 8.0 EPA FTE: 2.0 LAA FTE: 4.0

ACTIVITIES:

Ecology, in partnership with local air agencies, will:
* Submit a Serious Area carbon monoxide (CO) attainment plan and a CO maintenance plan for Spokane to EPA by October 12,1999, to secure redesignation to attainment.
* Formulate a Technical Analysis Protocol (TAP) for the CO Maintenance Plan for Yakima by the end of SFY2000, and develop a maintenance plan based upon EPA-approved TAP.
* Continue to operate the Vehicle Emission Check Program.

EPA will:
* Provide continuing feedback and technical assistance on attainment and maintenance plan development and make a designation decision no later than 12 months after receipt.
* Review, comment, and approve or disapprove the TAP in a timely fashion.

OBJECTIVE: 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, 2001.

Ecology FTE: 6.0 EPA FTE: 2.0 LAA FTE: 3.0

ACTIVITIES:

Ecology and local air agencies will:
* Continue to develop inventory, modeling, and monitoring expertise in response to new federal PM NAQQS.
* Implement all approved Maintenance Plans in redesignated areas of Washington state and continue implementation of PM10 controls in areas where the pre-existing standards have been revoked.
* Coordinate with EPA to determine the best way to refine the O3/PM2.5/RH inventory and develop a plan identifying sources, pollutants and quality assurance issues to be addressed.
*Continue update of the NET inventory data for criteria pollutants as appropriate.
* Contribute to development of a greenhouse gas inventory, as possible.

EPA will:
* Provide funding, guidance, and technical support for new NAAQS.
* Revoke the pre-existing PM10 NAAQS in areas meeting requirements in a timely fashion, and work to develop federally enforceable implementation plans for Indian Country, working with tribal representatives as appropriate.
* Advise the state and local air agencies well in advance of proposed or upcoming program change; and supply guidance, technical assistance and other inventory information as it becomes available.
* Coordinate with Ecology to determine the best way to develop the NET, O3/PM2.5/RH and greenhouse gas inventories.

OBJECTIVE: Regulated community achieves a high rate of compliance with air quality requirements by June 30, 2001.

Ecology FTE: 8.0 EPA FTE: 4.0 LAA FTE: 6.0

ACTIVITIES:

Ecology and local air agencies will:

* Implement the Compliance Assurance Agreement and the Compliance Assurance principles and revise as appropriate.
* Ensure all required Air Operating Permit (AOP) program elements are in place for final approval of the Washington State AOP program.
* Issue all remaining air operating permits by July 2000.
* Update Air Facility System (AFS) data monthly. Track and maintain data on significant violators in the AIRS database. Attend AIRS training.
* Implement Notice of Construction (NOC), Prevention of Significant Deterioration (PSD), and 40 CFR part 60 regulations. Submit permit modifications to sources that emit greater than 100 tons per year (TPY) for criteria pollutants.
* EPA and Ecology will agree on and implement a mechanism for reporting all synthetic minor or other approvals that have the effect of keeping a facility out of the PSD program. The process will be implemented in time for an October 1999 report.
* Implement all of the conditions in the most recently signed Partial PSD Delegation Agreement. The notification of receipt of a PSD application required by condition VI. A is to be accomplished by assuring a copy of the application is sent to Region 10 within the required timeframe.
* For Major New Source Review (NSR) projects in non-attainment areas, send EPA a copy of the Public Notice, Proposed (draft) approval and any supporting Fact Sheet or statement of basis when issued, and a copy of the final approval when it is issued.
* Implement the Chlorofluorocarbons (CFC) Memorandum of Understanding as signed by Ecology and EPA.
* Implement the Asbestos Memorandum of Understanding (MOU) as signed by Ecology and EPA. Local air authorities will continue to implement the asbestos strategy and input data into the National Asbestos Registry System Alternative Control Technology database quarterly.
* Adopt and implement 100 percent of the New Source Performance Standards (NSPS) requirements that apply to sources within Washington. Request delegation updates for these standards on a yearly basis.
* Coordinate implementation of 40 CFR Part 60 Subpart A with EPA regarding NSPS requirements.
* Develop, adopt and submit to the EPA all State Plans which meet the requirements as set out within Section 111(d)/129 of the Clean Air Act and as stipulated within the Emission Guidelines as established within 40 CFR Part 60.

EPA will:
* Implement the Compliance Assurance Agreement and principles and revise as appropriate.
* Issue final approval of Operating Permit program for Washington state if all requirements are met.
* Assist with AFS and provide AIRS training and technical support.
* Provide technical assistance in PSD and 40 CFR Part 60. Respond to the state's request for delegation of Part 60 within 90 days of request.
* Implement the CFC MOU as signed by Ecology and EPA.
* Implement the Asbestos MOU as signed by Ecology and EPA. Maintain national tracking systems and provide technical assistance.
* Delegate implementation of NSPS standards to Ecology and local air authorities in a timely manner within 90 days, if the submittal is considered complete.
* Approve State Plan submittals under Section 111(d)/129 within the designated timeframe as described in each specific subpart within Part 60.
* Continue to pass along pertinent information/updates, including early notice of adoption of future NSPS regulations, in order to facilitate the ability of implementing agencies to plan their own activities and to inform sources of upcoming requirements.
- Provide technical assistance in NSPS-related issues.

OBJECTIVE: Ensure the state, local air authorities and EPA are held accountable for their commitments.

Ecology FTE: 2.0 EPA FTE: 0.25 LAA FTE: 2.0

ACTIVITIES:

Ecology and local air agencies will:
* Ecology and local air authorities, with assistance from EPA, will perform two performance evaluations on the Core Grant program per year and provide a summary report.
* Local air authorities and Ecology Regional Offices acting as authorities will submit quarterly core grant activity information on enforcement, permitting, monitoring, public education, planning, and technical business assistance.
* Ecology will prepare the "Air Quality Annual Report" and participate in mid-year review with EPA and local air authorities.

EPA will:
* Participate in mid-year reviews with Ecology and local air agencies.
* Assist Ecology and local air agencies in evaluation of Core Grant program.
* Provide feed back and technical assistance on information provided.

SECTION FOUR: HAZARDOUS WASTE PROGRAM

DESCRIPTION

Washington's Hazardous Waste Program implements the federal Resource Conservation and Recovery Act (RCRA), as authorized by EPA, and the state Dangerous Waste Regulations. The purpose of the program is to assure that generators and processors of hazardous waste manage the waste in a manner that minimizes the risk of releases of hazardous materials to air, water, and land. This is accomplished by assuring compliance with the hazardous waste regulations and by encouraging waste minimization practices. This Environmental Performance Partnership Agreement (PPA) will adhere to the state's authorized program. It does not restrict EPA's oversight authority for state program activities that are part of the federal program, does not establish privity between EPA and the state, does not restrict EPA's independent enforcement authority and does not expand EPA's oversight authority to state only requirements outside of the federal program. No waiver of sovereign immunity is implied or assumed by this agreement.

Work to be done by Ecology will be performed by the Hazardous Waste and Toxics Reduction Program (HWTR), the Industrial Section and the Nuclear Waste Program. Ecology will collect and track all information needed to report on all indicators and performance measures. EPA work will be performed by the Region 10 RCRA program in the Office of Waste and Chemicals Management (OWCM). This agreement is a two year agreement for the state FY 2000 and 2001. Activity commitments and levels of effort are presented on a one year time frame. The commitments will be evaluated at the end of the first year and adjusted or amended as necessary to carry through the second year.

PROGRAM GOALS AND PRIORITIES

The EPA Region 10 RCRA Program and the Ecology HWTR Program will strive to achieve the following program goals and priorities in Washington state in FY 2000-2001.

1. Minimize environmental threats caused by mismanagement of hazardous waste by implementing effective compliance assurance activities including fair and firm enforcement;

2. Continue to improve the Dangerous Waste Regulations and maintain an authorized program;

3. Work to reduce the production of hazardous waste in the state to 50% of the 1990 level;

4. Accomplish safe, timely permitting, closure and corrective action;

5. Improve access, internally and externally, to meaningful, quality information for use in accomplishing our work including collecting information to measure our success;

6. Work together to reduce duplicative efforts and streamline EPA's review and approval of state actions when necessary.

ENVIRONMENTAL AND PERFORMANCE INDICATORS

During FY 2000-2001 Core Performance Measures will be used to assess the success of the RCRA program. Data for these measures is available through the Biennial Reporting System, the Toxics Release Inventory and the EPA national database for RCRA, RCRIS.

The Core Performance Measures that Ecology and EPA will use for assessing FY 2000-2001 RCRA Program performance are:

1. Pounds per year of hazardous waste generated per facility (sorted by SIC and ZIP code) from Biennial Reporting System (BRS). See goals 1 through 5.

2. Pounds per year of toxic chemicals released to air, land, and water as measured by the Toxics Release Inventory (TRI). See goals 1 through 5.

3. Number and percentage of sites subject to RCRA corrective action that have (a) human exposures under control and (b) ground water contamination under control, as measured in the RCRIS data base. See goals 1, 2, 4 and 5.

4. Percent of high and medium priority facilities subject to RCRA corrective action where a final remedy or interim measure is in place for any portion of the facility. The data elements for final remedy are CA400, CA500, CA550 and the data elements for interim measures are CA600 and CA650 in the RCRIS data base. See goals 1, 2, 4 and 5.

5. Percent of facilities that require either an operating or post closure permit where a final permit decision has been made (controls in place), as measured in the RCRIS data base. See goals 1 through 5.

6. Percent incidence of "Environmental Threats" per inspection by calendar year. Analysis done on data in the RCRIS data base. See goals1 and 5.

7. Rates of significant non-compliance and percentage of significant non-compliers returned to compliance. Data is in RCRIS database. See goals 1 and 5.

8. Number of enforcement actions taken. Data is in RCRIS database. See goals 1 and 5.

Ecology's responsibility for core measures reporting will be to assure that the data in RCRIS is accurate and up to date. EPA Region 10 will be responsible for extracting and using the data to report to EPA Headquarters.

ACTIVITIES TO BE PERFORMED BY ECOLOGY AND EPA

This agreement will serve as the grant workplan for both the FY 2000 and the FY 2001 EPA RCRA grant to Ecology. The grant period will be from July 1 through the following June 30 for each grant year. Ecology and EPA will conduct the following activities in FY 2000. At the end of the year EPA and Ecology will make whatever adjustments or additions that are needed to carry the activities through FY 2001. Progress in completing these activities will be reported in a mid-year and end-of-year report each year. These reports will include a narrative explaining progress in completing the agreed upon activities and tracking data concerning these activities. The mid-year report will be due February 15 of each year and the end-of-year report will be due August 15 of each year. EPA will prepare similar reports for its commitments. Ecology agrees to continue reporting all appropriate data in the national databases (RCRIS, BRS, TRI, etc.).

The level of effort section of each Ecology activity identifies the number of Ecology FTE funded by federal grant dollars and the number of Ecology FTE funded by state matching funds. The level of effort section for EPA identifies EPA resources devoted to RCRA work in Washington. The details of the Ecology commitments are found in Ecology's work plan for the HWTR program which is incorporated as part of this agreement.

Ecology will be seeking reimbursement under the Federal Facility Compliance Act for inspections conducted at federal transfer, storage and disposal (TSD) facilities. EPA Headquarters' Grants Administration Division approved a deviation from 40 CFR (Code of Federal Regulations) Part 35.505 which waives the state hazardous waste program RCRA Part 3011 matching requirement for activities performed under the Federal Facility Compliance Act of 1992 (FFCA). To receive reimbursement for FFCA activities, the state must maintain records and submit bills for inspection costs in accordance with the March 21, 1994 memorandum from EPA's Comptroller, Kathryn Schmoll. The following facilities are scheduled for inspections in FY 2000: Fort Lewis (Army); Bonneville Power Administration (BPA) Ross (Department of Energy); US Navy Port Hadlock; Army

Yakima Training Center; US Navy Puget Sound Naval Shipyard; US Navy NUWES (Navy Undersea Weapons Engineering Station) - Keyport. The estimated cost for each inspection is $2,500 for a total of $15,000.

During this biennium Ecology will develop a strategy for addressing Persistent, Bioaccumulative, and Toxic (PBT) chemicals. EPA will coordinate with Ecology and provide information on EPA's PBT strategy. These efforts will comprise the Waste Programs' shared priority project for the biennium. When possible, EPA will provide support for Ecology's strategy beyond the RCRA grant. (Funding for this project is separate from the FY 2000-2001 PPA RCRA grant.) The overall goal of this strategy is to eliminate or significantly reduce the amount of PBT chemicals in use in industry and thereby reduce their impact on the environment. Specific goals and measures will be established as part of a project workplan.

INFORMATION MANAGEMENT

During the term of this agreement EPA will change the platform of the RCRIS national data base. EPA and Ecology will work together to assure that the transition is as efficient as possible. EPA recognizes that the change to the new platform will likely cause problems regarding Ecology ability to access, input and change data. Ecology and EPA will work to correct problems and provide necessary staff training to support the transition to the new platform. EPA and Ecology will also negotiate changes to the RCRIS Implementation Memorandum of Understanding.

As part of this agreement Ecology will:

1. Input all hazardous waste inspections, enforcement actions, return to compliance information, corrective action milestones, closure/post-closure milestones, permit milestones and any other data necessary to track indicators 3, 4, 5, 6, 7 and 8 into the EPA national RCRA data system. Ecology will establish and maintain a system to assure that each inspector, permit writer, and corrective action/closure lead will review the data for each facility they are responsible for on a monthly basis and submit revisions for data input. At no time should the data for any facility be more than two months behind. See goal 5 and indicators 3, 4, 5 and 6.
See work plan section 6B.
Level of effort in FTE: 1.1 (grant) 0.4 (match) Total 1.5

2. Collect and process annual reports. Information will be provided to EPA for the National Biennial Report System (BRS) as agreed in the Program Authorization Memorandum of Agreement (MOA). Ecology will also maintain the hazardous waste handler module, and input notification data into the EPA national RCRA data base. (This activity includes the maintenance of the HWIMSY data base). See goal 1, 2, 3 and 5 and indicators 1 and 2.

See work plan section 6A.
Level of effort in FTE: 3.4 (grant) 1.2 (match) Total 4.6

EPA will:

1. Assist in maintaining EPA national RCRA data base and keeping data current including participation in the RCRIS workgroup. This involves a monthly review of data by site managers for their sites and submitting revisions for data input.
Level of effort in FTE: 0.4

2. Give Ecology prior notice of EPA Region 10's intent to analyze data from the EPA national data base for RCRA and provide an opportunity for Ecology review of EPA's findings prior to presenting the findings outside of the Region 10 RCRA program. This does not include similar use of publicly available data by entities outside of the control of the EPA Region 10 RCRA program.

COMPLIANCE ASSURANCE

Ecology will:

1. Conduct statutorily mandated and state priority inspections including compliance inspections at 5%-7% of the large quantity generators. Ecology will include EPA designation as a high priority sector as one of several criteria to be used in targeting EPA mandatory Compliance Evaluation Inspection (CEI) TSD facility and generator inspections. Data will be input into RCRIS and quality assured monthly. Should Ecology decide not to conduct a federally mandated inspection they will immediately notify EPA in writing of this decision along with justification for this decision. See goals 1, 2, 3 and 5 and indicators 1, 2 and 6.
See work plan section 1A.
Level of effort in FTE: 3.0 (grant) 1.0 (match) Total 4.0

2. Address violations and compliance issues in a manner consistent with the Ecology Hazardous Waste and Toxics Reduction Program Compliance Assurance Policy and the Ecology/EPA Compliance Assurance Agreement including the addendum to address HB1010 (orders, Notices of Corrections (NOC's), compliance letters, and penalties). Data including Significant Non- Compliance (SNC's) will be input into RCRIS and quality assured monthly. See goals 1, 2 and 4 and indicators 1, 2, 4 and 6.
See work plan section 5.
Level of effort in FTE: 3.5 (grant) 1.2 (match) Total 4.7

EPA will:

1. Coordinate with Ecology on compliance issues; perform the hazardous waste portion of multi-media inspections unless otherwise agreed to by Ecology and will implement compliance activities in Indian Country in cooperation with the various tribal governments. See goals 1, 3 and 4 and indicators 1, 2, 6 and 7.
Level of effort in FTE: 0.9

2. EPA and Ecology will review the Compliance Assurance Agreement and make any revisions that are agreed to.

TECHNICAL ASSISTANCE

Ecology will conduct technical assistance for compliance, waste minimization and pollution prevention through site visits, answering phone calls, outreach publications and workshops. See goals 1, 3, 4 and 5 and indicators 1 through 6.
See work plan sections IB-IZ.
Level of effort in FTE: 2.8 (grant) 1.0 (match) Total 3.8

EPA will:

1. Provide technical assistance to Ecology including risk assessment at U.S. Army Yakima Training Center and work at Hanford, Kalama Chemical, ATG, Waste to Fertilizer issues, and aluminum potliner.
See goals 1, 3, 4 and 5 and indicators 1 through 5.
Level of effort in FTE: 0.9

CLOSURE and CORRECTIVE ACTION

EPA and Ecology will develop a site transition plan and schedule for each corrective action and closure site that requires a transfer of the lead role from EPA to Ecology. Transition plans for all sites will be completed by June 30, 2000. Among other issues, each transition plan will address: termination of an existing 3008h order at transition; communication protocol between Ecology, EPA and the facility; and, what, if any, contract funding may be available. Ecology will 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 are found in the Ecology HWTR program work plan which is part of this agreement. Should conditions change requiring changes to the work plan, they will be negotiated with EPA and agreed-to revisions will be made. These negotiations will be conducted through site meetings or facility-specific meetings. The meetings will be documented and agreed to

changes will be signed off on by staff from both agencies. Data including RCRIS measures CA725 (ground water releases controlled) and CA750 (human exposure controlled) will be input into RCRIS and quality assured monthly. Ecology will keep EPA informed on changes in expectations for reaching the 2005 goals for the CA725 and CA750 measures.
See goals 2, 4, 5 and 6 and indicators 3, 4 and 5.
See work plan section 4A and 4C.
Level of effort in FTE: 6.7 (grant) 2.2 (match) Total 8.9

EPA will conduct corrective action and closure work at Reichhold Chemical, Northwest Enviroservices (through closure plan), Rhone Poulenc, Northwest Petrochemical, Philip Georgetown, VWR Spokane, VWR Kent, Boeing Plant II, Okanogan Airport, and Washington Veneer. EPA will terminate existing 3008h corrective action orders upon final permit issuance or as agreed to in site transition plans (any previously agreed to cross-agency agreements will be included in transition plans).
See goals 4 and 5 and indicators 3, 4 and 5.
Level of effort in FTE: 1.3

PERMITTING

Ecology will invest the designated level of effort in making progress on issuing hazardous waste permits. Site-specific priorities and expectations will be negotiated with EPA and revised throughout the year as situations change. These negotiations will be conducted through sites meetings and facility specific discussions. Changes agreed to in these negotiations will be documented and signed by staff from both agencies. Data for milestones achieved will be input into RCRIS and quality assured monthly.
See indicators 1, 3, 4, 5, and 6.
See work plan section 4D, 4F, and 4G.
Level of effort in FTE: 2.6 (grant) 0.8 (match) Total 3.4

Both Ecology and EPA commit to ensuring a consistent, orderly, and predictable review process for the joint permitting efforts. EPA will comment on the Ecology portion of the RCRA permits in accordance with the procedures outlined in the EPA/Ecology RCRA MOA, will focus on expediting progress towards issuance of a final permit, and will focus its comments on issues significant enough to prevent issuance of the final permit. EPA will conduct permit program coordination and review for Reichhold, CleanCare, APEL, BPA Ross Complex, and US Army- Ft. Lewis.
See goals 1 through 6 and indicators 1, 3, 4 and 5.
Level of effort in FTE: 0.6

AUTHORIZATION

Ecology will maintain an authorized program in compliance with federal requirements found at 40 CFR Part 271.21. See goals 1 through 6 and indicators 1 through 5. See work plan section 2.
Level of effort in FTE: 2.6 (grant) 0.8 (match) Total 3.4

EPA will work with Ecology to develop, review and process the next rule making and the next authorization package.
See goals 1 through 6 and indicators 1 through 5.
Level of effort in FTE: 0.4

EPA COORDINATION and CONTRACTS

Program Coordination

This is general program coordination done by the EPA state coordinator in the EPA regional office and the RCRA coordinator position in the EPA operations office. This work includes joint inspections, oversight work, grant administration, planning, training and assuring open communication between Ecology and EPA.
See goals 1, 2, 4, 5 and 6 and indicators 1 through 8.
Level of effort in FTE: 0.85

Contract Work
This includes contract work EPA funds to assist EPA in implementing the waste program. Included in this work are RCRA corrective action and enforcement.
See goals 1 4 and indicators 3, 4 and 5.
Level of effort in FTE: 0.5

FTE Summary

The total state FTE covered by this agreement is 32.0 (24.0 funded by the grant and 8.0 by state match). For the purpose of this agreement 1 FTE is equal to $74,198. Based on this, the total direct costs are $1,824,452 ($1,368,344 federal and $456,108 state match). The total indirect cost funded by this grant is $549, 893 ($412,420 federal and $137,437 state match). The total grant funding is $2,374,345 ($1,780,764 federal and $593,581 state match). The total federal resources involved in implementing the program in Washington is 5.85 FTE.

SECTION FIVE: WATER PROGRAM

This text is intended to describe agreements between the Washington Department of Ecology and US EPA Region 10 for cooperative work under federal grants and state funds during the coming biennium. The descriptions attempt to state the issues clearly and why EPA and Ecology are addressing the problems to be worked on. Broad goals and strategies for the two-year period are stated. The goals and strategies are expected to remain stable over the two years and will guide specific activities which may change over time as we learn more about the issues and adapt to changing circumstances. The activity descriptions identify the respective roles of the two agencies so that it is clear who is responsible for what and when tasks are expected to be done. For tasks that run to the end of the biennium, interim benchmarks are often shown so that progress can be tracked.

EPA Region 10 and Ecology's Water Quality Program have identified four priorities for the next two years, as described below. Detailed activity descriptions for these priorities and other work to be undertaken by the two agencies are described later in this document. An additional priority with a significant water quality component, joint geographic work in two selected watersheds, is described in the Ecosystems Section of this agreement.

PRIORITIES

A. TMDLS

The overall goal is to identify waters not meeting water quality standards and to develop and implement effective clean-up programs (called Total Maximum Daily Loads or TMDLs) which will result in the attainment of standards.

A 1997 legal settlement under the federal Clean Water Act Section 303d requires that Ecology complete more than 1500 TMDLs within the next 15 years. (These are in addition to the 197 previously completed.) Impaired water quality, known to occur in 636 water bodies, is caused by a variety of pollutants. A TMDL is required to address each significant pollutant in each impaired waterbody in order to set maximum pollution loading, legally limit pollutant discharges, implement pollution reduction programs, remove the water body from the list, and satisfy the legal settlement. EPA and Ecology are working collaboratively to implement the TMDL Settlement Agreement.

EPA and Ecology will develop a strategy to fund the settlement agreement at an appropriate level. EPA and Ecology will jointly work on new approaches, such as landscape TMDLs, to more efficiently complete TMDLs. EPA and Ecology will develop

effective working relationships with other state and federal agencies as well as local governments and special purpose districts. EPA and Ecology agree to complete activities within regulatory timeframes whenever possible, and to keep each other informed of expected completion dates.

B. CWA – ESA INTEGRATION

Ecology and EPA believe that the federal Clean Water Act (CWA) and the federal Endangered Species Act (ESA) should work in a complementary fashion to improve water quality and conserve listed species. We need to work together to ensure that the water quality programs are strengthened to meet the biological needs of listed species and species proposed for listing, and to enhance their chances for recovery.

Our primary strategic goal is to jointly develop policies that enable more efficient and effective compliance with the ESA, especially in the area of Section 7 consultation. Early involvement by the Services (National Marine Fisheries Service (NMFS) and US Fish and Wildlife Service (FWS)) is critical to ensuring that state and federal decisions and actions address listed species needs, while meeting the statutory requirements of the Clean Water Act.

C. CLEAN WATER ACTION PLAN

The Clean Water Action Plan, announced by the President in February of 1998, provides a blueprint for restoring and protecting the nation's water resources by identifying over 100 key actions to be undertaken by the federal government in cooperation with states and tribes. A key element in the action plan is a new cooperative approach to watershed protection in which state, tribal, federal and local governments, and the public first identify the watersheds with the most critical water quality problems and then work together to focus resources and implement effective strategies to solve those problems. The Action Plan also includes new initiatives to reduce public health threats, improve stewardship of natural resources, strengthen polluted runoff controls, and make water quality information more accessible to the public.

The Plan provides for additional funding in 1999 for states that develop and implement both Unified Watershed Assessments (UWAs) and Watershed Restoration Action Strategies (WRASs). This funding will continue in subsequent years if the state updates its Nonpoint Source Management Plan and obtains approval of that plan from EPA. The National Resource Conservation Service (NRCS) and the State of Washington lead the effort (in cooperation with tribes and other state, federal, and local agencies) to establish a

UWA (a set of watershed priorities established throughout the state) in Washington. Ecology is working with interested parties to complete a WRAS in the priority watersheds identified in the UWA. The increased funding provided by EPA and others is to be directed toward solving water quality problems in watersheds. Ecology is also working to update its Nonpoint Source Management Plan which will be submitted to EPA for review and anticipated approval by October 1, 1999. This plan will provide the strategy for addressing nonpoint source pollution in the state.

D. COMPLIANCE ASSURANCE AND ENFORCEMENT

EPA and Ecology share a desire for a strong compliance assurance program that achieves environmental protection. It does this by identifying non-compliance problems, punishing violators, deterring future violations, and ensuring a level playing field for law-abiding companies. At the same time, it continues to use a broader range of solutions to noncompliance, including compliance assistance and compliance incentive approaches.

Ecology, along with the other Region 10 states, endorsed a set of principles with EPA Region 10 to guide our relationships and actions in compliance and enforcement matters (EPA/State Agency Agreement on Compliance Assurance Principles, June 1997). The principles cover Collaborative Planning, EPA/state role definition, Performance Measurement and Oversight, and Information sharing/data responsibilities. The principles are intended to help EPA and Ecology achieve maximum results with available state and federal resources.

CORE PERFORMANCE MEASURES

A. WATER QUALITY MEASURES

Core Performance Measures and Associated Reporting Requirements:

These measures will be reported annually unless specified otherwise**.**

1. Number and percent of facilities: (i) which are covered by a current NPDES permit, (ii) with expired permits, (iii) which have applied for a permit but have not yet been issued a permit, and (iv) which are under administrative or judicial appeal.
2. Number of (a) non-storm water general permits issued and (b) the number of facilities covered.

3. Number of stormwater sources associated with industrial activity, number of construction sites over five acres, and number of designated stormwater sources (including Municipal Phase I) that are covered by a current individual or general NPDES permit or other enforceable mechanism.
4. Number of CSO (Combined Sewer Overflow) communities that are covered by NPDES permits or other enforceable mechanism.
5. Number and percent of approved pretreatment programs and/or facilities audited in the last five years.
6. Number and percent of impaired, assessed river miles, lake acres, and estuary square miles that a) are covered under Watershed Restoration Action Strategies, and b) were restored to their designated uses during the reporting period. (The reporting period is two years.)
7. Number of TMDLs scheduled to be completed by (date per schedules submitted with the 1998 303(d) lists). Of those TMDLs, number of TMDLs under establishment by the State and EPA; number of TMDLs submitted by the state; number of state-established TMDLs approved; and number of TMDLs established by EPA.
8. Nonpoint source program information required to maintain the Government Information Resource Tracking System (GIRTS).

B. OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE REPORTING

NPDES Compliance Assurance and Enforcement

Ecology will continue to provide inspection, enforcement and significant non-compliance (SNC) data, which EPA currently enters into national data or tracking systems to support the following Nationally Applicable Core Program Accountability Measures:

1. Rates of Significant Non-compliance (SNC) for selected regulated populations. (Calculated by EPA based on the information provided by Ecology in the SNC activities described below.)
2. Percentage of significant non-compliers (SNCs) that have been returned to compliance or otherwise addressed.
3. Total number of inspections conducted at major facilities and the percent of the total regulated sources inspected in negotiated priority areas (e.g., industry sectors, geographic areas).
4. Enforcement activity (e.g. case referrals, orders, notices) taken, by media.

C. OTHER REPORTING

The state will provide an annual report to EPA on or before July 1 of each year summarizing implementation activities associated with the 319 program.

305(b) Report and 303(d) List: Depending on the timing and content of new EPA guidance to the states, Ecology will develop and submit a 305(b) report and 303(d) list within the regulatory timeframe. These submittals may be in the format of a unified assessment document. EPA will provide technical and policy assistance as requested.

See the activity descriptions below for additional reporting requirements associated with specific activities.

ACTIVITIES

A. TMDL DEVELOPMENT AND IMPLEMENTATION

1. TMDL Settlement Agreement:
EPA and Ecology will develop a work plan to implement the settlement agreement (described on page 33) over the next two years. EPA and Ecology will collaboratively develop a long-term funding plan to implement the TMDL Settlement Agreement. EPA and Ecology have reached agreement about the appropriate federal funding to support the settlement agreement for the coming year. If Ecology does not obtain legislative funding this year, EPA and Ecology will discuss options for meeting the settlement agreement obligations, including possible revision of the current federal funding agreement.

2. Landscape TMDLs: This activity is an effort to develop and implement methods for preparing large-scale TMDLs in a timely and resource efficient manner. EPA and Ecology will commit the necessary resources to continue the joint landscape policy and technical teams, and will develop additional landscape TMDLs.

3. TMDL Methodology: EPA and Ecology will develop a process for describing the data collection, analysis and modeling to be used in developing TMDLs and reaching agreement on the methodology early in the development of a TMDL. EPA will continue to convene technical forums, and Ecology will continue to participate in them.

4. Columbia Basin MOA: EPA and Ecology will develop and implement an MOA with the US Bureau of Reclamation and the Columbia Basin irrigation districts to determine the appropriate uses and standards of irrigation system waters, and the characterization of current surface water quality.

5. Interstate TMDLs: EPA will convene a multi-state forum involving both state and federal agencies to develop the strategy and scheduling of TMDLs for interstate waters,

including the Columbia and Snake rivers. Ecology agrees to assist in the implementation of all interstate TMDLs that address waters in Washington.

6. TMDL/ESA Consultation: See CWA – ESA integration below.

7. Temperature Criteria: See ESA/CWA Integration Activity B.4 below.

(For other activities related to TMDLs, see also CWA-ESA Integration and Water Quality Standards development.)

B. CWA – ESA INTEGRATION

The following activities support the goals and strategic direction as stated in the priority section for integrating two related national laws: the federal Clean Water Act (CWA) and the federal Endangered Species Act (ESA).
EPA and Ecology will work together on the following activities:

1. ESA/CWA Coordination: EPA and Ecology will work with the National Marine Fisheries Service (NMFS) and the US Fish and Wildlife Service (FWS) to establish ESA/CWA priorities in Washington state. The Governor's Salmon Team may be the appropriate forum for these discussions. Time line: Ongoing

2. State Primacy and ESA Section 7: EPA will coordinate with Ecology on clarifying Section 7 ESA issues on the federal nexus to water quality programs.
Initial Draft to EPA: May 1999.
EPA Response to Ecology: June 1999.
Final: July 1999

3. TMDL/HCP Guidance: EPA will complete the interagency (EPA/NMFS/FWS) draft guidance for integrating TMDLs and habitat conservation plans (HCPs), and submit it to Ecology for review and comment.
Initial Draft to Ecology: April 1999.
Ecology Comments to EPA: June 1999.
Final Draft of Interagency TMDL/HCP Guidance: September 1999 (anticipated).

4. Temperature Standard Review: In order to facilitate the development and adoption of a protective standard that reflects the ecological and biological complexity associated with salmonid thermal requirements, EPA is initiating a two-year to three-year evaluation to develop a new temperature standard with broad applicability in the Northwest. EPA is leading the effort, with critical support from NMFS and FWS participation in the technical workgroup and the policy committee for this project. Ecology participation in the review may lead to adoption of the new temperature standard in the triennial review.

Technical Workgroup established: May 1999.
Policy committee established: June 1999.
Completion of temperature review: April 2001.

5. TMDL/ESA Consultation: EPA will work with Ecology, NMFS and USFWS to develop a strategy to ensure that Ecology's TMDLs meet any applicable requirements of the Endangered Species Act.

C. CLEAN WATER ACTION PLAN

The Clean Water Action Plan will guide the work of Region 10 and Ecology in the areas of nonpoint pollution control and abatement. (See also nonpoint pollution activities below.)

Ecology will continue to work with interested parties to complete a WRAS in the priority watersheds identified in the UWA. The increased funding provided by EPA and others is to be directed toward solving water quality problems in those watersheds. Ecology is also updating its Nonpoint Source Management Plan, which will be implemented early in calendar year 2000, after EPA review. This plan will provide the strategy for addressing nonpoint source pollution in the state.

D. COMPLIANCE AND ENFORCEMENT

1. Inspections of NPDES-permitted facilities:
Ecology will:

a. Inspect major and targeted minor permitted facilities during SFY 2000 and 2001. Environmental criteria will be used to select facilities for inspection. Inspections at major facilities require substantially more resources than inspections at minor facilities. Ecology will inspect a combination of major and minor facilities, in which major facility inspections will be counted at a 2:1 ratio to minor facilities. At a minimum, Ecology will inspect the equivalent of all major facilities each year. Ecology will provide the number of inspections planned for each fiscal year to EPA by the end of July, providing mid-year and end of year targets.

b. Ecology's Industrial Section is responsible for multi-media regulation of the pulp and paper mills, oil refineries and primary aluminum smelters in Washington state. The Industrial Section will continue to conduct NPDES compliance inspections of these facilities at least annually.

c. Ecology will report quarterly the results of the major inspections conducted.

(1) NPDES majors. Ecology will forward copies of compliance inspection reports (EPA Form 3560-3) for major facilities to EPA Region 10 through the Washington Operations Office (WOO) within 30 days of the date of the inspection unless a longer time period is necessary due to lab analysis.

(2) NPDES minors. Ecology will provide a hard-copy report from the state database containing the necessary inspection information for minor facilities to Region 10 through the WOO quarterly. In order to meet the PCS database reporting requirements, inspection report submittals must be provided on the following schedule. Data for inspections of minor facilities during a quarter will be submitted to Region 10 through the Washington Operations Office (WOO) within one month of the conclusion of the quarter.

d. Ecology will provide wastewater treatment outreach technical assistance for small communities.

2. Pretreatment Compliance Inspection Activity

Ecology will:
a. Report the number of pretreatment compliance inspections (PCIs) and audits conducted at Publicly Owned Treatment Works (POTWs) with approved pretreatment programs to EPA. Region 10 will enter the necessary information in the PCS national database.

b. Pretreatment POTWs. Ecology will forward copies of compliance inspection and audit reports (EPA Form 3560-3) for Pretreatment POTWs to the Region 10 Pretreatment Coordinator within 30 days of the date of the inspection unless a longer time period is necessary due to lab analysis.

3. Enforcement Activity and Reporting

Ecology will:
a. Take timely and appropriate enforcement action against violations for NPDES majors that are designated as significant non-compliance (SNC). Prior to a permittee appearing on the subsequent Quarterly Non-Compliance Reports (QNCR) for the same SNC violation, either the permittee must be in compliance or an appropriate compliance action must be initiated against the permittee (generally within 60 days of the first QNCR) to achieve final compliance.

b. Ecology will provide enforcement action information to Region 10 through the WOO. Region 10 will enter the necessary information in PCS.

(1) NPDES majors. Ecology will provide copies of enforcement actions to major facilities to EPA.

(2) NPDES minors. Ecology will provide a hard-copy report from the state database containing the necessary enforcement action information for minor facilities to EPA quarterly. In order to meet the PCS reporting requirements, enforcement action report submittals must be provided on the following schedule. Data for enforcement actions issued on minor facilities will be submitted to Region 10 through the WOO within two weeks of the conclusion of the quarter. The data will be submitted in a timely manner to allow inclusion in national PCS data pulls.

4. Significant Non-Compliance (SNC)

EPA and Ecology will standardize use and role of significant non-compliance in enforcement oversight.

Reason for Priority:
EPA and Ecology share a desire that enforcement resources be applied to significant violations of water quality requirements. At the same time, enforcement resources are limited. Determining significance involves both qualitative and quantitative decisions, such as determining if there is a threat to human health or the environment; and determining the percent of effluent limit exceedance. Additionally, professional judgement and discretion must be used to ensure that the limited enforcement resources of the agencies are used wisely and effectively. The specific roles and responsibilities of both agencies for achieving compliance are contained in the NPDES Compliance Assurance Agreement.

EPA uses a national definition of significant noncompliance (SNC) to assist the delegated states focus on effectively utilizing enforcement resources. A facility is designated as SNC for the following reasons:

- If it exceeds certain effluent limit parameters by certain percentages over a period of time,
- For non-effluent violations (any unauthorized bypass, unpermitted discharge, or pass through, of pollutants which causes or has the potential to cause a water quality problem),
- For permit schedule violations,
- For permit reporting violations, and
- For enforcement order violations.

EPA makes those determinations and forwards a list of SNC facilities to Ecology. Ecology has the responsibility to get the SNC facilities to return to compliance. EPA tracks Ecology responses to ensure SNC facilities are responded to. This is the single national enforcement standard for NPDES under the Clean Water Act.

Because of this relationship between EPA (EPA designating SNC and tracking Ecology responses and Ecology responsible for facilities returning to compliance) and because SNC is the one national enforcement standard, it is very important that the process operates effectively.

To effectively implement the QNCR/SNC tracking and reporting process, Ecology and EPA agree to the following:

a. NPDES Majors in SNC. EPA will provide information to Ecology on major facilities in SNC through quarterly non-compliance reports (QNCR) and lists of SNC majors (a.k.a. SNC Names Lists). Ecology will review the QNCR and list of SNC majors and provide explanations for those facilities listed on the SNC (excluding violations for: pH, fecal coliform, temperature, color, dissolved oxygen, pathogenic organisms, and percent removal) to Region 10 through the WOO.

b. Approximately 2 months after the conclusion of a quarter (in February, May, August, and November), EPA will generate and send to Ecology via WOO the following documents (RNC run Number 1 data):

(1) SNC Names List,
(2) Coordinator's QNCR,
(3) Selective QNCR, and
(4) Guide to Violation and Recurrent Non-Compliance (RNC) Codes.

c. Ecology will review the SNC names list and QNCR and forward any corrected QNCR pages and supporting documentation to EPA within 2 weeks.

d. Approximately 3 months after the conclusion of a quarter and the last RNC run (Number 4), EPA will generate the final "Selective" QNCR incorporating Ecology corrections and forward a copy along with the final SNC names list to Ecology via WOO.

e. Ecology will submit explanations not previously provided to EPA within two weeks after receipt of the final QNCR and SNC names list for the reporting quarter.

The Exceptions List is a quarterly manual report generated by EPA Region 10. It lists any major permittee appearing on the QNCR for two consecutive quarters for the same instance of SNC in PCS without a compliance action being taken. It excludes violations for pH, fecal coliform, temperature, color, dissolved oxygen, pathogenic organisms, and percent removal. The permittee remains on the Exceptions List until the permittee either returns to compliance or is addressed with a compliance action. The report also contains a justification of the administering agency's failure to respond to these 'priority violations' with a formal enforcement order within the timeframes specified. Once an action is taken, or a permittee has returned to compliance, the permittee will be dropped from the Exceptions List.

f. Ecology will address noncompliance violations for facilities designated by EPA to be in SNC by taking informal or formal enforcement action(s), or by providing an explanation and acceptable justification why no action was taken. Ecology's explanation for no enforcement action will include the reason for the violation(s) appearing in the QNCR; corrective action taken by facility; and projected date of return to compliance.

5. Pretreatment audit.

Ecology will work with EPA Region 10 to provide a comprehensive response to the recent pretreatment audit that will address reporting requirements and compliance. In addition, Ecology will continue to provide the following information to EPA:

Pretreatment POTWs in SNC: Ecology will evaluate compliance status of all approved programs for SNC and report the facility names and NPDES permit ID numbers of POTWs with approved pretreatment programs in SNC (in accordance with the violation criteria established for Pretreatment Program SNC) to the Region 10 Pretreatment Coordinator quarterly.

Categorical Industrial Users (IUs): Ecology will report the facility names and state permit ID numbers of Categorical IUs discharging to POTWs without approved pretreatment programs; and the Categorical IUs of that universe that have been determined to be in SNC to the Region 10 Pretreatment coordinator quarterly.

6. State Program Reviews.

EPA and Ecology will complete program reviews of Ecology's enforcement program following the "Compliance Assurance Program Evaluation Principles – 1998."

Reason for Priority:

Program evaluations serve several objectives including ensuring state programs meet federal legal requirements, to help satisfy EPA's charge to evaluate state program consistency and adequacy implementing/enforcing national standards and to help states and EPA identify needs to meet established program goals. Recognizing the mutual benefit of such evaluations, pursuant to the June 1997 "EPA/State Agency Agreement on Compliance Assurance Principles," Ecology, along with the other Region 10 states and EPA, also developed a set of principles "Compliance Assurance Program Evaluation Principles - 1998" to guide these evaluations. In accordance with the principles, which state that Environmental Performance Partnership Agreements will address whether and in what areas a program evaluation will be conducted, the following program evaluation work will occur in SFY 2000:

EPA and Ecology both have program reviews in progress. EPA's review, initiated in summer 1998, is focusing primarily on identification and tracking of SNCs. An Ecology evaluation, initiated in the fall of 1998, is looking at treatment of municipal vs. industrial violators, use of the existing penalty matrix, definition of significance, public reporting of compliance actions and staff resources.

Both the EPA and Ecology program reviews may involve recommendations for enforcement program modifications or improvements. EPA completed its state program review in the spring of 1999. Ecology will complete its enforcement program review by the fall of 1999. After Ecology's review is completed, EPA and Ecology managers will meet to discuss the reviews and determine appropriate follow-up actions to EPA's and Ecology's enforcement and oversight programs.

7. EPA Enforcement Actions on Tribal Lands and for Federal Facilities

Reason for priority:
EPA has permitting and compliance authority for water quality management on tribal lands and for federally owned and operated facilities. Ecology does not have delegation for these lands. However, water quality impairments originating on those lands can have downstream effects on state waters. Additionally, regional consistency in enforcement is important to provide a level playing field for dischargers. Knowing what sector and types of violations EPA and Ecology consider warrants enforcement action helps in understanding the regional context of water quality compliance objectives.

EPA and Ecology agree to the following to implement this priority:

a. EPA will provide Ecology with an annual report showing enforcement actions taken on Tribal lands and against other federally owned and operated facilities within the State of Washington. The report will provide the violator name, nature of violation, date and type of enforcement action, and amount of penalty assessed.

b. Ecology will provide EPA with an annual report showing enforcement actions taken against all NPDES permitted facilities and all non-permitted facilities in the State of Washington. The report will provide the violator name, nature of violations, date and type of enforcement action, and amount of penalty assessed.

c. EPA will forward to Ecology copies of EPA enforcement actions taken in Oregon, Idaho, and Alaska after respondents have been officially served.

8. EPA and Ecology Confined Animal Feeding Operations (CAFO) Inspections

Reason for priority:

Run-off from animal feeding operations represents a significant cause of water quality impairment. Efforts to control this pollution source support the President's "Clean Water Action Plan" and Pacific Northwest salmon habitat protection and recovery efforts.

In 1998, the Washington State Legislature enacted the Dairy Nutrient Management Act. The law calls for registration of and pollution control at the state's dairies. Additionally, the law requires Ecology to inspect dairies statewide. By October 2000, Ecology will have conducted at least one inspection of every dairy farm in the state. After this date Ecology will conduct continuing inspections as necessary to maintain compliance.

EPA will be working toward significantly decreasing dairy inspections in the State of Washington over the next two years. EPA maintains the right to focus on "problem areas" that may be identified by either agency, tribes, concerned citizens, or other stakeholders.

Ecology will assist EPA in phasing out its dairy inspection program by responding appropriately to all complaints that are filed with the EPA offices. State dairy inspectors are also pursuing appropriate compliance action where necessary. The state Dairy Nutrient Management Act provides three days for responding to complaints. EPA may independently investigate and inspect all Animal Feeding Operations/ Confined Animal Feeding Operations (AFO/CAFO) generating complaints if Ecology does not respond within 24 hours.

EPA and Ecology will develop a strategy for conducting AFO/CAFO inspections over the next two years. The strategy will focus on establishing priority AFO/CAFO areas (dairies and non-dairy facilities).

9. National wet weather priorities

Reason for priority: Runoff from wet weather events (e.g., overflows from combined sewers, sanitary sewers, stormwater runoff) remain a leading cause of water quality impairment as documented in CWA Section 305(b) reports. Control of runoff from wet weather events directly supports the Clean Water Action Plan and the Pacific Northwest salmon recovery efforts.

Combined Sewer Overflows (CSO)
Ecology will work to ensure that all CSO dischargers maintain nine minimum criteria controls as outlined in the Washington state CSO rules. These requirements will be included in all relevant NPDES permits or incorporated in enforcement actions. By the end of September 1999, Ecology will provide the following information to EPA regarding CSO facilities:

1) **names or permit number of CSO dischargers that have implemented the controls per the permit rules and that have implemented or are on a schedule to implement a long term control plan as well as the mechanism used (e.g., permit requirements,**

enforcement action), and

2) a plan for addressing CSO dischargers not in compliance with the CSO rule.

Sanitary Sewer Overflow (SSO)

By the end of September 1999, Ecology will provide the following data, if available:

1) provide EPA a list (by name) of the municipal facilities that have overflowed, bypassed or otherwise discharged raw sewage (i.e. SSO) from January 1998 through July 1999;

2) estimate the volume of raw sewage discharged and the cause for the event, when available;

Ecology will:

(a) target for inspections the municipal facilities that have sanitary sewer overflows, especially those discharging to impaired water bodies (e.g., shellfish bed closures, beach closures, fish advisories, or drinking water sources) ensuring that a minimum of 20% of the facilities are inspected; and

(b) provide enforcement action and/or compliance action, when appropriate.

EPA will be responsible for following the same principles above for all relevant federal facilities and for being cognizant of Ecology's progress in addressing this national priority.

10. Streamline Data Management

Reason for priority:

Information flow between Ecology and EPA is an important function so that both agencies can coordinate and meet their clean water responsibilities. It is important that information flow be effective and efficient.

Actions to Implement Priority

EPA and Ecology will work, as resources allow, to change from manual to electronic transfer of data from Ecology to EPA for input into the PCS database.

E. POINT SOURCE MANAGEMENT THROUGH NPDES AND PRETREATMENT

1. National Pollutant Discharge Elimination System (NPDES) Implementation

Ecology and EPA will:

a. Implement an effective NPDES program under the delegation agreement (Memorandum of Understanding) and the NPDES Compliance Assurance Agreement (CAA) as agreed to by both agencies. Core NPDES program elements include permitting,

compliance assurance, enforcement, technical assistance, inspections, monitoring, pretreatment, biosolids, stormwater, public involvement, pollution prevention, and developing and maintaining systems and procedures for efficient and consistent implementation.

EPA will:

b. Continue to participate in Water Quality Program management meetings when topics are relevant to NPDES program implementation. EPA will share with Ecology relevant information on NPDES implementation and water quality protection programs of other states in Region 10 and nationally to assist Washington state.

2. Permit Issuance

Ecology will:

a. Continue to manage and issue permits on a watershed basis. The basins scheduled for permitting in state fiscal year 2000 are Nooksack, San Juan, Western Olympic, Wenatchee, and Upper and Lower Snake. The basins scheduled for permitting in state fiscal year 2001 are Kitsap, Lower Columbia, Upper Yakima, and Mid-Columbia.

b. Ecology will provide a review of the major permits and their status by August 1, 1999. This review will project how much the backlog can be reduced over the term of this agreement with current resources. The goal is to bring the backlog of major permits below 10% by the year 2004.

3. Pretreatment Oversight

a. With Ecology's full support and cooperation, EPA's pretreatment coordinator will participate in Ecology's work group meetings and conference calls to help facilitate program implementation and promote communication.

b. Ecology will conduct an audit of each delegated pretreatment program at least every five years and a visit (inspection or audit) of each pretreatment POTW at least every two years.

F. NONPOINT SOURCE POLLUTION CONTROL

1. Nonpoint Management Plan

The State of Washington will update its statewide Nonpoint Source (NPS) Management Plan and submit it to EPA by August 31, 1999. The program will address the nine key elements and the CZARA (Coastal Zone Act Reauthorization Amendments) management measures. The plan will be approved or disapproved by EPA within 30 days of submittal. Implementation of the plan should provide the blueprint for expenditure of future 319

funds. EPA will assist the state in meeting the federal consistency requirements of the program. The state will provide an annual report including project descriptions to EPA on or before July 1 of each year summarizing implementation activities associated with the approved Nonpoint Source Management Plan.

2. Watershed Restoration Action Strategy.

The state will develop a Watershed Restoration Action Strategy which will be incorporated into the NPS Management Plan. It will be based upon the Unified Watershed Assessment developed under the Clean Water Action Plan and existing watershed and assessment (303(d), 305(b)) activities. The Strategy will provide the basis for expending the incremental increase (50%) of 319 funds that the state receives each year from EPA to implement the Nonpoint Source Management Plan.

3. CWA Section 319 Fund Expenditures.

EPA and the state will develop priorities for the expenditure of funds from the federal Clean Water Act Section 319, nonpoint source grants, in broad categories (e.g. pass-through, TMDL development and implementation, etc.) each year on or before March 1. In general, the funds will be used to support implementation of the state's approved Nonpoint Management Plan.

G. WATER QUALITY STANDARDS

1. Nutrient Criteria: In order to facilitate the development and adoption of a protective standard that reflects the ecological and biological complexity associated with nutrients, EPA has undertaken an effort to develop numeric nutrient criteria for freshwaters with broad applicability in the Northwest. EPA is leading the effort, in collaboration with Ecology and other state environmental agencies on technical and policy issues. Ecology agrees to participate on the workgroups exploring these issues, and to consider adoption of nutrient criteria after the conclusion of this work.

2. Use-based Water Quality Standards: Ecology is exploring the possible development and adoption of use-based water quality standards as part of the current triennial review. EPA will provide technical and policy assistance as requested.

3. Anti-degradation Implementation Policy: Ecology is developing anti-degradation policies as part of the current triennial review. EPA will continue to provide technical and policy assistance as requested.

H. GROUNDWATER PROTECTION (INCLUDES UNDERGROUND INJECTION CONTROL*)*

Ecology will complete the Aquifer Vulnerability Assessment, have the assessment peer reviewed through Interagency Ground Water Committee (IGWC), and deliver the assessment results to the Washington State Department of Agriculture by February 2000.
Ecology will continue its ongoing support of the activities of the IGWC and when applicable, participate in interagency workgroups and special projects. Workgroups and special projects may include:

- Comprehensive State Groundwater Protection Program review and endorsement by EPA
- Revision of Columbia Basin Ground Water Management Area Memorandum of Understanding
- Review and comment on State Management Plan
- Ground water monitoring strategy
- Statewide ground water contamination assessment and recommendations

Ecology will continue to assist (as resources allow) the Washington State Department of Community Trade and Economic Development in implementing the Critical Aquifer Recharge Area provisions of the Growth Management Act. This will include technical assistance, and possible revisions to the guidance document.

Ecology will work jointly with EPA Region 10 to develop draft policies and/or methodologies to integrate ground water issues and concerns into watershed assessments. Ecology will work jointly with EPA to evaluate the effectiveness of these draft policies and/or methodologies through case study application in one to two pilot areas in the state.

Ecology is the delegated primacy agency in Washington state for implementation of the federal Underground Injection Control (UIC) Program under the Safe Drinking Water Act of 1976. As such, its responsibilities for the duration of this PPA will be:

- To refine and update the current UIC database. The extent of refinement will be based on EPA's decision to require a standardized database format;
- To strengthen UIC inspection activities;

- To complete negotiations with the Washington Department of Health and formulate a mutually agreeable MOU regarding joint jurisdiction of large capacity on-site systems (LCOSS);
- Prepare for the regulatory revisions to update Part 147 in FY 2000;
- To complete and submit to EPA 7520 reports in a timely manner.

I. COLUMBIA/SNAKE RIVER MAINSTEM

Desired Goal: Achievement of Water Quality Standards (WQS) in the Columbia and Snake Rivers.

Strategic Direction: Focus on the effects of dams on temperature and total dissolved gas (TDG). Work collaboratively with the National Marine Fisheries Service Endangered Species Forum, the Corps of Engineers, the Bureau of Reclamation (BOR), the Washington Department of Fish and Wildlife, the Confederated Tribes of the Colville Reservation, British Columbia, Canada, and others to reduce the effects of dam operation on temperature and TDG and achieve water quality standards in the rivers. Both Ecology and EPA will continue their work throughout the Columbia Basin to achieve WQS in the tributaries to the Columbia/Snake Rivers. This initiative is aimed specifically at the major in-river causes of increased temperatures and TDG.

EPA has convened and will continue to facilitate a workgroup to address the fish kills at McNary Dam resulting from high temperatures in the fish handling and holding facilities in past summers. The goal of this effort is no fish kill beyond the normal mortality that occurs throughout the out-migration season.

EPA and Ecology will continue to participate in the Bi-National TDG Workgroup, a collaborative international effort that is developing a system-wide plan for achieving WQS for TDG.

EPA will continue to chair the Water Quality Team of the NMFS Forum, in which Ecology participates. EPA will also participate in the Federal Caucus and the Multi-species Framework.

EPA will complete its modeling assessment of the temperature regime of the Columbia/Snake Rivers and evaluate the results.

EPA will continue to work as a Cooperating Agency on the Snake River Draw Down Study and will review, comment on and rate the draft EIS when it is issued.

EPA will provide leadership for multinational and multi-state groups developing a TMDL for the rivers. EPA will take the lead on community involvement and public process in these efforts.

EPA and Ecology will both work on key re-licensing efforts of the Federal Energy Regulatory Commission. EPA will provide technical and policy support, administer CWA 401 authorities where appropriate on reservation lands, and utilize its authorities under the National Environmental Policy Act to review, comment on and rate the environmental impacts of the new licenses.

See also the description of sediment TMDL activities and other sediment activities on the Columbia River in Section 6. Ecosystem Initiatives and Activities, Sediments, p. 57.

Environmental Results: The desired long-term result of this effort is to meet water quality standards for temperature and TDG regimes in the Columbia/Snake River system.

J. PUGET SOUND/GEORGIA BASIN

Desired Goal: Protection and Restoration of the Puget Sound/Georgia Basin Ecosystem shared by Washington state and British Columbia.

Strategic Direction: A collaborative approach by the state, provincial and federal governments of Washington, British Columbia, the United States and Canada to address the major risks identified by the Washington / British Columbia Marine Sciences Panel: aquatic nuisance species, loss and degradation of the near shore environment, greatly reduced marine fish and wildlife populations, need for marine protected areas, toxic chemical issues, and the need for monitoring of the marine water and sediment environment.

Activities: Ecology and EPA will continue to work with the Puget Sound Action Team to implement the Puget Sound Management Plan and the action plans of the six Puget Sound / Georgia Basin International Taskforce Workgroups. Ecology and EPA will co-chair the Toxics Workgroup and finalize a toxics action plan. Ecology and EPA will also support the other five workgroups. Ecology and EPA will continue to be active participants and help lead the Puget Sound Georgia Basin Task force.

Environmental Results: The desired long term result of this effort is reversal of the gradual degradation of Puget Sound and the Georgia Basin from urban sprawl and development. This reversal will be measured in terms of cessation in the invasion of exotic species, restoration of the near shore habitat, recovery in numbers of marine invertebrates, fish and wildlife, and elimination of tumors and reduction of toxic chemicals in bottom fish.

Roles: Both Ecology and EPA will provide technical assistance, policy support, and community involvement support.

K. FINANCIAL MANAGEMENT

Ecology will work cooperatively with Region 10 on its reporting responsibilities and will manage grants according to federal regulations and accepted accounting principles. The State Revolving Fund grants will be managed according to the revised Operating Agreement.

SECTION SIX: ECOSYSTEM INITIATIVES AND ACTIVITIES

A number of important multi-media initiatives and on-going activities are being pursued by a variety of organizational units in Ecology in conjunction with EPA Region 10's Office of Ecosystems. These are described below.

JOINT WATERSHED BASED WORK

In November 1998, EPA Region 10 and Ecology managers agreed to develop joint workplans for two watersheds in Washington state. This was done to promote greater operational coordination as both agencies shift to watershed management. The projects' performance will be tracked through the reporting of environmental progress in the Skagit and Yakima geographic focus areas. The results of the efforts will be assessed at the next annual EPA/Ecology managers' meeting.

YAKIMA WATERSHED

1) Implement Lower Yakima River TMDL

Desired Goal: ***Implementation of the suspended sediment and DDT loading limits in the Lower Yakima Basin.***

Strategic Direction: Collaborative implementation of the TMDL targets, working with irrigation districts, the Yakama Indian Nation, land owners, conservation districts and other affected groups.

Activities: Ecology will implement a TMDL for suspended sediment (turbidity) and DDT in the Lower Yakima River.

EPA will work in a collaborative effort with the Yakama Indian Nation to address major nonpoint sources of pollution to the Yakima River coming from tribal lands. EPA currently has two grants with the Tribe to develop plans for addressing agricultural return flows and general nonpoint source problems on the reservation. EPA will step up the pace of its interaction with the Tribe on the development and implementation of these plans. A meeting of high level managers from EPA and the Tribe will be convened to reach agreement on a schedule for completing the plans and initiation of implementation. EPA technical staff will assist as needed to finalize the plans. Other agencies and affected parties will be involved as needed (e.g. Ecology, Bureau of Indian Affairs, National Marine Fisheries Service, Fish & Wildlife Service, Bureau of Reclamation, South Yakima

Conservation District, Natural Resource Conservation Service, land users and the cities of Toppenish, Wapato, and White Swan).
Environmental Results: The desired result of this effort is compliance with water quality standards for turbidity and DDT in the Lower Yakima River. This is a long term goal but progress should be measurable as reduced sediment and DDT loads in irrigation return flows and other nonpoint source discharges to the river and its tributaries.
Roles: Ecology - lead for implementation in waters and lands of the state and support role in working with the Tribe to reduce inputs from the reservation. EPA - lead in working with the Tribe to reduce inputs from the reservation and support role in implementing the existing TMDL.

Level of Effort: Ecology - 1.75 FTE EPA - 0.75 FTE

2) Develop a TMDL for the Upper Yakima River.

Desired Goal: Development of a TMDL for suspended sediment, pesticides and heavy metals for the Upper Yakima River.
Strategic Direction: Develop the TMDL as a collaborative effort with the communities, affected groups and agencies to ensure that it is supported and implemented at the local level.
Activities: Ecology will initiate a suspended sediment, pesticides and heavy metals TMDL process in the Upper Yakima River and selected tributaries, beginning in spring 1999. EPA will assign a staff person to support Ecology's efforts to develop this TMDL. This person will assist in planning the TMDL strategy and developing the TMDL. EPA's Office of Water will be consulted when necessary to provide EPA input on the directions being taken or proposed. EPA technical and program specialists will be involved as necessary. EPA's community involvement specialists will assist in designing and staffing the community outreach and collaborative EIS development process.
Environmental Results: The desired result of this effort is compliance with water quality standards for turbidity, pesticides and heavy metals in the Upper Yakima River and significant reduction in other nonpoint pollutants generally associated with sediment discharges. This is a long term goal but progress should be measurable as reduced sediment, pesticide and metal loads in irrigation return flows and other nonpoint source discharges to the river and its tributaries.
Roles: Ecology - Lead in developing the TMDL.
EPA - Policy, technical and community involvement support. Approves or disapproves TMDL.

Level of Effort: Ecology - 0.5 FTE EPA - 0.5 FTE.

SKAGIT WATERSHED

EPA will assign a senior staff person to work collaboratively with Ecology and local groups in the Skagit Basin to protect and restore salmon runs, and achieve water quality standards in the river and its tributaries. EPA will provisionally assign staff to the Nookachamps drainage area unless discussions between EPA, Ecology and the local groups identify a different focus for EPA resources.

NOOKACHAMPS CREEK WATERSHED

Desired Goal: Protection and restoration of salmon habitat, natural ecosystem function and water quality in the basin.
Strategic Direction: Work collaboratively with local watershed groups and affected parties in the development and implementation of watershed protection and restoration plans that can be approved as TMDLs.
Activities: Ecology and EPA will both work collaboratively with Nookachamps Watershed groups and other affected parties to develop and implement a watershed restoration and protection plan that is approvable as a TMDL. Proper functioning conditions for salmon will be defined through the TMDL. Habitat protection and restoration will be linked to the TMDL. Both agencies will provide technical assistance, data and information and grant funds as possible and appropriate. Ecology will bring its regulatory authorities for source control to the effort. EPA will work to coordinate the federal agencies and integrate CWA and ESA requirements, and will provide assistance in community involvement, helping to ensure development of a TMDL that the people who must implement it can support.
Environmental Results: Restoration of natural function to the Nookachamps basin, increases in salmon production, attainment of water quality standards.
Roles: The two agencies will be partners in working collaboratively with local groups.

Level of Effort: Ecology –1.0 FTE EPA – 1.0 FTE

401/CZM PERMITTING

Action: Implement permit authority under Section 401 of the federal Clean Water Act and coastal zone consistency under the federal Coastal Zone Management Act. These regulations allow the state to ensure compliance with state and federal law for projects requiring federal permits to work in water or in wetlands. Examples range from projects involving wetland fills to new bridges to streambank protection projects.

Desired Goal: Make permit decisions that ensure compliance with applicable state and federal laws. The primary laws include:

Federal:
- Clean Water Act (CWA)
- Clean Air Act (CAA)
- Coastal Zone Management Act (CZMA)
- Endangered Species Act (ESA)

State:
- Water Quality Standards (WQS)
- Hydraulic Code
- State Environmental Policy Act (SEPA)

Strategic Direction: Work with other state, federal, and local agencies, tribes, applicants, and the interested public to ensure adequate review of proposed projects, and adequate conditions on projects to ensure applicable regulations are met.

Activities:
Ecology will:
- HQ 401/CZM staff will lead development of policy and guidelines, ensure coordination among regional staff, provide technical assistance and training on 401/CZM issues.
- Regional 401/CZM staff will provide day-to-day implementation of 401/CZM permit review and approval.
- Develop permit conditions that avoid and minimize impacts to fish species listed as endangered or threatened under ESA.
- Direct 15% of 401/CZM staff workload towards post-project monitoring and compliance.
- Complete upgrade of 401/CZM permit database to allow better tracking of permit decisions and monitoring of successful project mitigation.

EPA will:
- EPA will provide technical assistance to Ecology in implementing the program

Environmental Results*:* The desired result is that projects receiving 401/CZM approval are designed, constructed, and operated in a way that is in full compliance with applicable laws. They should also be fully protective of listed fish species.

Level of Effort:
Ecology: 7.1 FTE total (4.6 FTE at HQ, 2.5 FTE in regions).

EPA: 0.5 FTE

WETLANDS PROTECTION AND RESTORATION

Action: Develop new function assessment methods and train users and decision-makers in existing methods. Conduct a study of wetland mitigation and adopt state rules for wetland mitigation banks.

Desired Goals: Increase the use of sound scientific methods for assessing wetland functions in wetland decision-making, improve on the success rate of wetland mitigation projects and foster the development of ecologically sound wetland mitigation banks.

Strategic Direction: Improve wetland decision-making at the federal, state and local levels by providing new methods, information and technical assistance on key wetland issues.

Activities:
Ecology will:

- Complete function assessment methods for Columbia Basin depressional wetlands.
- Conduct training workshops on the Western Washington function assessment methods for users and decision-makers.
- Complete phase one of a two-phase study of wetland mitigation sites to determine if they are being constructed and whether they are meeting performance standards.
- Adopt state rules for the certification of wetland mitigation banks.

EPA will:

- Provide technical assistance in the development of function assessment methods.
- Provide funding and technical assistance for the wetland mitigation evaluation study.
- Provide technical assistance on wetland mitigation banking.

Environmental Results: The desired results from these activities are improved wetland decision-making, based on an understanding of the ecological functions being provided by individual wetlands; increased success of wetland mitigation sites and fostering the development of ecologically sound wetland mitigation banks.

SEDIMENTS

EPA and Ecology will:

a. Continue to work with state and federal agencies to complete and implement the Interagency / Intergovernmental Agreement. This agreement between EPA, US Army Corps of Engineers (COE) and several Washington state agencies (Department of Natural Resources (DNR), Ecology, and Puget Sound Action Team (PSAT)) will include a cooperative approach to sediment management issues and initiatives.

b. Continue working with the COE, DNR, EPA, PSAT, Washington Public Ports Association, and US Fish and Wildlife Service on the Multi-User Disposal Site (MUDS) project. Finalize the programmatic Environmental Impact Statement for the first Puget Sound MUDS facility by August 1999.

c. Use new biological effects information and streamlined methodology to revise Puget Sound sediment quality values. Investigate the predictive reliability of new regulatory guidelines and criteria until the adoption of revised Sediment Management Standards (SMS) in March 2000.

d. Continue to work with other federal, state, local agencies, tribes and the public to implement the Bellingham Bay Demonstration Pilot Project.

e. Continue to work with other federal and state agencies to promote the beneficial reuse of dredged material.

f. Continue to work with other Washington, Oregon, and federal agencies to establish and implement coordinated programs to manage dredged material, sediment source control and cleanup activities in the Columbia River.

g. Work together to review and comment on the development of the National Sediment Inventory and national sediment criteria.

h. Coordinate with the Services to develop an agreement to identify Ecology as a non-federal representative for development of a Sediment Management Standards biological assessment in compliance with section 7 of the Endangered Species Act.

Ecology will:

i. Formally propose revisions to the state Sediment Management Standards by September 1999. Adopt revisions to the state Sediment Management Standards by March 2000.

j. Conduct and complete public Triennial Review process in year 2000. Prepare Responsiveness Summary to comments received and revise SMS as appropriate.

k. Develop, coordinate and finalize a strategy for evaluating and addressing sediment quality problems identified on the 303(d) list by June 2000. Identify priority action list for implementing 303(d) strategy by June 2000.

l. Process CWA Section 401 water quality certifications for CWA Section 404 permits and Rivers and Harbors Act of 1899 Section 10 and Section 9 permits. Provide a coordinated state response to ensure compliance with sediment management standards, water quality standards, and dredged material management program (DMMP) requirements, and coordinate with EPA and other federal agencies to ensure compliance with applicable requirements.

m. On the Columbia River: coordinate with Oregon Department of Environmental Quality on the Portland Harbor Sediments Management Plan, identify and prioritize sediment TMDLs as part of the activities described in activity “k,” and identify contaminated sediments and potential cleanup sites in the Hanford Reach.

BIOSOLIDS

Ecology will: report in the EPA Biosolids Data Management System the percent of Publicly Owned Treatment Works (POTWs) that are beneficially reusing all or a part of their biosolids, and where the data exists, the percent of biosolids that are beneficially reused.

Ecology and EPA will, by July of 2000, develop a work plan for preparation, submittal, and review of an application to EPA for delegation of federal biosolids program authority.

SECTION SEVEN: RESPONSIVENESS SUMMARY

This Responsiveness Summary addresses comments on the Draft Environmental Performance Partnership Agreement received during the public comment period, May 21 – June 21, 1999. Written comments were received in the mail and electronic mail. The comments are summarized or paraphrased, with a response following each comment.

The comments and corresponding responses are grouped by the program that they address. When comments resulted in changes to the text of the agreement, it is noted in the response. These responses were prepared by staff in Ecology's Air Quality and Water Quality Programs.

AIR QUALITY

JOINT ENVIRONMENTAL INITIATIVE: TOXICS

Comment: The Spokane County Air Pollution Control Authority (SCAPCA) recommended changing the stated goal: **"**Every Washington community will be free of air pollutants at levels that have the potential to increase risk of cancer or respiratory and other health problems." They note that zero air pollutants are thought to be necessary to avoid increased risk of cancer, respiratory or other health problems. They propose taking a more realistic approach, of either defining an acceptable level of risk for each pollutant or emission source, or using the relative risk of pollutants and emission sources as a priority setting tool.

Response: While this critique has merit, Ecology prefers to stay with the stated goal:. Ecology believes that as stewards of air quality, it should be our goal to ensure that no one suffers health problems because of the air they breathe.

Ecology's position is that it is a more effective use of resources, at this time, to work toward the general goal as stated, even knowing that zero emissions is impractical, than it would be to spend our resources defining acceptable risk. Once Ecology has more information, it may change this position, but given our current lack of knowledge about ambient levels of toxic air pollutants, emissions of toxics, and current population exposures, the general goal is appropriate. To move to a more explicit risk-based goal such as SCAPCA suggests would find us arguing about risks and uncertainties rather than collecting the information we need to understand the scope of the toxics problem or making good use of existing regulatory tools.

SCAPCA's suggestion to use risk assessment as a priority setting tool is a good one, which is implicit in the PPA. In order to use risk assessment as a priority setting tool, we need to

start with the activities outlined, such as doing appropriate monitoring and emission inventory improvement. For the two-year scope of the PPA, Ecology feels it may be premature to add tasks that would explicitly require using risk assessment to set priorities, but such tasks could well be an element of future PPAs.

Comment: SCAPCA asked for more information on the scope of the task listed as "report major and area source information into the AIRS database annually before September 30," under the Joint Environmental Initiative: Toxics, Activity 1: "Develop and implement a statewide toxics regulatory program." The Authority was concerned that the task could be interpreted to include completion of comprehensive air toxics emission inventories.

Response: This element is a statement of our ongoing obligation to report routine emission information on registered facilities. It is not expected to increase the workload of any reporting jurisdiction.

Under activity 3, "Assess current toxics data and upgrade toxics emission inventory," the second task listed is "Develop a plan identifying sources, pollutants and quality assurance issues and refine the toxics inventory." This task acknowledges that Ecology needs to move toward a more comprehensive air toxics emissions inventory, (both because of the Consolidated Emissions Reporting Rule and because we need more information to set priorities and regulate effectively). Activity 3 also limits Ecology's obligations under this agreement to scoping out the needed elements, and beginning to incorporate them into the existing toxics inventory. Neither of these statements should be interpreted as asking for a comprehensive inventory within the timeframe of this agreement.

Comment: SCARPA recommends that an assessment be made of whether a "multi-agency regulatory plan to address toxic air pollution" (a task under Activity 1) is necessary.

Response: Ecology agrees with SCAPCA's statement that an assessment is needed of whether we need to do more than we are currently doing as part of a multi-agency regulatory plan.. The elements listed as things currently being done, in conjunction with the specific tasks listed in this section of the agreement, provide the outline for that discussion. It is the intent of this activity to make sure we make good coordinated use of existing limited resources, among all the air pollution regulatory agencies, not necessarily to take on new and as yet unidentified activities.

WHEAT STUBBLE/AGRICULTURAL BURNING

Comment: SCAPCA asks if the task "ongoing assessment of pollution from wheat stubble burning and other agricultural burning" includes assessment of the impact of particulates from agricultural burning on Class 1 areas throughout the Idaho-Oregon-Montana region.

Response: While Ecology is presently involved with consideration of pollution impacts upon Class I areas, such consideration has not been an integral part of the various wheat stubble/agricultural burning effort currently underway. However, to the extent possible, SCAPCA's comments will be evaluated and supported by the Agricultural Burning Taskforce through their research.

Comment: SCAPCA notes that wheat stubble burning may result in areas in Eastern Washington exceeding the new annual standard for PM2.5. The author requests that the "ongoing assessment of pollution from wheat stubble burning and other agricultural burning" include assessment of the potential to cause such exceedances.

Response: Ecology will share these concerns with the Agricultural Burning Taskforce and strive to include such research within the scope of the various research projects sponsored and directed by the Taskforce.

CO MAINTENANCE PLAN and TITLE V OPERATING PERMITS

Comment: SCAPCA states that due to state and local resource constraints, the Spokane Carbon Monoxide (CO) Maintenance Plan will have to be deferred into the year 2000 and the Title V Operating Permits may have to be delayed if other priorities arise.

Response: Ecology understands and is sympathetic to SCAPCA's concern about possible extensions to completion dates for the CO Maintenance Plan and Title V permit actions due to unanticipated occurrences. Given the two year time frame of this PPA and the demonstrated high level of commitment on the part of SCAPCA to these two issues, Ecology anticipates these two elements will be accomplished by June 30, 2001, the end date for this PPA.

THE COLUMBIA RIVER SPILL PROGRAM & NMFS WATER QUALITY TEAM

Comment: Mark J. Schneider, Chief of the Fish Facilities Branch, National Marine Fisheries Service (NMFS), Portland, Oregon, stated appreciation for the cooperation of EPA and the Washington Department of Ecology in the Columbia River Spill Program and the NMFS Water Quality Team. He expressed his hope that the PPA will aid in the continuation of the cooperation and dedication of appropriate EPA and WDOE staff in those efforts.

Response: A new section has been added to the PPA Section 5 Water Quality Activities, describing EPA and Ecology's activities addressing the effects of dams on temperature and total dissolved gas (TDG). The two agencies will work toward meeting water quality standards in the tributaries to the Columbia/Snake Rivers. This initiative is aimed specifically at the major in-river causes of increased temperatures and TDG.

EPA and Ecology will continue to participate in the Bi-National TDG Workgroup, a collaborative international effort that is developing a system-wide plan for achieving WQS for TDG.

EPA will continue to chair the Water Quality Team of the NMFS Forum, which Ecology participates in. EPA will also participate in the Federal Caucus and the Multi-species Framework.