

Alaska Department of Environmental Conservation
And
Environmental Protection Agency
State Fiscal Year 2008
July 1, 2007 – June 30, 2008

This agreement constitutes the State of Alaska’s relationship with the United States Environmental Protection Agency (EPA) under the National Environmental Performance Partnership System. The Alaska Department of Environmental Conservation (DEC) enters the agreement for the State of Alaska with EPA Region 10 for state fiscal year 2008 (July 1, 2007 – June 30, 2008).

This Performance Partnership Agreement (PPA) describes the expected work and performance results for each of the agencies. The PPA is an important tool that strengthens the protection of the environment by encouraging flexibility to focus on the activities that achieve the best environmental results consistent with the missions and authorities of each agency.

DATE: _____

____/S/_____
Larry Hartig, Commissioner
Alaska Department of Environmental Conservation

DATE: _____

____/S/_____
Elin Miller, Regional Administrator
U.S. Environmental Protection Agency, Region 10

Table of Contents	Page
I. Introduction and Purpose	1
II. Missions	2
III. Agreement Coverage	2
IV. State of Alaska	3
V. Priorities	4
1. Climate Change	4
2. Timely Communication on Controversial Projects/Issues	5
3. Consultation and Deference	6
4. Ocean Resource Management	7
5. Improving Alaska Native Environmental Conditions	7
6. NPDES Program Approval	10
7. NPDES Program Implementation	11
8. Timely Revision of State Water Quality Standards	13
9. Complete Statewide Coastal and Freshwater EMAP Surveys of the Nation's Waters	16
10. Drinking Water Rules and Primacy Delegation Approvals	16
11. Public Water System Compliance	17
12. Surface Water Quality Assessment, Restoration and Protection (nonpoint source pollution controls)	19
13. Rural Dust Pollution	20
14. Core Air Quality Functions	22
15. Fish Tissue Monitoring	23
16. Drinking Water Laboratory Certification Program	24
17. Environmental Laboratory Cooperation	26
18. Technical Assistance Evaluating Uses of Pesticides	27
19. EPA to Report Bi-annually on EPA Progress on PPG Workplans	27
20. Clean Air Mercury Rule	28
21. Drinking Water and Wastewater Loan Programs	29
22. Sanitation Facility Projects for Rural Communities	29
VI. Compliance and Enforcement	30
VII. Performance Reporting	30
VIII. Dispute Resolution	31

I. Introduction and Purpose

The National Environmental Performance Partnership System is a framework designed to achieve better environmental results by focusing the capacities and resources of the Environmental Protection Agency and States to address the most pressing environmental problems jointly. Common goals, priorities, and strategies are based on information about environmental conditions, and progress is evaluated based on results actually achieved in the environment. Performance Partnership Agreements (PPA) are intended to strengthen protection of the environment by focusing attention on the overall environmental protection goals and the actual results of efforts to achieve them, not on government programs and the number of actions they take.

This State Fiscal Year (SFY) 2008 PPA describes the overlapping missions of DEC and EPA for protecting Alaska's environment. The agreement captures how each agency will work together to establish joint priorities and performance expectations to address Alaska's most important environmental and public health protection issues.

- The purpose of the agreement is to establish mutual priorities and performance expectations for both agencies during SFY 2008.

This agreement includes specific commitments made by each agency regarding Alaska's most important environmental priorities for the period July 1, 2007 – June 30, 2008.

II. Missions

DEC and EPA Region10 both share a common mission to protect Alaska's environment consistent with State and Federal law.

DEC Mission:

Protect human health and the environment.

EPA Region 10 Mission:

Protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

III. Agreement Coverage

This Agreement is based on the National Environmental Performance Partnership System (NEPPS) and EPA's Office of Congressional and Intergovernmental Relations (OCIR) NEPPS National Program Guidance which allows states flexibility to address their highest environmental priorities and establish resource allocations based on those priorities. This Agreement includes DEC and EPA Region10 environmental priorities that have been identified as areas of partnership for the two agencies. The guiding principles and concepts of this agreement apply to all DEC and EPA interactions even though this Agreement does not cover all DEC programs receiving EPA grant assistance.

In addition to this Agreement, the State of Alaska receives two Partnership Performance Grants which include specific workplan commitments for water quality programs, and radon and air quality programs. The purpose of the PPGs is to reduce the administrative burden by consolidating several grants into one and to increase the flexibility of DEC to move resources within the air and radon programs, and within the water quality programs, to meet Alaska's highest environmental needs.

As explained in the National Environmental Performance Partnership System National Guidance, "once funds are awarded in a PPG, the state can direct the funds as needed to achieve work plan commitments and does not need to account for funds in accordance with their original funding program sources." PPG expenditures should be focused on state priorities using funding methods and workplans developed by the state and approved by the EPA. At the end of the year, DEC is not expected under this agreement to account for how PPG funding has been allocated by the original funding program source.

IV. State of Alaska

Alaska is different from the other EPA Region 10 states. Alaska is the nation's only arctic state, with environmental issues more common to Russia, Finland, Sweden, Norway, Greenland, and Canada than to other states. Alaska is also the largest ocean state in the country and its oceans include the North Pacific Ocean, Bering, Chukchi, and Beaufort Seas. Alaska has 33,904 miles of shoreline – twice the length of all the other states combined. The estimated tidal shoreline, including islands, inlets and shoreline to head of the tidewater is 47,300 miles. Alaska occupies 20% of the nation's land base, 40% of the nation's surface water, and contains half the nation's wetlands.

Alaska has vast proven and unexplored natural resources. Alaska oceans and coastal watersheds produce 25% of the nation's oil, over 50% of the nation's seafood, and minerals from several world-class mines including the world's largest operating zinc mine.

The unique regional qualities of Alaska's ocean and watershed resources are also reflected in their quality. Alaska's resources, for the most part, are healthy, productive, and relatively pollution-free. The EPA's 2004 report on the condition of the nation's coast concludes that, "Alaska's coastal resources are generally in pristine condition. Concentrations of contaminants have been measured at levels significantly lower than those in the rest of the coastal United States." The recent U.S. Commission on Ocean Policy report to the President and Congress recommended regional councils to coordinate the resource management and environmental protection activities of multiple federal and state government agencies.

Most of Alaska's communities are isolated, small, and can only be reached by air or water. There is no statewide power grid, so most Alaska communities depend on energy produced from individual community diesel generators. Alaska is also the home of 229 federally recognized tribes in Alaska – over 40 percent of the nation's total number of tribes.

Alaska's state resource and public health protection agencies are actively pursuing appropriate forums for coordinating with their federal agency counterparts on environmental and public health protection issues of mutual concern.

V. Priorities

1. Climate Change

Climate change is not just an environmental issue in Alaska. It is also a social, cultural, and economic issue important to all Alaskan's. Alaska needs a strategy to prepare for the impacts of climate change and that identifies opportunities to lower greenhouse gas emissions. This strategy must be built on sound science, the best available facts and recognize Alaska's interest in economic growth and the development of its resources. A strong state and federal partnership is essential for aligning research needs, securing research funding and building a central base of knowledge for decision makers. Aligning research needs among state and federal agencies is a key area for DEC and EPA to coordinate their efforts in the coming year. Developing and implementing the breadth of issues dealing with climate change will create numerous opportunities for partnerships between DEC and EPA. EPA has already begun many cooperative initiatives, notably through their Washington D.C. Climate Change Division and Climate Partnership Divisions, in areas such as energy efficiency, alternative energy incentives, fuel and energy conservation to name a few that can be helpful as Alaska develops the details of its strategy. EPA Region 10 will aid Alaska in utilizing the assets of their Climate Change Division as the Alaska and EPA Strategies are being developed.

EPA and DEC will:

- Work together to identify interagency or international organization(s) that oversee arctic global climate change science and efforts.
- Work together to align, where possible, the developing concepts within DEC's and EPA Region 10's respective strategic plans on Climate Change.
- Formulate an understanding or agreement to identify climate change research needs.
- Work with tribal and municipal governments to maximize coordination and effectiveness of local and state climate initiatives.

EPA will:

- Be receptive to state use of grant funds in developing some of the components of the Climate Change Strategy as the specific programmatic grant agreements and work plans are developed. Coordinate EPA's efforts with those of DEC to identify opportunities to reduce generation of greenhouse gas emissions. Coordinate EPA's efforts with those of DEC on clean energy and renewable energy development.

- Coordinate EPA's efforts with those of DEC in refining a greenhouse gas emissions inventory.
- Invite the participation of the State of Alaska's climate change representatives in presentations about global warming at the IGAP trainings and other appropriate venues. Discussion will include how Tribes may incorporate climate change work into their IGAP workplans. EPA Region 10's Tribal Trust and Assistance Unit will designate a point of contact to facilitate communication on this issue with Tribal IGAP grantees and the State of Alaska.

DEC will:

- Develop an inventory of greenhouse gas emissions.
- Encourage the development and use of low carbon technologies in the energy sector.
- Explore ways to remove barriers to the development of advanced, low-carbon technologies for fossil fuel-powered generation capable of capturing and sequestering carbon dioxide emissions.
- Determine how Alaska can best initiate involvement in regional climatic policies with the Western States and British Columbia.
- Inform the general public of the process for getting involved, commenting and developing recommendations for Alaska's climate change policy.

2. Timely Communication on Controversial Projects/Issues.

DEC and EPA shall encourage effective and timely communication on large or controversial projects.

DEC and EPA will:

- For specific mining and oil and gas projects, EPA project managers or team leads will serve as a primary point of contact for EPA to meet and review the status of ongoing projects, schedules and issues. Mining and Oil and Gas sector managers will meet monthly to review status of major projects, discuss federal and state legal and policy requirements, and identify any issues needing resolution. The EPA, ADEC, and ADNR mining sector leads have established a regular monthly meeting to accommodate these discussions.
- Coordinate announcements, to include EPA statement(s) in news releases, explaining Toxics Release Inventory (TRI) data. Coordinated announcements are to coincide with EPA's public announcement of the data release. Coordination will include DEC providing the final release draft to the EPA TRI Program prior to issuing. EPA's annual Toxics Release Inventory continues to rank Alaska first in the nation for total toxic pollution releases. That

ranking is based on total pounds of toxic chemical releases and other waste management activities in Alaska, most of which are attributed to trace metals in waste rock and tailings from the metal mining industry.

- Work together pro-actively throughout the year prior to and following the annual TRI Public Data Release to address mutual concerns about the data release including the TRI data reporting concerns of industry.

DEC will:

- Work with EPA to draft an Alaska-specific TRI document.

EPA will:

- Work with DEC to revise and/or develop additional Alaska-specific TRI document(s) that provide additional context for Alaska's TRI releases and other waste management activities. EPA will continue to provide technical assistance such as providing review and comments for the "Guide to the Toxics Release Inventory for Alaska" and "Factors to Consider when Using TRI Data" brochure to help Alaska educate its citizens on TRI.
- Maintain timely notice of activities from EPA headquarters and EPA Region 10 including proposed rulemaking changes that may affect Alaska.

3. Consultation and Deference

DEC and EPA share common objectives regarding the protection of human health and the environment. Although there is this commonality of interest, EPA and DEC, at times, diverge on how they believe a particular situation or issue should be addressed. It is EPA's and DEC's desire, through mutual cooperation, and due regard for each other's statutory duties, authorities, and expertise, to minimize the risk of any material disagreements.

DEC and EPA recognize EPA has expertise and resources that are not always duplicated within DEC. EPA and DEC shall consider ways that DEC might benefit from EPA's expertise and resources in these areas. Likewise, EPA and DEC recognize that state and local input can be important in addressing issues in or affecting Alaska. Conditions in Alaska relevant to environmental issues can vary substantially around the state and in ways that distinguish Alaska from other areas of Region 10. The varied conditions around Alaska and the distances that separate many Alaska communities from EPA's offices sometimes make it difficult for EPA staff to gain first-hand knowledge of local conditions. Further, other state and local concerns, such as community and economic

development, community relations, and the management of state resources can impact a decision in ways that might not be as apparent to EPA as to DEC. EPA and DEC shall consider ways that EPA might benefit from DEC's knowledge and expertise in these areas.

In some instances, federal environmental laws provide for state and local decision-making, while also providing for some level of EPA oversight. In other instances EPA is the decision-maker, but may be required to inform or consult with the State of Alaska before making a decision. EPA and DEC recognize the importance of respecting the limits of their authority and duties, of distinguishing between what is legally required and what is simply preferred by either of them, and of considering the input of the other agency as described above. DEC and EPA managers shall consider ways of assuring their staffs exercise due regard of these requirements.

The dispute resolution process in section VIII of this Agreement shall be used to resolve any dispute that arises between EPA and DEC during the term of this Agreement over the limits of either's jurisdiction or authority.

4. Ocean Resource Management

Similar to the goal of protecting the Gulf of Mexico, the Great Lakes and Chesapeake Bay, it is becoming increasingly clear that protecting America's northern oceans is also needed. Because of the atmospheric transport and deposition of pollutants from outside the United States, this is an issue of national concern. Fish tissue monitoring for persistent organic pollutants have been undertaken as a collaborative effort between the State of Alaska, the U.S. National Oceanic and Atmospheric Administration and the International Pacific Halibut Commission.

EPA and DEC will:

- Work together to raise awareness of America's northern oceans, and the need to monitor the health of these resources, within our respective levels of government, seeking to establish an integrated state/federal cooperative program at the national level.
- Continue Alaska Marine Ecosystem Forum [AMEF] cooperation with other State and Federal Agencies.

5. Improving Environmental Conditions in Rural Communities that Affect Native Alaskans

In order to improve environmental conditions in rural Alaska, DEC and EPA Region 10 will work to improve collaborative strategic planning efforts with tribes in Alaska. A key component of meeting common goals is communication on a regular basis between EPA, DEC, and Alaska

tribes about technical assistance, educational, and funding opportunities so that information can be compiled and passed along to Tribes. It will be our goal to create opportunities for partnership between the DEC, the EPA, and the Alaska tribes.

DEC has identified several environmental issues that are specific to tribes in rural Alaska, including the effects of long term exposure to the exhaust from the diesel generators that power nearly all of the rural villages, fine particle dust pollution in rural communities, and sustainable operation and maintenance of Village Safe Water projects.

The EPA has a government to government relationship with, and trust responsibility to tribes. Its 1984 Indian policy stressed two related themes: (1) that the Federal Government will pursue the principle of Indian “self-government” and (2) that it will work directly with tribal Governments on a “government-to-government” basis.

EPA Region 10 will continue to work in partnership and consultation with all federally recognized tribes. EPA recognizes that tribes have the authority to set their own environmental priorities, and will continue to work with tribes in a manner that acknowledges tribal sovereignty and self-determination. In implementing the Indian Environmental General Assistance Program (IGAP), EPA works to build tribal environmental capacity and adequate internal mechanisms to help tribes improve environmental protection. The IGAP provides grants to Tribes for the purpose of developing their capacity to develop and implement environmental protection programs. IGAP resources may also be used to implement solid and hazardous waste programs. In light of the unique solid waste challenges faced in Alaska Native Villages, EPA Region 10 will continue to utilize the implementation authority provided under IGAP to assist tribes in the development and implementation of integrated waste management programs.

Under Alaska’s federally recognized constitution, Alaska Natives and members of Alaska’s federally recognized tribes have all the rights and responsibilities of Alaska citizenship. Under state law, DEC serves the interests of all Alaskans as represented by the state’s elected officials.

EPA’s 2006–11 Strategic Plan identifies two new Tribal Solid Waste Strategic Targets:

- By 2011, increase by 118 the number of tribes covered by an integrated waste management plan compared to FY 2006.
- By 2011, close, clean up, or upgrade 138 open dumps in Indian country and on other tribal lands compared to FY 2006.

Region 10, Office of Air, Waste and Toxics, is responsible for addressing these new national EPA measures. For FY 2008, it is Region 10's goal to help Tribes to develop ten Tribal Integrated Waste Management (IWM) plans and close, clean up or upgrade two open dumps. There is agreement between DEC and EPA on the need for collaboration and common sense approaches to achieving these Strategic Targets in Alaska.

DEC's priorities for rural Alaska generally and specifically for Alaska Native villages includes the operation and maintenance of solid waste disposal sites, sewer and water systems, dust control, diesel emission controls, and monitoring of wild and traditional subsistence foods. EPA Region 10 intends to work cooperatively with DEC to enhance tribal government participation in these priority areas.

EPA and DEC will:

- Continue to hold quarterly teleconferences to discuss tribal waste management issues. We will share examples of good templates of community-developed tribal IWM plans with one another and consider how we might collaborate to get this information out to tribes. We will discuss ways in which the EPA can fund incremental steps which lead to bringing Alaska tribal open dumps into compliance with State of Alaska solid waste regulations.
- Discuss how DEC's new approach to solid waste management – proposed rule changes, location calculator and procedures manual, may be used to support EPA's GPRA measures to upgrade open dumps and ensure that tribes are covered by integrated waste management plans.
- Meet regularly to (1) exchange information relevant to tribes in Alaska and programs that affect Alaska Natives to better collaborate and coordinate the funding and implementation of environmental protection programs in rural Alaska, (2) exchange information on programs and projects tribes in Alaska are undertaking with EPA funding. This effort will include the development of a document which identifies IGAP funded programs and related DEC and EPA programs; and (3) develop opportunities for open communication and coordination between, EPA, DEC, and tribal environmental staff.
- Work with affected Native Villages and project proponents on specific resource extraction and development projects to assure that conserving and preserving subsistence resources is given an appropriate level of consideration with the goal of sustaining the subsistence way of life.
- Designate primary points of contact for these activities.

DEC will:

- Provide information to Alaska tribes and the EPA on Alaska's environmental statutes, regulations, and DEC's responsibilities, services, priorities, and expectations regarding programs that affect Alaska tribes such as fish tissue monitoring and fish consumption advisories, Air quality issues, especially regarding rural dust and diesel emissions, solid waste planning and management, Village Safe Water implementation (drinking water and sewage infrastructure development), and NPDES authorization application.
- Provide draft solid waste regulations to the EPA for review before sending the new regulations package out for official public comment.
- Participate in discussions to share environmental program information, and provide technical assistance to Alaska Natives.
- Participate in discussions with EPA on how DEC's proposed new approach for solid waste management – proposed regulatory changes, procedures manual and location calculator – can be used to augment and support EPA's new national GPRA measure for Tribal Integrated Waste Management Plans.

EPA will:

- Provide a list of grants awarded to Alaska Tribes that includes amount of funding, project period and a project description. The list will be provided in October of each year to the Commissioner of DEC for the Tribal Solid Waste Assistance Program, the Indian Environmental General Assistance Program (IGAP), Clean Air Act grant programs, and Clean Water Act grant programs.
- Identify potential sources of EPA funding for those tribes interested in collaborating with DEC and the EPA regarding solid waste management, dust and diesel emissions, water quality and fish tissue monitoring.
- Coordinate Rural Utilities Business Advisor (RUBA) and IGAP program actions to assist Tribes in improving sustainability requirements in order for Tribes to obtain Village Safe Water (VSW) funding.

6. National Pollutant Discharge Elimination System [NPDES] Program Approval

The Clean Water Act intends for states to implement the NPDES program. Establishing greater state control over managing water resources is a high priority for Alaska. Alaska is one of five remaining states that have not received NPDES program approval. Transferring control of the program to the remaining states is a high priority for EPA.

State statutes direct DEC to seek EPA approval to administer the NPDES program in Alaska. DEC and EPA Region 10 mutually confirm our commitment to constructively work together towards an approvable NPDES authorization application as soon as possible.

DEC and EPA will:

- Work cooperatively to finalize and implement the terms and conditions of the Capacity Building Plan, including training, Intergovernmental Personnel Agreements (IPAs), and workshare on NPDES program activities.

DEC will:

- Respond to EPA inquiries and all requests for clarification or additional information as needed. DEC may need to amend or supplement the record or application per findings of the EPA's statutory review. DEC will likely need to participate with the EPA in public meetings, hearings, the consultation process with the tribal governments, meetings with Natural Resource Agencies, and meetings with other interested parties.

EPA will:

- Once, the application is determined by the EPA to be complete, perform its statutory review process. The EPA will evaluate the adequacy of the application per the statutory requirements. The EPA will consult and coordinate with tribal governments in a formal government to government basis. The EPA will address Essential Fish Habitat and Endangered Species Act requirements as necessary.
- As DEC approaches NPDES primacy, the EPA will seek to ensure needed training is made available in Alaska including training in NPDES permitting and enforcement.
- EPA has technical experience developing tribal communications plans, and with incorporating traditional environmental knowledge into the permitting process. The EPA offers to provide information and technical assistance to DEC staff to support incorporation of these elements into the NPDES process. The EPA can provide examples of Tribal communications strategies from the NPDES programs of other States who are implementing the NPDES program.

7. NPDES Program Implementation

An important measure of program effectiveness is the tracking of the percent of permits that have expired or "backlogged". EPA's NPDES Permits Unit Plan (2006-2008) outlines a plan to achieve national permit

backlog goals. Backlog percentages are tracked nationally as performance measures. Keeping the backlog at a low level is also important as EPA and DEC look to ultimately transfer the program to the State. DEC plays an important role in addressing backlog by issuance of timely CWA 401 certifications.

DEC and EPA will:

- Work cooperatively towards permit issuance to address issuance goals as identified in the NPDES Permits Unit Plan. The EPA agrees to involve DEC personnel during the drafting of NPDES permits. DEC will issue timely 401 certifications of draft and final NPDES permits with the goal of certification issuance within 30 days of receipt of the permit from EPA.
- Work towards the EPA re-issuing the Seafood Processing General Permit.
- Work cooperatively in reducing the EPA permit backlog in anticipation of DEC inheriting the permit backlog at primacy

DEC will:

- Seek EPA credentials, in accordance with EPA Order 3500.1, for DEC inspectors who conduct NPDES inspections on behalf of the EPA until full NPDES primacy is achieved. DEC will track each inspector's progress towards completion of the required training specified in EPA Order 3500.1. DEC management will certify each individual inspector's completion of the required training and forward the information to EPA.
- Conduct inspections consistent with the procedures outlined in the "EPA NPDES Compliance Inspection Manual" (EPA 300-B-94-014, September 1994) and in the Basic Inspector's Training course. DEC will submit complete NPDES inspection reports [with forms 3560-3] to EPA within 60 days of the inspection.
- Submit a draft list of anticipated NPDES inspection candidates by March 31st, 2008. Once the inspection list is final, DEC will coordinate all changes which occur throughout the inspection year, with EPA prior to the inspection. The inspection list will include DEC inspection of facilities conducted as part of (and funded by) the PPG grant workplan as well as inspections funded by the state as part of DEC's capacity development for NPDES primacy.
- Provide storm water compliance assistance, primarily through outreach to construction trade organizations and local government planning/permitting offices.

EPA will:

- Issue EPA Credentials to DEC inspectors who have fulfilled the training requirements specified in EPA Order 3500.1, as certified by DEC management.
- Review and comment on DEC's candidate inspection list.
- Coordinate its NPDES inspections with the appropriate DEC contact.
- Hold quarterly teleconferences with DEC wastewater managers and compliance managers.

8. Timely Revision of State Water Quality Standards

Water quality standards (WQS) are the foundation of Alaska's water protection and restoration efforts. DEC is required by the Clean Water Act to conduct a comprehensive review of the Alaska's WQS every three years to integrate current science and technology. Before changes to the WQS can take effect for Clean Water Act purposes, they must be approved by the EPA. When WQS are not revised and submitted by DEC, or reviewed and approved by EPA in a timely manner, confusion arises as to what water quality standards are in place. Delays may also impact other actions, such as issuing permits. DEC and the EPA are committed to working together collaboratively to ensure that appropriate WQS are in place.

DEC and EPA will:

- Work together early in the WQS revision process to identify the information, data, and justification that may be needed to support the timely approval of changes to the WQS.
 - work together to identify principles and processes to promote early involvement on WQS development. These may include procedures for development of action plans for individual WQS revisions and approvals; etc.
 - implement these principles and processes in new or revised WQS initiated in SFY 2008, including those initiated outside of triennial review process (e.g., UAAs, site-specific criteria that may be requested by permittees)
- discuss overall WQS workload planning, prioritization, and resourcing for efforts to be undertaken in SFY 2008. The outcome of this discussion will be an agreed-on plan for work to be undertaken in SFY 2008, their relative prioritization, timeframe of work elements, and resources expected to be needed.
- Work together to bring about the early involvement of NOAA-Fisheries and US Fish & Wildlife ("Services") in standards revisions

when an Endangered Species Act (ESA) or Essential Fish Habitat (EFH) consultation may be required.

- Continue to coordinate the timely involvement of the Services as needed to ensure that, wherever possible, ESA and EFH consultation requirements are completed within CWA approval timeframes.
- Continue to work constructively together as the EPA fulfills its commitment to Tribal government-to-government consultation on WQS review actions.
- Mixing zones: Work together to fully address issues related to EPA's review of Alaska's mixing zone regulation submitted to the EPA in 2006.

EPA and DEC will:

- achieve a clear shared understanding of the substantive issues.
 - EPA and DEC will develop an action plan to address issues to the extent possible.
 - Identify and assign resources needed to implement the action plan.
- Triennial review: Work together to ensure DEC's triennial review process leads to WQS that meet the requirements of the CWA and 40 C.F.R. 131. This will include:
 - EPA providing guidance (e.g., Chapter 6 of the WQS Handbook) on the triennial review process and regulatory requirements.
 - EPA providing feedback during DEC's public comment period.
 - DEC and EPA holding conference calls at the staff level to ensure a clear shared understanding of substantive issues raised by EPA during and after the public comment period.
 - DEC, EPA, and the Services meeting or teleconferencing to discuss the triennial review process and substantive items to identify any anticipated EFH and ESA issues on each potential WQS revision.
 - DEC and EPA working together to identify opportunities for direct communication and exchange with Tribes on triennial review issues of potentially significant impact on Tribes.
- Residues: Work together to determine path forward on Alaska's revised residues criterion, which was revised and adopted in 2006, but not yet submitted.
 - EPA and DEC will achieve a clear shared understanding of the substantive issues raised earlier on this package.
 - EPA and DEC will discuss an action plan to address issues, including consultation requirements, so that when

- submitted, EPA can take action under CWA §303 within the allotted time frame
 - EPA and DEC will agree to a schedule and path forward on this package
- Natural conditions: Work together to determine path forward on Alaska's revised natural conditions criterion, which was revised and adopted in 2006, but not yet submitted.
 - EPA and will achieve a clear shared understanding of the substantive issues raised earlier on this package.
 - EPA and DEC will develop an action plan to address issues, including consultation requirements, so that when submitted, EPA can take action under CWA §303 within the allotted time frame.
 - EPA and DEC will agree to a schedule and path forward on this package.

DEC will:

- Inform EPA of WQS issues under consideration for revision. Provide a schedule, including dates, explanation of schedule drivers, and identification of desired time frame for EPA action, and describe DEC's proposed approach and schedule before releasing revisions for public comment. Work to clarify and negotiate schedule and workload with EPA.
- Provide EPA an opportunity to review a draft revision and discuss their comments with DEC before the public comment period.
- The draft and final submittal documents provided to EPA should meet the minimum requirements of 40 C.F.R. 131.6 and all other applicable provisions in 40 C.F.R. 131, and include a clear explanation of the technical support for the change (e.g., any technical literature reviews that were conducted to inform the revisions; clear discussions of how the changes affect the protectiveness of the standard for designated uses; and explanations of how the revised WQS will be implemented in CWA programs).
- In order to facilitate informal and timely ESA and EFH consultation, be prepared to engage in early exchange with the Services regarding WQS revisions under consideration and the technical basis for these revisions.
- In order to facilitate the EPA's timely completion of its Tribal government-to-government consultation on WQS review and action, continue to exchange information and work together regarding WQS.

EPA will:

- Treat the approval of WQS as a high priority for achieving the water quality protection objective in EPA Region 10's Strategic Plan.
- Provide "upfront" technical assistance to DEC on proposed revisions to Alaska's water quality standards, at a minimum regarding Clean Water Act requirements and implementation in Clean Water Act programs, and also including scientific, technical, and other input as appropriate.
- Perform timely and thorough Tribal consultation on WQS revisions.
- Perform timely and thorough ESA/EFH consultation.
- Where appropriate, raise issues that may be unique to Alaska waters in national WQS policy discussions.

9. Complete Statewide Coastal and Freshwater EMAP Surveys of the Nation's Waters

DEC is committed to completing EPA's sponsored Environmental Monitoring and Assessment Program (EMAP) surveys to assess the status and trends of Alaska's coastline and freshwater. The information collected enables EPA to report on the condition of the nation's waters and enables EPA and the states to understand the range of water quality conditions and monitor for environmental change. Alaska has more coastline than the Lower 48 states combined and about half of the nation's surface water resources. EPA cannot report on the health of the nation's waters without including information from Alaska. To date, EPA has provided funding for three of Alaska's five coastal areas and is returning to other coastal states to re-sample, prior to completing Alaska's waters. EPA's FY08 Budget proposes funding for a "national rivers" survey in proportion to a state's water resources, except for Alaska. EPA grant funding is to be used by DEC to sample approximately 45 lakes on the Kenai Peninsula in 2007 and 2008 as part of the National Lakes Assessment.

EPA will:

- Act to help secure funding to complete the Northwest Alaska Beaufort Sea and the Northwest Bering and Chukchi Seas coastal assessments and to continue freshwater monitoring.
- Help communicate the need for the results and benefits of having Alaska's EMAP completed.

DEC will:

- Complete EMAP baseline surveys of the remaining coastal waters and additional freshwaters, as funding allows.

DEC and EPA will:

- Work on a long term plan for completing the survey of Alaska's waters supported by EPA funding commitments and incorporating partnerships with other agencies.
- Work jointly on including Alaska in the EPA Rivers Survey including meaningful funding and adaptation of methods to Alaska to provide statistically valid baseline water quality information for Alaskan rivers.
- Discuss EPA's proposed National Rivers Survey funding scheme with a goal of seeking additional EPA funds or funding sources from other federal agencies for this survey.
- As funding becomes available, work together to prepare grant workplans to provide funding to study the Yukon River as part of the 2008 Rivers Survey.
- Work jointly on developing a strategy that will result in completion of national baseline water quality data for Alaskan lakes under the National Lakes Survey. The strategy should include Program Activity Measures that would monitor progress on the path of completing statistically valid baseline water quality information for lakes under the National Lakes Survey.

10. Drinking Water Rules and Primacy Delegation Approvals

The EPA and DEC will work collaboratively to protect human health and ensure that water is safe to drink by reducing exposure to contaminants in drinking water. The numerous and increasingly more complex federal drinking water rules continue to challenge the DEC Drinking Water Program requiring increased staff resources to complete timely adoption, primacy delegation approval, implementation, and reporting to EPA. Additional time is also spent in reviewing the regulatory packages with management and training staff to obtain a sound working knowledge of the rules for consistent statewide implementation.

DEC will:

- Assign staff to work with the EPA to obtain Extension Agreements, when necessary, complete rule development or rule adoption packages, and primacy applications.

EPA will:

- Support the use of Extension Agreements for rule adoptions and provide timely guidance in the form of staff and written documentation to DEC on the statutory requirements for rule adoptions, primacy delegation, and program requirements.
- Complete early implementation for the two new drinking water regulations that were finalized during January of 2006: 1) Long-

EPA and DEC will:

- Continue early implementation activities for LT2 and Stage 2 Disinfection By-Products Rule as agreed upon in the December 2005 workload agreement between the EPA and DEC.

11. Public Water System Compliance

New federal rules continue to challenge the overall ability of public water system owners and operators to achieve and maintain compliance with all the drinking water rules, to ensure that the public is being provided drinking water that meets all health-based standards.

DEC and EPA will:

- Clearly delineate, in writing, when and in what circumstances each agency will take on the enforcement role for drinking water systems. Specifically, EPA and DEC will update their compliance assurance agreement and draft a strategy on how to address the backlog of significant non-compliers (SNC's).

DEC will:

- Provide compliance assistance consisting of written information and workshops for public water system owners and operators, utility managers, technical service providers, and consulting engineers on drinking water rule requirements.
- Focus available resources on addressing violations before they become SNC's when possible and to the extent practicable address SNC's before they become exceptions.

EPA will:

- Provide in person and "hands-on" training workshops in Alaska using EPA staff or contractors, as well as fully utilize satellite videoconferences with downlink sites in Alaska, and webcast training seminars for DEC staff, public water system owners and operators, utility managers, technical service providers, and consulting engineers on the implementation requirements of new federal rules
- In partnership with DEC, and when requested, complete timely enforcement on public water system referrals with a significant history on noncompliance and non-cooperation with DEC.

- Ensure that DEC has an opportunity to provide comments on all press releases regarding PWSs in Alaska before they are finalized by the EPA press office and released. EPA will consider, address and respond to DEC's comments and seek DEC's agreement on the "final" version.
- Communicate and coordinate all PWS issues through DEC program management staff prior to contact with any third party to include Technical Assistance Providers and PWS owners and operators, on any work the EPA may undertake relating to PWS in Alaska.
- Ensure that DEC has an updated SNC List every quarter to track performance of workplan objectives.

12. Surface Water Quality Assessment, Restoration and Protection (nonpoint source pollution controls)

Non-point sources are significant contributors to water pollution in Alaska and elsewhere. There is a need for land use planning at the local level and the state and federal land-manager levels to prevent non-point source pollution and avoid costly waterbody restoration action on polluted waters.

DEC and EPA will:

- Coordinate TMDL work to ensure that the court ordered requirement to develop and establish at least two TMDLs per year is met.

DEC will:

- Submit Alaska's 2008 Integrated Report to EPA by April 1, 2008 including updates on status of restoration actions and water quality improvements of all impaired waterbodies (categories 4 and 5). Provide EPA with electronic Assessment Data Base [ADB] Version 2 with all impaired waterbodies georeferenced within 90 days of EPA's approval.
- Submit a detailed assessment methodology for at least one pollutant to EPA by April 1, 2008.
- Provide EPA with the number of waterbodies identified in 2002 as being primarily NPS-impaired that are partially or fully restored by June 30, 2008 (EPA Performance Measure WQ-10)
- Submit two TMDLs by May 30, 2008 for EPA approval.
- Submit Alaska's annual report on its progress in meeting its Nonpoint Source Management Strategy's milestones (including available information on reductions in nonpoint source loadings and improvements in water quality) by December 31, 2007. Complete all GRTS data entry for all 319 funded activities for SFYs through SFY08 by April 1, 2008 (including 319 funding used for funding grant

proposals and funding used within ADEC to fund state staff and contract funding).

- Coordinate with other Alaska State agencies to address the remaining conditions (Urban/New Development, Roads/Highways/Bridges, Onsite Sewage Disposal Systems) required for full approval of Alaska's Coastal Nonpoint Source Program. Submit to EPA and NOAA completed tasks and a status report on progress towards submittal of remaining tasks as part of the annual progress on the Nonpoint Source Management Strategy.
- Working through the state land-management agency (Department of Natural Resources), institute non-point source pollution controls on state-managed lands. At a minimum these will include establishing minimum setbacks or management practices for water-polluting activities near water bodies in state land-use plans.

EPA will:

- Review and approve or disapprove Alaska's Integrated Report submittals within 30 days of receipt.
- Work cooperatively on DEC's assessment methodology and provide examples from other state agencies.
- Review and approve or disapprove Alaska's TMDLs within 30 days of receipt.
- Coordinate with NOAA and EPA HQ to review and approve or provide comments on Alaska's submittal of its remaining conditions required for full approval of Alaska's Coastal Nonpoint Source Program within 60 days of receipt.
- Review and comment or issue a determination of progress on whether Alaska has made satisfactory progress in implementing the milestones of its approved NPS Management Program within 30 days of receipt.

13. Rural Dust Pollution

DEC has suspected for some time that fine particle dust pollution in rural communities may be exceeding Clean Air Act health standards for PM10. During the past five years DEC, in collaboration with Northwest Alaska communities and Alaska DOT, has conducted ambient air monitoring that has revealed numerous exceedances of the health standard in Kotzebue, Noatak, Buckland, Kiana, Noorvik, Ambler and Bethel. DEC suspects similar conditions of high PM10 pollution exists in many more rural communities during spring through fall when dry conditions prevail.

The dust is caused primarily by vehicle and 4-wheel ATV traffic on unpaved roads and unvegetated areas, and wind scarification and

erosion of loose surface materials including glacial till and fine sands from river delta areas.

Many communities and tribes are interested in reducing this pollution. If air monitoring is a pre-requisite documenting phase, the communities and tribes are willing to undertake ambient air monitoring. While DEC and EPA will provide assistance for monitoring projects, DEC, ADOT, and EPA need to focus attention on evaluating the improvements that may be accomplished through various dust mitigation options.

EPA's Office of Air Quality Planning and Standards proposed changes to the Particulate Matter health standards in 2005. Final adoption of standards in September of 2006 retained the 24 hour PM-10 standard unchanged.

With EPA's retention of the PM-10 standard, the State is prepared to make a decision that may result in a Governor's recommendation for EPA to classify some locations in Alaska as non-attainment areas for this health based standard in order for federal funds to be available to reduce the pollution

DEC and EPA will:

- Communicate regularly as new monitoring or mitigation information becomes available.
- Work collaboratively in communicating and working in partnership with the Northwest Arctic Borough and other local governments and tribes affected by adverse PM10 pollution.
- Recognize that tribally executed air monitoring projects assist DEC and EPA, yet require a solid commitment of technical assistance from both agencies for the tribal project to be successful.
- Discuss and evaluate options, other than formal nonattainment designation, which will have the potential for securing resources to mitigate the localized PM10 violations.

DEC will:

- Continue ambient air monitoring in Kotzebue during the spring through fall dust season of 2007
- Provide technical assistance and training to tribal organizations that will be conducting air monitoring projects during FY 2007-2008.
- Work in partnership with Alaska Department of Transportation and Public Facilities (ADOT), the Northwest Arctic Borough, and the City of Kotzebue to undertake roadway based PM10 mitigation studies and remedies to reduce PM10 exposure to the extent state

or federal funds are made available through ADOT or the Federal Highways Administration.

- Work with ADOT and the UAF transportation center to develop and test effective dust control measures for the state which are effective, durable and will not harm the sensitive rural environment.
- Provide assistance to the Northwest Arctic Borough, the City of Kotzebue, NANA Regional Corporation, Mannilaq Health Corporation, and Kotzebue based tribes, as well as other Alaskan communities and tribes in assessing dust conditions, assessing dust mitigation options or related matters.

EPA will:

- Strongly support ambient air monitoring projects or PM10 mitigation assessment projects that Alaska tribes desire to undertake using federal funds to resolve PM10 pollution in their respective villages or communities.
Work cooperatively with DEC air monitoring staff to successfully evaluate air pollution conditions in rural / tribal communities.
- Give fair consideration to any request made by the State to designate one or more locales in Alaska as non-attainment areas for PM10.
- Encourage EPA's Office of Air Quality Planning and Standards to proceed with their planned rural community health assessment project to acquire new knowledge on health impacts from coarse sized airborne particle pollution typical of rural communities.

14. Core Air Quality Functions

As an approved permitting program and State Implementation Plan [SIP] approved program for attainment of ambient air quality standards, DEC and local air authorities (Anchorage, Fairbanks, etc.) intend to continue to implement and improve the core air quality program activities to serve the mutual mission of EPA and the State under the Clean Air Act. These functions include:

Operating Permits Program,
Construction Permits Program (NSR, PSD),
Minor Permit Program (SIP),
Air Monitoring,
Vehicle Inspection and Maintenance (I/M) Programs,
Maintenance Plan Implementation, and
Technical and Regulatory Assistance.

State fiscal year 2008 will be a peak year for DEC's preparation of a Regional Haze plan for the 4 PSD Class I areas in Alaska. A plan is

required to be submitted no later than December 2007. The current schedule is late due largely to late proposal of the Best Available Retrofit Technology (BART) requirements for older stationary sources. A draft plan is anticipated to begin public review by the spring of 2008. DEC will draft a Regional Haze SIP document and submit interim products to EPA such that both agencies fulfill the proactive SIP-PIP process established by Region 10. Under this process, the Regional Haze SIP development is expected to reflect advance planning in manner that is similar to the successful carbon monoxide maintenance SIPs for Anchorage and Fairbanks.

Ambient air monitoring results indicate that Fairbanks will be declared a non-attainment area for the new PM_{2.5} standard. DEC is working with the Fairbanks North Star Borough on monitoring projects to delineate the spatial extent of the problem area and to perform additional source characterization work to be able to better understand the problem. DEC is also working with ADOTPF for use of federal highway CMAQ funds to assess and possibly mitigate mobile source contributions to the problem. EPA assistance will be necessary as this analysis and mitigation work proceeds.

DEC is preparing an air quality maintenance plan to release Juneau as a PM₁₀ non-attainment area. The plan will be submitted to the EPA in early FY 2008.

During FY 2008, DEC in cooperation with the Fairbanks North Star Borough will be developing a revised carbon monoxide maintenance plan to eliminate the vehicle inspection and maintenance testing requirement.

While not a traditional Core Air Quality function, reducing diesel exhaust emissions is considered to be the highest priority air toxics initiative in Alaska. For FY 2008, DEC and EPA agree that further technical analysis of health risks and emission reduction strategies are important to both agencies.

As a mutual high priority health issue, DEC and EPA agree that:

- DEC will continue to track and participate when appropriate in West Coast Collaborative workgroups and steering committees to build partnerships that will advance the goals of reducing emissions from diesel engines.
- EPA will continue to develop and support the West Coast Collaborative or federal, state, local, nonprofit, and private sector partners to reduce diesel emissions on the west coast.
- EPA and DEC will work together to ensure funding to support diesel emission reduction work in Alaska.

15. Fish Tissue Monitoring

EPA periodically publishes nationwide health advisories on the safety of individuals consuming fish. DEC has collected fish from Alaskan waters every year, starting in 2001-2002 (580 samples), 2003 (582 samples), 2004 (629 samples), 2005 (575 samples), and 2006 (1,076 samples). Fishes collected have included salmon (all five species), halibut, Pacific cod, sablefish, rockfish, lingcod, pollock, northern pike, and sheefish. The fish have been processed at DEC's Environmental Health Laboratory and analyzed for heavy metals (methyl mercury, total mercury, lead, arsenic, chromium, cadmium, selenium, & nickel). A subset of the fish samples collected is being analyzed at a commercial lab for dioxins and furans, pesticides, PCB and PBDE congeners, and inorganic arsenic.

DEC has developed a statewide sampling plan that defines: 1) where on-going sampling is needed for sentinel monitoring, 2) areas or species that need further evaluation, and 3) what new species or locations need to be assessed. EPA Region 10 has included fish contaminant surveys in their strategic plan for achieving the objective for fish and shellfish that are safe to eat.

DEC will:

- Implement the statewide fish tissue monitoring plan for mercury and other contaminants, informing EPA of general progress in implementation of the plan and consulting with EPA in the case of deviations from the Quality Assurance Monitoring Plan.
- Maintain a web page where EPA, the public, and tribes can access data collected on the levels of mercury and other heavy metals found in Alaska fish.
- Submit to EPA a draft report of the data results when DEC has finalized it. This report will include all validated data from the analysis of fish tissue performed as part of the Fish Tissue Testing Program.
- Consult with the Alaska Department of Health and Social Services regarding the benefits and risks of consuming Alaska fish.
- Provide EPA with all past and future validated fish tissue data.
- As opportunities arise, participate in presentations about the fish tissue testing program at IGAP trainings. Discussions will include how tribes may incorporate work DEC's fish monitoring program into their Indian General Environmental Assistance Program (IGAP) workplans.

EPA will:

- Use Alaska's fish tissue data in developing consumption advice and consult with the Alaska Department of Health and Social

Services and DEC before issuing any fish consumption advisories in the State of Alaska.

- Identify potential sources of EPA funding, including Indian General Environmental Assistance Program (IGAP) funding, for those tribes interested in collaborating with DEC and EPA regarding fish tissue testing.
- As opportunities arise, EPA will inform tribes of the laboratory services (fish processing and analysis) that the DEC Environmental Health Laboratory has to offer for fish tissue testing.
- Continue to invite the participation of DEC in presentations about the fish tissue testing program at IGAP trainings. Discussions will include how Tribes may incorporate work with DEC's fish monitoring program into their IGAP workplans. EPA Region 10's Tribal Trust and Assistance Unit will designate a point of contact to facilitate communication on this issue between the EPA Region 10, Tribal IGAP grantees, and the DEC.

16. Drinking Water Laboratory Certification Program

In order to maintain primacy for the Drinking Water Certification Program for chemistry and microbiology under the Safe Drinking Water Act, the State of Alaska must meet a number of regulatory requirements including:

- establishing and maintaining a program for the certification of laboratories conducting analyses of drinking water compliance samples,
- designating a "laboratory officer or officers, certified by the Administrator or designee as the official(s) responsible for the certification program," and
- having (an) available EPA/National Environmental Laboratory Accreditation Conference (NELAC) or American Association for Laboratory Accreditation (A2LA) certified laboratory facility(ies) capable of performing analytical measurements for all of the federally required contaminants specified in the State Primary Drinking Water Regulations.

The EPA Region 10 Laboratory is responsible for oversight of the Drinking Water Certification Programs in the State of Alaska. The Laboratory's roles are to:

- Evaluate the State's Drinking Water Certification Program at least once every three years during an on-site audit and once a year through a questionnaire and/or teleconference.
- Monitor annual Performance Test results from state principal laboratories.
- Audit on a triennial basis state principal laboratories.

- Monitor the adequacy of the State’s Drinking Water Certification Program, and determine the certification status of the principal State laboratories.

DEC will:

- Participate with the EPA Region 10 Laboratory Drinking Water Certification Officers in the annual review of the Alaska Drinking Water Laboratory Certification Program and the triennial EPA inspection of the State-maintained principal laboratory. The triennial EPA inspection will include the EPA Region 10 Laboratory Drinking Water Certification Officers accompanying the Alaska Drinking Water Certification Officers on an audit of one or more commercial drinking water laboratories.
- Designate third-party EPA/NELAC certified laboratories as State principal laboratories for analysis of contaminants for which the State-maintained laboratory is not EPA/NELAC certified. Written agreements are maintained with each of the laboratories.
- Ensure that the Alaska Drinking Water Certification Program meets all criteria in EPA’s current “Manual for the Certification of Laboratories Analyzing Drinking Water” by maintaining a current Quality Assurance Plan and Standard Operation Procedures. This effort will be the responsibility of the Quality Systems Manager with assistance from the DEC Certification Authority and DW Certification Officers.
- Ensure Alaska Drinking Water Certification Officers are provided with a minimum of two weeks per year of laboratory bench experience in their area of drinking water analysis in order to maintain proficiency.
- The State of Alaska Certification Authority will inform the EPA Certification Authority of major changes to the State’s Drinking Water Certification Program, including but not limited to, loss of Certification Officers, within a reasonable length of time.

EPA will:

- Conduct the annual evaluation of the Alaska Drinking Water Laboratory Certification Program and the triennial on-site inspection of the State-maintained laboratory and designated-principal laboratories. This effort will include the EPA Region 10 Laboratory Drinking Water Certification Officers accompanying the Alaska Drinking Water Certification Officers on a triennial audit of one or more commercial drinking water laboratories.
- The EPA Region 10 Laboratory will assist the State Drinking Water Certification Officers with access to the EPA Region 10 Laboratory in order to gain the two weeks of laboratory bench experience in drinking water analysis, needed to maintain proficiency.

- The EPA Region 10 Drinking Water Certification Officers will keep the State Drinking Water Certification Officers aware of changes to EPA requirements for the Drinking Water Certification Program and provide advice and guidance on technical issues.

17. Environmental Laboratory Cooperation

DEC has completed construction of a state-of-the-art analytical Environmental Health Laboratory (EHL) in Anchorage. In addition to housing the Drinking Water Certification Program as specified by EPA guidelines, the new facility is certified by multiple other federal agencies to test food and animals. Enhanced analytical capability includes a laboratory information management system (LIMS), new animal diagnostic and molecular biology sections, as well as upgrades to the chemistry section. The chemistry section will now be able to provide high quality analytical data to support the testing of Alaskan seafood products and support the EPA National Fish Advisory and Testing Program. Capabilities and equipment includes Inductively Coupled Plasma Mass Spectrometry (ICP/MS) for the detection of heavy metals including arsenic, cadmium, chromium, lead, selenium, total mercury, methyl mercury, and nickel. The facility will also be conducting inductively couple plasma/mass spectrometry, high performance liquid chromatography/tandem mass spectrometry, high resolution gas chromatography/high resolution tandem mass spectrometry, time of flight mass spectrometry, among others. These tools will enable the EHL to measure the full range of hazardous and/or toxic compounds in water, food, air, and animals in the event of an environmental incident or terrorist attack. The Environmental Health Laboratory will achieve NELAC/A2LA certification for all procedures in the near future.

EPA and DEC Laboratory managers and staff will:

- Communicate on issues such as laboratory capacity and capability to address the analytical needs presented by Homeland Security events, options for lowering the cost and improving the efficiency of laboratory operations, and the National Environmental Laboratory Accreditation Program.

18. Technical Assistance Evaluating Use of Pesticides

DEC implements a comprehensive pesticide program in the state. Alaska has had primary enforcement responsibility for pesticide misuse since 1989. DEC also trains and licenses pesticide applicators, and implements ground water, worker, and endangered species protection programs. All these programs are part of the Cooperative Agreement between the EPA and DEC. The Department also implements a Pesticide

Registration Program and Pesticide Use Permitting Program, which is not part of the Agreement. The mission of the DEC Pesticide Program is to protect human health, safety, and welfare, animals, and the environment by ensuring the proper use, sale, distribution, and disposal of pesticides.

DEC and EPA will:

- conduct a joint evaluation process that focuses on the reporting items specified in the grant workplan.
- conduct a mid-year evaluation to review the current program accomplishments in relation to the grant workplan.
- within 60 days after the end of the budget period, conduct an evaluation and review the accomplishments for the year. Both parties shall jointly prepare an evaluation report.

EPA will:

- Provide technical assistance to the DEC Pesticide Program staff as needed.

19. EPA to Report Bi-annually on EPA Progress on PPG Workplans

For example, the EPA writes a three year NPDES permit issuance plan, upon which DEC bases its workload and planning efforts. It can be difficult to add or drop projects from the priority list during the three year interim period. By receiving EPA reports bi-annually, DEC can gain a clearer understanding of project status and how the project is tracking against the plan. This will allow DEC to make more efficient use of time and resources in many different programs.

20. Clean Air Mercury Rule

The federal Clean Air Mercury Rule (CAMR) applies to two existing electrical generating plants in Alaska. Under the CAMR, the 2010 mercury allocations to Alaska is based on less than full capacity operation of one of the affected plants. Consequently, the allocation amount is likely to be inadequate for the two existing sources to fully operate. Furthermore, the allocation is too small to make an in-state reservation that would support construction and operation of any new sources subject to CAMR even if the new unit applies the very best mercury controls. Yet growth in coal power generation is seen as a necessary element in supplying the energy needs for Southcentral Alaska and Railbelt Alaska.

Allocations issued to other states does not impede operation of existing sources and in most states allows some margin for new source growth without applying the market trading features of this rule.

Leadership at DEC and EPA Region 10 agree that Alaska's mercury allocation under the CAMR represents an un-equal playing field in comparison to other states and is likely to result in problematically constraining sources in Alaska when the allocation system becomes effective in 2010.

Leadership at EPA and DEC will work with program managers at EPA Headquarters to address this problem. The best opportunity to achieve a solution is to affect EPA's final decision on the rules for federal implementation of the CAMR rules in states where a state program has not been adopted. EPA Region 10 and DEC leadership will work to find a reasonable accommodation in the final rule or another alternative that may possibly originate from those discussions.

21. Drinking Water and Wastewater Loan Programs

DEC and EPA share an interest in improving environmental protection and public health by making low interest loans available to Alaskan communities and other eligible entities for financing drinking water, wastewater and water quality related projects. In order to efficiently and effectively meet these needs, the DEC and EPA agree to the following:

DEC and EPA will:

- Cooperate in performing an annual program review for both State Revolving Fund (SRF) loan programs in order to assure that all state and federal requirements are being met, to identify areas where improvements can be made, and to recognize successful program implementation.

DEC will:

- Follow all terms and conditions outlined in the Operating Agreement, yearly capitalization grant agreements, federal statutes, regulations and published national guidance and policies for both SRF loan programs.
- Submit annual SRF reports to EPA as required.
- Develop, review and modify annual Intended Use Plans for both SRF loan programs.

EPA will:

- Provide DEC with updated program guidance from EPA Headquarters as it becomes available.

- Upon request, provide timely advice regarding SRF program implementation.
- Make necessary training available to DEC staff responsible for administration of both loan programs.

22. Sanitation Facility Projects for Rural Alaska Communities

[EPA's Alaska Native Village Program and DEC's Village Safe Water Program] DEC and EPA have a vested interest in providing sanitation facilities to the rural Alaska communities and Alaska Native Communities to improve the health and sanitation conditions in these communities and villages. In order to efficiently and effectively meet the needs of the communities the DEC and EPA agree to the following

DEC and EPA will:

- Abide by the 2006 three party MOU.
- Participate in interagency coordination meetings at least semi-annually, with other agencies involved with rural sanitation.
- Work cooperatively to maintain procedures for allocating state and Federal funding available for sanitation facility improvement projects. All available funding will be allocated annually.

DEC will:

- Annually, update a database of rural sanitation needs organized by community, including water and sewer service levels to individual homes.
- Submit required Federal grant application forms and associated work plans to Federal funding agencies a minimum of 60 days prior to the proposed start date of the proposed federal award, and no later than August 1st.

Annually, EPA may identify funding for this program. EPA will:

- Notify DEC of the final amount available to the program as soon as the allocation amount is final. Federal grant awards will be awarded in accordance with Uniform Administrative Requirements for Federal Grants to States.

VI. Compliance and Enforcement

EPA has primary compliance and enforcement responsibility for non-delegated federal environmental programs and in "Indian Country" in Alaska as defined in 18 U.S.C. Section 1151. DEC has primary compliance and enforcement responsibility for the state's environmental laws and delegated federal environmental and public health protection

programs. It is essential that EPA and DEC coordinate enforcement and compliance with each other.

The EPA and DEC will coordinate enforcement and compliance with each other in a manner consistent with the May 1997 Agreement on Compliance Assurance Principles and the March 1988 Compliance Assurance and Evaluation Principles agreed to by the EPA Region 10 States and the EPA. The EPA and DEC will provide required compliance and enforcement information to each other in an appropriate and timely manner. Current relevant documents include (1) DEC's Enforcement Manual and (2) the Compliance Assurance Agreement between DEC's Air Permits Program and the EPA Office of Air, and (3) the Compliance and Enforcement Strategy between DEC's Drinking Water Program and EPA Region 10's Office of Water and Watersheds Drinking Water Unit.

VII. Performance Reporting and Evaluation

As a condition of this agreement, and subsequent grants awarded to DEC by the EPA, DEC will report accomplishments to EPA semi-annually and the EPA will report its accomplishments semi-annually to DEC. Reports will be based on information supporting performance measures and program activity measures identified in this agreement outlining accomplishment, existing or potential problems, and suggestions for improvement. The reports will be exchanged by February 15 and August 15 of 2008. The EPA will schedule a report preview meeting with DEC to discuss the report and make appropriate adjustments.

In order to reduce transaction costs, any other reporting needs will be kept to a minimum such as a need to meet national requests and particular, applicable program activity measures.

The EPA and DEC programs directors agree to meet in the fall of 2007 to discuss strategic environmental and public health protection issues in Alaska. Information from this discussion will be used by each agency when developing subsequent strategies and budgets.

VIII. Dispute Resolution

Parties to this agreement realize there may be different expectations and understandings of the terms of this agreement by each party from time-to-time. Resolving those differences early will keep each party focused on the intent of the agreement and avoid difficult, time-consuming situations that disrupt healthy working relationships necessary to achieve mutual success.

The EPA and DEC agree to work issues at the lowest level possible, making reasonable efforts to clarify expectations and understandings. If those responsible for implementing activities and achieving expected performance are not able to resolve disagreements that prevent accomplishments mutually, they are authorized to elevate the matter to the next higher level of responsibility. They will notify their supervisor of this action and schedule a discussion among supervisors and affected staffs. This elevation process will continue up to the program director level. If a matter is not resolved before reaching the program director level, program directors will notify the agency head that they are engaged in resolving a conflict. Most issues will be resolved either before reaching this level or at the conclusions of the director elevation. However, significant issues may remain and will be addressed between the agency heads.

Workplan activities that are being reviewed under a dispute resolution process may continue until such time as the senior program managers agree to alter that activity.