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# Maine Department of Environmental Protection- US EPA Performance Partnership Agreement for FFY 03-05

Maine Department of Environmental Protection

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# **P**ERFORMANCE **P**ARTNERSHIP **A**GREEMENT

Joint Performance Plan  
For FFY03 - 05

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Environmental Protection Agency / New England  
And  
Maine Department of Environmental Protection

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## Responsible Management

- Environmental Stewardship
- Air Quality
- Land and Water Quality
- Materials Handling

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**PERFORMANCE PARTNERSHIP AGREEMENT  
BETWEEN  
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND EPA NEW ENGLAND**

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The purpose of the FFY03 - 05 Performance Partnership Agreement (Agreement) is to set forth the understandings reached regarding the federal/state relationship in our mutual efforts under the National Environmental Performance Partnership System (NEPPS). This agreement is consistent with NEPPS. The parties to this agreement are the Maine Department of Environmental Protection (DEP) and Region I of the United States Environmental Protection Agency (EPA), as represented by the Maine Office of Ecosystem Protection.

By signing this Agreement, the Maine Department of Environmental Protection and EPA New England agree to utilize the strategies embodied in the NEPPS process. We anticipate that this Agreement will serve as a sound basis for guiding our program performance for FFY03 - 05. It is also expected that the environmental goals, objectives and outcomes, and agency commitments embodied in this Agreement will be refined over time as this management approach is informed by mutual experiences and stakeholder input.

This Agreement covers the programmatic commitments supported by grants, in whole or in part, as referenced under funding sources in the specific work plan sections (Part II).

This agreement will serve as Maine DEP/EPA New England's joint performance plan for FFY03 - 05.

Maine Department of  
Environmental Protection

US Environmental  
Protection Agency, New England

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Martha G. Kirkpatrick  
Commissioner

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Robert W. Varney,  
Regional Administrator

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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## INTRODUCTION

### Where are we headed?

We have been protecting Maine's environment for 30 years, and our approach and actions have evolved along the way. In the 1970s, our environment was in serious trouble. Our rivers were foul smelling and fish kills were common. Our air was degraded by emissions of particulates, sulfur dioxide, carbon monoxide and ground-level ozone. Municipal open dumps polluted groundwater and surface water and impacted air quality as well. Citizens demanded that government work to clean up and regulate rampant water and air quality problems and to end dangerous waste disposal practices. In response, Maine State government developed a regulatory framework based on federal laws and pushed on industry and local governments to comply. This first phase of environmental protection gained momentum through the 1970s and 1980s.

Those dynamics changed in the 1990s. The regulatory framework was strengthened and expanded, but within it government and industry sought the mutual benefits of collaboration. Government not only enforced environmental standards but provided technical assistance to help businesses comply. Both of these phases have been important in cleaning up the environment, while building the capacity and infrastructure to move forward and tackle more complex issues. At this juncture, a new approach is needed. The big fixes are largely done and the environmental issues we face today are more complex and difficult to regulate. We need to ensure that when a solution is engineered to protect one resource, we do not inadvertently impact another.

In this next phase of environmental progress, responsibilities for enforcement and compliance will remain with government. However, in some cases, the largest polluter on the landscape is the general public—that is, the cumulative impact of each of us going about our daily lives. It is not scattered smoke stacks or water discharge pipes, but rather the individual choices each of us makes every day that have the greatest impact on the quality of Maine's environment and landscape. Each of us decides where to live, in what kind of house, how to heat it, how to maintain our property, what kind of car to drive, how far we drive, what consumer items to buy, what food to eat, how to handle our solid waste, among many other decisions. In aggregate, our combined decisions result in problems that are interrelated and have long-range impacts that are more subtle and harder to identify than those of the 1970s.

To create lasting solutions to these problems will require re-energized citizen involvement in the years ahead. We will need to make difficult choices as we move to the next phase of environmental protection. The Maine Department of Environmental Protection will support this next phase with technical assistance, education, and innovative new programs that enlist businesses and citizens to move toward sustainable ways of supporting the high quality life styles we enjoy in Maine.

## **Structure of the Document**

Each major program—Responsible Management and Stewardship, Air Quality, Land and Water Quality, and Materials Handling—has a Goal statement that guides the overall efforts of the program. Each also has an Overall Performance Budget Objective, which provides a basis against which the relative degree of program success can be measured as a part of the State's Performance Budgeting process. Funding for programs has also been identified so that the reader can understand the relative contribution of financial support from various sources. The time frame for this agreement stretches out to 2005 because most strategies and activities will take several years to achieve; however, activities for the Federal Fiscal Year 2003 (FFY03) have been emphasized. In addition, Compliance and Enforcement activities are integrated into each of the major program areas to give the reader a more complete picture of Maine DEP's efforts to protect the environment.

**PERFORMANCE PARTNERSHIP WORKPLAN**

**A. RESPONSIBLE MANAGEMENT AND ENVIRONMENTAL STEWARDSHIP**

**GOAL:** To ensure that Maine's environment remains healthy and productive in perpetuity, through the efficient and effective delivery of department services and the development of an ethic of public responsibility for the State's natural resources.

**OVERALL PERFORMANCE BUDGET OBJECTIVE:**

To manage the leadership and business side of the agency efficiently and effectively while responding to internal and external customer needs in a timely manner.

**ISSUE STATEMENT:**

During the last third of the twentieth century, environmental protection in Maine changed and matured first to meet, then to anticipate new challenges. It has engaged industries, activists, regulators and citizens in varying capacities to achieve a common end – sustaining, in perpetuity, the natural resources that support our quality of life.

This goal speaks directly to that end. For it to be achieved, the Department must continue to develop and improve our tools and services. We must continue to encourage and help citizens and industry find ways to minimize impacts on our environment. Additionally, Maine State government must become a model for the core value of environmental stewardship. We can achieve this objective through a concerted commitment to public service, pollution prevention, smart production and education.

**FUNDING SOURCES:**

The following financial information is provided as an indication of the scope of the program. In State Fiscal Year 2002, expenditures of \$ 5,186,247 to support this goal came primarily from the following sources:

State General Fund	\$541,072	(10.43%)
Federal Funds Indirect Cost	\$965,922	(18.62%)
Dedicated Funds Indirect Cost	\$3,679,253	(70.95%)

**RECENT PERFORMANCE:**

In FFY02, the Department's Environmental Stewardship program, through its education and outreach efforts continued to inform Maine people about environmental issues. The 2001 survey data shows that the number of Maine residents routinely participating in environmental programs or activities to be 12.3% of respondents, up slightly from the baseline of 12%, but representing a decline from the 2000 response of 14%.

During the past year, the comprehensive education program has continued to expand and decentralize to provide specialized attention to emerging issues and to accommodate the needs of identified target audiences. Activities building on past

initiatives have included: the development of three public service announcements (PSAs) for television (fuel tank maintenance and backyard burning), the broadcast of a series of water quality (soil erosion) PSAs, and the combined TV/radio airing of two series of PSAs (an ozone series and a lead series) using materials acquired through EPA; informational exhibits at five high traffic, general public events (Maine Garden Show; Maine Sportsman's Show, Maine Boat Show, Portland Sea Dogs game, Common Ground Fair); weekly publication of a newspaper column (in large and small circulation papers state-wide); paid print advertising in state-wide newspapers on timely topics (tank maintenance, soil disturbance); daily responses to increased demand for information through internet and e-mail queries; development of informational materials ("This Week at DEP", real-time air quality monitoring data, ozone forecasting, etc.) for all audiences accessing the Department's web site; continuation of state-wide projects targeted to involve school children in environmental issues ("Jeepers Peepers", energy audits, water festivals, etc.); and staff participation in numerous community activities.

Especially notable special projects included: the production of "Maine's Environment 2002...the choice is ours", a variation on the traditional state of the environment report that captures progress and presents challenges; stepped-up development of web pages on critical issues such as mercury and beaches; development and coordination of a multi-faceted educational campaign on a new program to address invasive aquatic species; and production of a guide to air regulations for the small business operation.

While the specific topics addressed in each of future educational initiatives may change according to Department priorities and public interest, these types of activities and projects are planned to continue under this PPA.

In FFY02, the Department advanced its efforts to integrate its environmental information systems by hiring a full-time Project Manager and preparing a 120-Day Plan under our EPA One Stop Grant to guide our efforts over the next several years. Under the guidance of the One Stop Project Oversight Committee, the Department conducted a project kick-off meeting, prepared business and system requirements and issued a Request for Proposals to acquire and customize an off-the-shelf enterprise environmental information system currently in use by another state. (In FFY03, the Department will acquire a new system.)

The Department continued its efforts to utilize electronic data exchange to reduce the reporting burden and improve data quality. In FFY02 the following accomplishments were made:

- Developed a standard Electronic Data Definition (EDD) format for the electronic reporting of groundwater test results from laboratories and consultants.
- Worked with wastewater treatment plant stakeholders to prepare specifications for electronic reporting of NPDES Discharge Monitoring Reports and daily operating data.
- Implemented a system to accept electronic reporting of biennial reports in the Toxics and Hazardous Waste Reduction Program.



- Continued to expand the use of Geographic Information Systems (GIS) as a tool to access, analyze and communicate complex environmental information.

In FFY02, the Department's Pollution Prevention Program (P2 Program) supported EPA Performance Track Programs at three Maine facilities, and supported EPA XL projects at International Paper. An EMS incentives program was implemented to encourage voluntary compliance with environmental laws and regulations. Staff in the P2 Program provided onsite assistance to companies with P2 or compliance issues, and partnered with many groups, including the Maine Technology Institute to encourage new environmental technology development. The P2 Program recognized 20 of Maine's environmental leaders with Governor's Annual Awards for Environmental Excellence and for adoption of ISO 14001 Environmental Management Systems, and also recognized seven companies seeking to participate in the new Maine STEP-UP Program.

In FFY02 the Department published a guide to Smart Production and the Maine STEP-UP Program and distributed 500 copies to Maine businesses. The Department also launched the Maine STEP-UP Program with the signing by the Governor of four STEP-UP agreements in July 2002. In these voluntary agreements businesses commit to high-bar goals toward sustainability by seeking to reduce energy use, toxic chemicals, emissions and waste, among other goals, and to publicly report on their progress in achieving their goals.

In May 2001, Maine became the first state in EPA Region 1 to receive approval of its Quality Management Plan (QMP), and in January 2002, the first to begin the process to receive delegated authority for review and approval of Quality Assurance Program/Project Plans. Maine DEP has adopted an aggressive QMP implementation approach based on internal second-party auditing which has received national-level recognition.

**PUBLIC PARTICIPATION:**

DEP engages members of the public and regulated communities to ensure that programs take into account various perspectives and needs.

The Bureau of Air Quality works closely with a variety of stakeholders ranging from national environmental and industry trade groups to local grassroots activists. At the same time, the Bureau is seeking to substantially increase the general public's participation in its program development activities. Expanding education and outreach efforts to provide greater public access to technical materials facilitates greater public involvement in the development of air programs and ultimately foster increased public support for cleaner air. For example, the Regional Ozone Committee stakeholders group, which is composed of citizens groups, environmental organizations, legislators and the regulated community, convenes on a regular basis to advise the Department on air program policy issues and decisions. The Committee has provided valuable input on a variety of issues by serving as a "sounding board" for the Air Bureau's planning efforts.

In the Bureau of Land and Water Quality, the Lake Program Review Committee includes other state agencies, outside organizations such as the Congress of Lakes Association (COLA) and Soil and Water Conservation Districts (SWCDs), as well as other DEP bureau's. The Surface Water Toxics Advisory (SWAT) Committee includes representatives from academia, business, conservation organizations, municipal government, and public health organizations. A significant stakeholder process in 2001-02 has been addressing possible changes to the stormwater management program (including incorporation of NPDES requirements). Stakeholder group participation has been important on significant issues such as mercury, revisions to the toxicity rules, TMDL process, Warren and Androscoggin River data collecting and modeling, and NPDES delegation. The Water Withdrawal Work Group, co-chaired by the Director of the Bureau of Land and Water Quality, was created by the Maine Land and Water Resources Council to explore policies and engage stakeholders. That outreach effort will be continued as an advisory stakeholder process.

The Bureau of Remediation and Waste Management solicited comments from relevant stakeholders through distribution of the draft PPA. In addition to this solicitation, the PPA is discussed in the course of meetings with the bureau's various stakeholder groups throughout the PPA agreement period.

**TIME FRAME:**

Most of the strategies and activities listed in this plan are multi-year or ongoing tasks. Items scheduled for completion in FFY03 are noted.

**MEASUREABLE OBJECTIVES:**

**A-1. Customer Service/Satisfaction**

By FFY04 determine best means to assess customer satisfaction with services received from DEP and implement means to gather customer information.

**Outcome Measures:** (a) survey results; (b) letters from the public; c) customer comment cards; (d) efficiency measures for systems improvements, (e.g. average complaint response time, average permit approval time).

**Background:** The 1996 report of the Maine Economic Growth Council ("Measures of Growth") provided useful baseline data, reporting that, in 1995, 60% of Maine businesses report no difficulty in obtaining permits, and 32% of Maine citizens rate the value of state service as "good" or "excellent". In the 2000 "measures of growth" report this approval rating increased to 45% for 1999. These two questions are no longer part of the "Measures of Growth" survey. The Department will need to find new means of assessing customer satisfaction with the services received from the Department.

**A-1-01. Non-compliance Complaint Tracking System**

The DEP maintains a computer database to track concerns of non-compliance registered by citizens. The system is currently used by two of DEP's ten primary compliance-monitoring units. Implementation of this complaint tracking system in all regulatory programs should further efforts to expeditiously handle citizen tips of alleged non-compliance.

**A-1-02. Internal Development**

Maintain and enhance current efforts to ensure that DEP staff, supervisors, and managers fully develop and utilize their skills and knowledge to serve internal and external customers. Continue organization-wide efforts to promote learning, strategic conversation, and system(s) improvement.

**A-1-03. External Customer Satisfaction**

The Department's three bureaus have from time to time used customer survey forms/cards to assess customer satisfaction with the services received. Currently, only the Air Bureau has continued to use customer surveys. The Bureau is creating a database to analyze information contained on survey forms received over the last few years. The database could also be used by other programs in the Department to track customer satisfaction with services received.

**A-2. Data Management**

In FFY03, complete phase one of the integration of facility related data to enable cross program analysis of environmental data and public access.

**Outcome Measures:** (a) Implementation of Common Identifier Repository; (b) Number of transactions submitted electronically; (c) Deployment of department-wide GIS; (d) Public access to key environmental data

**Background:** The cornerstone of measuring discharges or the health of our environment is sound science based on accurate data. Our goal is to make the data collected available to the public to build their confidence and knowledge about the state of the environment and its protection. Public awareness is an important factor to drive environmental compliance, and essential if we are to move to market-driven environmentally sustainable business systems. In order to achieve our goal, the data must be rigorously reviewed for accuracy and presented in a way that is easily accessible and understandable to less sophisticated users. These users must be able to combine data from multiple programs for a single facility or a geographical location of interest.

Current Department databases were designed to support individual business programs (e.g. Application Tracking, Oil Spills, Underground Tanks, Wastewater Discharges, RCRA Clean up, and Air Emissions Point Sources). Each business program typically has its own methods of data collection, databases, means of

reporting to USEPA and methods of access that are used exclusively by program related staff. Data about facility name, ownership, location, etc. is duplicated in each database, and there is little ability to link information from multiple programs together to analyze or report on the totality of activities at a given site or facility.

This project is a major, multi-year effort to reconstruct and integrate our databases, develop common data collection methods and support wider access to environmental data. GIS technology will be used to help access and visualize complex information. Much of the work will be directed toward normalizing and cleaning existing data and putting into place long-term data management and Quality Assurance/ Quality Control procedures. We will document and manage these data as departmental assets and make them widely available within the department and to the public.

The Maine Legislature appropriated \$520,000 in FY01 to start this project. The Department has received a \$500,000 One Stop Grant from USEPA to accelerate the pace of development and carry the work through FFY03.

#### **A-2-01. Environmental Information Management System**

The interim Common Identifier Repository (CIR) which was developed as part of the One Stop project will provide the core facility/site data in populating the Environmental Information Management System (EIMS). Following procurement of a system in FFY03 we will be implementing environmental licensing and permitting. In doing, so we will be phasing out the disparate legacy systems previously used in application tracking, licensing and permitting. In FFY04/05, we will be looking to integrate data from four separate Groundwater databases. Future phases will address adding Enforcement and Compliance, Complaints, Violations and Inspection data.

We have been awarded a National Environmental Information Exchange Network (NEIEN) Readiness grant in the amount of \$338,944. Thus in FFY03, we will continue cleaning facility/site data in the EIMS in preparation for data exchange with FRS (Federal Registry System) in FFY04/05 once we have established our network node. Participation in the pilot node project during FFY03 is an integral part of the success of our Network Readiness project.

#### **A-2-02. Electronic Data Collection**

Our goal is to capture transactional and reporting data in a digital form as close to the source as possible and automate their transmission, validation and entry into departmental databases. The Department is working with other states to define a general purpose Data Exchange Node to manage electronic data exchange between the Department and its transactional partners including the regulated community and the USEPA.

MDEP received a USEPA Network Readiness Grant to assist in the development of a Maine node in the National Environmental Information Exchange Network (NEIEN). The node will be used as a common Internet portal for electronic data exchange. We plan to implement a pilot version of a node in FFY03 as part of the State/EPA Node 1.0 specification project. Subject to the timing and results of this effort, we plan to implement a production node by FFY05. Work will continue in parallel to define and implement data standards, templates, and agreements for electronic data exchange with USEPA programs and other information exchange partners.

Other projects in the period FFY03-05, include:

- Developing a software package to support the collection of Electronic Discharge Monitoring Reports (eDMR) and operating data from wastewater treatment plants
- Upgrading or replacing the Groundwater Database with a system capable of managing electronic submissions of water test results.
- Expanding the number and functions of the air quality monitoring stations to support Internet reporting of particulates, NO<sub>x</sub> and CO<sub>2</sub> in addition to ozone.
- Implementing a Laboratory Information System (LIMS) to manage air quality test results.
- Converting MDEP systems to utilize the NEIEN network to exchange data with USEPA programs. Initial candidates are to support exchanges with the Facility Registry System (FRS), the wastewater discharge Permit Compliance System (PCS) and the air discharge AIRS/AQS.

### **A-2-03. GIS for Decision Support and Data Access**

Geographic Information System (GIS) technology is central to the efficient and effective conduct of much department work. We plan to continue our efforts to provide necessary tools and training to support the expanding use of GIS in Department programs. Many of our information systems projects, including the purchase and implementation of the new Environmental information System, are directed to assist staff to organize, access and analyze information based on geographic location.

In FFY03–05, we plan to accomplish the following:

- Complete the migration of projects from ArcView to the new ArcGIS technology.
- Continue to collect spatial locations for priority environmental features to enable GIS access including priority sites in the new Environmental Information System.
- Implement a program to capture locations of all new Permit by Rule (PBR) sites.

- Provide central coordination and standards for GIS data collection and data management.
- Use GIS tools to enable spatial access to existing departmental data.
- Continue to build program staff GIS skills by providing consulting and training in GIS tools and analysis techniques.
- Complete and maintain standard metadata describing the scope and accuracy of GIS datasets.

#### **A-2-04. Making Data Widely Available**

We are working to make the Department's data holdings available to staff, interested parties and the public in as transparent a way as possible. Environmental policy and facility compliance can be greatly improved by giving all parties access to timely, accurate and relevant data.

In FFY03, the Department will make significant improvements to the network and desktop-computing infrastructure used by Department staff to conduct their work. The State of Maine Wide Area Network (WAN) will be re-engineered as a switched network with redundant paths to optimize network traffic and improve its reliability and availability. The Department's Computer Services Unit will complete the deployment of replacement desktop computers running the Windows 2000 operating system. In FFY04/05, we will upgrade the Microsoft Office desktop suite.

FFY03 will see the rollout of a new enterprise file and directory structure that will facilitate equitable access to staff from all Department offices.

We plan to continue making a number of reports and information available on the Internet. These include real-time air quality and ozone forecasts, Toxic Use Reduction (TUR) annual reports and Title V air licenses. We will also work with InforME to identify other potential areas to be mined. We will continue to extend the access to central GIS databases to all department office locations and enable staff to share projects.

In FFY04/05, we plan to address storing and managing internal documents as electronic images in order to make the information more widely available to staff and the public and to reduce the space needed for file storage.

#### **A-3. Administrative Support**

Make continuous improvements in the productivity of departmental resources.

**Outcome Measures:** (a) Stable-funding mix for overhead accounts; (b) % of fees collected on time. (c) Regular replacement of IT infrastructure

**Background:** The Department carries out many day-to-day administrative and support tasks that are needed to support critical business functions. This initiative will carry forward the work started under the Productivity Task Force in 1996. There are still several areas where we can streamline business processes and reduce our administrative overhead.

#### **A-3-01. Balance Funding Mix for Overhead Accounts**

Through the early 1990s, the General Fund share of DEP's funding mix declined from 35% to 11-13%. The General Fund currently supports the salaries of 20% of DEP staff. DEP's dedicated and federal fund sources have been inelastic and targeted to specific functions. These non-General Fund revenues cannot continue to bear the cost increases experienced in certain core programs such as information technology, stipends, wage and insurance increases, and other areas without reducing mission capacity. The department is seeking to improve the funding mix by restoring General Fund support. It is also important that Federal funds under the Performance Partnership Grant keep pace with cost increases over time, which are primarily due to increases in salary and benefits.

For policy coordination and support services, the funding mix issue is particularly severe. Only 6 of 47.5 positions (13%) are supported by the General Fund, and only 11% of total administrative operating expenditures are General Fund supported. The remaining costs are covered from indirect costs charged to federal and dedicated program funds, consistent with federal regulations. An increase in General Fund support for administrative costs would help to reduce the indirect costs charged and allow more funds to be spent directly on programs.

#### **A-3-02. Automate Key Administrative Functions**

We are developing a set of electronic billing and collection functions to better manage our fee-based revenue stream. The Department depends heavily on revenues from fees collected by many individual regulatory programs. In the past, each program set up and managed its own systems and procedures for projecting, billing and collecting these fees. The Department is developing a common infrastructure and procedures to support the electronic generation of bills using the State's accounts receivable (RE) system. We are moving payment and collection processing functions to the ACE Service Center and developing an electronic cashbook to streamline payment processing.

The Department of Administration and Finance is now implementing several systems providing improvements in business administration. DEP is actively involved in these systems to get the most benefit. New statewide systems now being implemented include:

- New budget system
- Time and attendance reporting

- Training management system
- Receive credit card payments

### **A-3-03. Maintain and Enhance the IT Support Infrastructure**

Department staff is heavily dependent on the use of information technology to do their daily work. They manage voluminous amounts of data dealing with environmental quality and the emission/discharge of pollutants. They review hundreds of license and permit applications, many of which require management and analysis of data to determine potential impact on the environment. They strive to keep up with the latest science to establish a firm basis for regulations, permit conditions, program planning and enforcement decisions. These demands require the Department to make continuous improvements to the technology and techniques we employ.

We are working to maintain firm funding for the regular upgrade and replacement of IT systems and equipment. This includes funding for the annual costs of WAN and enterprise IT charges and the regular replacement of desktop, network and server hardware and software. We are also working to improve the value per unit cost of IT development and support services.

### **A-4. Environmental Stewardship**

By the October 1, 2003, the Department will have participated in new public opinion research to help establish a baseline for measuring reported levels of involvement in stewardship and sustainable activity. The Department will repeat the same survey, using the same questions, prior to October 1, 2004, to evaluate the validity of the first results. If the baseline appears valid, the Department will use it to measure the impact of the Department's education and outreach initiatives on reported awareness and behavior.

**Outcome measures:** (a) percentage of Maine residents reporting participation in environmentally sustainable activity; (b) reported levels of awareness of the potential for individual behavior to contribute positively to Maine's environment; (c) reported levels of understanding of the concept of environmental stewardship.

**Background:** As pointed out in the Introduction to this plan, the nature of environmental protection in Maine is changing. Increasingly, efforts must be aimed less at large, discrete polluters like paper mills, factories, landfills, and other stationary sources, and more toward decentralized, diverse and diffuse individual sources like automobiles, residential septic systems and fertilized front yards – more than previously understood, environmental protection must begin at home.

In recognition of this, the Department's ultimate goal is a Maine in which natural resources are protected because they are never under threat – where public responsibility for the protection of the state's resources is sufficiently widespread that environmental regulations are widely supported and willingly met. By stating the outcome in terms of "environmental stewardship" we attempt to capture this sense of



willing public concern and shared responsibility. Its measure is apparent in the percentage of Mainers who report participation in some form of voluntary environmental activity. We hypothesize a relationship between these self-reported actions and the level of public understanding and support for environmental protection.

#### **A-4-01. Smart Production Initiative and Environmental Excellence**

Smart Production, an initiative that began in 2000, is the leadership-driven integration of business objectives and environmental objectives into an operation's essential purpose. It looks at the production process as an integrated system, seeking, at the same time, both business and environmental innovations to gain competitive advantage. Environmental objectives are not an "add on" to the business purpose, but rather an essential part of it.

The Department, by working with the Smart Production Advisory Committee (which is comprised of 22 people from Maine government, business, and environmental communities and representatives from Region I EPA) created a vision of what constitutes Smart Production. The concepts of Smart Production are explained in a 30-page guide--Smart Production and the Maine STEP-UP Program--that the Department developed in 2001. The Department launched a new program during 2002 called STEP-UP (Smart Tracks for Exceptional Performers and Upward Performers) to provide a vehicle for the practical demonstration of Smart Production Concepts. STEP-UP asks businesses to make voluntary beyond compliance commits to goals toward sustainability. These goals are in the areas of reducing energy use, CO<sub>2</sub> emissions, toxic chemicals, waste, and other emissions. STEP-UP companies are required to set stretch goals in these areas, measure their progress toward these goals and publicly report on that progress. The Department will provide technical assistance, recognition and opportunities for networking, among other benefits. More information is available regarding Smart Production and the Maine STEP-UP program on the Department's website:  
<http://www.state.me.us/dep/smrtprod.htm>

##### **A-4-01-a. STEP-UP Program**

In July 2002, the Governor of Maine signed STEP-UP agreements with four companies, thereby launching this new program. The Department is currently in discussion with several more businesses interested in joining the program and expects to admit more companies by the end of 2002.

In striving to improve their environmental performance, STEP-UP companies will have a more collaborative working relationship with the Department. Companies have expressed a desire to work closely with the Department with regard to licensing, compliance and other issues. Further, one STEP-UP company asked that the Department to work with EPA to make EPA compliance inspections for its company a low priority. The Department would

like to explore with EPA extending benefits that EPA provides to Performance Track companies to Maine STEP-UP companies, where appropriate.

**A-4-01-b. Environmental Management Systems/Performance Track**

Provide DEP support to review proposals, audits, and reports generated as a result of existing and future Environmental Management System pilots and Performance Track projects. Provide DEP review of innovative environmental proposals generated by Maine facilities.

**A-4-01-c. Awards**

In 2001, the Department recognized Smart Production initiatives undertaken by Maine businesses, individuals and communities as a new category eligible for recognition under the Governor's Annual Environmental Excellence Awards program. The Department continued to offer this category for recognition during the 2002 awards program.

**A-4-02. Volunteer Monitoring Programs**

Following the model of the successful volunteer monitoring efforts on Casco Bay and on Maine lakes, continue and expand volunteer monitoring programs to other watersheds, other geographic areas and other media (air, land use).

**A-4-03. Education and Outreach**

The Department maintains an Education and Outreach ("E&O") unit within the Office of the Commissioner. The E&O unit works with all bureaus to offer education and outreach as a means of helping the public understand, support, and comply with environmental laws, and to teach responsible environmental stewardship. This cooperative system has all Department staff delivering education and outreach on a daily basis and is the cornerstone for minimizing adverse environmental impacts and preventing environmental violations. These efforts range from holding seminars that provide wide segments of the population with general information to targeting particular facilities, locations, ecosystems, business sectors, and individuals. We will provide a comprehensive program of public education, consisting of materials, educational events and involvement opportunities, and timely environmental information on the Department's website to educate Maine citizens about the state's environmental issues, the implications of those issues, and the steps they can take to address the issues of concern to them.

**A-4-03-a. Identify Priority Issues**

Identify environmental issues and prioritize them so that resources can be focus on providing relevant public information.

**A-4-03-b. Comprehensive Education Program**

Coordinate educational activities to develop a comprehensive program of public education.

**A-4-03-c. Multiple Tools**

Utilize agency-organized educational events, informational exhibits and materials developed by Department and through collaboration with other entities, and staff participation in statewide outreach opportunities. Develop these tools using the principles of “social marketing” to facilitate behavior change.

**A-4-04. Citizen Involvement**

Conduct a statistically valid survey of the general public to assess the involvement of Maine residents in environmental organizations, programs or activities.

**A-5. Pollution Prevention**

By the year 2006, the State will achieve a 60% reduction in the use of Extremely Hazardous Substances, a 60% reduction in Hazardous Waste generation and a 60% reduction in TRI releases.<sup>1</sup>

**Outcome Measures:** TUR program database

**Background:** The Department maintains an Innovation and Technical Assistance (“I&TA”) unit within the Office of the Commissioner. The I &TA unit works with the department bureaus to target technical assistance to help solve environmental problems at a particular location. Technical assistance can take the form of process consultation and advice in manufacturing or commercial operations aimed at reducing adverse environmental impacts through pollution prevention. It may be done informally as part of an inspection or telephone call, or more formally through one of the I&TA's technical assistance programs and designated technical assistance staff in the bureaus.

**A-5-01. Compliance Assistance and Pollution Prevention**

Implement a range of programs that encourage voluntary compliance with environmental regulations, provide incentives to exceed minimum requirements, and/or encourage non-regulated activities that result in environmental benefit.

**A-5-01-a. Small Business Assistance Program**

Provide focused compliance and pollution prevention assistance to Maine small businesses that use extremely hazardous substances, generate hazardous waste, and/or release TRI chemicals. Businesses include solvent users, surface coaters, wood products manufacturers, metal platers, dry cleaners, printers, hospitals, composites, public facilities and businesses subject to state and federal regulations. Assistance may be provided through printed information, seminars or on site visits.

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<sup>1</sup>Based on the 1990 use of Extremely Hazardous Substances, the average of 1987/1989 hazardous waste generation and the average of 1990/1991 toxic releases in Maine.

**A-5-01-b. On-Site Assistance Program**

Provide on site compliance and pollution prevention assessments to any business or regulated entity that requests regulatory or P2 assistance. Specifically, target those businesses in the boat building and repair, composites, auto salvage, and metals and wood products industry, and sectors with documented compliance problems.

**A-5-01-c. Partnering**

Partner with business sector, environmental groups, and other stakeholders to create and administer the programs for regulated facilities.

**A-5-01-d. Awards.** Recognize outstanding pollution prevention projects completed by Maine businesses, individuals and non-profit organizations through the Annual Governor's Environmental Excellence Awards Program.

**A-5-02. Smart Production and Consumption**

Companies are increasingly redesigning their operations to integrate production and environmental control systems that eliminate waste streams to the environment. Producing “smartly” means not solving one problem for a media only to create another problem somewhere else. We need to create integrated environmental solutions to producing products and providing services. The financial advantages of good environmental stewardship are becoming increasingly clear. An area of opportunity for Department is to take a systemic approach, rather than pollutant by pollutant or purely regulatory approach to tackle priority activities.

**A-5-02-a. Zero Discharge**

The Department formed an in-house committee to explore the concept of “going to zero discharge” and discussed this goal with members of Maine’s environmental and business communities. Zero discharge is viewed as a goal toward which incremental steps can and should be taken. In the early 1990s, the Department invested a significant amount of its wastewater treatment expertise assisting industries in reducing pollutant loads to our waters. The results were dramatic, and most industries routinely operate well below compliance limits. The Department will develop a multidisciplinary team to provide the same top caliber technical and regulatory assistance to anyone who wishes to go to zero discharge.

**A-5-02-b. Hospitals**

Maine’s hospital industry wants to act responsibly in dealing with its wastes, but needs assistance. Since medical waste streams have the potential to generate many dangerous substances, including persistent bioaccumulative toxins, it is a logical sector to target. The Department will continue to develop a multidisciplinary partnership with the hospital community to foster leadership in the industry.

**A-5-02-c. Composites**

From laminated wood to fiberglass to graphite, composites are a growing field. Lighter and stronger with each new generation, they present opportunities like recycling materials and the development of non-toxic matrices. Like the zero discharge initiative noted above, this is an area where the Department can serve as a source of information and expertise to help develop new, cleaner composite technologies. By becoming a resource, we hope to engage the public and the industry in a discussion about what “clean production” means for this sector and how best to achieve that goal. The Department is developing a team dedicated to understanding the needs and technology around composites and a targeted assistance program.

**A-5-02-d. Mercury.** This persistent bioaccumulative toxin has generated significant interest nationally and in the State of Maine, in part as a result of fish consumption advisories applying to certain species in all freshwater bodies of the State. Maine has two reports detailing what we know about the sources of mercury: *A Status Report (February 2002)* and mercury in our wastewater (*Mercury in Wastewater: Discharges to the Waters of the State, 1999*). In addition, there has been legislation dealing with mercury products, national efforts to reduce mercury emissions from power plants and enactment of universal waste rules to encourage recycling of mercury wastes. The Department has a team dedicated to developing and implementing a comprehensive, interdisciplinary approach to mercury reduction and elimination that reaches individuals, businesses and industries. This effort will be used to pilot an approach that we may be able to use with other persistent bioaccumulative toxins.

**A-5-02-e. EPA Environmental Leadership Projects**

Provide Department support to perform on site assessments and to review proposals, audits and reports generated as a result of existing and future EPA regional and national initiatives such as *Performance Track, XL (Regulatory Flexibility Program)*, and *NEEATeam Initiatives*.

**A-5-03. Toxics Policy**

Implement the State's toxics reduction program.

**A-5-03-a. Program Implementation**

Major components of the implementation plan include development of a web-based toxics information system that will allow the public to access toxics data by company, location, chemical, and industry sector in graphic, numerical, and map-based formats; and the utilization of an EPA model to evaluate the relative importance of each toxic chemical.

**A-5-03-b. Use of Toxic Use Reduction Information**

The results of our TUR effort are one of our proudest achievements. The data demonstrates a 22% reduction in extremely hazardous toxic materials used, a 38% reduction in hazardous waste generated, and a 53% reduction in toxics released, all since 1990. The TUR law sharpens our ability to

effectively use the information that is created. Internet availability of toxics information will allow the public to more actively engage in the process of toxics reduction. We will now be able to sort data on different types and volumes of toxics and facilities. It gives us a tremendous tool to focus our education, assistance and compliance efforts to get the biggest bang for the buck. New data will be available in 2003.

#### **A-5-04. Pollution Prevention and Environmental Management System Education**

Provide pollution prevention and environmental management system education to DEP staff, the regulated community and the public through initiatives emanating from the Office of Innovation and Technical Assistance and through coordination with the other strategies in the PPA that explicitly include an educational component.

Environmental Management Systems represent a relatively new and promising tool for applying a business systems approach to environmental protection. Whether the internationally recognized ISO 14001 standard or another is applied, Maine companies will likely be better environmental performers and will be able to increase marketing opportunities particularly in European markets. DEP will promote the uses of EMSs within multi-bureau programs, with staff training and within regulatory flexibility projects, and within STEP-UP agreements.

#### **A-6. Quality Improvement**

By 2005, Maine DEP will have fully institutionalized a complete range of quality assurance / quality improvement activities, procedures, and systems that meet or exceed applicable Federal standards and, where appropriate, will have met the certification standards of an external quality benchmark.

**Outcome Measures:** (a) Successful completion of one or more EPA-NE audits of Maine DEP's QMP; (b) continuing implementation of QMP second-level documentation, including review and approval of QAPPs; (c) ISO 9000 (year 2000 standard) or similar certification in one or more program areas; (d) successful re-approval of the QMP (2006).

**Background:** In order to ensure that customer service, policy-making and decision-making, resource utilization, and fundamental work processes are continuously improving, the Department committed itself to QM System development and implementation at the beginning of FFY01. The Department has worked closely with the EPA-NE Quality unit to meet current requirements for quality documentation and increase DEP's competency in quality management.

##### **A-6-01. Quality Management Plan (QMP)**

Maine DEP will abide by the terms of the January 2002, "Memorandum of Agreement" with EPA-NE which specifies the mutual responsibilities and expectations between the parties for Quality Management. Implementation of

the Information Quality Guidelines may have an impact on the states. EPA and Maine DEP may discuss the timing for implementation of the quality guidelines, as well as possible mutually acceptable shifts in commitments made for FFY03-05 by federally funded programs. DEP will keep EPA informed of any needed deviations as the period of this agreement progresses.

**A-6-02. Continuous Quality Improvement**

Utilize the internal auditing regimen specified in the QMP, and external EPA-NE audits, to identify and take advantage of opportunities for continuous quality improvement.

**A-6-03. External Audit and Certification**

Identify program areas for which ISO 9000 or similar certification would be an appropriate improvement approach. Commit resources necessary to planning for, and achieving, certification.

**A-7. Clean Government Initiative (CGI)**

By the year 2005, and in concert with the Department of Administrative and Financial Services, ensure that the State has conducted compliance audits at 50% of State-owned facilities.

**Outcome Measures:** (a) number of facility audits conducted and (b) number of commodities included in the green purchasing program.

**Background:** The CLEAN GOVERNMENT Initiative program is derived from legislation passed in 2001 to bring all state facilities into compliance with state and federal environmental laws. This statutory requirement was amended in 2002 to include state-funded institutions of higher learning in the CGI. Several factors prompted it, not the least of which is that the State should hold itself to the same standard as, or to a higher standard than, is applied to those which it regulates. Additionally, the federal government is increasing its scrutiny of segments of state facilities, frequently assessing large monetary penalties against them and requiring accelerated corrective action. Maine believes that a proactive approach is warranted, is cost effective, and demonstrates environmental leadership. In order to accomplish this work, a steering committee has been formed and a charter for the program has been developed.

**A-7-01. Consultant Services**

Continue support for consultant services to provide an array of technical expertise to the CGI.

**A-7-02. Financial/Technical Support**

Partner with EPA to obtain financial and/or technical support for the CGI in Maine.

**A-7-03. Facility and Management System Audits**

Ensure through appropriate incentives that state agencies commit to facility environmental audits.

**A-7-04. Green Purchasing Program**

With the Department of Administrative and Financial Services, develop a green purchasing program targeting specific commodities.

**A-8. Regulatory Compliance**

To establish continually improving trends in regulatory compliance rates.

**Outcome Measures:** (a) Measured compliance rates of air pollution sources required to operate continuous emission monitoring systems and (b) Measured compliance rates of publicly owned treatment works.

**Background:** Non-compliance with regulatory requirements, such as licensed pollutant release limits, performance standards, reporting obligations or record keeping, undermines the integrity of Maine's environmental protection system and often results in increased pollutant releases that adversely affect human health and the environment. At a minimum, Maine citizens expect DEP to inspire environmental protection and enhancement, promote innovation, provide exceptional customer service, and rely on strong science and state-of-the-art technology that achieves compliance solutions. An effective compliance program promotes compliance, prevents violations, and pursues timely, consistent and equitable resolutions to non-compliance and applies a multi-program approach to non-compliance to holistically solve problems.

DEP uses a variety of options to encourage regulated entities to achieve compliance. These options are used to avoid as well as resolve compliance problems. In each particular circumstance, the DEP evaluates the facts and exercises its discretion to determine which option or combination of options are appropriate to achieve compliance with environmental requirements. The result is a consistent and predictable compliance approach that retains enough flexibility to deal with the unique facts of a particular case or sector.

**A-8-01. Education and Outreach**

All DEP compliance staff deliver education and outreach on a daily basis as the cornerstone for minimizing adverse environmental impacts and preventing environmental violations. The E&O unit is used to educate the public about new regulatory requirements and assemble materials to address commonly observed violations. Each program specific compliance plan includes education and outreach activities aimed at achieving compliance.

**A-8-02. Technical and Regulatory Assistance**

Technical consultation and advice on manufacturing or commercial operations that reduces adverse environmental impacts through pollution prevention is the DEP's preferred compliance option because it can use pollution elimination as the method of achieving compliance. It may be done informally as part of an



inspection or telephone call, or more formally through one of the I&TA's technical assistance programs. Regulatory assistance, i.e. helping entities to understand regulatory requirements, is also a primary focus of the DEP and available as part of our daily activities. In the event of a violation, technical and regulatory assistance may be provided by bureau or I&TA staff to most efficiently remediate and correct the violations at issue. Each program specific compliance plan details technical and regulatory assistance activities aimed at gaining and maintaining compliance.

#### **A-8-03. Compliance Evaluations**

The core activity in all DEP regulatory programs is evaluating compliance with licensed pollutant release limits, performance standards, reporting obligations, and record keeping requirements. These evaluations are performed as on-site inspections at regulated facilities or are based on the review of data submitted to DEP by regulated entities. Each program specific compliance plan details compliance evaluation activities. A core responsibility that resides in the Office of the Commissioner is coordinating multi-program compliance evaluations.

#### **A-8-04. Enforcement**

A variety of enforcement tools exist to resolve non-compliance, including written notifications that include compliance schedules, and pursuing written legally binding resolutions where corrective action and/or penalties are appropriate. The DEP selects an appropriate course of action for enforcing Maine's environmental requirements based upon the facts of a case and the *Considerations for Determining Appropriate Responses* contained in our Compliance Policy (effective June 1, 1997). As a result, the DEP may use any one enforcement option, or a diverse combination of compliance options, as each is appropriate to address a non-compliance situation. Where written binding resolution is necessary in a civil case, the DEP will ensure that it: remedies environmental damage; restores natural resources to appropriate conditions; and, imposes penalties that are consistent with assessment policies, capturing any economic benefit gained by a violator and deterring similar actions in the future. The cross-program responsibilities for case review, multi-media action coordination, and review of all proposed resolutions are performed by the DEP Enforcement Director. Each program specific compliance plan details its strategy for addressing situations where enforcement is necessary.

#### **A-8-05. Significant Non-compliance**

In accord with the U.S. EPA's national enforcement policies, DEP programs funded to enforce the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act must identify and address significant non-compliers. To this end, the DEP commits to: (1) undertake targeting strategies and inspection protocols designed to identify significant non-compliance; (2) identify detected significant non-compliers in national enforcement databases; (3) communicate and coordinate with EPA on enforcement actions undertaken in response to significant non-compliance, and (4) address these identified facilities

when DEP efforts as lead enforcer are appropriate with enforcement responses sufficient to ensure compliance and recovery of penalties. Each program specific compliance plan details its strategy for addressing situations where significant non-compliance exists.

## B. AIR QUALITY

**GOAL: To ensure and enhance clean air for people, plants and animals, so that all can breathe and thrive in clean air every day of the year, in every part of the State.**

### OVERALL PERFORMANCE BUDGET OBJECTIVE:

By 2007, improve air quality so that all Mainers can breathe clean air every day of the year.

### ISSUE STATEMENT:

Although "clean air" is one of the commodities that attracts people to the State of Maine, the State in fact has some significant air quality problems. In the past, the state exceeded acceptable levels for particulates, sulfur dioxide, carbon monoxide and ground-level ozone, but the Department's subsequent control strategies were successful in achieving attainment for all of the pollutants except ground-level ozone in the southern portion of the State. Future efforts will focus on: 1) achieving attainment of the eight-hour ground-level ozone standard by 2007; 2) improving visibility through reductions in regional haze; 3) maintaining all other existing air quality standards; and 4) achieving reductions of 212 hazardous air pollutants, including mercury, for which no standards currently exist. The Department will also continue to expand its knowledge on air pollution source contribution with their corresponding impact on Maine's air quality. These sources include *transported air pollution* from other states; *in-state area sources*, such as vehicles, painting and surface coating operations; and *in-state stationary sources*, such as mills or factories. The variety of sources, limited knowledge and other complex air quality issues have resulted in the need to improve customer understanding through increased public outreach and education, pollution prevention and compliance assistance.

### FUNDING SOURCES:

The following financial information is provided as an indication of the scope of the program. In State Fiscal Year 2002, expenditures of \$4,539,780 to support this goal came primarily from the following sources:

State General Fund	\$1,161,388	(25.58%)
Highway Funds	\$39,111	(0.86%)
Federal Funds	\$1,455,340	(32.05%)
Dedicated Funds	\$1,883,941	(41.5%)

### RECENT PERFORMANCE:

During FFY02, the Department continued to make progress in its efforts toward providing clean air to all its citizens. Maine, as a result of its efforts over the last twenty years, has attained and maintained the National Ambient Air Quality Standard (NAAQS) for all criteria pollutants except the ozone standard.

Amendments to Chapter 127 New Motor Vehicle Emission standards became effective on December 22, 2001. The rule amendments applied to heavy-duty diesel engines produced for the 2005 and 2006 model years, and to new motor vehicles greater than 14000 pounds gross vehicular weight containing such engines. The purpose of this rule to adopt California's Not-To Exceed (often referred to as the NTE Rule) and Euro III European Stationary Cycle emission test procedures for on-road heavy-duty diesel engines was to ensure compliance with the more stringent emission standards required in 2004. U.S. EPA adopted the lower NO<sub>x</sub> emission standard for HDDE in 1997 effective for model year 2004. These standards are approximately 50 percent cleaner than currently available engines, cutting NO<sub>x</sub> emissions in half.

On June 10, 2002, EPA, the Department, and the Maine Marine Trade Association (MMTA) signed a Memorandum of Understanding promoting the sales of low pollution outboard and personal watercraft engines. Participating marine retailers signed a commitment letter to promote the sales of low emission engines and report annual sales to MMTA. The overall goal of this regional initiative is to accelerate the attainment of the 2006 marine engine emission standards by achieving 95% sales of low pollution engines by 2004. Our emission inventory reflects that marine recreational engines account for 35% of non-road VOC emissions, and 10% of all total VOC emissions. This program is modeled after a similar effort in New Hampshire that has expedited the introduction of cleaner four-stroke and fuel-injected two-stroke outboard engines.

During 2002, EPA New England and the Asthma Regional Council assisted Maine and the other New England States in establishing anti-idling guidelines for school districts and evaluating alternative fuels and retrofits. In late May, the Department of Environmental Protection and the Department of Education sent a joint letter advising of the adverse health effects posed from exposure to school bus exhaust emissions to 169 superintendents covering 285 Maine school districts. In addition to all school districts, the letter was sent to the state Board of Education, Maine School Management Association, Maine Municipal Association and approximately 90 private schools. The Department of Environmental Protection and the Department of Education will advise and assist the school districts in establishing and implementing guidelines for anti-idling of vehicles at Maine schools as well as other measures that limit exposure. In July, the Department and the Asthma Regional Council will held a round table discussion and provide information promoting anti-idling guidelines at the annual conference of the Maine Pupil Transport Association

In 2002, Maine reached the New England Governors/Eastern Canadian Premiers (NEGC/ECP) goal of a 50% decrease in mercury emissions by 2003. These significant reductions were primarily due to the implementation of rules resulting in a 94% reduction in mercury emissions from municipal waste combustors. In addition, there were significant reductions in mercury emissions to the air when HoltraChem, Maine's chlor-alkali plant, shut down in September 2000. DEP will continue to collect and analyze mercury deposition data, to gain a better understanding of the environmental impacts of mercury deposition and to assess the impact of waste combustor controls.

During 2002, the Department also began licensing activities for the Wyman Station power plant in Yarmouth, Maine. Wyman Station is an 850-megawatt electric generating facility that is subject to the Department's Chapter 145 NOx Control Program regulation. Chapter 145 requires affected sources to install selective non-catalytic reduction or a control technology achieving equivalent NOx reductions on each unit by May 1, 2003. Chapter 145 maximizes the environmental benefits that can be achieved through the use of selective non-catalytic reduction or other cost-effective controls. Florida Light and Power Energy, the owners of this facility, have indicated that they intent to pursue an alternative control technology utilizing combustion modifications to meet the final limits of Chapter 145. Information from the owner's consultant predicts that these modifications will provide NOx emission rates lower than those provided by selective non-catalytic reduction systems and without the attendant ammonia emissions. These combustion changes are also expected to increase generation efficiency.

Seven Maine counties (York, Cumberland, Sagadahoc, Kennebec, Knox, Lincoln and Androscoggin) were originally classified as moderate nonattainment areas under the 1990 Clean Air Act Amendments. Based on 1999 through 2001 data, these counties were all meeting the one-hour ozone National Ambient Air Quality Standard (NAAQS) for ozone. The Department began developing a redesignation request for the Portland nonattainment area early in 2001, and on August 1, 2002 held a public hearing on this State Implementation Plan amendment. Maine expects to submit its final redesignation request to EPA in early September, 2002. The Department will also be preparing and submitting redesignation requests for Planning Area 2 (Androscoggin and Kennebec Counties) and Planning Area 3 (Knox and Lincoln Counties) during FFY03-05.

#### **PUBLIC PARTICIPATION:**

The Department recognizes the need to increase public participation in the development and operation of our air quality programs. Our ability to rally public, industrial, and legislative support for both our overall air program goals and individual program actions is critical to our success. Programs that must be implemented to achieve attainment with the new ozone, particulate matter and visibility standards will be stressful to many sectors of our economy. Public understanding of the need for these programs will be necessary to achieve their acceptance.

We have already initiated efforts to provide increased public participation. The Regional Ozone Committee stakeholders group, which is composed of citizens groups, environmental organizations, legislators and the regulated community, convenes on a regular basis to advise the Department on air program policy issues and decisions. The Committee has provided valuable input on a variety of issues by serving as a "sounding board" for our planning efforts.

The Department works closely with other stakeholders. The Maine Board of Environmental Protection, our citizen oversight board, has played an increasingly important role in the development of our programs, and is able to provide a unique

perspective on a variety of issues. Informally, we have cultivated positive working relationships with representatives of diverse groups and interests ranging from industrial trade organizations to environmental groups. At the same time, we are seeking to substantially increase the general public's participation in our program development activities. Expanding our education and outreach efforts to provide greater public access to technical materials will facilitate greater public involvement in the development of our programs, and ultimately foster increased public support for our work.

**TIME FRAME:**

Most of the strategies and activities listed in this plan are multi-year or continuing tasks. Items scheduled to be completed in FFY03 are noted.

**MEASURABLE OBJECTIVES:**

**B-1. Ground-level Ozone**

By 2007, ground-level ozone will be reduced to the level needed to meet or maintain a concentration of 0.08 parts per million within the entire State of Maine.

**Outcome Measures:** average 4<sup>th</sup> highest ozone concentration in parts per million at each ambient ozone monitoring station.

**Background:** Ground-level ozone is formed through a chemical reaction in the presence of sunlight between volatile organic compounds and nitrogen oxide, which are known as ozone precursors. Ozone precursors are emitted from a number of sources, especially those involving combustion processes, such as utilities, manufacturing companies with boilers, and motor vehicles. Ozone levels are measured at eleven monitoring sites located in eleven of Maine's sixteen counties. Under the 1990 Clean Air Act Amendments, the State of Maine had nine counties classified as having unacceptable levels of ozone in the air.

Seven of these counties (York, Cumberland, Sagadahoc, Kennebec, Knox, Lincoln and Androscoggin) were classified as moderately unhealthy areas, while Hancock and Waldo counties were classified as marginally unhealthy areas. Since that time, Hancock and Waldo counties have been redesignated to "attainment" of the one-hour ozone National Ambient Air Quality Standard (NAAQS), and Kennebec, Knox, Lincoln and Androscoggin counties have been meeting the one-hour ozone standard since 1993. In 1999, EPA revoked the one-hour ozone standard for all areas which were meeting the one-hour standard in an effort to facilitate the transition to the eight hour standard; the one-hour standard was revoked on a statewide basis in 1999. Due to a decision by the U.S. Court of Appeals for the District of Columbia, EPA has now reinstated the one-hour ozone NAAQS

After an extensive research and scientific review process, EPA issued a new more health protective standard for ozone on July 15, 1997. The new eight-hour ozone standard of 0.08 parts per million is based on the average of the 4<sup>th</sup> highest eight-

hour averages over a three year period, and better measures total ozone exposure. EPA anticipates completing the eight-hour ozone standard designation process by the end of 2004.

The ground-level ozone objective and the 2007 target for the eight-hour ozone standard are based on the implementation of Maine's state regulations for air quality controls, and additional controls for Maine's up-wind neighbors, which are in nonattainment of the federal ozone standard, and impact Maine.

Determining success in achieving the objective is based on ground-level ozone monitoring data, the compilation of data on emissions from sources of volatile organic compounds and nitrogen oxides, and modeling results. The state network of ozone monitors and the database on emissions from sources of volatile organic compounds and nitrogen oxides provide historic and current information on ozone levels in the state. A non-controllable variable that affects the success in achieving this objective is the weather. Weather conditions such as high temperatures increase the amount of ozone formed, which leads to more exceedances and unacceptable levels of ozone.

#### **B-1-01. Non-regulatory Programs**

Develop and implement a public education, pollution prevention and innovative-technology assistance program that targets ground-level ozone and the control of its precursors, nitrogen oxides and volatile organic compounds, in order to meet or maintain a concentration of 0.08 parts per million within the entire State of Maine.

- Partner with business sector, environmental groups, and other stakeholders to create and administer voluntary programs for oil wholesalers/jobbers and gasoline dispensing facilities such as the "Environmental Leaders" program.
- Expand education and outreach efforts to provide greater public access to technical materials including monitoring data, emissions inventory data and air emissions licenses.
- Continue to support regional ozone and PM<sub>2.5</sub> forecasting and outreach efforts by sending hourly ozone and PM<sub>2.5</sub> data and daily forecasted Air Quality Index information to EPA.

#### **B-1-02. Monitoring and Database Development**

Continue to monitor outdoor air for ground-level ozone and its precursors, nitrogen oxides and volatile organic compounds, through a statewide network of air quality monitors. Also continue to maintain the database on the nitrogen oxides and volatile organic compounds that are released from new and existing area, point and mobile sources. Priorities include: continue development of a comprehensive statewide area source emissions inventory; continue operation of an approved NAMS/SLAMS/PAMS air monitoring network with a minimum of

75% data capture and submission of air quality, precision, and accuracy data to AIRS within 90 days of the end of each quarter; purchase monitor equipment replacements and update the equipment inventory/assessment as part of the 5 year monitor replacement program; continue assessment activities with NAMS/SLAMS/PAMS/SPM data; preparing for the first multi-pollutant periodic inventory required under the Consolidated Emission Reporting Rule; the development of an ammonia inventory for use in regional haze modeling efforts; provide an annual monitoring review detailing any proposed changes; revise the criteria pollutant QAPP to meet current requirements in QAR5 and update the PAMS QAPP, as necessary.

### **B-1-03. Regional Activities**

Identify and implement appropriate regionally-consistent strategies to reduce ground-level ozone and its precursors, nitrogen oxides and volatile organic compounds, transported from out of state, in order to meet a concentration of 0.08 parts per million within the entire State of Maine. Strategies will include collaborative efforts with federal, state and other governmental agencies, particularly the Ozone Transport Commission and the Northeast States for Coordinated Air Use Management (NESCUM). Special priority will be given to the development of a regional fuel providing equivalent or greater emission reductions than reformulated gasoline.

### **B-1-04. In-state Reductions**

Reduce through regulatory programs, market-based strategies, and voluntary measures the amount of nitrogen oxides and volatile organic compounds that are released from new and existing area, point and mobile sources, necessary to meet or maintain a concentration of 0.08 parts per million for ozone within the entire State of Maine.

- Special emphasis will be placed on control programs and/or strategies providing multi-pollutant and multi-media benefits. Examples of these programs include additional nitrogen oxides controls and fuel sulfur limits on stationary diesel engines which provide ozone, PM, regional haze and acid deposition benefits, and new requirements on portable fuel containers that reduce ozone forming VOCs, exposure to air toxics and protect groundwater from gasoline contamination.
- Priorities include EPA development of online access to the approved State Implementation Plan: submitting the Governor's recommendations for 8-hour ozone non-attainment areas; promulgation and implementation of regionally-consistent regulations for portable gasoline fuel containers, mobile equipment repair and refinishing, consumer products, and solvent cleaning; development and implementation of diesel emission reduction efforts including an anti-idling education and outreach program, a no-idling policy for school buses, targeted on-road diesel testing efforts in urban areas, testing diesel school buses and diesel retrofit programs; submission of outstanding VOC RACT determinations for the following facilities: GP Chip n' Saw, Mearl Corporation, Irving Tanning, and Great Northern



Paper's two facilities; submission of an OBD2 SIP revision which includes computerized data collection as required by Maine Statute LD-2223 entitled "An Act to reduce Air Pollution from motor Vehicles and to Meet Requirements of the Federal Clean Act;" and continued implementation of the Clean Marine Initiative .

## **B-2. Outdoor Air Quality Standards**

Mainers will continue to benefit from clean air, as Maine's air quality will remain in compliance with certain outdoor air quality standards. By the end of each calendar year, no more than one exceedance of Maine's existing outdoor air quality standards for lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulate matter, toluene, and perchloroethylene will have occurred<sup>2</sup>.

**Outcome Measures:** Number of exceedances in the outdoor air quality standards for lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulate matter, toluene, and perchloroethylene, as documented by ambient air quality monitoring.

**Background:** Maine currently meets the standards for all of the pollutants listed in this objective (for the specific levels of each pollutant, please see the Technical Note on Air Quality appended to this Plan). In the past, however, air quality in parts of the state exceeded the standards for particulates, sulfur dioxide, and carbon monoxide (more detail about the sources of these pollutants, and the number of recent exceedances, is also included in the Technical Note on Air Quality.) This objective is derived from the federal Clean Air Act requirements and state law. The intent of this objective is to continue meeting each of the standards at the end of each calendar year.

Control strategies developed by the Department have enabled these standards, and the standards for the other pollutants, to be met or maintained. As a result of these measures, Maine sources (large and small) now comply with many new control requirements, and we expect the total tonnage of stationary source nitrogen and sulfur oxides emissions to continue to decline from the 1998 baseline of 70,450 tons.

Maintenance of strategies to continue meeting the standards is essential to the continued protection of public health and the environment, as well as necessary to achieve the objective. Determining success in achieving the objective will be based on the ambient monitoring database for the appropriate year and by applying a methodology for determining exceedance contained in state law (Title 38, Chapter 4 of the Maine Revised Statutes Annotated). The outcome of this objective generally depends on the ability to control out-of-state sources of air pollutants.

The Department will also be focusing its efforts on addressing fine particulate and regional haze pollution. Although it now appears that Maine will be meeting the new federal PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS), we clearly have a

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<sup>2</sup>See the Technical Note on Air Quality in Appendix B for further information regarding the specific standards that apply to each of these pollutants.

significant regional haze problem. Since fine particulate pollution, especially sulfates and nitrates, is the principal cause of regional haze and visibility degradation, continued development of emissions inventories and air quality monitoring networks will play a vital role in helping to pinpoint both the sources and most appropriate remedies for these air quality problems. Maine is participating in the northeast regional haze Regional Planning Organization effort, and will be working with other northeastern and mid-Atlantic states to develop a regionally consistent and effective plan to reduce visibility degradation in our Class I areas.

**B-2-01. Non-regulatory Programs**

Develop and implement a public education, pollution prevention and innovative technology assistance program that targets lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulates, toluene, and perchloroethylene emissions, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine. Expand education and outreach efforts to provide greater public access to technical materials including monitoring data, emissions inventory data and air emissions licenses.

**B-2-02. Monitoring and Database Development**

Continue to monitor outdoor air for lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulates, toluene, and perchloroethylene through a statewide network of air quality monitors, and continue to maintain the database on these pollutants that are released from new and existing area, point and mobile sources. Provide daily reporting of PM fine data to EPA. Priorities include: continue operating an approved NAMS/SLAMS/PAMS air monitoring network with a minimum of 75% data capture and submission of air quality, precision and accuracy data to AIRS within 90 days of the end of each quarter; purchase monitor equipment replacements and update the equipment inventory/assessment as part of the five year monitor replacement program; continue assessment activities with NAMS/SLAMS/PAMS/SPM data; provide an annual monitoring review detailing any proposed changes; revise the criteria pollutant QAPP to meet current requirements in QAR5 and update the PAMS QAPP, as necessary; continue operation of a PM2.5 monitoring network including continuous and speciation samplers; updating the PM2.5 QAPP as necessary; actively participate in the regional assessment of monitoring networks and work with EPA on implementation recommendations and continue PM2.5 data assessment activities.

**B-2-03. Regional Activities**

Identify and implement regionally consistent strategies to reduce emissions of lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulates, toluene, and perchloroethylene transported from out of state, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine. Strategies will include collaborative efforts with federal, state, tribal and other

inter-governmental agencies and groups such as the northeast regional haze Regional Planning Organization.

#### **B-2-04. In-state Reductions**

Reduce through regulatory programs, market-based strategies, and voluntary measures, the amount of lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, fine particulate matter, toluene, and perchloroethylene emissions that are released from new and existing area, point and mobile sources, in order to meet or maintain the state air quality standard for each pollutant within the entire State of Maine. Special emphasis will be placed on control programs and/or strategies providing multi-pollutant and multi-media benefits. Programs that simultaneously reduce emissions of pollutants such as nitrogen oxides, sulfur oxides and particulates provide greater air quality benefits at a lower total cost than addressing emissions in a piecemeal fashion. This is often the most effective approach to managing multi-media pollution issues such as groundwater contamination, acid deposition and eutrophication. Priorities include the development and implementation of multi-pollutant and multi-benefit control programs including nitrogen oxides emission limits for stationary internal combustion engines and ultra-low fuel sulfur requirements for non-road and stationary diesel engines.

#### **B-2-05. Standards Setting**

Develop and implement new air quality standards necessary to protect public health, safety and welfare, as indicated by outside air monitoring results, and the assessment of federal rules and health impact studies.

#### **B-3. Non-criteria Pollutants**

By 2005, reduce the probability of health effects on Maine citizens, through reduction in the total mass emissions of non-criteria pollutants<sup>3</sup>, as listed in Chapter 137 of the Department's regulations by 25%, from 20 million pounds, based on 1993 baseline data, to 15 million pounds.<sup>4</sup>

**Outcome Measure:** Total mass emissions in tons per year of all non-criteria pollutants, except carbon dioxide, as documented in the biennial emissions inventory.

**Background:** Non-criteria pollutants, as used in this objective, include a wide variety of substances in the air that have the potential to be hazardous to public health or the environment. Sources of these pollutants include industrial point sources, area/mobile sources and out-of-state transport. The Department has listed 212 non-criteria pollutants, including mercury, in Chapter 137 of the Department's

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<sup>3</sup>Non-criteria pollutants include hazardous air pollutants, carbon dioxide and methane, which are pollutants that are not subject to a numerical standard as defined by law. For further discussion of the periodic emissions inventory and current baselines for this objective, see the Technical Note on Air Quality in Appendix B.

<sup>4</sup>Neither the 20 million or 15 million pounds totals will include carbon dioxide amounts. Carbon dioxide emissions are tracked through fuel consumption.

regulations. Limited health knowledge, public exposure information, and emissions data on source type, actual outdoor air levels and out-of-state transport are available on these listed pollutants. Once DEP has developed a sound air toxics emissions database, DEP will assess the 25% reduction objective to determine whether a more ambitious objective is reasonable. In the meantime, the Department is utilizing benzene, a known carcinogen, as a surrogate for other hazardous air pollutants, and has an interim objective of reducing average annual ambient benzene concentrations by 25% from the baseline of 1 part per billion (volume).

This objective is derived from Clean Air Act requirements and Department regulations, while the 2005 target date is based on Department judgment. The measure of success used to evaluate this objective is the amount reduced as demonstrated by the emission inventory database for hazardous air pollutants, which was completed for 1996, and updated in 1998. The Department's ability to achieve success under this objective is also partially dependent upon federal rule making (for example federal rulemaking pertaining to Maximum Control Available Technology (MACT) on pulp and paper technologies, and surface coating and painting technologies).

Climate change and greenhouse gas issues are gaining prominence within the Department's air quality agenda. In response to a legislative directive, the Department will develop and maintain a statewide inventory of greenhouse gasses. In addition, Maine will continue its participation in regional efforts to monitor climate change indicators, investigate mitigation strategies in response to climate change, and to reduce emissions of greenhouse gasses through conservation, energy efficiency and market-based strategies.

Notwithstanding the reductions in emissions of acid forming compounds achieved through the implementation of the 1990 Clean Air Act, acid deposition remains a serious problem in the Northeast. Recent studies indicate that an additional 70 – 80% reduction in SO<sub>2</sub> and NO<sub>x</sub> emissions may be necessary to ensure the ecological recovery of the Northeast. The Department remains committed to continue its statewide acid deposition monitoring programs and to its participation in regional efforts to reduce emissions of acid forming compounds, map acid sensitivity, and monitor progress toward ecological recovery.

With respect to mercury, efforts we will continue to reduce the non-essential use of mercury in consumer and other products, and to identify and address other sources of mercury in our environment. Environmental monitoring with respect to deposition, fish tissue sampling, and wildlife studies will also be continued, as will advocacy for a comprehensive federal policy for mercury recovery and retirement. With wood-burning stoves widely-used for household heating in Maine, we have long been interested in studying the emissions associated with using wood as a fuel, especially associated mercury emissions. Mercury is also the focus of a coordinated multi-media effort, and the Department will be developing an updated mercury inventory and summary of mercury deposition monitoring over the coming year.

The Department has also begun to develop programs for the cost-effective reduction of greenhouse gas emissions. Maine is participating in a regional, collaborative effort to develop a voluntary Greenhouse Gas Registry. The objective is to develop/participate in a regional program that encourages reductions in greenhouse gas emissions, protects Maine sources making early emission reductions, and has a common emission reduction 'currency' based upon a valid verification process.

**B-3-01. Non-regulatory Programs**

Develop and implement a public education, pollution prevention and innovative technology assistance program that targets non-criteria pollutants, as listed in Chapter 137 of the Department's regulations. Expand education and outreach efforts to provide greater public access to technical materials including monitoring data, emissions inventory data and air emissions licenses.

**B-3-02. Monitoring and Database Development**

Develop a monitoring program and compile a comprehensive statewide emissions inventory of non-criteria pollutants, as listed in Chapter 137 of the Department's regulations. Priorities for FY 03 include completing the 1999 emission inventories and evaluating the accuracy of activity data for Maine's portion of the 1999 national Emission Inventory. Priorities for 03-05 include: federal compilation of greenhouse gas emission factors for use in developing greenhouse gas inventories; continued lab assistance on toxic monitoring method TO15 in Portland and Rumford and in the expanded network into Lewiston, Bangor, Presque Isle and Biddeford; EPA assistance in developing monitoring techniques and quality control guidance for the national list of toxic compounds and for compounds that we are finding unique to Maine as part of our toxics program; continued joint EPA/state development of an air toxics monitoring program and the operation of current air toxics sites (including the EMPACT site in Portland); continued coordination with the Northeast States for Coordinated Air Use Management (NESAUM) public health and monitoring committees for effective design and implementation of air monitoring for toxics; continued monitoring for mercury; and the development of an air toxics monitoring QAPP to meet current requirements in QAR5.

**B-3-03. In-state Reductions**

Reduce by 25% the mass emissions of non-criteria pollutants, as listed in Chapter 137 of the Department's regulations that are released from new and existing area, point and mobile sources, through the implementation of federal control requirements, market-based strategies and voluntary measures. Develop and implement projects and programs encouraging energy and productive efficiency through the development of output-based emission standards. Special emphasis will be placed on control programs and/or strategies providing multi-pollutant and multi-media benefits. Priorities include: continued adoption and implementation of applicable MACT standards on an annual basis; implement a case-by-case MACT program under the section 112(j) requirements; the development of a voluntary greenhouse gas demonstration project; continued

participation in the development of a Statewide Energy Conservation Program; and the drafting of an additional 15 Title V licenses.

#### **B-3-04. Regional Emissions Transport**

Identify and implement regionally consistent strategies to reduce emissions of non-criteria pollutants, particularly mercury, as listed in Chapter 137 of the Department's regulations, transported from out of state. Strategies will include Department and the Maine Indian Tribe operation (with EPA assistance) of a coordinated monitoring program for transported pollutants like mercury, acid deposition, and dioxin/furans that are impacting Maine from other states and provinces with EPA assistance. Participate with other northeastern and Mid-Atlantic States in regional haze planning. Priorities include the assessment of biogenic and anthropogenic contributions to secondary aerosols and the development of public education and outreach materials.

#### **B-4. Regulatory Compliance**

The primary goals of Maine's air quality program are to ensure and enhance the continued health, safety and general welfare of all citizens of the State, so that everyone can breathe clean air every day of the year in every part of the State; and to protect plant and animal life as well as property from air contaminants created by human-derived air polluting activities of every type, and to render our air, land and waterways free from harmful levels of air contaminants.

This goal is quite lofty, as it should be, because it reflects the long range planning and efforts of the bureau. In carrying out this goal, the bureau operates within the powers and requirements specified in state laws and regulation. The role of the compliance assistance, monitoring and enforcement programs is to provide motivation to the regulated facilities in the State of Maine to comply with or go beyond the requirements of the State's air pollution control laws. This motivation will be provided by:

- Regular communications and positive feedback;
- Compliance assistance;
- On-site compliance inspections;
- Review and analysis of facility self-reporting;
- Monitoring of emission analyses; and
- When appropriate, enforcement.

#### **B-4-01. Compliance Monitoring**

##### **B-4-01-a. Licensed Emission Facilities Inspections**

The Compliance Inspection staff prioritizes the licensed emission sources to be inspected by the size of a facility's emission, the potential for non-

compliance the potential impact of non-compliance and the facilities EPA classification (Title V, Significant Minor or Minor). Maine is a state with relatively few emission sources. In FFY 02, Maine started implementing the “new and improved” EPA Compliance Monitoring Strategy. This strategy divides stationary source among the categories of Mega Sources, Title V/Major, Significant Minor and Minor. Compliance activities are divided into Full Compliance Evaluations and Partial Compliance Evaluations. Partial Compliance Evaluations can include a number of other sub-categories. (See Clean Air Act Stationary Source Compliance Monitoring Strategy, April 2001, EPA Office of Enforcement and Environmental Compliance) By the end of FFY 03, the compliance program will complete full compliance inspections at 30 Title V/Major facilities and 100 Significant Minor and Minor facilities. Additionally, The program will conduct 150 other types of compliance actions by the end of the year. Most inspections will include some form of technical assistance.

Compliance actions will be documented with hard copy reports in the regional offices and central office files and information from the inspections entered into the Bureau’s Air Emission Compliance Tracking System (ÆCTS). The data in ÆCTS will be uploaded to the EPA national AIRS/AFS computer database monthly using the EPA Universal Interface.

Below is a list of the action types that will be included:

ANNUAL COMPLIANCE CERT. REVIEW	NOTICE OF VIOLATION
CONSENT AGREEMENT ISSUED	OTHER ACTION (SEE AFS MEMO)
COURT DECREE ISSUED	PARTIAL COMPLIANCE EVALUATION
EMISSION TEST OBSERVATION	PERFORMANCE TEST OBSERVATION
EMISSION TEST RESULTS REPORTED	QUARTERLY REPORT SUBMITTED
FULL OFFSITE COMPLIANCE INSPECTION	RATA/RAA CONDUCTED - NOT OBSERVED
FULL ONSITE COMPLIANCE INSPECTION	RATA/RAA OBSERVATION
INSPECTION, LEVEL 2	REFER TO ATTORNEY GEN.
LETTER OF WARNING	RETURNED TO COMPLIANCE
MULTI-MEDIA INSPECTION	SEMI-ANNUAL REPORT SUBMITTED

**Related EPA Priorities: Ozone, Non-Attainment NO<sub>x</sub> and VOC; Synthetic Minor Source MACT/HAP; Major Sources.**

**MEASURE OF SUCCESS**

➤ *Cumulative number of field actions in AFS*

**B-4-01-b. Title V Compliance Certification**

Part of the license issuance process involves review of all draft licenses by the Enforcement Unit and the appropriate compliance inspector. The Enforcement Unit reviews licenses to ensure that they are enforceable, and special emphasis is placed on the initial compliance certification process.

The compliance inspectors also review the drafts for enforceability and for monitoring requirements that are needed to determine source compliance. The licensing staff and compliance inspectors are working closely with the Title V sources to ensure that the annual compliance certification requirements are clearly understood by the licensees. A significant amount of time is being taken up in reviewing Title V drafts and working with the applicants. A significant amount of compliance time will be taken up in reviewing the complex compliance certifications that will be submitted pursuant to Title V requirements. Reported non-compliance will be addressed pursuant to the Bureau's compliance policy.

**Related EPA Priorities: Review Title V compliance certification and address non-compliance**

**MEASURE OF SUCCESS**

- *Number of annual compliance certifications reviewed*

**B-4-01-c. PSD/NSR Review**

The Commissioner's Office staff monitors economic development reports and alerts the Air Bureau to facilities which may fall under Prevention of Significant Deterioration and New Source Review requirements. Additionally, compliance staff examine facilities during inspections to ascertain if any changes/modifications/alterations/additions have been made that would require the facility to go through Prevention of Significant Deterioration ("PSD") or New Source Review ("NSR"). The Licensing, Compliance and Enforcement staffs will continue to communicate amongst one-another to ensure that licenses are efficacious. After a license is issued, a copy is sent to the appropriate inspector for his or her records and for entry into the compliance data bases (ÆCTS).

**Related EPA Priorities: PSD/NSR major modification avoidance at pulp & paper facilities**

**MEASURE OF SUCCESS**

- *Number of facility investigations that staff participates in*

**B-4-01-d. Continuous Emission Monitor Systems**

The Bureau considers continuous emission monitor systems ("CEMS") another very important means of determining and ensuring compliance with emission limits at Maine's larger facilities. Maine's CEMS program is based on DEP Rule Chapter 117, Source Surveillance, which incorporates sections of 40 CFR Parts 51 and 60. In general, for all fuel burning equipment with a heat input capacity of greater than 100 million British Thermal Units and sources required by New Source Performance Standards to install and operate CEMS the Bureau requires that these sources conduct quarterly Cylinder Gas Audits and annual Relative Accuracy Test Audits or Relative Accuracy Audits for gaseous CEMS. Opacity monitors are required to



undergo quarterly performance audits and annual drift tests. Facilities submit the results of these tests to the compliance inspectors for their review, and inspectors regularly observe the audits. Compliance inspectors review all quarterly continuous emission monitoring reports for compliance and respond to all unusual incidents of monitor downtime or excess emissions within the quarter they are submitted. Problems will be brought to the attention of the Enforcement Unit. Thirty facilities are required to operate CEMS. As in previous years, all facilities with CEMS will be inspected. CEMS reports are recorded in EPA's PC-CEMS computer program and reviewed periodically for problems and trends.

**Related EPA Priorities: Review CEM reports and observe audits**

**MEASURES OF SUCCESS**

- Cumulative number of test observations in AFS.
- Number of records in PC-CEMS

**B-4-01-e. Emission Tests**

The Compliance Inspection and Enforcement staffs place a great importance on emission tests. Approximately 75 emission sources in the State of Maine are required to conduct emission tests. Specific test requirements are found in a facility's license and are derived from federal regulations and state regulations. Every emission license contains a condition, which allows the Department to require emission testing for causes such as suspected non-compliance. Tests are conducted at various intervals, with the majority being tested annually, or every two years. A few facilities are required to test every three years. Test observations are documented with written reports. All test at stationary sources, both observed and unobserved will be recorded in the compliance database. The Bureau of Air Quality will continue to assess the need for emission tests at major sources which do not currently have testing requirements and which have not been tested in the past seven (7) years.

**Related EPA Priorities: Emission test at facilities, which have not been tested in five (5) years**

**MEASURE OF SUCCESS**

- Number of test observations in AFS

**B-4-01-f. Enforcement**

The Enforcement Unit will continue to seek increased compliance by the regulated community by removing the economic benefit gained through non-compliance. An important goal of enforcement actions will be to establish equity among regulated entities by creating a regulatory environment where it makes good business sense to comply with environmental regulations, and thereby create a deterrent effect on future potential violators.

Top priority will continue to be given to the resolution of ongoing enforcement actions. New enforcement cases will be developed (as resources permit)

according to environmental/health impact, regulatory impact, and departmental initiative. The unit will emphasize enforcement on failed emission tests, violations of emission limits and noncompliance with "Synthetic Minor" license conditions. The unit will enter all emission tests observed by the emission testing coordinator, Notices of Violation, Consent Agreements and Referrals to the Office of the Attorney General into the compliance databases (ÆCTS).

Enforcement staff will continue to work closely with the Compliance Assistance Program by sharing information and finding ways to lend support to the Program. The Unit will review all licenses including "Synthetic Minor" licenses and Title V licenses to ensure that they are enforceable and special emphasis will be placed on the Compliance Certification process. When the Compliance Certification indicates violations, staff will take appropriate action.

In FY02, The Air Bureau Enforcement and Stack testing unit issued 10 Notices of Violation (NOVs) and settled 9 Consent Agreement (CA) ranging from kraft pulp and paper mills to asphalt batch plants. One facility was handled by the State of Maine Attorney General's Office as part of a past Consent Decree.

Seven new High Priority Violators (HPV) were identified for FY 02, 2 HPVs were carried over from FY 01 and 4 HPVs were addressed through Consent Agreements in FY 01.

Due to resource limitations, enforcement staff has been concentrating on larger facilities that have a greater potential for environmental harm. An additional staff member was added at the end of FY 01 and is now being trained to do enforcement work as well as being back up to the stack testing coordinator in the Unit.

In FFY03 the Air Bureau Enforcement and Stack Testing Unit will concentrate it's efforts on resolving any ongoing enforcement cases. The unit will place importance on Annual Compliance Certifications required by Title V Licenses. These Certifications are just starting to come in and when they show noncompliance with their license conditions, the enforcement section will investigate each one. Additional emphasis will be placed on stack testing and on continuous emissions monitoring. The enforcement unit will also focus on any new non-compliance issues found by EPA's CMS policy.

#### **B-4-01-g. Tips and Complaints**

The Bureau of Air Quality receives about 100 complaints regarding air quality each year. Staff responds to all complaints in one fashion or another. Some will lead to field investigations and on rare occasions, enforcement actions. The staff strives to work with local Code Enforcement Officials and State Forest Fire Rangers when it is advantageous in resolving a complaint.

Complaints are tracked in the Department's complaint Tracking System (CTS). The Compliance Inspection Unit will continue to document complaints in its regional office files. The regional offices will receive about 100 complaints in FFY03. The Compliance Inspectors will try to respond to all complaints in one manner or another. The degree of response will depend on the circumstances of the complaint and can vary from a simple telephone call to an actual investigation.

MEASURE OF SUCCESS.

➤ *Number of complaints responded to*

**B-4-01-h. Gasoline Service Stations**

As part of Maine's 15% VOC reduction plan / 90% Rule Effectiveness, by the end of FFY02 staff will have inspected all of the gasoline service stations with a monthly throughput greater than 10,000 gallons for compliance with Stage 1 vapor recovery requirements. Staff will continue to conduct a limited number of re-inspections of Stage 1 facilities based on reports of noncompliance with the vapor control requirements from the Underground Storage Tank staff. About 30 Stage 1 facilities will be inspected in each year. The past year's experience with stations required to have Stage 2 vapor recovery continues to show a high compliance rate with annual operations tests required by regulation. As a result, staff has reduced the amount of annual test observations to 75% of the facilities and will conduct compliance inspections at the remaining stations. In FFY03, the Compliance Inspections Staff will observe 53 Stage 2 tests. The test observations include the inspection of Stage 1 and Stage 2 components and will include outreach on the maintenance of vapor recovery systems.

Over the past two years, the state has sampled gasoline Reid Vapor Pressure at about 60 gas stations each summer in the 7 Southern Maine counties. Over the past two years, only one incident of non-compliance of Maine's Reid Vapor Pressure requirement was found at a gasoline station with a low throughput. The high rate of compliance indicates that the sampling program at gas stations can be reduced. The State will concentrate gasoline Reid Vapor Pressure monitoring at the gasoline terminals, this has proven to be an effective but less resource intensive method of enforcing gasoline Reid Vapor Pressure regulation. The state will continue to sample a limited number of gas stations.

MEASURE OF SUCCESS.

➤ *Cumulative number of actions conducted at services stations.*

**B-4-01-i. Hazardous Air Pollutant**

For FFY03, the Compliance Inspection staff will inspect 6 dry-cleaners. The facilities inspected will be based on the size of the facility, the length of time since the previous inspection and the propensity of the facility towards non-compliance.

The only facility in Maine that is subject to the chrome MACT is Saco Defense. This facility will be inspected as a high priority stationary source. To the best of the Air Bureau's knowledge, there are no chrome anodizing facilities in the state.

The compliance staff will also assist the SBTAP with an outreach program on Secondary Aluminum Smelter MACT compliance

**Related EPA Priorities: Air Toxics MACT Compliance**

**MEASURE OF SUCCESS.**

➤ *Cumulative number of actions conducted at dry-cleaners and Chrome MACT facilities.*

**B-4-02. Compliance Assistance**

Compliance assistance is a coordinated effort conducted by both the Department's Small Business Technical Assistance Program and BAQ staff. The SBTAP will focus on the following air related compliance assistance efforts:

The SBTAP will continue to conduct general outreach and provide general assistance to the regulated community on a variety of compliance and pollution prevention issues by responding to general assistance requests, attending business conferences, and advertising assistance services and our 1-800 phone number in business publications. In FFY99 the SBTAP promoted its assistance services and provided compliance information at 16 business conferences and workshops and answered 136 general assistance requests and provided pollution prevention and compliance information to 1600 businesses through outreach mailings. It is expected that the amount of general assistance activities will be similar for this year.

**B-4-03. Significant Violators**

The Enforcement Unit will strive to address at least one third of the significant violators on the books at the beginning of the fiscal year and all significant violators greater than two years old.

**B-4-04. Data Management**

The Bureau no longer relies on the EPA's antiquated AIRS/AFS data system to record actions at stationary sources. Compliance and enforcement actions are now recorded in the Bureau's compliance databases (ÆCTS). This modern database is more versatile and useful than the EPA system. In FFY02, Maine piloted and helped develop the new Universal Interface with NESCAUM and Region 1. Maine now uses the interface to update data in the EPA AFS system on a monthly basis.

**B-4-05-c. PSD/NSR at Pulp and Paper Facilities**

Investigations by EPA in other regions have indicated that a number of sources may have escaped required PSD/NSR reviews. While there is no indication that this has occurred in the State of Maine, EPA Region 1 will be conducting investigations of the pulp and paper industry in the state to see if

these facilities have avoided PSD/NSR requirements. The compliance staff will cooperate with EPA during the investigations and when appropriate, offer assistance. The compliance staff will consider conducting PSD/NSR investigations after receiving adequate training in the topics from EPA and seeing the fruition of EPA's own investigations

MEASURE OF SUCCESS

- *Number of facilities in compliance with PSD/NSR Requirements.*

**B-4-05-f. STEP-UP Program**

The Compliance Inspection Staff will assist in the DEP's STEP-UP Program as appropriate.

MEASURE OF SUCCESS

- *Number of facilities monitored.*

## C. LAND AND WATER QUALITY

**Goal:** To ensure that land and water resources are protected, restored and enhanced as ecological systems supporting both the natural world and human activities, and to ensure that all waters of the state meet or exceed their classification standards.

### **OVERALL PERFORMANCE BUDGET OBJECTIVE:**

By 2008, reduce by an average of 10% from 2002, the percentage of Maine's water bodies (rivers/streams, lakes/ponds, estuarine/marine) that do not meet Maine's water quality classification standards for a designated use, based on water bodies listed as Tier 4 or 5 of the 2002 Integrated Water Quality Monitoring and Assessment Report.

### **ISSUE STATEMENT:**

Clean water is something people expect in Maine, but achieving it is still a goal in regard to many of the State's water resources. Notable successes in addressing the traditional point sources of pollution from industries have resulted in visibly improved conditions. However, the prominent and difficult problems of non-point sources of pollution from land uses, air loadings, and everyday activities of Maine citizens continue to put surface and groundwater resources at risk. Persistent bioaccumulative toxics, stormwater quality and quantity impacts, combined sewer overflows, habitat loss, and other issues are of concern.

Some of these challenges can be met by continuing improvements and innovation at facilities and activities that are licensed to discharge to Maine waters. A continued emphasis on watershed management measures is also important. Public awareness must grow through increased education and outreach efforts. Strong collaboration is needed with other State and Federal agencies, with local governments and with grass root citizen groups to carry out the assessment of resource conditions, and to plan and implement solutions to complex pollution problems.

### **FUNDING SOURCES:**

The following financial information is provided as an indication of the scope of the program. In State Fiscal Year 2002, expenditures of \$11,439,291 to support this goal came primarily from the following sources:

State General Fund	\$4,401,685	(38.47%)
Federal Funds	\$4,431,751	(38.74%)
Dedicated Funds	\$2,605,855	(22.79%)

### **RECENT PERFORMANCE:**

Legislation passed during the 2001-02 session gave DEP the authority to regulate cutting associated with development adjacent to first order streams (timber harvesting is regulated separately). The legislature passed LD 1488, which provides for water use reporting by significant water users, and directs DEP to develop standards for instream flows and lake/pond levels that are protective of water quality. A bond issue was approved that would provide \$8.5 million for wastewater pollution abatement. A position

was authorized to assist Atlantic Salmon Watershed Councils in the development of watershed management plans. A set of draft nutrient criteria standard plans were prepared by DEP and submitted to EPA (February 2002) for lakes, rivers and streams, wetlands, and marine-estuaries.

In 2001-02 the new invasive species program continued to develop based upon a significant cooperative effort among state agencies and non-governmental groups. Efforts included education, inspections and enforcement, and monitoring and site management. DEP hired two new staff in 2001-2002. A boat sticker program has been launched that is intended to increase public awareness of the threat of invasive species, and provide funding to the new invasive species program. See

<http://www.state.me.us/dep/blwq/topic/invasive.htm>

Significant progress was made in meeting the goal of improving wastewater discharge program services. Important actions to date include:

- On January 12, 2001 the Department received partial delegation from EPA for the NPDES program. A decision on delegation in Indian Country is pending. The Department is now issuing MEPDES permits.
- The permitting section is now fully staffed with 5 permit writers. An aggressive schedule has been established to eliminate the backlog of expired permits by 6/30/03.
- SOPs have been implemented to ensure full internal review and approval of all draft permits by DEA, compliance inspectors, and enforcement staff.
- Additional NPDES program elements that have, or are currently being, implemented include: an additional enforcement staff person was hired in 2001; DEP staff are now coding all MEPDES permits into PCS and have eliminated the backlog of uncoded permits and an additional staff person has been trained to assist the current staff person performing PCS coding functions; implementing the industrial pretreatment program; and integration of the federal stormwater program into existing DEP stormwater programs with the addition of a stormwater program staff person.
- The DEP Water Compliance System database has become fully functional to track compliance activities, and it will continue to be improved in FFY03. DEP will continue to hold monthly non-compliance committee meetings to ensure timely development of facility compliance strategies.
- DEP has made an effort to improve the format of the Quarterly Non-Compliance Review meetings with EPA to compare DEP priorities to EPA data and priorities.

Construction of the Waldoboro Land Treatment Project has been completed. The DEP continues to administer the State Revolving Loan Program (SRF) jointly with the Maine Municipal Bond Bank (MMBB) to fund new municipal treatment facilities and upgrade existing facilities. DEP has worked with the Department of Human Services, Division of Health-Engineering (DHS) on a strategy to promote inspections of On-Site Disposal Systems (OSDS). In 2002, voluntary OSDS Inspection Guidelines were adopted by the Maine Association of Site Evaluators. The U.S. Army Corps of

Engineers is expected to begin removal the Smelt Hill Dam on the Presumpscot in the fall of 2002, improving migratory fish habitat and water quality.

Regional partnership with Soil and Water Conservation Districts, established in 2000, has been continued, which includes \$160,000 in State match funding. Funding has been directed to restoration projects in priority watersheds. The DEP is continuing its implementation of the "Maine Nonpoint Source Control Program Upgrade and 15 Year Strategy". Upcoming monitoring work will include an evaluation of erosion and sedimentation control practices associated with construction activities and the use and effectiveness of BMPs used with agricultural activities. The DEP continues to administer the Erosion and Sediment Control Law (ESCL), placing heavy emphasis on education and outreach. A survey of compliance with the law is planned for 2003.

Training is being coordinated through the Nonpoint Source Training and Resource Center. From January 1997 to June of 2002, 2916 participants attended training on the Erosion Control Law and/or Erosion Control Best Management Practices. These include contractors, non-engineering land use professionals, golf course superintendents, road crews, camp road owners, etc. As of June 2002, 297 individuals have become certified in Erosion and Sediment Control Practices by the DEP. During that time period an additional 1037 participants also received training on the Stormwater Management Law and/or Stormwater Best Management Practices. Since 1998, the Center has also provided training in Septic System installation to support an Installer Certification program. As of June 2002, 103 of the State's installers have been certified by the Department of Human Services (DHS).

DEP has been wrestling with issues related to compliance by towns in enforcing town ordinances consistent with the intent of the state's Mandatory Shoreland Zoning (SLZ) law, which is a major part of our strategy to control non-point source pollution near water bodies. Several towns have allowed variances that conflict with the law's intent, or have failed to implement and enforce the ordinances. While the state recently won a high profile case against a landowner, the case required a major commitment of resources by the Attorney General's office. DEP is looking for ways to assess overall compliance with the law, and to develop policies that will allow DEP to take action with a more efficient use of resources.

#### **COMPLIANCE:**

Public and private wastewater treatment facilities in Maine continued to meet compliance goals for FFY 2001 and the long-term trends continue to demonstrate reduced discharges of pollutants to waters of the State. In our last PPA document, we noted that from 1990 to 1999, the seven bleach kraft pulp and paper mills reduced their total pounds of biological oxygen demand (BOD) released annually by 54% and total pounds of total suspended solids (TSS) by 52%. That report also noted that Maine's municipal wastewater treatment facilities demonstrated a decrease of BOD discharged



from approximately 5.6 million pounds to 5.0 million pounds and TSS discharged from 5.5 million pounds to 4.9 million pounds in the period 1994-1999.

Our study of wastewater treatment facility compliance was expanded and refined during the past year. We analyzed the discharge data from virtually all municipal and industrial dischargers and developed trends for the period July, 1998 through June 2001. In that period, Municipal BOD discharge dropped from 5.57 million pounds per year to 4.57 million pounds. Projecting that trend, we anticipate further reductions to 4.36 million pounds in 2004-2005. The discharge of TSS from municipal facilities went from 5.53 million pounds to 4.39 million pounds. We expect the decreasing trend in TSS discharges to continue in 2004-2005. (The seeming increase in TSS discharge from municipal plants from 2000-2001 to 2004-2005 is due to the nature of the mathematical regression used to predict the trend and the abnormally low TSS discharge in 2000-2001.)

Industrial wastewater facilities have decreased their discharge of BOD and TSS to 13.92 million pounds and 24.51 million pounds, respectively in 2000-2001. We expect a continued downward trend for both pollutants, projecting industrial discharges of 12.61 million pounds of BOD and 22.38 million pounds of TSS in 2004-2005.

Dioxin monitoring results show all six bleach kraft mills to be in compliance with the statutory requirement of no detectable levels of 2,3,7,8-TCDD and 2,3,7,8-TCDF at the bleach plant, and recent data show continuing downward trends in levels of dioxin in fish tissue. DEP is still reviewing data before finalizing in 2002 the so-called "above/below test" for determining if fish below paper mill have more dioxin than fish above the mills.

The Water Program has exceeded its commitments for facility inspections, including pretreatment inspections, with approximately 350 inspections of all types having been conducted in FFY 2001. Additional inspections were conducted by EPA or jointly with the State. This assistance from EPA is appreciated.

In addition, compliance inspectors are using our new Wastewater Compliance System (WCS) to track inspections and follow up, set priorities, and plan future inspection activities. In the Combined Sewer Overflow program, nearly all communities have submitted annual progress reports, and all continue to make acceptable progress in implementing their long-term control plans. The Department was awaiting guidance from EPA and did not move forward in identifying the universe of Separated Sanitary Overflows (SSOs) in the State. In September 2000, the Department received a copy of the "EPA New England CSO/SSO Response Plan" which describes, in part, the Region's goals for addressing significant SSOs. The Department plans to work with EPA to identify the universe of SSOs in Maine, and will assist EPA in meeting the requirements of the September, 2000 Response Plan when EPA implements it. The Department believes the number of these overflows is small.

## STATUS OF FFY02 PPA

Most PPA activities are annual, continuing, or multiple year efforts. Others had short-term target dates and are on schedule to be finished.

### Highlights of short-term activities that have been completed.

A statewide water quality criterion in the form of a fish tissue residue criterion for mercury (human health) has been adopted. Phase I of the Public Educational Access to Resources on Lakes in Maine (PEARL) is complete and Phase II improvements, maintenance, and updates continue on an annual basis. Water quality certifications have been issued for Upper and Lower Richardson Lakes (FFY02),

Total Maximum Daily Loads (TMDLs) have been completed and approved by EPA in FFY00-02 for Meduxnekeag River and Mousam River (Sanford). TMDL assessment or development work continues for Jock Stream, Androscoggin River (Gulf Island), Mousam R (Kennebunk), and Royal River Estuary (Yarmouth). TMDLs for the following waters on the 1998 303(d) list are no longer anticipated because water quality standards are now attained, or enforceable control measures are now in effect: Kennebec River/Augusta (Edwards dam removal license issued/aquatic life attains). The TMDL for Goosefare Brook will be submitted for EPA approval in FFY02. Licenses for two fish hatcheries on the following waters were conditioned (TMDL may be required if continue in non-attainment): Eddy Brook and Hatchery Brook.

Five lake Total Maximum Daily Loads (TMDLs) have been completed and approved by EPA to date, including Cobbossee Lake and Madawaska Lake (FFY00); Sebasticook Lake and East Pond (FFY01); and China Lake (FFY02). Mousam Lake and Highland Lake (Falmouth) will also be submitted for EPA approval in FFY02.

Construction continues on public and private sand/salt storage buildings as mandated by project priority lists adopted in 2000. All new sand/salt storage areas are subject to registration, siting and operational requirements in Chapter 574 that was adopted in November 2001.

Highlights of changes to plans (extensions, modifications, and deletions). Rulemaking to identify and provide standards for watersheds of streams considered "most at risk from new development" or "sensitive or threatened" was delayed due to the need for more information, but a stakeholder effort is now underway. Adoption of the 1998 recommended water quality criteria for toxics is still planned. Updating of the Maine Stormwater BMP Manual has been postponed due to the need to address issues relating to manufactured systems, and project review workload. The Damariscotta River water quality certification is expected to be completed in FFY03. DEP, through two contractors, is in the process of modifying and enhancing two water quality models (QUAL2 and WASP) for use in developing river and estuary TMDLs.

## **THE PLAN -- HIGHLIGHTS:**

An Invasive Species Strategy Plan will be released in 2002. This builds upon DEP's continued implementation of the Lakes Protection Program, which includes improving enforcement of land use laws, increasing education and outreach on lakes issues, and furthering scientific understanding of lake functions.

DEP will eliminate the MEPDES/WDL expired permit backlog in 2003 and permit all existing finfish aquaculture facilities. Major revisions to the water toxics rule will be completed, including updating water quality criteria.

The Legislature reauthorized the Dioxin Monitoring program through 2005. For rivers and streams, DEP will focus on improving the dioxin monitoring program, and on monitoring pulp and paper mill compliance with the state dioxin law and Federal Cluster Rule requirements. Provisions of the 1999 mercury legislation will be implemented to monitor compliance with model pollution prevention plans and facility specific interim effluent limits.

DEP will target a significant part of its nonpoint source effort on restoration of watersheds for which TMDLs have been established, while also focusing on threatened watersheds. These priorities were described in the 2003 Request for Proposals for 319 grant funding.

DEP will be participating in efforts to define instream flow standards for the State of Maine, pursuant to Chapter 619 (2002), and to address the many issues related to flow and withdrawal. The Department must be prepared to accept data on withdrawals by December 31, 2003. Fulfilling the requirements of the Atlantic Salmon Plan continues to be a priority.

In FFY03, the DEP will be monitoring the Androscoggin river basin according to the five-year cycle for the Surface Water Ambient Toxics Monitoring Program (SWAT). DEP and DHS plan to promote the use of the new OSDS Inspection Guidelines through a training and certification program for inspectors beginning in 2003.

DEP is working on an extensive over-haul of its stormwater management program, which will include incorporating measures to meet NPDES Stormwater Phase I and Phase II requirements. DEP is proposing to develop general permits by 12/8/02 that will cover small construction (land disturbances down to one acre) and regulated municipal separate storm sewer systems (MS4s). DEP will also develop criteria to evaluate whether discharges in the City of Waterville will cause or contribute to a violation of water quality standards (Waterville is Maine's only urban area where the criteria must be applied under NPDES Stormwater Phase II rule due to its population size and density). DEP also plans to reconvene a stormwater stakeholder group in the fall of 2002 to consider other upgrades to the stormwater management program, including the designation of "most at risk" stream watersheds. Recommendations will be developed

for consideration by the Maine Legislature and/or the Board of Environmental Protection in 2003.

A review and revision of Maine's water classification standards will be made and submitted, along with recommendations for reclassification of waters, to the Maine Legislature in 2003. The department also plans to submit an amendment to update the statutory marine dissolved oxygen standards.

Beginning in 2002, the Nonpoint Source Training Center will be working with the Department of Human Services on a training and certification program for inspectors of on-site disposal systems (OSDS) in an effort to increase the quality, consistency and number of OSDS inspections that occur. In the area of standards, the statutory marine dissolved oxygen standards need to be updated.

In the area of bureau efficiency and planning, efforts to improve the operation of the waste discharge licensing program are continuing. To address the backlog of expired permits improved mechanisms have been instituted to coordinate planning of upcoming license renewals among divisions. By FFY03 the MEPDES permit program is scheduled to have eliminated the expired permit backlog. From FFY03 on, the MEPDES permit program expects to issue approximately 75 permits per year to maintain a cycle of timely renewals. Development of internal enforcement/compliance procedures, including an internal auditing program, continues to be a high priority for 2003. In all programs, there is a need to improve the use of geographic information systems (GIS) in licensing, data management, decision making, and delivery of information to various audiences.

If sufficient resources are available, a river basin status report with planning objectives for major river basins will be developed. This effort was begun in 2002 but was cancelled due to state budget shortfalls.

The Biological Monitoring Program is in the final stages of a major database upgrade into Oracle in order to improve management of biological data and to more fully exploit the power of geographical analysis of information. The Oracle environment will make it easier to make biological monitoring data publicly available on the web. All programs are participating in development of the quality management system. Promulgation of bio-criteria rules will be completed in FFY03 complementing the biological conditions gradient developed by EPA.

Several areas remain a focus over the long-term, and emphasize the need for flexibility in planning in the short-term. Persistent, bioaccumulative toxics (PBTs) are a significant problem for surface waters. A significant portion of the problem appears to be airborne, which is largely outside the framework of existing state regulatory programs -- both water and air -- to address. DEP needs to continue to press forward with efforts to improve the level of knowledge of the sources of these contaminants, and their relative risks and exposure pathways, as well as to develop effective strategies to address the

risks. The DEP will continue to advocate for a regional mercury assessment and strategy in lieu of TMDLs for individual waterways.

In general, the effects upon wetlands from the cumulative impacts of human activities are insufficiently understood, because small wetland alterations are not tracked under current law. DEP will work to implement the recently published State Wetland Conservation Plan, and develop regional and local mechanisms for “in lieu of fee” programs for smaller wetland disturbances. Significant additional work in watershed planning and restoration is required to address stormwater impacts to water bodies, much at the local level.

Maine's monitoring and assessment programs have yet to reach many water bodies, and the science in this area is rapidly developing. Therefore, previously undiscovered contaminant problems can be expected to arise in the future. There is a need to better support movement toward sustainable development and living and away from continued damage to and loss of Maine's land and water resources.

#### **PUBLIC PARTICIPATION:**

The Bureau of Land and Water Quality seeks advice and feedback from interested persons throughout the year on many aspects of its programs. Vehicles range from formal stakeholder groups, to advisory committees, partnerships, and requests for comments on the Web. DEP will continue to seek input from the Maine Watershed Management Committee through review of annual PPA updates. This Committee includes representatives from Maine's resource agencies (Departments of Marine Resources, Inland Fisheries and Wildlife, Human Services/Health Engineering, Conservation, Transportation, and Agriculture, Food and Rural Resources); the Maine Chamber of Commerce and Business Alliance; Natural Resources Council of Maine; Congress of Lake Associations; Maine Association of Conservation Districts; USDA Natural Resources Conservation Service; US Geological Survey; and the US Environmental Protection Agency (New England).

Programs dealing with resource monitoring and assessment benefit from public participation through a number of vehicles. The Lake Program Review Committee includes other state agencies, outside organizations such as the Congress of Lakes Association (COLA) and Soil and Water Conservation Districts (SWCDs), as well as other DEP bureau's DEP and Divisions within the Land and Water Bureau (Watershed Management). The Surface Water Toxics Advisory (SWAT) Committee includes representatives from the following interests: academic, business, conservation, municipal, and public health. Interests involved with the Salmon Conservation Plan include the Atlantic Salmon Commission, agencies, and seven watershed councils. Draft numeric bio-criteria rules have been publicly released and a formal stakeholder review process was completed in April 2002. In the area of aquatic biodiversity, staff partner with the Department of Inland Fisheries and Wildlife (IF&W) and the Nature Conservancy. A steering committee includes agencies, environmental groups and academics. A significant stakeholder process in 2001-02 has been addressing

possible changes to the stormwater management program (including incorporating of NPDES requirements).

The Wastewater Discharge Licensing Program actively seeks formal and informal participation in program content and direction. Stakeholder group participation has been important on significant issues such as mercury, revisions to the toxicity rules, TMDL process, Warren and Androscoggin River data collecting and modeling, and NPDES delegation. Groups often involved include the Maine Waste Water Control Association, Natural Resources Council of Maine, Maine Rural Water Association, Penobscot Indian Nation, Passamaquoddy Tribe, and Maine Chamber of Commerce and Industry. The Withdrawal Work Group, co-chaired by the Director of the Bureau of Land and Water Quality, was created by the Land and Water Resources Council to explore policies and engage stakeholders. That outreach effort will be continued as an advisory stakeholder process.

Programs offering technical and financial assistance in the areas of wastewater treatment plant construction and operation benefit from the involvement of the Maine Waste Water Control Association (MWWCA). Bureau staff is currently partnering on agricultural nonpoint source issues with the Maine Department of Agriculture, Food and Rural Resources (DAFRR), Soil and Water Conservation Districts, and the Maine Farm Bureau. Staff is also working with the State Planning Office (SPO) on issues involving wastewater infrastructure in urban areas. There is a regular exchange of information with private engineering firms and with the 141 towns that have wastewater treatment facilities.

#### **TIME FRAME:**

Most of the strategies and activities listed in this plan are multi-year or continuing tasks. Items marked with (\*) are expected to be completed in FFY03.

#### **MEASURABLE OBJECTIVES:**

##### **C-1. Lakes and Ponds**

By 2005, the overall trophic state of Maine lakes will be stable or improving.<sup>5</sup> Continue and improve monitoring for toxics contamination in lakes to remove advisories.

**Outcome Measures:** (a) the overall trophic state of Maine lakes and (b) toxics levels.

**Background:** Lakes are extremely complex systems, and our predictive capability regarding impacts to them is low. Lakes are impacted by the synergistic effects of many different stressors and, unlike rivers, which respond rapidly to treatment technology improvements on point sources, they are very slow to recover. It is therefore important that this objective support prevention as well as restoration.

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<sup>5</sup>Using the draft 2002 Integrated Water Quality Monitoring and Assessment Report as a base line.

DEP is required by law to report biannually on the status of the State's waters (Federal Clean Water Act Section 305(b)). The information is partly based on water quality monitoring (by the Department and by citizen volunteers), and partly based on knowledge of the presence of point and nonpoint sources. Measuring water quality improvements was easier over the past 20 years than it will be over the next twenty. With the major problems from single sources largely under control, the remaining problems are more diffuse, more subtle, and often more costly to control.

This is an objective over which the DEP has limited control but significant influence. Successful attainment of this goal will depend on changing attitudes and habits so as to modify human activities in lake watersheds.

**C-1-01. Address Nonpoint Sources of Pollution to Lakes and Ponds -- Loadings from Runoff, Sediment and Groundwater (including stormwater management and erosion control)**

Address nonpoint sources of pollution through development and implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

**C-1-01-a. Development and Implementation of Standards**

Implement and continue to develop laws that regulate activities in lake watersheds, such as the Natural Resources Protection Act, Stormwater Management Law, Wastewater Discharge Laws, and Erosion and Sedimentation Control Law.

In FFY03, priorities will include: (a) aquatic species prevention and control efforts, (b) inspection of 50% of stormwater permits and 20% of stormwater permits by rule (each year), (c) development and implementation of a stormwater program that integrates state requirements with Federal NPDES requirements\*; (d) development of nutrient criteria and (e) certain public education initiatives. EPA will provide written comments on the draft nutrient criteria for lakes, submitted 2/2002, by 2/1/2003.

**C-1-01-b. Monitoring and Assessment**

Continue monitoring programs, develop and implement tools to assess lake processes and BMPs, and participation in pilot studies and special projects as needs and resources permit. In FFY03, priorities will include: (a) accelerated development of lake TMDLs, based on priorities established in the updated 303(d) list (specific water bodies targeted for TMDL completion are Three Mile Pond, Webber Pond, Three Cornered Pond, Unity Pond, and Long and Highland Lakes (Bridgton); (b) conducting watershed inventory work on six additional lakes in anticipation of TMDL development (Annabessacook Lake, Pleasant Pond, Upper Narrows Pond, Little Cobbossee Lake, Sabattus Pond, and Lovejoy Pond); (c) developing and implementing protocols for NPS-BMP evaluation; (d) designing a long-term lakes monitoring program; (e) baseline

monitoring on select lakes statewide; (f) enhancing trend detection methodology for tracking lake trophic conditions; (g) continuing support of the Maine Volunteer Lake Monitoring Program (VLMP) using a combination of dedicated 319 funds and state general funds, and increasing the number of volunteer monitors and/or the number of parameters monitored by individual monitors; and (h) completion of a generic lake QAPP (for VLMP and TMDL development monitoring).

**C-1-01-c. Education and Technical Assistance; Grants and Loans**

Promote use of effective BMPs and land management practices; promote local stewardship of local resources; increase public awareness of resource values, pollution threats, environmental standards, and individual opportunities; and address chronic NPS sources in priority watersheds.

In FFY03, priorities will include: (a) providing technical and financial assistance for watershed surveys, NPS implementation projects, and restoration work in prioritized watersheds and water bodies (including implementation of the "Maine Nonpoint Source Control Program Upgrade and 15 Year Strategy" and allocation of the incremental CWAP 319 funds for restoration activities in TMDL watersheds); (b) conducting education efforts, including the NPS awareness campaign NPSTRC training workshops, market research, and work with schools; (c) beginning to use the standard NPS Grants Tracking and Reporting System (GRTS). (EPA will provide training to DEP staff); and (d) expand the Nonpoint Education for Municipal Officials (NEMO) program to include a lakes perspective.

**C-1-02. Address Non-point Sources of Pollution to Lakes and Ponds -- loadings from air**

In the long-term, develop a strategy for dealing with certain types of loadings from air, focusing on persistent, bioaccumulative toxics.

**C-2. Rivers and Streams**

By 2005, reduce by 10% the miles of Maine rivers and streams that do not meet fishable/swimmable or other applicable water quality standards by reducing pollutants from combined sewer overflows (CSOs) and other sources, excluding dioxin<sup>6</sup> and mercury. By 2003, have dioxin levels in fish tissue above and below dischargers be the same.

**Outcome Measures:** (a) miles of rivers and streams meeting fishable/swimmable or other applicable water quality standards, excluding dioxin and (b) miles with fish consumption advisory due to dioxin.

**Background:** This objective deals with impairment of rivers and streams that is not related to dioxin. 248 miles are due to fish consumption advisories for dioxin in fish

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<sup>6</sup>Using the 2002 Integrated Water Quality Monitoring and Assessment Report.



tissue. The second most significant source or cause of nonattainment is combined sewer overflows (CSOs), and the third most significant is nonpoint source pollution. The costs involved with reducing or mitigating each of these sources are very high.

DEP believes that this 10% objective is ambitious, but achievable. Our ability to predict the response of the rivers once point source technologies are in place is relatively high, for nonpoint source problems predictions are less certain. The removal of all dioxin fish advisories from Maine rivers by the year 2003 is possible because the paper mills that discharge to these rivers were able to implement new federal Best Available Technology ("BAT") or EPA defined "Advanced Technology" in 1998. The response time of decreasing dioxin levels in fish tissue due to technology improvements in paper mills has been fairly rapid (2-3 years).

DEP's control over the achievement of this objective is reasonably high. However, it is important to note that the objective measure is based upon current, but sometimes incomplete information. As more monitoring is conducted, additional problems may be discovered.

#### **C-2-01. Control Point Source Discharges to Rivers and Streams**

Control point source discharges through licensing, compliance and enforcement, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

##### **C-2-01-a. Standards**

Adopt the 1998 recommended ambient water quality criteria for toxics\* (this will be done as part of a major rewrite of the Department's Water Toxics Rule).

EPA will ensure that DEP is notified of draft policies and regulations that may impact licensing, compliance, and enforcement activities.

##### **C-2-01-b. Licensing, Compliance and Enforcement**

Implement and continue to appropriately develop laws that regulate activities in or discharging to stream and river watersheds, such as the Wastewater Discharge Law and Site Location of Development Law. Priorities for FFY03 include: (a) continuing to develop the MEPDES program through elimination of the permit backlog by June of 2003\*, with a goal of timely renewals of all permits thereafter and continued improvement in the coordination between permit writers, compliance inspectors, enforcement, and water quality staff; and ensuring quality of discharge monitoring data and compliance tracking systems); (b) implementing provisions of new mercury law; (c) continuing the CSO abatement program; and (d) updating DEP NPDES rules Chapters 520-529. MDEP will review its current practice for allowing a Zone of Initial Dilution (ZID), and develop a revised policy.

EPA will provide assistance in the updating of the NPDES rules by identifying areas of concern in the current rules, and providing a review of draft rules.

**C-2-01-c. Monitoring and Assessment**

Continue monitoring programs, and participate in pilot studies and special projects as needs and resources permit. Priorities for FFY03 include: (a) concentrating monitoring activities in Androscoggin River basin in FFY 03 and the St. John and Presumpscot River basins (biomonitoring and associated water chemistry monitoring) in FFY04; (b) developing TMDLs based on priorities established in the 303(d) list (specific water bodies targeted for TMDL completion include, Androscoggin River [Gulf Island], (resolution of water quality problems on Sebasticook River [Burnham] and the West Branch of the Penobscot River may be resolved without need of completing TMDLs pending changes in statute); (c) proposing statewide water quality criteria for mercury (wildlife) in 2004 or 2005; (d) submitting 305(b) and 303(d) (Integrated Report) by October 1, 2002; and (e) generic river and stream QAPP for purposes of point source modeling and TMDL development.

The EPA has been collecting biological data from wadable streams in Maine under a Regional Monitoring and Assessment Program (ReMAP) grant. The Department requests that EPA continue to share data from this effort with us and to work with us to ensure that their methods and the interpretive approach are compatible with and complementary to the biological monitoring methods established by the Department.

**C-2-01-d. Education and Technical Assistance Grants and Loans**

Provide on-site technical assistance to municipal wastewater treatment plant operators, and other dischargers as resources allow, and continue the Small Community Grants and CSO programs. Priorities for FFY03 include providing tools to treatment plants to address wet weather control strategies\*.

**C-2-02. Address Non-point Sources of Pollution (NPS) Loadings to Rivers and Streams from Land/Water (including stormwater and erosion)**

Address nonpoint sources of pollution through implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans. A promising new initiative is the development of algal indicators of non-point source pollution. The DEP has been collecting and analyzing periphyton data collected from suspected NPS impaired sites since 1999 under start-up 319 funding. This program provides valuable new and complementary information in association with the macroinvertebrate biological monitoring program. Twenty sites suspected of NPS impairment will be monitored in FFY03.

**C-2-02-a. Standards**

Implement and continue to appropriately develop laws that regulate activities in or discharging to stream and river watersheds, such as the Stormwater Management Law, Natural Resources Protection Act, Erosion and Sedimentation Control Law, Mandatory Shoreland Zoning Act, and Site Location of Development Law. Priorities for FFY03 include: (a) complying with NPDES stormwater requirements, which include developing general permits for construction activities down to 1 acre of disturbance and for regulated MS4s, and developing criteria for evaluating discharges in the City of Waterville by 12-8-02; (b) revising oxygen standards for impoundments, reclassifying waters, and completing biocriteria rulemaking; and (c) developing nutrient criteria.

**C-2-02-b. Monitoring and Assessment**

Continue monitoring and watershed assessment, and participate in pilot studies and special projects as needs and resources permit. Priorities in FFY03-05 include: (a) developing stream TMDLs based on priorities established in the 303(d) list (specific priorities include Fish Brook, Frost Gully Brook\*, Concord Gully Brook\*, Penjajawoc Stream\*, Carlton Stream, Prestile Stream, Smelt Brook, West Branch of the Sheepscot, and Dyer River); (b) continuing implementation of a stream status data base in order to establish future priorities for action; (c) biological assessment of small streams suspected of having agricultural impacts, urban impacts; (d) evaluating new methods for assessment of endocrine disruption of fish populations; and (e) generic river and stream QAPP for purposes of NPS modeling and TMDL development..

\*NPS-impaired streams targeted for completed TMDLs in FFY03

**C-2-02-c. Education and Technical Assistance; Grants and Loans**

Continue the CSO program. Promote use of effective BMPs and land management practices; promote local stewardship of local resources; increase public awareness of resource values, pollution threats, environmental standards, and individual opportunities; and address chronic non-point sources in priority watersheds. Provide technical or financial assistance for communities in order to eliminate discharges of untreated or partially treated wastewater. Priorities for FFY03 include: (a) continuing efforts to identify waters threatened or impaired by non-point sources using Geographic Information System tools and Stream Assessment Field Screening Method; (b) expanding the Stream Team Program and the NEMO Program; (c) implementing buffer standards for development on headwater streams (approved by Maine legislature in 2002); and (d) providing assistance for non-point source development or implementation projects on rivers and streams with active projects.

**C-2-03. Address Non-point Sources of Pollution -- loadings from air**

Work with regional (TMDL) efforts to reduce certain types of loadings from air, especially persistent, bioaccumulative toxics. Advocate for a regional mercury assessment *in lieu of* mercury TMDLs.

**C-3. Estuarine and Marine Areas**

By 2005, reduce by 10% the square miles of estuarine and marine habitat in nonattainment due to bacterial contamination.<sup>7</sup> Reduce the square miles not supporting designated uses due to other causes.

**Outcome Measures:** (a) the square miles of estuarine and marine habitat in nonattainment due to bacterial contamination; (b) the square miles of estuarine and marine habitat not supporting designated uses due to other causes (insufficient information currently available to set measures); (c) method not yet determined for establishing measures concerning beach systems and associated coastal resources.

**Background:** The primary sources of nonattainment in estuarine and marine areas due to bacterial contamination are combined sewer overflows (CSOs), malfunctioning septic systems, and the presence of overboard discharges (OBDs). DEP licenses OBDs, and provides grants for OBD removal, if funded by voters through a bond. The Department of Marine Resources determines when a shellfish area may be opened for harvesting, based on the removal of known discharges or when continuous sampling reveals that bacterial contamination is no longer a problem. The Department of Human Services oversees septic systems.

The DEP also may provide grants for the replacement of malfunctioning septic systems that are having an impact on surface waters, through the Small Community Grants program, provided this is funded by the voters through a bond. Control over the attainment of this objective by the DEP is low; control by state government, as a whole is reasonably high.

Coastal water quality involves more than sanitation issues around shellfish. Toxic contaminants, nutrients and habitat availability impact the sustained use of Maine's marine resources. All pollutants introduced into rivers and streams ultimately are discharged into estuaries, bays, and the Gulf of Maine. At present, our ability to measure the impacts and effects of pollutants on marine and estuarine life is poor and we are not able to say whether marine life in coastal waters is impaired or threatened, let alone whether water quality classifications (marine life standards) are being attained. We have a good assessment of the distribution of pollutants through the DEP's Marine Environmental Monitoring Program, Gulfwatch, Surface Water Ambient Toxics Monitoring Program (SWAT), and the National Coastal Assessment (NCA), and are in a position to synthesize the information to identify gaps and develop an ability to measure classification attainment, impairment and threats.

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<sup>7</sup>Using the 202 Integrated Water Quality Monitoring and Assessment Report.

The Maine Coastal Program received a grant from EPA for a beach monitoring program. DEP will work closely with the State Planning Office to develop that program with a goal of avoiding all beach closures due to discharges or NPS pollution.

**C-3-01. Control Point Source Discharges to Estuarine and Marine Waters**

Control point source discharges through development and implementation of standards, monitoring and assessment, compliance and enforcement, educational and technical assistance, and provision of grants and loans.

**C-3-01-a. Standards**

Implement and continue to appropriately develop laws that regulate activities near or discharging to estuarine and marine areas, such as the Wastewater Discharge Law, Stormwater Management Law, NPDES Stormwater Phase I and Phase II, Natural Resources Protection Act, Erosion and Sedimentation Control Law, Mandatory Shoreland Zoning Act, and Site Location of Development Law. Review (and amend as needed) the marine oxygen criteria. Work with the Department of Marine Resources to develop a strategic plan and annual priorities for the reopening of certain shellfish areas, by targeting areas for removal of overboard discharges (OBDs) and straight pipes;

A major initiative in FFY03 will be the development of a regulatory program for the control of discharges from the finfish aquaculture industry, including the development of a general permit, drafting site specific permits, reviewing marine modeling capabilities for predicting potential water quality impacts, developing QA/QC requirements for data reporting. The DEP will also enter into a Memorandum of Agreement with the Department of Marine Resources to outline the responsibilities of each agency in regulating aquaculture.\* Another priority is the development of nutrient criteria.

**C-3-01-b. Monitoring and Assessment**

Continue monitoring and watershed assessment, and participate in pilot studies and special projects as needs and resources permit. Priorities for FFY03 include (a) developing estuarine and marine TMDLs based on the priorities established in the 303(d) list; and participating in the Coastal Beach monitoring program.

**C-3-01-c. Education and Technical Assistance; Grants and Loans**

Provide on-site technical assistance to municipal treatment plant operators, and other dischargers as resources allow. Use State Revolving Loan Fund (SRF) loans and DEP grants to replace, upgrade, and build wastewater treatment facilities. Priorities for FFY03 include continuing the CSO abatement program.

**C-3-02. Address Non-point Sources of Pollution to Estuarine and Marine Waters -- loadings from land/water/air**

Address nonpoint sources of pollution through implementation of standards, monitoring and assessment, educational and technical assistance, and provision of grants and loans.

**C-3-02-a. Standards**

Implement and continue to appropriately develop laws that regulate activities near, in or discharging to estuarine and marine areas, such as the Wastewater Discharge Law (including removal of overboard discharges), Natural Resources Protection Act, Stormwater Management Law, Erosion and Sedimentation Control Law, and the Site Location of Development Law; Priorities for FFY03 include (a) amending the statutory dissolved oxygen standards; and (b) implementing general permit standards for wastewater discharge from marinas developed through a stakeholder process.

**C-3-02-b. Monitoring and Assessment**

Continue monitoring programs, and participate in pilot studies and special projects as needs and resources permit. Priorities for FFY03 include: (a) monitoring toxic contaminants coastwide under Gulfwatch and SWAT; (b) cooperating with EPA to operate the air monitoring station at Wolfs Neck State Park; (c) initiating "Healthy Beaches" in cooperation with State Planning Office and Cooperative Extension/Sea Grant; (d) participating as state coordinator for National Coastal Assessment in cooperation with the Casco Bay estuary Project, which is administering the program in Maine; and (e) providing scientific expertise to New Meadows River Watershed Project and to the Presumpscot River Plan Project.

**C-3-02-c. Education and Technical Assistance; Grants and Loans**

Promote use of effective BMPs and land management practices; promote local stewardship of local resources; increase public awareness of resource values, pollution threats, environmental standards, and individual opportunities; provide support for the removal of overboard discharges; and address chronic NPS sources in priority watersheds. Use loan and grant program funds to support projects that will maintain or improve estuarine and marine water quality. Priorities for FFY03 include (a) ongoing administration of the Boat Pump-out Program with a focus on implementing the education and outreach plan; (b) supporting the Casco Bay Estuary Project; (c) continuing to participate on the advisory committee for the Corporate Wetlands Restoration Program (a proposed goal for the program being to raise funds for wetland restoration work in Maine); (d) education efforts directed toward habitat protection and toxic contamination; (e) continuing to support stakeholders in the development of beach management plans; and (f) expand NEMO to include a coastal perspective.

**C-3-02-d. CZMA 6217**

Implement provisions in the "Maine Nonpoint Source Control Program Upgrade and 15 Year Strategy."

**C-4. Wetlands**

Ensure no net loss of wetlands functions and values, that wetlands of special significance are identified and protected, and that the loss of all wetlands due to regulated activity is minimized. Maintain and analyze data base and assessment methods so that a measurable objective may be set.

**Outcome Measures:** (a) net change in wetlands of special significance; (b) net change in other wetlands (insufficient information currently available, to set measures).

**Background:** With limited exceptions, the DEP regulates wetland alterations of 4,300 sq. ft. or larger. The DEP does not regulate, and has no way of tracking, the accumulated loss of smaller wetland areas. Therefore, this objective uses the term "wetlands of special significance", which is contained in DEP's wetland regulations and is a subset of all wetlands. Within this limited framework, DEP's control over the achievement of this objective is relatively high.

**C-4-01. Implement a Wetlands Program**

Provide a wetlands program featuring implementation of standards, monitoring and assessment, educational and technical assistance, and planning. A broad-based priority in FFY03 is implementation of the State Wetlands Conservation Plan. It includes activities that would fall within each of the following categories.

**C-4-01-a. Standards**

Provide review pursuant to the Natural Resources Protection Act for proposed alterations of wetlands. Priorities for FFY03 include: (a) continuing to assess the use of compensation fees at the local, regional and state levels to target compensation at the highest priority areas; (b) continuing coordination on all wetlands permitting efforts with the federal agencies; (c) evaluating the potential issues and benefits associated with the development of water quality standards specific to wetlands; and (d) developing nutrient criteria.

**C-4-01-b. Monitoring and Assessment**

Participate in pilot studies and special projects as needs and resources permit. Priorities for FFY03 include: (a) participating in national and regional workgroups engaged in the development of wetland biological and functional assessment activities, and presenting wetland biomonitoring and research and development results from assessment activities conducted in Maine

wetlands;<sup>8</sup> (b) maintaining a system to track loss of wetlands from permitted activities, and make it GIS-based; (c) running the wetland characterization on all of the organized towns (done) and making it available from the MEGIS data catalogue (State Planning Office); and (d) forward a wetlands loss and gain report to EPA annually by January 15<sup>th</sup>.

**C-4-01-c. Education and Technical Assistance**

Promote use of effective BMPs and land management practices; promote local stewardship of local resources; increase public awareness of resource values, pollution threats, environmental standards, and individual opportunities; and address chronic non-point sources in priority watersheds. A priority for FFY03 is continuing training for code enforcement officers and realtors.

**C-4-01-d. Planning**

Participate in needed planning efforts to increase inter-agency coordination and to better prioritize use of available resources. Priorities for FFY03 include: (a) participate in developing a habitat restoration plan in the Casco Bay watershed; and (b) continuing to investigate status of state wetland laws and rules for consistency with other surface water quality standards, and recommending changes to address any significant inconsistencies.

**C-5. Groundwater**

By 2008, set measurable goals for protection of groundwater quality in pilot watersheds through evaluation of groundwater use, value, and vulnerability.

**Outcome Measures:** Current information insufficient to set measures.

**Background:** Groundwater protection and restoration has largely been conducted in the course of monitoring and remediation of particular sources regulated by the Bureau of Remediation and Waste Management (e.g. landfills, hazardous waste sites, and underground storage tanks). Monitoring is conducted at those facilities and at certain other sites licensed by the Bureau of Land and Water Quality. Groundwater quality is also monitored by the regular testing required of public water suppliers by the Department of Human Services. There is no systematic state-wide program for the regular monitoring of groundwater quality, nor is such monitoring undertaken by federal agencies or, at local scale, by municipalities, although preliminary work on such a project is underway by the Maine Geological Survey.

A need therefore exists for a systematic approach toward assessment of risks to groundwater, incorporating use, value, and vulnerability of the resource. As part of developing a comprehensive groundwater protection program for Maine, the Bureau of Land and Water Quality has developed a methodology that incorporates geologic

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<sup>8</sup> The Department has developed biological sampling protocols for wetlands and is engaged in the analysis of wetland bioassessment data collected since 1998 with the ultimate aim of developing wetland biocriteria and standard. Twenty wetland sites will be monitored for biological condition in FFY03.



data and data on known contamination sites to evaluate risk to the groundwater resource. This will support existing methods for establishing remediation priorities in the Bureau of Remediation and Waste Management, which has the primary responsibility for restoration of groundwater quality at contaminated sites. It will also provide a means for efficiently directing resources toward groundwater areas at risk. Preliminary results suggest some correlation between pollutant sources and observed groundwater pollutant concentrations in areas modeled as higher risk. Additional funding is necessary to further refine this approach, and to support ongoing collection of spatial data and metadata describing possible sources of contamination and other risks to groundwater quality.

In the past three years the number of records in the Maine Groundwater Resource Database, an inventory of potential or actual sources of contamination, has increased 33% (by the addition of 3595 records in 32 different type categories); 98% of these sites have been spatially located. The database presently includes 10700 site records and over 800,000 water-quality analyses. Data collected to date are available on the Web. Over the past year (June 2001 to June 2002), 1133 prioritized Underground Injection Conduits records and spatial locations were added as a special project, an 83% increase in the number of these sites in the database.

#### **C-5-01. Continue to Support Groundwater Protection**

Continue to support groundwater protection through development and implementation of standards, monitoring and assessment, and educational and technical assistance.

Over the next three years (FY03-05), 2500 sites, including GPS locations, are planned to be added based on current licensing of locations. Current funding, however, is inadequate to continue the program. In addition, 1000 prioritized Small Quantity Generators (hazardous waste generators prioritized to F-type (solvents) and P-type (toxics)) are planned to be added and located over the coming year, with 5000 targeted over the next three years. This latter project is also inadequately funded.

##### **C-5-01-a. Standards**

Implement and continue to develop laws that regulate activities that may cause or contribute to groundwater pollution such as the Wastewater Discharge Law (ex. Underground Injection Control Program), Stormwater Management Law, Excavation and Quarry Laws, and Site Location of Development Law). Priorities for FFY03 include: (a) focusing certain protection efforts on prioritized wellhead protection areas; and (b) in the Underground Injection Control (UIC) Program, revising DEP Chapter 543, Rules to Control the Subsurface Discharge of Pollutants\*, developing revised primacy applications for EPA, and conducting field surveys in the Mid Coastal Basin.

**C-5-01-b. Monitoring and Assessment**

Participate in pilot studies and special projects as needs and resources permit. Priorities for FFY03 include: (a) identifying funding sources for future refinement of the groundwater vulnerability methodology and development of a user interface; (b) continuing to establish the groundwater GIS database, and then integrating its use and maintenance among agencies; and (c) identifying sources of pollution using the contaminant source inventory in priority watersheds, and prioritizing supplies and dependent resources and habitats for protection.

**C-5-01-c. Education and Outreach**

Complete report on municipal needs for information on issues of concern related to groundwater, and provide leadership for groundwater education efforts directed toward the general public.

**C-6. Watershed and Ecosystem Health**

Continue to work to protect ecosystems and, by 2005, develop the information base needed to establish measurable objectives for the protection of ecosystem health.

**Outcome Measures:** Use of biological criteria for rivers and streams as health measures.

**Background:** While DEP's other water objectives are specific to water body type, the natural world does not observe such boundaries: streams and groundwater flow into lakes, rivers into estuaries, etc. These resources must be looked at holistically, as the sum total of the conditions of a particular place, including consideration of social, cultural, and economic influences. Environmental outcomes and the adequacy of management actions can be effectively measured by assessing the condition of the biological community (benthic macroinvertebrates and algae). Biological monitoring can also be helpful in prioritizing problems. A key management tool for ecosystem protection is the watershed approach involving a coalition of private and public entities. To be effective, DEP must rely on influence, rather than control, to achieve ecosystem protection. However, we have a high level of control over the development of ecosystem indicators. If adequate resources are applied, the Department can continue to refine informative indicators of watershed and ecosystem health.

**C-6-01. Continue to Support Ecosystem Protection**

Continue to support watershed and ecosystem health through the development and implementation of standards, monitoring and assessment, educational and technical assistance, and planning.

**C-6-01-a. Standards**

Implement and continue to appropriately develop laws that regulate activities that may cause or contribute to environmental damage. Priorities for FFY03

include: (a) inspecting 100% of all new Site Location permits; (b) complying with NPDES stormwater requirements, which include developing general permits for construction activities down to 1 acre of disturbance and for regulated MS4s, and developing criteria for evaluating discharges in the City of Waterville by 12-8-02; (c) monitoring compliance with the erosion and sedimentation control law; (d) promulgating rules for instream biocriteria; and (e) by January 2005, promulgating standards for minimum flow and allowable withdrawal.

**C-6-01-b. Monitoring and Assessment**

Priorities for FFY03 include: (a) adopting numeric biological criteria rules for rivers and streams; (b) developing indicators of ecological condition using periphyton indicators, a NPS biological impact screening tool, and wetland bioassessment and criteria approaches; (c) assessing and prioritizing wetlands and riparian lands for protection; (d) continuing to assess existing and potential sources of pollution to lakes, streams and coastal waters using volunteer watershed surveys and other assessment approaches; (e) continuing to work in cooperation with a workgroup of state agencies and non-agency personnel, to assess status of our knowledge about aquatic biodiversity and identification of issues requiring further study; (f) producing a pilot study analyzing distributions and habitat factors for downeast rivers; (g) providing EPA with available DEP surface/groundwater GIS data; (h) developing a pilot program for assessing cumulative impacts of development in high growth areas; (i) implementing the Assessment Database System (ADB) for electronic 305(b) water body assessments and submitting the water body files that have been updated since the last electronic reporting through the ADB, and beginning to implement STORET ("store and retrieve"); and (j) submitting electronic database updates related to 305(b) report by April 1, 2003 and 2005, submitting final 2004 electronic database and narrative report by April 1, 2004 (Integrated Water Quality Monitoring and Assessment Report); and submitting to EPA a draft comprehensive monitoring and assessment strategy.

**C-6-01-c. Education and Technical Assistance; Grants and Loans**

Continue NPS Awareness Campaign; support DEP Stewardship Campaign; continue the Nonpoint Source Resource and Training Center and other activities; and provide technical assistance to municipalities to increase local capacity to review development projects. Priorities for FFY03 include (a) conducting initial public outreach based upon the invasive plants law; and (b) allocating incremental Clean Water Action Plan (CWAP) 319 funds to implement "restoration action strategies" for selected sub-watersheds within TMDL watersheds.

**C-6-01-d. Planning**

Priorities for FFY03 include: (a) continuing to foster an inter-agency approach by working with the Maine Watershed Management Committee and with Soil

and Water Conservation Districts to identify opportunities and actions that can be taken collaboratively and individually to protect or restore water resources within any of the listed NPS Priority Watersheds; and (b) advocating for allowing 319 funds to be used in Phase II communities.

**C-6-01-e. Salmon Conservation**

Continue to participate in an interagency effort to implement the Atlantic Salmon Conservation Plan. Water quality is being monitored on all of the salmon rivers. Funds from the 319 grant program are being directed to control nonpoint sources in the salmon river watersheds. Staff from both the land and water programs is focusing compliance and enforcement efforts in these watersheds. A new staff position has been filled in the Bangor office to assist the Atlantic Salmon Watershed Councils in the development of watershed management plans. Through the next work item, the issue of water withdrawals and possible impacts on salmon and their habitat will also be considered.

**C-6-02. Address Usage Issues as Appropriate**

Begin implementation and data collection on water usage pursuant to Chapter 619 (2002).

**C-6-03. Provide Leadership in Environmental Protection**

Initiate and participate in the identification and resolution of emerging land and water quality issues, and development of methods of land and water quality protection. Foster development of innovative technologies that minimize or eliminate pollution and encourage facilities to operate beyond compliance. Priorities include identifying and encouraging methods of pollution prevention; and continuing to explore and support sustainable development approaches. We will also try to find funding to support a pilot program to do targeted multi-resource environmental impact assessments in areas experiencing significant growth and cumulative impacts from development.

This information would be provided to regional planning organizations and towns so that they could use the information in their own planning and permitting programs. We will also review our shoreland zoning program and stormwater rules for consistency with the objectives of the Smart Growth initiative.

**C-7. Regulatory Compliance**

This compliance strategy identifies initiatives that will be the focus of compliance and enforcement resources for the Maine Department of Environmental Protection (DEP) and the EPA Region I (EPA) during FFY03-05 under the Clean Water Act ("CWA"). This FFY03-05 compliance strategy links compliance and enforcement actions identified in the body of the PPA for the fiscal years with base program compliance and enforcement activities identified in the July 1998 EPA/DEP Memorandum of Understanding ("MOU"), as amended November 1999. Together these documents, with the PPA work plan, present the elements of a cohesive compliance assurance program. The goal of DEP's and EPA's compliance and enforcement efforts is to

provide a credible deterrent and promote compliance with the CWA and state water laws via the combined efforts of EPA and DEP by using an integrated range of enforcement and compliance assurance tools.

DEP and EPA acknowledge this strategy as a dynamic plan that can be amended or modified upon agreement of the parties during FFY03-05. Although the EPA/DEP MOU developed in July 1998 is not likely to change year to year, it may be modified by agreement of the parties.

### Core Program Activities

Unlike other program compliance plans, this document does not contain significant details on many core program activities. Since the type or quantity of those core program activities does not substantially change year-to-year, detailed descriptions of those activities are found in the EPA/DEP 1998 MOU. The following is a combination of brief descriptions of MOU items and other core activities not contained therein.

## **C-7-01. Compliance Monitoring**

### **C-7-01-a. Maintain an Adequate Compliance Monitoring and Inspection Field Presence for Direct Dischargers**

The Memorandum of Understanding delineates the process for maintaining a field presence in inspections, and for interagency coordination. As stated therein, DEP will at a minimum inspect 30 major facilities and 30 significant minor facilities each year.

#### MEASURES OF SUCCESS

- *Inspecting 30 major facilities and 30 significant minor facilities each fiscal year..*
- *96% of the major facilities will be in compliance with licensed BOD/TSS limits.*

### **C-7-01-b. Combined Sewer Overflows (“CSO”).**

The CSO initiative continues in FFY03 with EPA and DEP committing compliance/enforcement efforts at regulated facilities and/or collection systems that contribute to water quality impairment, shellfish bed and beach closures, and drinking water impacts. This is primarily accomplished by continuing to enforce CSO permit/license requirements and the prohibition against Dry Weather Overflows (“DWOs”); reviewing and providing comments on Nine Minimum Controls (“NMC”) Reports and Long Term Control Plans (“LTCP”); and ensuring abatement plan implementation to achieve compliance with the technically-based and water quality-based requirements of state and federal laws and EPA's National CSO Policy. In order to ensure the execution of approved LTCPs (and their associated implementation schedules), the DEP will continue to incorporate the approved schedules in wastewater discharge licenses and/or non-penalty consent agreements. When necessary, EPA will continue to incorporate approved schedules or

require the development of CSO abatement plans in formal federal enforcement actions. The EPA New England CSO/SSO Response Plan of September 2000 is incorporated in this Agreement by reference.

MEASURE OF SUCCESS

- *For all CSO community facilities appropriate and approved LTCP schedules will be incorporated in license renewal actions; 95% of the CSO communities will be in compliance with their approved LTCP.*

**C-7-01-c. Separated Sanitary Overflows (“SSO”)**

DEP will assist EPA in identifying and assessing the magnitude of the universe of separated sanitary overflows. DEP, to the extent SSOs are identified in Maine, will assist EPA in implementing its Regional SSO bypass tracking system during FFY03. The EPA New England CSO/SSO Response Plan of September 2000 is incorporated in this Agreement by reference.

MEASURE OF SUCCESS

- *Identify universe of SSOs in Maine; provide SSO bypass, if applicable, information to EPA on standardized report forms.*

**C-7-01-d. Underground Injection Control**

- 1) Using the existing facility inspection priority system, DEP will focus UIC inspections in the Watershed Mid Coastal Basin (an area from Bath to Bucksport) in FFY03\*; the Penobscot River Watershed in FY04; and the North Coastal and St Croix Watersheds in FY05.
- 2) Using the UIC data base, follow up on facilities that are out of compliance.
- 3) Revise UIC Primacy Application and state rules according to agreed upon schedule with EPA.
- 4) Conduct follow-up inspections with municipal public works garages participating in EPA Municipal Audit Program in FFY03.

EPA will increase funding to the UIC program by \$22,000 per year.

MEASURE OF SUCCESS

- *Conduct 250 UIC inspections/year in the designated watershed/work areas.*

**C-7-01-e. Pretreatment**

DEP will continue to identify significant industrial users discharging industrial process wastewaters into municipal treatment plants that do not have approved industrial pretreatment programs. DEP will assist EPA in the collection of information during an industrial or municipal pretreatment investigation. DEP will assist EPA by providing technical support or consultation during the development of an industrial or municipal enforcement case.

DEP will conduct four (4) municipal pretreatment compliance inspections (PCI) and two (2) pretreatment program audits (Audit) during FFY03, FFY04 and FFY05. During each PCI at least one industrial user will be inspected. A report will be prepared and distributed for each PCI and Audit.

DEP will review municipal annual pretreatment reports, proposed technically based industrial discharge limits, legal authority, enforcement response plans, industrial discharge permits and any "substantial modification" listed under 40 CFR 403.18. DEP will provide pretreatment technical assistance to all POTWs on an as needed basis.

EPA may, in coordination with DEP, perform PCIs, Audits, IU inspections and both informal and formal enforcement and will copy DEP on all reports.

EPA will coordinate with DEP on all such actions.

MEASURE OF SUCCESS

- *DEP will conduct four (4) PCIs and two Audits in FY03, 04 and 05 and will forward reports to the EPA.*

**C-7-01-g. State O&M Compliance Evaluations**

DEP O&M staff will evaluate federally-funded wastewater treatment facilities that have met all first-year project performance certification requirements, have a design capacity of less than 5 MGD, and have operation and maintenance compliance problems.

**C-7-01-h. Spill Prevention Countermeasure and Control ("SPCC")**

EPA will conduct inspections in response to any major accidental release and will initiate enforcement actions as appropriate to ensure that compliance with Section 311 of the CWA is achieved and maintained. The DEP will continue to encourage all facilities to report releases to the Federal National Response Center. DEP will also provide assistance to ensure that all POTWs have up to date SPCC plans, as necessary.

MEASURE OF SUCCESS

- *EPA conducts inspections and enforcement based upon release reports, region team targeting, tips, complaints, and referrals.*

**C-7-01-i. Wetlands Coordination**

DEP and EPA will work to improve coordination and communications among federal and state agencies and the public on wetland issues. Occasionally, DEP will refer a case to EPA that it believes to be in violation of federal laws. Similarly, EPA and the Corps will refer small cases in violation of state law to DEP.

MEASURE OF SUCCESS

- *Inspecting 100 % of Tier II and III projects that were required to provide compensation.*

**C-7-01-j. Stormwater Program Development and Implementation**

DEP will implement NPDES stormwater Phase I and Phase II requirements, which will include developing general permits for construction activities down to 1 acre of disturbance and for regulated MS4s, and developing criteria for evaluating discharges in the City of Waterville by 12-8-02; compliance monitoring of the regulated MS4's and implementation and monitoring of construction activities regulated by DEP. EPA will continue to administer the Multi-sector General Permit until November 2005. DEP will provide assistance by serving as a point of contact for municipal public works departments that become regulated in March 2003.

**C-7-02. Compliance Assistance**

**C-7-02-a. Education and Outreach**

DEP will continue to assist the Joint Environmental Training Coordinating Committee ("JETCC") with operator certification training; publish O&M monthly newsletters; and sponsor specialty training sessions (toxicity reduction evaluations; clean sampling techniques, etc) on an as needed basis and as financial resources allow.

**C-7-02-b. Technical Assistance**

DEP will continue to provide technical assistance to waste water treatment plant personnel during routine compliance inspections on an as needed basis. These activities will only be conducted as resources allow, due to 104(G) flat funding.

**C-7-03. Significant Non-Compliance**

During FFY03-05, EPA Headquarters expects to see no more than 2% of the State's major NPDES facilities on the so-called "Exceptions List" for any given quarter. DEP will continue to improve the monthly NCR and quarterly QNCR process in order to identify as early as possible facilities that are in noncompliance. Tools that will be used include standardizing DEP response to non-compliance by utilizing the DEP Water Compliance Policy; and monthly review of inspection reports, the DEP's Water Compliance System database; and non-compliance reports generated from PCS. Appropriate tools ranging from technical assistance to enforcement action will be utilized to ensure a timely return to compliance.

MEASURE OF SUCCESS

- *Not more than two (2) major NPDES facilities are reported on EPA Headquarters' Exceptions List for any given quarter. DEP and EPA have 4 QNCR meetings in each FFY.*

**C-7-04. Data Management**

DEP will continue to maintain the timeliness and accuracy of DMR data entered into the PCS system. These efforts include regionalizing data entry, data entry



screens to reduce errors, automated reports to identify delinquent reports, and manually checking the data for accuracy and completeness. EPA will forward information on potential financial resources to assist the DEP in completing this task, and will provide technical assistance and training on an as-needed basis.

MEASURES OF SUCCESS

- *Complete development of compliance tracking system and consistently utilize and upgrade the system as needed.*
- *As a result of improved data management, it will not take more than one week for either EPA or DEP to prepare for the QNCR quarterly meeting.*
- *Timely and accurate compliance, inspection, an enforcement data is entered in PCS.*

**C-7-05. Policies and Special Initiatives**

**C-7-05-a. Authorization**

DEP submitted an NPDES authorization application to EPA in November 1999. EPA approved partial authorization in January 2001. However, a decision was not made by EPA for authorization in areas of the state EPA refers to as Indian Country. EPA will make every effort to facilitate agreement among the parties that can serve as the basis for issuing a decision for Indian Country by the end of CY 2002. EPA will also assist in providing training opportunities for staff, especially in the areas of pretreatment compliance inspections, audits and enforcement and storm water compliance-enforcement including data management.

MEASURES OF SUCCESS

- *EPA facilitates discussion among the parties to settle the dispute over authorizing Maine in Indian Country and if it becomes clear that an agreement on this matter is impossible to negotiate take appropriate action.*

**C-7-05-b. Effluent Toxics Testing**

- 5) DEP will finalize revisions to Department Regulation Chapter 530.5 *The Surface Waters Toxics Control Program*, including adoption of EPA's water quality criteria\*, and will continue its investment in maintaining improvements to the effluent toxics program.

MEASURE OF SUCCESS

- *100% of facilities submit toxics testing requirements in a timely manner.*
- *Adoption of the revised toxics rule.*

**C-7-05-c. Dioxin**

During FFY03 and 04 DEP will monitor compliance with and enforce the state law that requires the following.

- 1) Non-detect for TCDF by 12/31/99; and propose enforcement response for those facilities out of compliance.

- 2) Fish below bleach kraft mills to have the same dioxin levels in tissue as fish above mill outfalls by December 31, 2002.
- 3) Incorporation of multimedia and interagency coordination with EPA and the Air Program, to get the bleached kraft mills into compliance with the Cluster Rules.

**C-7-05-d. Mercury**

Monitor compliance with interim mercury limits and implementation of facility specific P2 plans.

**C-7-05-e. Geographic Targeting**

**C-7-05-e-1. Watersheds**

The DEP is no longer using the "5-year watershed approach", and so is no longer focusing as described in (A), except for water quality evaluation. The DEP has developed a 3-year schedule to reduce/eliminate the backlog of expired permits. DEP will also prepare annual compliance assurance plans that will allocate inspection resources based on risk, and geographic or technical objectives.

MEASURES OF SUCCESS

➤ *Complete inspections, any water quality evaluations, enforcement, and licensing actions as appropriate.*

**C-7-05-e-2. Seven Salmon Rivers**

DEP, and depending on resources, EPA, will focus compliance inspections on facilities that discharge to the Narraguagus, Pleasant, Machias, East Machias, Sheepscot, Ducktrap, and Dennys Rivers.

MEASURES OF SUCCESS

➤ *Complete compliance inspections of facilities in these watersheds.*  
➤ *Provide EPA with a list of planned and completed inspections of facilities discharging into these rivers*

**C-7-05-f. Shellfish Restoration**

DEP will continue to work with the Maine Department of Marine Resources ("DMR") and the Regional Planning Commissions to develop a coordinated approach for focusing resources on priority areas of concern, including the use of Overboard Discharge Grants and Small Community Grants, enforcement, education/outreach, etc. to restore identified redeemable shellfish areas.

MEASURES OF SUCCESS

➤ *Conduct annual review meetings with DMR.*

- *Complete sanitary survey work and enforcement follow-up as needed in the towns of Vinalhaven, Cushing, and possibly in Northport, Owls Head, Phippsburg, Harpswell, and Warren/Thomaston.*

**C-7-05-g. Corinna Sewer District**

DEP will work with the District to remove the existing treatment plant outfall from the Sebasticook River, replacing it with a land application system

MEASURE OF SUCCESS

- *Tracking and ensuring implementation of the approved schedule included in the District's State waste discharge license.*

**C-7-06. Sector Initiatives**

**C-7-06-a. Industrial Sector Storm Water**

EPA will target industrial sector(s) with the most serious toxic discharge(s) for a blend of compliance assistance and enforcement. DEP will provide the EPA with leads/tips for assistance/enforcement within the selected industrial sector(s).

MEASURES OF SUCCESS

- *DEP to provide pertinent information to EPA upon request.*

**C-7-06-b. Concentrated Animal Feeding Operations ("CAFOs")**

1. DEP will implement pertinent requirements on CAFOs and Animal Feeding Operations ("AFOs") as identified in the *Maine Nonpoint Source Control Program Upgrade & 15 Year Strategy* as approved by EPA on 10/13/99.
2. As agreed to in the MOU with the Department of Agriculture, Food and Rural Resources ("DAFRR") DEP will implement a coordinated review/licensing/compliance program for CAFOs/AFOs. Pursuant to the MOU, DEP and DAFRR will identify the universe of CAFOs, prepare a joint application package, and will ensure that all the CAFOs are inspected by FFY03.

MEASURES OF SUCCESS

- All CAFOs will be permitted by the end of FY03.

**C-7-06-c. Biosolids disposal or beneficial reuse**

The program will coordinate with the DEP Sludge and Residuals Unit to conduct licensing, inspection and enforcement activities that ensure landspreading activities does not adversely impact groundwater and surface water resources. EPA will be consulted regarding technical issues related to pathogens and metals.

## Appendix A.

Programs in the Bureau of Land and Water Quality are supported by funding sources as follows:

- State General Fund: Water Quality Monitoring; Environmental Assessment; Lakes Protection; Marine Waters Protection; Groundwater Protection; Wastewater Discharge Licensing; Over-Board Discharge Licensing; Land Licenses and Permits; Hydropower Licensing; Natural Resource Protection Areas Management; Compliance Inspections; Violation Enforcement; Non-Point Source Pollution Control Technical Assistance; Non-Point Source Pollution Control Grants Management; Non-Point Source Pollution Control Training; Watershed Management; Wetlands Protection; Coastal Zone Management  
Salmon/Mercury Monitoring; Wastewater Treatment Plant Operator Licensing and Training; Education and Outreach; Data Management; and Finance and Administration.
- State Fees: Wastewater Discharge Licensing; Over-Board Discharge Licensing; Land Licenses and Permits; Gravel Pit Registration and Licenses; Compliance Inspections; Hydropower Licensing; Dioxin Monitoring; Outdoor Heritage Projects; Data Management; violation enforcement; and compliance inspections.
- Federal Performance Partnership Grant: Water Quality Monitoring; Environmental Assessment; Lakes Protection; Groundwater Protection; Compliance Inspections; Violation Enforcement; Non-Point Source Pollution Control Technical Assistance; Non-Point Source Pollution Control Grants Management; Non-Point Source Pollution Control Training; Wetlands Protection; Pollution Prevention; Combined Sewer Overflows Abatement; Underground Injection Control Regulation and Abatement; Data Management; and Education and Outreach.
- Other Federal: Coastal Zone Management; Wastewater Treatment Facility Revolving Loan Fund; Water Quality Planning Grants; Boat Pump-Out Program; Wastewater Treatment Plant Operator Training; State Wastewater Treatment Facility Construction Revolving Loan Fund; and Construction and Upgrades of Wastewater Treatment Facilities.

## D. MATERIALS HANDLING

**GOAL: To protect public health, safety, and welfare and the environment from pollution by asbestos, lead, oil, and hazardous substances.**

### ISSUE STATEMENT:

Its natural resources are a major factor in why people choose to live and vacation in Maine. The mountains and forests, the rivers, lakes, and ocean, and the landscape in general draw people from far and wide. Human activity, however unintentional, can put these obvious assets, individuals, themselves, and other less obvious assets such as ground water at risk. Petroleum or hazardous substance spills and improper handling and disposal of materials such as asbestos and lead are some of the undesirable by-products of activities that sustain our economy. Through education, technical assistance, and regulation designed to protect our resources and to remediate activities that may put them and the public in jeopardy, the Department will continue to apply strong science and both traditional and innovative approaches to better manage these situations. The Department will continue to identify the risks posed by activities and sites of concern in order to prioritize program tasks and calibrate appropriate levels of effort.

### FUNDING SOURCES:

The following financial information is provided as an indication of the scope of the program. In State Fiscal Year 2002, expenditures of \$31,043,176 to support this goal came primarily from the following sources:

State General Fund	\$399,617	(1.2%)
Federal Funds	\$2,394,141	(7.7%)
Dedicated Funds	\$28,249,418	(91.1%)

### RECENT PERFORMANCE:

The following information pertains to other than compliance-related efforts. Refer to the Compliance section for recent compliance/enforcement activities in the following five (5) program areas.

#### RCRA (C) hazardous wastes program

In general, the state has met or exceeded most grant commitments. The following represents a more detailed summary. The state worked on forty-one (41) corrective actions and ten (10) closure plans, with an additional eight (8) closures expected to be completed by the end of the grant year. All applications filed during the grant year were evaluated. One (1) TSD facility was transferred to new owners, twice, twelve (12) abbreviated licenses were issued and seven (7) more are pending, with issuance expected before the end of the grant year.

Since the Universal Waste Rule was such a major undertaking that affected a much wider universe of generators than any previous Hazardous Waste Management rulemaking effort, extensive time was needed for implementation of the new rule. This was conducted in lieu of additional rulemaking efforts. A short list of items developed

for this purpose includes: a detailed Universal Waste Handbook; Small Universal Waste Spill Plan; and a three-hour training program for universal waste generators and consolidators. A brochure on universal wastes was developed and included in a tax form mailing to all sixty thousand (60,000) businesses in the state. Finally, nineteen (19) universal waste, hazardous waste, and waste oil training seminars have been conducted in this (2002) grant year.

### **RCRA (I) UST/oil enforcement program**

During the prior grant period the state met or exceeded its commitments. An analysis of the annual inspection report findings was completed and briefings provided to the Fund Insurance Review Board, Board of Underground Storage Tank Installers and Natural Resources Committee. The cathodic protection report was also completed and the results provided to both oversight boards and the Natural Resources Committee. Copies of both reports have been widely circulated to industry, the consulting community and general public. Both reports were instrumental in obtaining statutory authority for the development of standards that prohibit new underground storage tank installations in sensitive geologic areas and the authority to create a certification program for inspectors. Beginning in 2003, all underground storage systems will be required to have third party inspection performed by a certified inspector or installer. Multiple training sessions were provided to the owners, operators and the existing pool of installers statewide. Inspection targets were also achieved. An evaluation of the adequacy of current program resources, and the insurance program including an evaluation of the availability of private insurance and other alternatives to the Ground Water Oil Clean - up Fund as a financial assurance mechanism was completed and provided to the Legislatures' Natural Resources Committee.

### **Asbestos and Lead**

The Department has completed all PPA 2000 commitments in lead and asbestos, except for commitments related to revisions to the "Asbestos Management Regulations". Proposed revisions to this rule were posted to the formal rulemaking process in July 2002 and a public hearing on the change was held on August 15, 2002. The Board of Environmental Protection will adopt the final rule late in 2002, and program staff will then provide workshops to help with implementation of the new rule. Program staff continued to take advantage of education and outreach opportunities beyond those required by the PPA to help prevent the release of asbestos fibers and lead dust into the environment.

During the previous PPA the Department combined the asbestos and lead programs and compliance, enforcement and technical assistance in both lead and asbestos. This has given program staff greater flexibility to more efficiently utilize their time as we cover the geographically large area of the entire state from our central Augusta office. In 2002, the Lead and Asbestos Hazard Prevention Program (LAHPP) processed all lead and asbestos licensing applications received from contractors, consultants, and trainers and certification applications from professionals. Staff was actively involved in regional reciprocity efforts, attending and participating in all CONES/CONEST meetings and conference calls, including co-hosting (with the Penobscot Indian Nation) the

CONEST annual meeting in May 2002, and participating in NELCC meetings as appropriate to coordinate lead education and outreach efforts in New England. Staff also organized and presented at a regional Lead TSCA Enforcement Training in November 2001, and gave presentations at the Regional CDC Grantees Conference in November 2001 and at the National Asbestos Conference in March 2002. All of these conferences were helpful in providing a larger context to our local efforts.

The LAHPP continued to implement the terms of our MOU with the five Native American tribes in Maine. The MOU was entered into in 1998 with the Aroostook Band of Micmacs, the Houlton Band of Maliseets, and the Passamaquoddy at Indian Township, with the Passamaquoddy at Pleasant Point in 1999, and with the Penobscot Indian Nation in 2000. The tribes received funding for training activities as well as technical assistance for lead inspection activities from the LAHPP in 2002.

The LAHPP continued its close cooperation with Maine's Childhood Lead Poisoning Prevention Program by providing technical assistance on lead abatement to homeowners with lead-poisoned children. We provided technical assistance on compliance with state and federal lead regulations to applicants for HUD Lead Hazard Reduction grants, including the Maine State Housing Authority (MSHA) and the cities of Lewiston and Auburn. We also worked with MSHA, the Maine Department of Economic and Community Development and local housing authorities to come into compliance with the new HUD Lead-Safe Housing Regulation (TSCA 1012). This included targeted course audits to ensure HUD training standards are met as required by a HUD grant to MSHA. Staff also provided the Maine Department of Conservation (DOC) with lead-safe work practices guidance to be used by employees living in DOC residences and performing renovation or maintenance activities.

Staff gave numerous presentations on our program at all initial training courses and at some refresher training courses. We continue to provide general educational materials for lead-safe renovations and the safe removal of asbestos siding by homeowners. We also continue to distribute educational materials for the federal 1018 Real Estate Notification requirements and the EPA 406 Pre-Renovation Rule. Additionally, staff continued to disseminate compliance information on asbestos survey and removal requirements prior to demolitions to municipal officials, and gave educational presentations at statewide training events for local code enforcement officers on the hazards and regulatory requirements of lead and asbestos.

Department staff continued efforts to revise the Maine "Asbestos Management Regulations". Draft Asbestos Management Regulations were posted in July 2002, with a public hearing held in August. The final rule is slated to be adopted in late 2002. The program also implemented recent changes to the Maine Lead Management Regulations, including establishment of the Sampling Technician discipline.

## Compliance

We continued compliance and enforcement activities required of us as the delegated NESHAP agency, the authorized 402 program, and as a waiver state for AHERA activities. This included conducting targeted field inspections of contractors, auditing of training providers, investigating tips and complaints, performing 45 AHERA inspections, and processing all licensing and certification applications received. We also continue to offer guidance and technical assistance to designated groups to help prevent compliance problems. This included: outreach activities on demolition requirements to some of the larger cities, including a voluntary tracking system to help us assess compliance; and the development and distribution of guidance on the use of asbestos in dust samples and occupant protection planning for lead abatement in accordance with both HUD and state regulations.

In FFY02, our 45 AHERA inspections were focused on schools that had not been inspected for several years and on schools with a record of non-compliance. Our training course audit efforts were focused on training providers offering a course for the first time and on initial training courses. We also provided separate, technical assistance sessions with training providers in follow-up to audits to assist them in improving the overall quality and effectiveness of their courses.

As a result of our inspection program, the program pursued resolution of violations noted in accordance with the DEP and Division of Solid Waste Management Compliance Policies. In the cases that resulted in consent agreements, we implemented the program's recently revised Enforcement Penalty Policy, resulting in an increase in the average penalty assessed through the administrative resolution process.

The LAHPP continued to refine and streamline our databases used for tracking notifications, licenses and certifications, inspections, training course audits and training provider information, and housing inspected for lead hazards. These systems are utilized to target inspections, to meet NARS reporting requirements to EPA, to share information with other states and tribes to support reciprocity, and to provide up-to-date information to the general public on lead and asbestos abatement companies and professionals. Staff also implemented a redesign of our compliance tracking database so that we can better identify common compliance problems to help target our education and outreach efforts.

The Maine Health and Environmental Testing Laboratory (HETL) maintained its accreditation for environmental lead analyses with financial support from the DEP/EPA PPA. DEP LAHPP staff maintained any individual certifications and participated in all safety training required by state and federal laws as needed to perform their jobs.

During FY02, the Hazardous Waste Program has submitted data on compliance activities and significant non-compliers to EPA in a timely fashion and has administered data management projects related to the program including, manifest reviews, Annual



Hazardous Waste Reports, Biennial Report data submission and support. In addition, the Program has worked on the development and rule making for the Universal Waste Rule, compliance assistance activities including advisory opinions, and related projects. During FY02, the Department reconciled hundreds of manifest discrepancies and issued over thirty-five (35) LOWs or NOV's for improper completion or use of manifests.

#### **PUBLIC PARTICIPATION:**

To fulfill the public participation component of the PPA, the Bureau of Remediation and Waste Management solicited input from relevant stakeholders through distribution of the draft PPA. Two written comments regarding the Asbestos and Lead program were received and addressed. Additionally, the draft was discussed at the October meeting of the Fund Insurance Review Board (FIRB), a body composed of members of the petroleum industry and interested public. The primary purpose of the FIRB is to monitor income and disbursements from the dedicated Ground Water Oil Clean-up Fund. As the RCRA (I) portion of the PPA is related to underground (petroleum) storage tanks, it is appropriate that the FIRB members have knowledge of the PPA.

In addition to this solicitation, the PPA is discussed in the course of meetings with our various and numerous stakeholder groups throughout the agreement period.

#### **TIME FRAME:**

Most of the objectives and strategies listed in this plan are multi-year or ongoing efforts. Short-term discrete tasks have been noted as such.

#### **MEASURABLE OBJECTIVES:**

##### **D-1. Contaminated Sites**

By the year 2005, decrease by at least 15% the number of hazardous substance and petroleum contaminated sites<sup>9</sup> that pose an unacceptable risk to public health, safety, welfare and the environment.

**Outcome Measures:** (a) number of contaminated sites; (b) number of homes with contaminated drinking water; (c) number of sites returned to reuse; (d) number of plans reviewed; (e) number of milestones achieved in the corrective action process; (f) number of sites under remediation; (g) number of sites with alternative water supplies; (h) number of hazardous waste facility closures conducted.

**Background:** The purpose of this objective is to clean-up or contain the existing waste and petroleum contaminated sites in order to provide clean drinking water, groundwater, soils, and surface water and to protect public health and safety. To the extent possible, these sites are returned to productive reuse as industrial, commercial, recreational, or residential properties.

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<sup>9</sup>As of July 1999, there are 446 hazardous substance and petroleum contaminated sites, 394 potentially contaminated solid waste sites (landfills), 440 state uncontrolled hazardous substance sites, 13 SUPERFUND sites, 167 Formerly Used Defense Sites, and 10 Department of Defense installations.

**D-1-01. Contaminated sites**

Conduct the clean up of petroleum and hazardous substances contaminated soil and ground water sites.

**D-1-02. Hazardous waste sites**

Process closure plans, require and oversee corrective action to control leachate, stabilize and monitor sites, and maintain the integrity of the sites to prevent harm to the public health, safety, welfare and the environment.

**D-1-02-a. Closure plans/corrective actions**

Review, comment on, and make decisions on corrective action and closure plans for RCRA-C sites. Use available resources within the Uncontrolled Sites Program to accelerate progress in addressing the universe of RCRA-C corrective action sites.

**D-1-02-b. Risk assessments**

Oversee risk assessments at RCRA sites. Make environmental indicators and final remedy decisions. Ensure public opportunity for comment on clean-up actions.

**D-1-03. Financial responsibility**

Administer the third party damage claims and insurance programs to compensate persons for damages; determine eligibility and deductibles for applicants to the Fund, and disburse funds to applicants to investigate and remediate discharges of oil from underground and aboveground storage tanks.

**D-1-04. Outreach**

Develop and administer a contract for publication of a layperson's guide to state UST rules. Prepare and distribute to tank owners and operators educational materials, which facilitate compliance with the maintenance, leak detection and spill prevention requirements, and provide guidance on state fund eligibility.

**D-1-04-a. UST removal**

Continue the home heating oil UST removal loan program to encourage homeowner compliance with the past 1997 state removal deadline.

**D-1-04-b. Certified inspector program**

Create certification program required by state law for the annual inspection of underground oil storage facilities.

**D-1-04-b-1.** Modify state rules to achieve consistency with state law.

**D-1-04-b-2.** Create, award and administer contract for the creation of inspector certification test and study guide.

**D-1-04-b-3.** Implement /administer testing program to allow interested professionals to become certified.

**D-1-05. Information management**

Maintain accurate state and national databases of hazardous waste and underground storage tank information.

**D-1-05-a. Hazardous waste**

Information related to hazardous waste handlers, permits, closures, corrective actions, compliance and enforcement activities, and biennial report information will be reported to EPA for inclusion in the National RCRIS database. Continue supporting RCRA info and RCRA Rep (Reference Compliance section).

**D-1-05-b. Oil**

Information regarding compliance with leak detection and upgrade requirements, inspection, compliance and enforcement initiatives, confirmed releases from oil handling facilities, clean-ups initiated and completed, final remedy selection, and information relative to "state lead" clean-ups will be maintained and provided to EPA for inclusion in the national database. Reference Compliance section.

**D-1-05-c. Enhanced use of technology**

Employ, where possible, more effective and efficient ways to both gather and share information related to various databases. Obtain and maintain desktop computers with the TANKS database for use in the field.

**D-1-05-d. Information management**

Create, award and administer contract for the expansion and upgrade of the capabilities on the tank registration database to provide for the tracking of compliance information.

**D-1-05-e. Ground water data**

Increase input of all RCRA ground water related information into the Department ground water database.

**D-1-06. Program implementation**

Maintain adequate levels of trained staff to administer the hazardous waste and petroleum handling programs.

**D-1-06-a. Training**

Assess training needs of staff and seek cost-effective training opportunities to ensure staff is adequately trained to effectively deliver program services. Participate in internal and EPA sponsored programs designed to train staff in delivery of technical assistance and regulatory guidance for UST owners and operators.

**D-1-06-b. Staffing**

Continue to assess the level and expertise of staffing required to accomplish the mission and objectives of the Department and the Performance Partnership Agreement.

**D-1-07. Program assessment**

Complete and present to the Legislature an evaluation of the adequacy of total current clean-up program resources, with particular emphasis on petroleum sites.

**D-1-07-a. Reports**

Submit reports to the Legislature by February 15 of each year.

**D-1-07-b. Stakeholder outreach**

Communicate and solicit input on the programmatic needs and proposed changes as needed during the administration of the programs.

**D-2. Waste and Petroleum Management**

Annually, achieve the prevention of any significant new illegal discharges and emissions, and minimize other risks to public health, safety, welfare, and the environment associated with the siting, design and operation of hazardous substance and petroleum facilities.

**Outcome Measures**<sup>10</sup>: (a) number of applications and registrations processed; (b) number of licenses issued; (c) complaints investigated; (d) compliance inspections conducted; (e) violations documented; (f) enforcement actions initiated; (g) technical assistance and education and outreach activities conducted (h) underground tanks removed; (i) wells affected; (j) the number of work years spent on applications; (k) the number of work years spent on complaint response, inspections and enforcement activities.

**Background:** The purpose of this objective is to prevent the occurrence of discharges and contaminated sites which pose unacceptable risks, and to ensure that all waste facilities are sited, designed, and operated in a manner that is protective of public health, safety, welfare, and the environment. Efforts are accomplished, in part, through the application of regulatory standards as well as pollution prevention efforts where practical.

**D-2-01. Application processing**

Process applications and approve those that meet or exceed siting, design and operational requirements established in rule.

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<sup>10</sup>It is recognized that these measures may be more accurately described as outputs as opposed to outcomes. However, the quandary created by the questions "How does one measure prevention?" and "How does one measure risk?" has yet to be solved and we continue to search for an appropriate means of quantification. Any suggestions for or guidance in solving this would be welcome.

**D-2-01-a.** Evaluate, provide comments, and make decisions on full facility and abbreviated license applications (RCRA-C).

**D-2-01-b.** Ensure opportunity for public comment and incorporate public comments into decisions as applicable.

**D-2-01-c.** Evaluate and process underground oil storage facility removal notices and new facility registrations.

**D-2-01-d.** Collect relevant data and consider and develop, as appropriate, statutory and/or regulatory changes to the UST rules in the areas of siting, annual inspections, cathodic protection, and operation and maintenance requirements that would further minimize releases or the consequences thereof.

**D-2-01-e.** Process applications to the Ground Water Oil Clean-up Fund for USTs and present appeals to the Fund Insurance Review Board as necessary.

**D-2-02. Rulemaking/authorization**

Develop and update rules pertaining to waste oil, hazardous waste management (RCRA-C) and underground petroleum storage facilities (RCRA-I) as needed to establish siting, design, and operational standards that minimize risks to public health, safety, welfare, and the environment and are at least as stringent as the federal requirements adopted by the EPA.

**D-2-02-a.** Initiate rulemaking and submit authorization packages to EPA for final approval as described below:

**D-2-02-a.-1 Universal Waste and TC Rule:**

- February 2003 - ME DEP submits an authorization application for the Universal Waste Rule and TC Rule as currently in effect in Maine rules.
- May 2003 - EPA publishes a proposed approval in the Federal Register.

**D-2-02-a.-2 Organic Air Emission (AA, BB, CC), LDR, TC Revisions, Wood Preserving Rules, and review HWIR Media, Expanded Public Participation and Post Closure Rules for possible consideration in the next RCRA rulemaking package:**

The following schedule assumes that the revisions will include all relevant checklists through 6/30/02 and also assumes no statutory issues arise with any of the above rules.

PPA Commitment:

- April, 2003 - ME DEP completes a workshop draft

PPA Goal:

- June, 2003 - ME DEP submits draft rules to EPA for comment

- September, 2003 - EPA submits comments on draft rules to ME DEP
- 2nd Q FFY 04 - ME DEP issues public notice on the proposed rules
- 1st Q FFY 05 - ME DEP issues final effective rules
- 3rd Q FFY 05 - ME DEP submits authorization application to EPA for review
- 4th Q FFY 05 - EPA publishes a proposed approval in the Federal Register

**D-2-02-b.** Develop a realistic plan for addressing remaining areas where rules have yet to be authorized.

**D-2-02-c.** Issue advisory opinions on the requirements of the RCRA programs and provide EPA with assistance on mutually agreeable issues.

### **D-2-03. Compliance**

#### **D-2-03-a. Field citations**

Evaluate the continued use of field citations in coordination with EPA staff in the underground oil storage tank program to resolve appropriate violations.

#### **D-2-03-b. Field administrative consent agreements**

Evaluate creation and use of state administrative consent agreements issued in the field at the time of inspection. Agreements would require corrective action and payment of penalties.

### **D-2-04. Implementation**

Continue to implement the joint DEP/EPA July 22, 1992 Memorandum of Agreement governing the implementation and operation of the Maine UST program and the state federal program authorization.

### **D-2-05. Training**

Ensure that people engaged in the handling of hazardous substances, and petroleum facilities are offered training on compliance with the regulations. With this information, the facility operators should then be able to ensure that their respective facilities are operated in compliance with the regulations to prevent illegal discharges, emissions, and other threats to Maine's public and its environment.

#### **D-2-05-a. RCRA-C**

Conduct educational efforts for hazardous waste generators on the Hazardous Waste Management Rules and, in particular, the Universal Waste Rules.

#### **D-2-05-b. UST training**

Conduct workshops as needed at different locations to provide regulatory and technical assistance to UST owners, operators, and installers.

### **D-3. Abatement and Waste Transportation**

By the year 2006, reduce to insignificant levels<sup>11</sup> the risk to public health, safety, welfare and the environment from the abatement of environmental hazards from, and the transportation of, hazardous substances.

**Outcome Measures**<sup>12</sup>: (a) number of transporter applications processed; (b) number of abatement licenses and certifications issued; (c) number of notifications received; (d) number of compliance inspections conducted; (e) percentage of inspections with violations documented; (f) number of enforcement actions initiated; (g) number of training providers accredited; (h) percentage of inspected LEAs (Local Education Agencies) in compliance with AHERA (Asbestos Hazard Emergency Response Act) requirements; (i) number of federal DOT preemption determinations made against state transporter regulations; (j) change in the percentage of children screened who have blood levels in excess of 10 ug/dl; (k) percentage change in number of demolitions reported in the ten (10) largest municipalities.

**Background:** The purpose of this objective is to protect the public and the environment from exposure to possible hazards from the transportation of petroleum, hazardous substances, and solid waste; and to protect the public from the hazards associated with lead and asbestos containing wastes from abatement of structures.

#### **D-3-01. Training**

Ensure that people engaged in lead and asbestos abatement activities, underground oil storage tank installation and removal, and waste (hazardous, biomedical, oil, and non-hazardous) transport are adequately trained to properly abate, handle, and dispose of these wastes. This will be accomplished through: processing of lead and asbestos licensing/certification applications; providing technical assistance to lead professionals and the public; further developing reciprocity with other states and tribes for lead and asbestos certifications; conducting training course audits; implementing the lead program MOU with area tribes; and providing education to asbestos and lead professionals, the regulated community, and the general public through a variety of educational initiatives.

#### **D-3-02. Compliance for lead and asbestos**

Conduct targeted field inspections, investigate complaints and take enforcement actions to ensure no public health or environmental risks are created through improper abatements, and that LEAs are in compliance with the Asbestos-

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<sup>11</sup>The regulation of abatement, installation and removal, and transportation seeks to prevent the creation of *any* risks from these activities. However, due to the human factor in the performance of these activities, the measurable outcome of this objective reflects the reality that zero risk will not be achievable.

<sup>12</sup>It is recognized that these measures may be more accurately described as outputs as opposed to outcomes. However, the quandary created by the questions "How does one measure prevention?" and "How does one measure risk?" has yet to be solved and we continue to search for an appropriate means of quantification. Any suggestions for or guidance in solving this would be welcome.

Containing Materials in Schools rules, 40 CFR Part 763, Subpart E. Reference Compliance section.

### **D-3-03. Rulemaking**

Develop and update rules pertaining to lead and asbestos management, to the installation and removal of underground and above ground storage tanks, and to the transportation of hazardous and non-hazardous wastes as needed.

## **D-4. Regulatory compliance**

This section covers compliance activities for asbestos (D-4-A.), (lead D-4-B.), RCRC-C (Hazardous Wastes) (D-4-C.), and RCRA (I) (UST/Oil) (D-4-D.).

### **D-4-A. Asbestos**

The asbestos program is under the jurisdiction of the Director of the Division of Solid Waste Management and managed through the Lead and Asbestos Hazardous Prevention Program. Asbestos program staffing includes one (1) 40%-time Program Manager, three (3) full-time Oil and Hazardous Materials Specialists, and one (1) 50%-time Environmental Technician along with assistance from the clerical unit. All staff persons are located in Augusta and the program is entirely managed from there.

#### **D-4-A-01. Asbestos compliance monitoring**

##### **D-4-A-01-a. Compliance inspections**

The priorities for conducting compliance inspections of asbestos abatement activities are as follows: tips, complaints, and referrals of a serious nature; new and/or out-of-state contractors; large friable abatement projects; projects in schools; small abatement or non-friable projects; and demolition projects. We also conduct records inspections of contractors and consultants prior to re-licensing as staff time allows. Program standard operating procedures exist and are utilized for all types of compliance related activities.

##### MEASURE OF SUCCESS:

- *Percentage of state and NESHAP compliance inspections conducted that result in the issuance of a Notice of Violation*
- *Percentage of AHERA compliance inspections that result in the issuance of a Notice of Non-compliance.*

##### **D-4-A-01-b. Certification issuance**

The DEP will continue to review applications for licensing and certification, and issue these credentials as appropriate.

##### MEASURE OF SUCCESS:

- *Percentage of professional certification applications and company license applications processed.*



**D-4-A-01-c. Enforcement**

The DEP will pursue enforcement actions as appropriate for significant non-compliance and to gain compliance as needed.

MEASURE OF SUCCESS:

➤ *Percentage of enforcement cases involving actions beyond a Notice of Violation initiated in the FFY that are brought to resolution.*

**D-4-A-02. Asbestos compliance assistance**

**D-4-A-02-a. Education and outreach**

- 1) **Training.** The Asbestos Unit will continue to offer presentations at initial educational courses targeted at the regulated community to enhance compliance. The Unit also trains at various meetings, seminars, and groups as requested.
- 2) **Written correspondence.** The Unit will continue to distribute hundreds of educational pamphlets annually in an effort to inform the regulated community.
- 3) **Telephone calls and e-mail.** The Unit will continue to respond to hundreds of phone calls annually to provide compliance information.

**D-4-A-02-b. Technical assistance**

Technical assistance is provided as a service to the regulated community through on-site visits and project-specific interpretations by phone (followed by hardcopy). The Unit will develop and distribute educational materials detailing changes to state regulations slated for adoption by the end of calendar year 2002.

**D-4-A-03. Information management and reporting**

**D-4-A-03-a. Information management**

The Unit maintains several databases to ensure accurate program tracking and to provide up-to-date information to the public and regulated community. The databases that we will maintain include: Compliance Tracking (includes tracking of enforcement actions and education and outreach efforts); CERT; and CLASSACT.

**D-4-A-03-b. Reporting**

The Unit will continue to provide monthly database updates and quarterly reports to EPA on program activities as required.

#### **D-4-A-04. Policies and special initiatives**

##### **D-4-A-04-a. Rule training**

In response to the newly revised state asbestos rules, the Unit will present at least one rules workshop for the regulated community.

##### **D-4-A-04-b. QAPP development**

The Asbestos Unit will participate in a Maine DEP program QAPP audit and will develop a draft QAPP based on existing policies and SOPs.

###### MEASURES OF SUCCESS:

- *Completion of draft Asbestos QAPP for approval by the Department under EPA Region 1 approved QMP.*
- *Staff participation in Department program QAPP audit.*

##### **D-4-A-04-c. Training course revamp**

The Training Coordinator will work with Maine-licensed Asbestos Training Providers to refine and update asbestos training course curricula and teaching methods.

###### MEASURE OF SUCCESS:

- *Number of consultations provided to Maine-licensed Asbestos Training Providers.*

##### **D-4-A-04-d. Web site development**

The Asbestos Unit will maintain a web site with general program, regulatory information, all program forms and links to the EPA asbestos web site.

###### MEASURE OF SUCCESS:

- *Number of web site hits*

#### **D-4-B. Lead Program**

The DEP lead program is managed by the Director of the Division of Solid Waste Management through the Lead and Asbestos Hazard Prevention Program. Lead program staffing includes one (1) 20%-time Program Manager, one (1) full-time Oil and Hazardous Materials Specialist, and one 50%-time Environmental Technician, with assistance from the clerical unit. All staff persons are located in Augusta, but utilize Department regional offices for fieldwork.

##### **D-4-B-01. Lead compliance monitoring**

###### **D-4-B-01-a. Compliance inspections**

The priority criteria for Department compliance inspections of lead abatement activities include: activities as a result of an order to abate by Maine's Department of Human Services ("DHS") in response to a lead-poisoned child; tips and complaints of illegal activities; work performed under funding from the Department of Housing and Urban Development;

and other abatement work. The Department will also continue its program of quality control assistance with newly licensed lead inspectors, lead risk assessors, and lead abatement contractors.

MEASURES OF SUCCESS:

- *Percentage of DHS-ordered lead abatement work sites inspected for compliance.*
- *Percentage of new lead inspectors, risk assessors, and abatement contractors receiving quality control assistance.*

**D-4-B-01-b. Certification issuance**

The Department will continue to review applications for licensing and certification, and issue these credentials as appropriate.

MEASURE OF SUCCESS:

- *Percentage of professional certifications and company licenses processed.*

**D-4-B-01-c. Enforcement**

The Department will pursue enforcement actions beyond the issuance of a Notice of Violation or a Notice of Non-compliance as appropriate for significant non-compliance and to gain compliance as needed.

MEASURE OF SUCCESS:

- *Percentage of enforcement cases involving action beyond a Notice of Violation initiated in the FFY that are brought to resolution.*

**D-4-B-02. Lead compliance and technical assistance**

**D-4-B-02-a. Training**

The Lead Unit will continue to offer presentations at initial educational courses targeted at the regulated community to enhance compliance. The Unit will also administer third-party course exams at all initial lead training courses.

**D-4-B-02-b. Coordination of educational efforts**

DEP will continue efforts to develop audience-specific educational materials, and to coordinate with DHS and MSHA to conduct outreach and education activities for lead poisoning prevention.

**D-4-B-02-c. Written correspondence, telephone calls and e-mail.**

The Unit will provide written educational materials to the public on an as-needed basis to ensure that people working around lead-based paint do not create lead hazards. The DEP will also continue to distribute information via phone calls, e-mail, and mail on the state "Lead Management Rules" and state lead statutes, the federal real estate disclosure rule, and on federal rules adopted in conformance with TSCA Sections 403 and 406.

#### **D-4-B-03. Information management and reporting**

##### **D-4-03-a. Information management**

The Unit maintains several databases to ensure accurate program tracking and to provide up-to-date information to the public and regulated community. The databases that we will maintain include: Compliance Tracking (including enforcement tracking and education and outreach efforts); CERT; LEAD-NET; and, CLASSACT.

##### **D-4-03-b. Reporting**

The Unit will continue to provide monthly database updates and reports to EPA on program activities as required.

#### **D-4-B-04. Policies and special initiatives**

##### **D-4-B-04-a. Training**

The Training Coordinator will work with all Maine-licensed Lead Training Providers to refine and update lead training course curricula and teaching methods. More effective training will help to improve compliance.

##### MEASURE OF SUCCESS:

➤ *Number of consultations provided to Maine-licensed Lead Training Providers.*

##### **D-4-B-04-b. Web site development**

The Department will update materials and continue to add new information and links to its lead program web page.

##### MEASURE OF SUCCESS:

➤ *Number of web site hits.*

##### **D-4-B-04-c. Environmental justice initiative with Native Americans**

In 1998 the Department finalized an MOU with four Native American Tribes in Maine, with the Penobscot Indian Nation signing in 2000. This MOU addresses the areas of training, compliance, certification, and licensing for lead professionals and contractors. The Department will continue to implement the terms of this MOU in FFY03-2005.

##### **D-4-B-04-d. Lead-safe child care**

The DHS oversees daycare facility licensing in Maine. As of July 1, 1998, daycare facilities are required to be lead-safe prior to re-licensing. DHS provides free lead inspections to daycare facilities determined, through its routine annual health and safety inspections, to be at risk of having lead hazards. The Department will provide technical assistance to daycare establishments identified with lead hazards through the DHS program.

#### **D-4-C. RCRA-C Hazardous Wastes Program**

Maine's hazardous waste enforcement activities for FFY03 -05 will be conducted by the Hazardous Waste Enforcement Unit, which is staffed by four (4) oil and hazardous waste specialists, three (3) environmental specialists, and one (1) enforcement unit supervisor. Two (2) of the environmental specialists will spend half their time on data management and compliance issues related to hazardous manifests and annual reports. In addition to conducting inspections, all enforcement staff will spend time on regulatory guidance and advisory opinions; compliance assistance seminars, presentations, and educational activities; universal waste rule implementation and training; data inputs for inspections performed; and enforcement case development and resolution through informal actions such as Letters of Warning and Notices of Violation and through formal actions such as consent agreements and orders, including penalty negotiations. In addition, staff will spend time on corrective action and site clean-up actions (site investigations and remediations), rulemaking development and review, criminal case development, and STEP-UP Program initiatives.

Maine is divided into four (4) geographic regions. Staff members are assigned regional coverage responsibilities or are regionally based so that the enforcement unit appropriately serves each region. Two oil and hazardous waste specialists are located in the Portland Office, one environmental specialist is located in the Bangor Office, and the other staff members are located in the Augusta office.

##### **D-4-C-01. Compliance Monitoring**

In FFY03-05, DEP will conduct a total of fifty-five (55) RCRA inspections each year.

Based upon available staffing and funding, DEP's Hazardous Waste Enforcement Program has selected an array of strategic compliance activities, which are important to achieving Maine's goals of protecting and improving human health and the environment for all its citizens. These activities include Complaint Inspections, Large Quantity Generator ("LQG") Inspections, Non-notifier Inspections, 100-1000 kg/mo Generator Inspections, Treatment Storage Facility Inspections, Hazardous Waste Transporter Inspections, Habitual Violators/Follow-up Inspections, and Land Disposal Facility Groundwater Monitoring Inspections. These inspection activities and the specific focus within each activity are described as below.

**D-4-C-01-a. Compliance Inspections for Hazardous waste generators that produce between 100-1000 kg of hazardous wastes per month (federal SQGs).** DEP will conduct ten (10) federal SQG inspections during each year. Based on database information, federal SQGs outnumber LQGs in Maine by a ratio of 7:1. There are over six hundred (600) federal SQGs in Maine. Federal SQGs generate the same types of hazardous wastes as LQGs and pose potentially greater risks to human health and the environment due to the larger number of handlers and

associated locations, along with typically fewer resources and personnel dedicated toward compliance issues or programs.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-01-b. Treatment Storage Facility (“TSF”) Inspection**

The RCRA program will conduct one (1) TSF inspection during each fiscal year. Currently, there are three (3) RCRA TSFs and one (1) PCB TSF licensed in Maine.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-01-c. Large Quantity Generator (“LQG”) Inspections**

The RCRA Program will conduct six (6) LQG inspections during each year. There are approximately 75 to 90 LQGs in Maine. Priority will be given to those facilities that have never been inspected or that have not been inspected in the past 5 years, unless other information indicates that the likelihood of waste generation and a waste management problem is low (i.e. based on an inactive status, review of manifests and annual reports or facility knowledge from other programs). Additionally, priority will be given to those facilities that have been the subject of a complaint that has not yet been investigated or a referral from another program.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-01-d. Complaints**

DEP will conduct at least twenty-four (24) complaint investigations each year, with the potential to conduct more (depending on the number of complaints received). DEP intends to investigate as many of the complaints received as possible, with a goal of addressing 100% of the complaints. Over the past ten (10) years, DEP has received thirty-five to fifty-five (35-55) citizen complaints per year involving alleged mismanagement of hazardous waste. These complaints often originate from individuals that have first hand knowledge of illegal waste management practices at particular Maine facilities. These complaints also originate from locations statewide and the investigations are strategically important to the DEP in maintaining an enforcement presence and responding appropriately to citizen concerns. This information not only identifies a specific target for the program to focus its attention, but

also develops and fosters credibility for the RCRA program in the eyes of the public which is necessary for continued public support of the program activities and goals. This activity is an important core function of the program.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-01-e. Non-Notifier Inspections / Partial Inspections**

The DEP will identify and conduct ten (10) inspections at non-notifiers, during each fiscal year. A Non-notifier is a facility that generates hazardous waste in small quantities (i.e. < 100 kg/mo State SQG or is a federal Conditionally-Exempt SQG); or generates larger quantities of hazardous wastes but has not notified the EPA or DEP of its hazardous waste generator activities and may not have properly manifested wastes off-site for licensed hazardous waste disposal. There are thousands of Non-notifier facilities in the State of Maine.

Although partial inspections are planned, full compliance inspections may be conducted at these facilities depending upon the status or level of compliance found at the time of inspection by the RCRA inspector.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-01-f. Hazardous Waste Transporter Inspections**

The DEP will conduct one (1) hazardous waste transporter inspection, during each fiscal year, at hazardous waste transportation facilities based in Maine. Out of about 100 DEP-licensed hazardous waste transporters, approximately ten (10) are based in Maine.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-01-g. Habitual Violators/ Follow-up Inspections**

The DEP will conduct two (2) inspections during each fiscal year of the grant period, at facilities that have been the subject of one or more informal or formal enforcement actions as a result of inspections or record reviews by the program. These inspections will serve as follow-ups to these previous enforcement actions to ensure that past violators are held accountable to compliance schedules and maintenance.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-01-h. Land Disposal (“LD”) Facility Groundwater Monitoring Inspections**

The DEP will conduct one (1) inspection at these former land disposal facilities during each fiscal year, for groundwater monitoring activities related to the site. Currently, there are five (5) former land disposal facilities in Maine. Each inspection conducted during this period will be either an Operations and Maintenance (“O&M”) type inspection or a Compliance Evaluation Inspection (“CEI”) type inspection.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

For the federal SQG, LQG, TSF, LD and transporter inspections described above in sections D-6-C-01-a through -h, DEP inspectors will utilize standardized inspection checklists to ensure that the level of detail is consistent for comprehensive inspections where full evaluations are conducted. In the case of non-notifier evaluation inspections and complaint investigations, RCRA inspectors may limit the standardized checklist to a partial checklist of those sections that concern the physical storage and handling of hazardous waste at a facility. Record reviews during the non-notifier evaluations and complaint investigations will typically be limited to those records, which determine the nature and character of wastes observed during the inspection. For non-notifier inspections and complaints, RCRA inspectors may increase the level of inspection (e.g. full RCRA CEI), as appropriate, if waste management practices observed at the time of inspection such as incorrect waste determinations or poor container management warrant an in-depth inspection of all hazardous waste management related activities. Instances where threats to human health and the environment are caused by improper hazardous waste management procedures will also prompt a full RCRA CEI followed by an appropriate enforcement response to the violations observed.

Facilities will also be targeted geographically in an attempt to provide maximum statewide coverage for each inspection category to maintain a RCRA compliance presence in each region. Selection criteria within the regions will include the following: (a) industry-sector or category targets known or likely to be hazardous waste generators (b) subject of a complaint that has not yet been investigated; (c) facility-specific concern



indicated by review of manifests, annual reports, or other information; (d) never inspected before; and/or (e) referral from another DEP program with an indication of a potential waste management problem.

In developing DEP's inspection strategies, the input from experienced field inspectors has allowed Maine's RCRA program to focus its RCRA resources in strategic areas that are unique to the State of Maine, while maintaining the level of enforcement and presence expected by EPA. Other handlers that present an imminent and substantial endangerment remain a top priority and will always take precedence over inspections targeted solely based on category or industry-sector.

#### **D-4-C-01-i. Hazardous Waste Manifests**

The RCRA Program monitors compliance of hazardous waste shipments documented by Uniform Hazardous Waste Manifests. The RCRA Program issues Letters of Warning and Notices of Violation for manifest discrepancies and misuse. The RCRA Program will maintain a hazardous waste manifest program and database for tracking compliance with transportation and disposal requirements and for use in compiling background information for compliance investigations and reviews of waste types, amounts, and disposal practices of facilities and inspection candidates. Approximately 10% of the RCRA Program is dedicated toward this activity.

##### MEASURE OF SUCCESS

➤ *Maintenance of the hazardous waste database and issuance of enforcement notices as necessary to maintain accurate data and ensure hazardous waste shipments are tracked from "cradle to grave" documenting proper disposal.*

#### **D-4-C-01-j. Follow-up on Prior Commitments**

The DEP will follow-up on enforcement cases initiated prior to FFY00-01. This will include tracking compliance schedules and negotiating administrative consent agreements and enforcement orders to resolve cases that are carried over from the previous fiscal year. The program will strive to improve on the timeliness of enforcement responses on cases involving consent agreements. The program will expend additional efforts on cases initiated in prior fiscal years in order to follow through and complete the appropriate enforcement actions. Approximately 15% of the RCRA Program is dedicated toward this activity.

##### MEASURE OF SUCCESS

➤ *The number or percentage of previously unresolved prior commitments completed through successful resolution of enforcement actions, compliance schedules or clean-ups.*

**D-4-C-01-k. Multimedia Issues**

As part of the compliance monitoring activities described above, the RCRA program will plan to coordinate with other media programs on enforcement matters or consent agreements, or participate in multi-media inspections, complaint investigations or enforcement cases as appropriate and necessary at facilities where cross-media issues have been identified. Approximately 2% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-01-l. Enforcement-related Clean-ups and Corrective Actions**

The Hazardous Waste Enforcement staff work on a variety of enforcement projects that include site investigation and remedial action or corrective action to effect clean-ups of hazardous waste contamination discovered during the course of a compliance inspection or enforcement action. During the period, enforcement staff is expected to be involved with reviews and approvals of site investigations and remediation projects at up to 10 sites and may become involved in other on-going corrective action projects as necessary. Approximately 10% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the above commitments completed to help ensure that compliance is gained or maintained and pollution is prevented or remediated.*

**D-4-C-01-m. Enforcement**

DEP enforcement actions will be initiated in accordance to the RCRA Enforcement Response Policy and enforcement status report criteria established in previous Memorandum of Agreement with EPA as part of the RCRA authorization process. DEP has statutory authority, 38 M.R.S.A. § 347-A, to initiate enforcement actions that include notices of violation and administrative consent agreements, as well as filing cases in Maine District Court for prosecution. Our statutes also provide for civil or criminal referrals for prosecution by the Maine State Attorney General's Office.

MEASURE OF SUCCESS

➤ *Number of enforcement actions initiated.*

**D-4-C-02. Compliance Assistance**

Compliance assistance is currently conducted statewide and in coordination with the DEP's Hazardous Waste Licensing Unit, the DEP Commissioner's Office of Innovation and Assistance ("OI&A") staff, and OI&A cooperative initiatives.

**D-4-C-02-a. Advisory Opinions**

An important aspect of the compliance assistance program is the advisory opinions and regulatory assistance that is routinely rendered in writing and by telephone by RCRA staff to facilities seeking guidance on specific rule interpretations and applications of RCRA. While identified under the Compliance Assistance category, this type of written and verbal guidance for the public and regulated industry requires formalized enforcement policy-making that may on occasion require regulatory research and analysis, internal reviews, and/or consultations with the Attorney General's Office.

Enforcement staff also assists OI&A staff by reviewing advisory opinions and regulatory assistance correspondence issued through the OI&A program. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Issuance of advisory opinions as requested.*

**D-4-C-02-b. Compliance Assistance Education**

RCRA staff also expects to develop and participate in at least two (2) public speaking engagements or seminars to explain the hazardous waste management standards to help facilities comply. The DEP conducts numerous presentations on hazardous waste management standards and compliance assistance. These presentations are scheduled upon request. Approximately 5% of the program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Completion of compliance assistance education commitment.*

**D-4-C-02-c. Compliance Assistance Policies and Special Initiatives**

See the Policies and Special Initiatives Section below for additional compliance assistance activities. Approximately 5% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *The number or percentage of the initiatives completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-02-d. Significant Non-Compliance**

DEP will classify and identify non-compliance for tracking within the RCRIS database based upon EPA's 1996 Enforcement Response Policy ("ERP"). Classifications will include Significant Non-Compliers ("SNCs") and Secondary Violators. DEP will identify SNCs within the RCRIS database and pursue enforcement action at a level of appropriateness and timeliness consistent with the ERP, including formal or informal actions.

MEASURE OF SUCCESS

➤ *Proper classification of on all significant non-compliers in the RCRIS database.*

**D-4-C-03. Data Management**

DEP will report inspection and enforcement activities, including inspections, violations, informal and formal enforcement actions, to US EPA's database manager for inclusion in the RCRA Oversight and Implementer databases.

MEASURE OF SUCCESS

➤ *Complete reporting and maintenance of enforcement-related data to the RCRIS database.*

**D-4-C-04. RCRA Base Program and Rule-making Activities**

In addition to the above activities, Hazardous Waste Enforcement staff are typically involved in the development and review of rule-making initiatives, such as the Universal Waste Rule, Hazardous Matter Rules, Waste Oil Rules, and Recyclable Hazardous Materials Rules. An effort is currently underway to promulgate or update rules as necessary for program authorization or program development. Approximately 5 - 10% of the RCRA Program is dedicated toward this activity.

MEASURE OF SUCCESS

➤ *Completion of enforcement-related rule-making activities and participation and input into hazardous waste rule making coordinated by other RCRA staff.*

**D-4-C-05. Policies and Special Initiatives**

**D-4-C-05-a. Small Business Compliance Incentives Policy**

The DEP Small Business Technical Assistance Program provides for pollution prevention and compliance assistance for facilities with less than one hundred (100) employees. As part of this program, violations identified through DEP technical assistance activities or through voluntary disclosure by the company will be placed on a compliance schedule without a formal penalty. Those situations that present an imminent and substantial endangerment to human health and the environment will be immediately addressed through a formal consent agreement or referral to the Maine State Attorney Generals Office for injunctive relief. The program will also reserve its right to seek enforcement action and penalties as circumstances may warrant.

MEASURE OF SUCCESS

➤ *The number of companies assisted under the Small Business Compliance Incentive Policy to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-05-b. STEP-UP Program**

During FFY03-05, the Hazardous Waste Enforcement Unit will conduct up to four (4) compliance inspections as part of the Department's STEP-UP Program. The inspections will be conducted as part of a pre-qualification review of facility applicants to the STEP-UP Program. These compliance inspections will be conducted and counted as part of the above listed inspection commitments outlined in Section D-4-C-01. The enforcement response for these inspections will be limited to informal written enforcement responses (i.e. Letters of Warning, Notices of Violations, without associated penalty actions), unless serious violations are discovered that disqualify the applicant or represent imminent threats to public health, safety or the environment. EPA will consider these informal written enforcement responses as "appropriate" under its timely and appropriate enforcement auditing criteria.

MEASURE OF SUCCESS

➤ *The number assistance activities or percentage of the initiative completed to help ensure that compliance is gained or maintained and pollution is prevented.*

**D-4-C-05-c. Mercury and Universal Waste Initiative**

The enforcement staff will also participate in the Department's statewide Mercury Initiative. Actions will be taken to identify the sources and extent of mercury contamination and to assess the possible pollution prevention and compliance assistance opportunities to reduce or eliminate mercury contamination. To accomplish these objectives, staff will implement and administer the Department's new Universal Waste Rules and work on initial stages of a Dental Waste Initiative.

MEASURE OF SUCCESS

➤ *The number assistance activities or percentage of the initiative completed to help ensure that compliance is gained or maintained and pollution is prevented.*

The number of inspections identified in the Compliance Monitoring section above (Section D-4-C-01) is considered a core or baseline level of effort and the full extent and range of compliance assistance activities described above in this Policies and Special Initiatives section above (Section D-4-C-05) will be contingent upon resources available to complete the baseline level of activities in the Compliance Monitoring section. The core program activities and compliance monitoring will receive a higher priority for completion than the compliance assistance and special initiative activities above.

In accordance with the DEP's Strategic Plan, outcome measures include the number of complaints investigated, compliance inspections conducted, violations documented, enforcement actions initiated, enforcement-related corrective actions

or clean-ups initiated, and technical assistance and outreach activities conducted. The primary measures of success for compliance monitoring will be the number of complaints investigated, number of inspections conducted, number of enforcement actions initiated in FFY03-05. The number of compliance evaluation inspections and monitoring activities outlined above may be modified in the event of any unanticipated changes in case workloads or staffing levels and, if necessary, to account for time and resources devoted to other priorities that are not identified or listed above, or are otherwise undetermined either by EPA or DEP.

**D-4-D. RCRA (I) UST/Oil compliance monitoring program** (place in Compliance section)

**D-4-D-01. UST facility inspections**

OEU staff has typically conducted compliance inspections at approximately 80 UST facilities that store either motor fuels or oil for marketing and distribution. These include gasoline service stations, convenience stores, motor fleet sites, farms, municipal, state and Federal facilities. In general, priorities for compliance inspections consist of UST facilities with one or more of the following criteria:

- >2 years since last inspection
- recent change of ownership
- enforcement or leak history
- violations or suspected violations
- installation problems or other questions raised through review of annual tank system inspection reports
- sensitive geologic area

Inspection sites are not limited to those with these criteria, however.

Staff uses a field checklist to document the inspection and issue a NOV on-site for any violations discovered. The NOV contains instructions and time frames for resolving specific violations and requires the owner or operator to submit follow-up documentation to show that violations are addressed.

Inspection locations are targeted in proportion to the total population of UST facilities in each county to ensure that all geographic regions of the state are visited. Inspections may be relocated slightly to accommodate specific high-priority facilities and time limitations.

As schedules permit, Department staff conducts inspections jointly with EPA staff from the Region I Office of Underground Storage Tanks ("OUST"). Department staff selects the facilities to be visited by State and Federal staff together.

MEASURE OF SUCCESS:

- *Number of facilities inspected*
- *Compliance rates discovered at inspected facilities.*

**D-4-D-01-a. Strategy for increased field presence**

Create strategy for increasing the number of inspections from approximately 100 to about 475 annually

**D-4-D-01-b. Increased inspections**

Implement strategy and conduct approximately 475 underground oil storage facility inspections annually

**D-4-D-02. Mass mailing of Notices of Violation**

OEU staff sends out mass mailings of Notices of Violation ("NOV") to tank owners who are in violation of the statutes and regulations, which apply to USTs. These Notices provide the basis for escalated enforcement action if a tank owner fails to respond. The following NOVs are sent out annually:

- 1) "NOV for failure to perform an annual Statistical Inventory Analysis (SIA)" -- sent to all facilities that are required but failed to submit an annual SIA by the appropriate deadline. This NOV will be sent out in November.
- 2) "NOV for failure to submit a proper Site Assessment" -- sent to tank owners that have removed their UST and failed to submit a proper site assessment. This Notice will be sent out in January or February.

Other mass mailings of Notices of Violation are sent out on an "as needed" basis.

MEASURE OF SUCCESS

➤ *Number of facilities coming into compliance within 90 days after NOV is sent.*

**D-4-D-03. Compliance status reviews**

Upon request by management or other Department program staff, OEU will evaluate the compliance status of particular facilities. This function occurs in the context of multi-program enforcement efforts or to determine eligibility for state issued awards for environmental performance.

MEASURE OF SUCCESS

➤ *Number of facilities which, upon review, are not the subject of enforcement action.*

**D-4-D-04. Compliance assistance**

Staff spends a significant portion of the time during most inspections on technical assistance. Staff instructs owners and operators on how to perform proper leak detection, maintain equipment and properly abandon tanks as needed. It is important for staff to obtain and maintain technical knowledge and training in all aspects of facility design, installation, leak detection and maintenance.

Staff also provides verbal and written technical assistance daily in response to phone calls from UST owners and operators, other professionals and the public. OEU staff has developed concise guides and summaries describing requirements for UST removal and abandonment-in-place, facility operation and maintenance, leak detection and other activities. Staff proactively offers technical assistance in response to questions because many compliance problems are prevented or resolved in this manner.

MEASURE OF SUCCESS

➤ *Approximate number of facilities provided technical assistance in response to inquiries.*

**D-4-D-05. Mass mailings**

OEU staff has developed several informational mailings to UST owners that explain the regulations for underground oil storage facility operation and maintenance, and that include suggested checklists and record keeping logs, as applicable. Mailings made annually include:

- 1) "Cathodic Protection" letter -- sent to all owners of cathodically protected steel USTs, explains requirements for annual testing of the corrosion protection, includes technical guidance and a log-sheet.
- 2) "Annual Tank System Maintenance Log" -- sent to all UST owners except for homeowners, describes requirements for annual maintenance of leak detection systems, overfill and spill protection, includes a checklist.

MEASURE OF SUCCESS

➤ *Number of facilities contacted through mass mailings.*

**D-4-D-06. Data maintenance**

The following records and databases will be maintained to enable staff to track trends in tank population and compliance: enforcement cases, facility registrations, inspection results and installer/installation complaints.

**D-4-D-06-a. Enforcement cases ("UTE" log)**

The UTE database tracks specific enforcement cases that result from violations of any of the enforcement programs described in the Overview above. Violations are listed by code and prioritized into one of three levels. Staff is able to track specific information and the status of any case. Inspections that involve violations are also tracked on this database. This is all-inclusive of violations of the UST program and the oil statutes in general.

**D-4-D-06-b. Tanks**

Registration information for every UST facility is maintained in this database. The Department has implemented a series of upgrades to its TANKS database over the years to accommodate more specific facility information and to improve the accuracy and overall quality of the data.



**D-4-D-06-c. Inspection Log**

This database is a subset of TANKS and contains the facility name, OEU staff, date and results of each inspection. Specific violations that were identified in an inspection are also recorded. This database may be used to track the relative frequency of particular violations at facilities inspected, such as the failure to maintain electronic leak detection devices.

MEASURE OF SUCCESS

➤ *Number of facilities inspected with violations.*

**D-4-D-07. Policies and Special Initiatives**

The program will continue to operate two initiatives as described below.

**D-4-D-07-a. Environmental Leader Program**

In 1997 OEU staff assisted a broader Department effort that developed the Maine Environmental Leader ("EL") program for owners of retail gasoline dispensing facilities. The EL program is intended as an innovative way to promote compliance with the state UST, hazardous waste, solid waste and air emissions requirements related to vapor recovery.

The EL program has been modified to allow qualified third party contractors to conduct on-site inspections, and to determine eligibility to receive an EL award. OEU staff will continue to provide oversight and support for the program throughout the grant period.

MEASURE OF SUCCESS

➤ *Number of applicants and number of awards*

**D-4-D-07-b. Enforcement Strategy for Remaining Bare Steel Underground Oil Storage Tanks**

At this time approximately 37 bare steel, Federally regulated motor fuel USTs and approximately 29 commercial, industrial, farm, and municipal heating oil USTs are being operated or are improperly abandoned, in violation of the state removal deadline (October 1, 1997 for most facilities). In addition, 240 residential tanks are in violation of the removal deadline. No tanks used for marketing and distribution of product remain in operation. The Department has amended its existing enforcement strategy to focus on reducing the environmental threat from remaining tanks. The first priority will be Federally regulated motor fuel tanks that may have product in them. The Department will seek voluntary participation from owners wherever possible, and may seek injunctive relief as necessary. Tanks in sensitive geological areas will be priorities for product removal. Recent legislative initiatives successfully established that costs associated with proper abandonment of prohibited tanks would constitute a lien against the owner's property.

State law and Department Rules, Chapter 691; have required registration of all existing and new USTs since 1986. The OEU continues to enforce the rules for registration and proper abandonment (removal) of USTs as unregistered USTs are discovered.

MEASURES OF SUCCESS

- *Number of non-conforming facilities properly abandoned*
- *Number of tanks where product has been removed but abandonment process is not yet complete*