Alaska Department of Environmental Conservation
And
Environmental Protection Agency
State Fiscal Year 2006
July 1, 2006 – June 30, 2007

This agreement constitutes the State of Alaska's relationship with the United States Environmental Protection Agency (EPA) under the National Environmental Performance Partnership System. The Alaska Department of Environmental Conservation (DEC) enters the agreement for the State of Alaska with EPA Region 10 for state fiscal year 2007 (July 1, 2006 – June 30, 2007).

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

Disputes regarding the performance of either party to this Agreement will be resolved at the lowest level possible within our respective organizations. If this is not feasible or successful, the next level for dispute resolution will be the managers responsible for the program area in questions. The final level of appeal will be the DEC Commissioner and the Regional Administrator for EPA Region 10.

DATE: 5-8-06

Kurt Fredriksson, Commissioner
Alaska Department of Environmental Conservation

DATE: May 17, 2006

Michael Bogert, Regional Administrator
U.S. Environmental Protection Agency, Region 10

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I. Introduction and Purpose

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

This State Fiscal Year (SFY) 2007 PPA describes the overlapping missions of DEC and EPA for protecting Alaska's environment. The agreement captures how each agency will work together to establish joint priorities and performance expectations to address Alaska's most important environmental issues.

The purpose of the agreement is to:

- Establish mutual priorities and performance expectations for both agencies during SFY 2007.

- Establish a joint workplan for guiding federal Performance Partnership Grant (PPG) funds for DEC's air quality program, water quality program, and radon program.

This agreement includes specific commitments made by each agency regarding Alaska's most important environmental priorities. The agreement also includes workplan activities in DEC's water, air, and radon programs for PPG funding during the period July 1, 2006 – June 30, 2007.

II. Missions

DEC and EPA Region 10 both share a common mission to protect Alaska's environment consistent with State and Federal law.

DEC Mission:
Protect human health and the environment.

EPA Region 10 Mission:
Protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

III. Agreement Coverage

This Agreement is based on the National Environmental Performance Partnership System (NEPPS) and EPA's Office of Congressional and Intergovernmental Relations (OCIR) NEPPS National Program Guidance which allows states flexibility to address their highest environmental priorities and establish resource allocations based on those priorities. This Agreement includes DEC and EPA Region 10 environmental priorities that have been identified as areas of partnership for the two agencies. The guiding principles and concepts of this agreement apply to all DEC and EPA interactions even though this Agreement does not cover all DEC programs receiving EPA grant assistance.

This Agreement includes the workplan commitments required for water quality program federal grants, radon and air quality program grants and the drinking water grant in Alaska. Grants covered in this Agreement are listed under the specific program workplans in Sections IX, X, and XI. This Agreement constitutes the DEC and EPA workplan for the award of grants under a Performance Partnership Grant (PPG) for the water quality program grants, a PPG for radon and air quality grants, and a categorical grant for the drinking water program. The purpose of the PPG is to reduce the administrative burden by consolidating several grants into one and to increase the flexibility of DEC to move resources within the air and radon programs, and within the water quality programs, to meet Alaska's highest environmental needs.

As explained in the FY 2006 updated National Environmental Performance Partnership System National Guidance, "once funds are awarded in a PPG, the state can direct the funds as needed to achieve work plan commitments and does not need to account for funds in accordance with their original funding program sources." PPG expenditures should be focused on state priorities using funding methods and workplans developed by the state and approved by EPA. At

the end of the year, DEC is not expected under this agreement to account for how PPG funding has been allocated by the original funding program source.

IV State of Alaska

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

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

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

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

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

IV. Priorities

1. Timely communication on controversial projects/issues.

In the past, timely communication between DEC and EPA on large or controversial projects or issues has been a work in progress. In order to encourage effective communication

DEC and EPA will:

- For mining and oil and gas projects, maintain a primary point of contact who will meet to review the status of ongoing projects, review federal and state legal and policy requirements, and identify any issues needing review.
- Coordinate announcements, to include EPA quote(s) in news releases, explaining Toxics Release Inventory data. Coordinated announcements are to coincide with EPA's public announcement of data release. EPA's annual Toxics Release Inventory (TRI) ranked Alaska first in the nation for total toxic pollution releases. Most of the toxic chemical releases and other waste management activities in Alaska that are included in EPA's inventory are trace elements in mined rock.

DEC will:

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

EPA will:

- Assign staff to work with DEC to draft an Alaska-specific TRI document that provides additional context on factors to consider for Alaska's TRI releases and other waste management activities. EPA is willing to help Alaska tailor the Public Data Release brochure and the current "Factors to consider when using TRI data" brochure to help Alaska educate its citizens on TRI.
- Maintain continued timely notice of activities from headquarters, such as proposed rulemaking changes, that may affect Alaska.

2. State due deference

DEC and EPA agree on the vast majority of environmental program implementation issues. However, on occasion, DEC has been expected to follow Region 10 staff direction that does not appear to be based in law or written guidance. While DEC is interested in EPA's professional advice, there is a need to distinguish it from mandatory guidance. Resolving these issues in a timely manner relies upon a commitment by both agencies to recognize the situation and act on it promptly. When DEC questions the basis for an EPA action, decision, or direction to the state,

DEC will:

- Make a "due deference claim" to the appropriate EPA office director, providing a precise description of the issue.
- In the case of an EPA decision based on a legal interpretation of federal law by EPA Program staff, DEC may request confirmation by state or EPA attorneys.

EPA will:

- Take actions, make decisions, and provide direction to DEC that is based only on law or written guidance and identify advisory information as such.
- Provide a prompt response to a DEC "due deference claim" by either 1. providing the written policy, guidance, law, or other documentation on which EPA is relying to support its action, decision or direction to DEC, or 2. by rescinding EPA staff direction.
- In the case of an EPA decision based on a legal interpretation of federal law by EPA Program staff, provide a legal basis for the interpretation from EPA attorneys.

EPA and DEC will:

- If a due deference claim by the state is not promptly resolved at the director or legal levels, elevate the issue through the PPA dispute resolution procedures.

3. Climate change issue in Alaska

Alaska is the nation's only arctic and sub-arctic state with major marine and terrestrial ecosystems found nowhere else in the country. By any measure Alaska is a distinct ecosystem region, one that is particularly vulnerable to global climate change.

EPA and DEC will:

- Work together to identify interagency or international organization(s) that oversee arctic global climate change science and efforts (e.g. Alaska Marine Ecosystem Forum, North Slope Science Initiative, U.S. Arctic Research Commission, University of Alaska, etc.).
- Establish a scientific and policy framework to document, model, predict, and respond to global climate change and its effects.
- Work together to establish a marine, freshwater, and terrestrial environmental observing program that routinely monitors the primary variables affecting, and effected by, climate change.

Elements of the monitoring system might include:
  - Identification of key climate-sensitive ecological indicators.
  - Establishment of physical and biological baselines that can be used to gauge warming and its effects.
  - Development of an interagency and, perhaps, an international arctic monitoring plan.
  - Creation of a repository for arctic climate information.
- Work together to promote pilot projects to test greenhouse gas mitigation technologies such as coal gasification, increasing natural gas production, and carbon dioxide injection. Alaska's role as a large-scale carbon sink may also be important in development of carbon sequestration technologies and policies.

4. Commissioner/Regional Administrator Summit

The DEC Commissioner and EPA Regional Administrator are to meet to continue discussions on Alaska's desire to:

- Establish an Alaska liaison position in EPA Headquarters,
- Establish a high level decision making authority for key programs, and functions in Alaska,
- Locate Region 10 staff performing Alaska work in Alaska, and
- Work with the Corps, through EPA headquarters, to develop guidance to delineate federal Clean Water Act jurisdictional wetlands, from non-jurisdictional wetlands in Alaska

5. Grant allocation parity

EPA national, promulgated guidance for Clean Water Act Section 106 funding includes a 10% cap on the elements that make up the funding formula; Alaska's portion of 106 funding is reduced by this cap in the funding formula. This 10% cap affects three other states in a small way, but has an enormous impact on Alaska and the funding made available to Alaska. EPA national guidance for Clean Water Act Section 319 funds appears to be applied consistently across all other states, but is not applied as written by EPA to Alaska. The amount of funding received by Alaska weakens the State's ability to achieve all program objectives expected by EPA. The results are most evident in 1) Alaska's difficulty in implementing the 10 point monitoring strategy that is required by EPA in order to continue to receive Clean Water Act funding, and 2) Alaska's limited ability to implement non-point source pollution controls.

DEC will:

- Provide EPA with PPG workplans that describe the State's work priorities, work strategies and performance results.
- Provide EPA with an analysis of the funding impacts to DEC from EPA's current funding allocation systems for Clean Water Act Sections 106 and 319 funds.

EPA will:

- Review and approve DEC's PPG workplan commitments.
- Assist DEC in obtaining current funding formula application data from EPA headquarters in a timely manner.

6. Ocean resource management

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

- Work together to raise awareness of America's northern oceans, and the need to monitor the health of these resources, within our respective levels of government, seeking to establish an integrated state/federal cooperative program at the national level.

7. Tribal capacity building performance results

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

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

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

solid waste challenges faced in Alaska Native Villages, EPA Region 10 will continue to utilize the implementation authority provided under GAP to assist tribes in the development and implementation of integrated waste management programs.

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

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

EPA and DEC will:

- Work jointly with representatives from the Denali Commission's Sustainable Utilities Workgroup, other federal agencies and federally-recognized tribes to understand their respective environmental priorities and discuss available resources, funding and actions which can be used to support projects which maximize tribal public health and environmental outcomes.
- Meet regularly to (1) exchange information relevant to tribes in Alaska and programs that affect Alaska Natives to better collaborate and coordinate the funding and implementation of environmental protection programs in rural Alaska, (2) exchange information on programs and projects tribes in Alaska are undertaking with EPA funding; and (3) develop opportunities for open communication and coordination between DEC technical specialists and tribal environmental staff.
- Designate primary points of contact for these activities

DEC will:

- Attend an EPA sponsored Senior Managers' meeting on finding joint, multi-entity solutions to solid waste management problems in tribal communities.
- Provide information to Alaska tribes and EPA on Alaska's environmental statutes, regulations, and DEC's responsibilities, services, priorities, and expectations regarding programs that affect Alaska tribes such as fish tissue monitoring and fish consumption advisories, Air quality issues, especially regarding rural dust and diesel emissions, solid waste planning and management, Village Safe Water implementation (drinking water

and sewage infrastructure development), and NPDES authorization application.
- Provide draft solid waste regulations to EPA for a review before sending the new regulations package out for official public comment.
- Participate in discussions to share environmental program information, and provide technical assistance to Alaska Natives.
- Participate in discussions with EPA on how DEC's proposed manual of new Class III regulations may be used in lieu of a tribal waste management plan.

EPA will:
- Convene a Senior Managers' meeting and invite leaders from DEC, members of the Denali Commission's Sustainable Utilities Workgroup, other federal agencies, federally-recognized tribes and the Yukon River Inter-tribal Watershed Council. The purpose of this meeting will be to open dialogues about one another's environmental priorities and interest in creating partnerships to support projects which maximize tribal public health and environmental outcomes. Meeting outcomes will dictate next steps.
- Provide information to DEC on program grants to Alaska tribes including work done under the national Tribal Solid Waste Assistance Program, the Indian Lands Open Dumps grant program, the Indian Environmental General Assistance Program (GAP), Clean Air Act grant programs, and Clean Water Act grant programs.
- Identify potential sources of EPA funding for those tribes interested in collaborating with DEC and EPA regarding solid waste management, dust and diesel emissions, water quality and fish tissue monitoring.

8. Collaborative training

Both EPA and DEC are involved in the daily business of setting and enforcing environmental standards, implementing permit programs in compliance with federal law, and assessing environmental risks for communicating with the general public and interested stakeholders. DEC and EPA could both benefit from joint training programs in each of these areas.

EPA and DEC will:
- Identify a point of contact within each of the organizations that can assist in coordinating the notification and scheduling of available training opportunities.

DEC will:

- Work with EPA to identify joint training opportunities and appropriate subject areas.

EPA will:

- As DEC approaches NPDES primacy, EPA will seek to ensure needed training is made available in Alaska including training in NPDES permitting, enforcement and Water Quality Standards.

9. NPDES program approval

The Clean Water Act intends for states to implement the NPDES program. Establishing greater state control over managing water resources is a high priority for Alaska. Alaska is one of 5 remaining states that have not received NPDES program approval. Transferring control of the program to the remaining states is a high priority for EPA. State statute directs DEC to submit a complete application to EPA before July 1, 2006

DEC and EPA will:

- Upon receipt of the State's application, EPA will conduct a "completeness determination". If the application is found to be incomplete, EPA will notify DEC and will identify those elements found to be incomplete. DEC will modify the application to address the incomplete elements and resubmit the application to EPA for review and determination of completeness.
- Work cooperatively to finalize and implement the terms and conditions of the Capacity Building Plan, including training, Intergovernmental Personnel Agreements (IPAs), and workshare on NPDES program activities.

DEC will:

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

EPA will:

- Assist DEC with implementation of its Capacity Building Plan, as appropriate.
- Once, the application is determined by EPA to be complete, perform its statutory review process. EPA will evaluate the adequacy of the application per the statutory requirements. EPA

will consult and coordinate with tribal governments in a formal government to government basis. EPA will address Essential Fish Habitat and Endangered Species Act requirements as necessary.

10. NPDES program implementation

An important measure of program effectiveness is the tracking of the percent of permits that have expired or "backlogged". EPA's NPDES Permits Unit Plan (2006-2008) outlines a plan to achieve national permit backlog goals. Backlog percentages are tracked nationally as performance measures. Keeping the backlog at a low level is also important as EPA and ADEC look to ultimately transfer the program to the State. ADEC plays an important role in addressing backlog by issuance of timely CWA 401 certifications.

DEC and EPA will:

- Work cooperatively towards permit issuance to address issuance goals as identified in the NPDES Permits Unit Plan. EPA agrees to involve ADEC personnel during the drafting of NPDES permits. ADEC will issue timely 401 certifications of draft and final NPDES permits with the goal of certification issuance within 30 days of receipt of the permit from EPA.

DEC will:

- Seek EPA credentials, in accordance with EPA Order 3500.1, for DEC inspectors who conduct NPDES inspections. DEC will track each inspector's progress towards completion of the required training specified in EPA Order 3500.1. DEC management will certify each individual inspector's completion of the required training and forward the information to EPA.
- Conduct inspections consistent with the procedures outlined in the "EPA NPDES Compliance Inspection Manual" (EPA 300-B-94-014, September 1994) and in the Basic Inspector's Training course. DEC will submit complete NPDES inspection reports to EPA within 60 days of the inspection.
- Submit a draft list of anticipated NPDES inspection candidates by March 31st. Once the inspection list is final, DEC will coordinate all changes which occur throughout the inspection year, with EPA prior to the inspection. The inspection list will include DEC inspection of facilities conducted as part of (and funded by) the PPG grant workplan as well as NPDES inspections funded by the state as part of DEC's capacity development for NPDES primacy; the combination of which shall exceed the number inspections reflected in the SFY06 & SFY07 PPG workplans.

- Provide stormwater compliance assistance, primarily through outreach to construction trade organizations and local government planning/permitting offices.

EPA will:

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

11. Timely revision of Water Quality Standards

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

DEC and EPA will:

- Work together early in the WQS revision process to identify the information, data, and justification that may be needed to support the timely approval of changes to the WQS.
- Work together to bring about the early involvement of NOAA-Fisheries and US Fish & Wildlife ("Services") in the development of a standards revision when an Endangered Species Act (ESA) or Essential Fish Habitat (EFH) consultation may be required.
- Continue to coordinate the timely involvement of the Services as needed to ensure that, wherever possible, ESA and EFH consultation requirements are completed within CWA approval timeframes.
- Continue to work constructively together as EPA fulfills its commitment to Tribal government-to-government consultation on WQS review actions.
- Work together to bring the Water Quality Standards Academy to Alaska.

DEC will:

- Inform EPA of WQS issues under consideration for revision. Provide a schedule, including dates, when EPA approval is needed and describe DEC's proposed approach and schedule before releasing revisions for public comment.
- Provide EPA an opportunity to review a draft revision and discuss their comments with DEC before the public comment period. To the extent possible, the draft documents provided to EPA should include a clear explanation of the technical support for the change (e.g., any technical literature reviews that were conducted to inform the revisions; clear discussions of how the changes affect the protectiveness of the standard for designated uses; and explanations of how the revised WQS will be implemented in CWA programs).
- In order to facilitate informal and timely ESA and EFH consultation, be prepared to engage in early exchange with the Services regarding WQS revisions under consideration and the technical basis for these revisions.
- In order to facilitate EPA's timely completion of its Tribal government-to-government consultation on WQS review and action, continue to exchange information and work together regarding WQS.

EPA will:

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

12. Complete statewide EMAP

DEC is committed to completing EPA's sponsored Environmental Monitoring and Assessment Program (EMAP) surveys to assess the status and trends of Alaska's coastline and freshwater. The information which is collected using standard protocols enables EPA to report on the condition of the nation's waters and enables EPA and the states to understand the range of water quality conditions and monitor for environmental change. Alaska has more coastline than the Lower 48 states combined and about half of the nation's surface water resources.

EPA cannot report on the health of the nation's waters without including information from Alaska. To date, EPA has provided funding for three of Alaska's five coastal areas and is returning to other coastal states to re-sample, prior to completing Alaska's waters. Funding for baseline inland waters is limited to a small portion of one watershed.

EPA will:

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

DEC will:

- Complete EMAP baseline surveys of the remaining coastal and inland waters.

13. Drinking water rules and primacy delegation approvals

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

DEC will:

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

EPA will:

- Support the use of Extension Agreements for rule adoptions and provide timely guidance in the form of staff and written documentation to DEC on the statutory requirements for rule adoptions, primacy delegation, and program requirements.
- Complete early implementation for the two new drinking water regulations that were finalized during January of 2006: 1) Long-Term 2 (LT2) Enhanced Surface Water Treatment Rule and 2) Stage 2 Disinfection By-Products Rule. In a number of instances, EPA will work directly with the water systems; therefore, EPA will keep ADEC informed of all activities undertaken by the Region and or Headquarters to complete early implementation.

EPA and DEC will:

- Continue early implementation activities for LT2 and Stage 2 Disinfection By-Products Rule as agreed upon in the 12/9/05 workload agreement between EPA and ADEC.

14. Public water system compliance

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

DEC and EPA will:

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

DEC will:

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

EPA will:

- Provide in person and "hands-on" training workshops in Alaska using EPA staff or contractors, as well as fully utilize satellite videoconferences with downlink sites in Alaska, and webcast training seminars for DEC staff, public water system owners and operators, utility managers, technical service providers, and consulting engineers on the implementation requirements of new federal rules. Alaska is specifically requesting an EPA HQ sponsored and taught Surface Water Treatment Rule Training, Enhanced Surface Water Treatment Rule Training, and Disinfection/Disinfection By-Product Rules treatment technology and regulatory workshop be provided in Anchorage, Alaska , by June 30, 2007.
- In partnership with DEC, and when requested, complete timely enforcement on public water system referrals with a significant history on noncompliance and non-cooperation with DEC.

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

15. National Lakes Survey

EPA and DEC will:

Work jointly on developing a strategy that will result in completion of national baseline water quality data for Alaskan lakes under the National Lakes Survey. The strategy should include Program Activity Measures that would monitor progress on the path of completing statistically valid baseline water quality information for lakes under the National Lakes Survey.

16. Non-point source pollution controls

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

DEC and EPA will:

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

DEC will:

- Working through the state land-management agency (Department of Natural Resources), institute non-point source pollution controls on state-managed lands. At a minimum these will include establishing minimum setbacks or management practices for water-polluting activities near water bodies in state land-use plans.
- Working with the state land-management agency (Department of Natural Resources), address the four remaining conditions required for full approval of Alaska's Coastal Nonpoint Source Control Program--1) urban new development, 2) urban on site disposal systems, 3) local roads, bridges and highways, and 4) stormwater runoff control for state roads, bridges and highways under DOTPF, to submit to EPA and NOAA by April 30, 2007.

- Submit Alaska's 2004 Integrated Report to EPA by July 31, 2006.
- Submit Alaska's 2006 Integrated Report to EPA by December 31, 2006.
- Submit two TMDLs by May 30, 2007 for EPA approval.
- Submit Alaska's annual report on progress in meeting its Nonpoint Source (NPS) Management Strategy milestones (including available information on reductions in nonpoint source loadings and improvements in water quality resulting from program implementation) by December 30, 2006.

EPA will:

- Review and approve or disapprove Alaska's 2004 Integrated Report within 30 days of receipt.
- Review and comment on Alaska's 2006 Integrated Report within 30 days of receipt.
- Review and approve or disapprove Alaska's TMDLs within 30 days of receipt.
- Coordinate with NOAA and EPA HQ to review and approve or provide comments on Alaska's submittal of its remaining conditions required for full approval of Alaska's Coastal Nonpoint Source Program within 60 days of receipt.
- Review and comment or issue a determination of progress on whether Alaska has made satisfactory progress in implementing the milestones of its approved NPS Management Program within 30 days of receipt.

17. Rural dust pollution

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

The dust is caused primarily by vehicle and 4-wheeler traffic on unpaved roads and unvegetated areas, and wind scarification and erosion of loose surface materials including glacial till and fine sands from river delta areas.

Many communities and tribes are interested in undertaking ambient air monitoring projects to document the extent of this dust problem. While DEC and EPA will provide assistance for monitoring projects, DEC,

ADOT, and EPA need to focus attention on evaluating the improvements that may be accomplished through various dust mitigation options.

EPA's Office of Air Quality Planning and Standards proposed changes to the Particulate Matter health standards in 2005. Final adoption of standards will occur mid to late 2006 and could result in rescission of a coarse particle standard applicable to rural areas and small communities. Until such time as EPA decides about applicability of the coarse particle standards to rural areas, the State will not commence with a request to designate Alaska communities as non-attainment, or to commence with focused dust mitigation programs.

DEC and EPA will:

- Communicate regularly as new monitoring or mitigation information becomes available.
- Work collaboratively in communicating and working in partnership with the Northwest Arctic Borough and other local governments and tribes affected by adverse PM10 pollution.
- Strive to secure the use of Congestion Mitigation and Air Quality (CMAQ) funds through the Federal Highways Administration for use in mitigation or assessment of this problem in rural Alaska.

DEC will:

- Continue ambient air monitoring in Kotzebue for the spring through fall of 2006.
- If the standard is retained for rural areas and small communities, work in partnership with Alaska Department of Transportation and Public Facilities (ADOT), the Northwest Arctic Borough, and the City of Kotzebue to undertake roadway based PM10 mitigation studies and remedies to reduce PM10 exposure to the extent state or federal funds are made available through ADOT or the Federal Highways Administration.
- If the standard is retained for rural areas and small communities, provide assistance to the Northwest Arctic Borough, the City of Kotzebue, NANA Regional Corporation, Mannilaq Health Corporation, and Kotzebue based tribes in assessing dust conditions, assessing dust mitigation options or related matters.

EPA will:

- Not oppose any legislative proposals the State may advocate to open opportunities through federal legislation to apply federal highway funds for rural Alaska PM10 problem locations while those locales are not formally designated as non-attainment areas.
- Strongly support ambient air monitoring projects or PM10

mitigation assessment projects that Alaska tribes desire to undertake using federal funds to resolve PM10 pollution in their respective villages or communities.

- Give fair consideration to any request made by the State to designate one or more locales in Alaska as non-attainment for PM10.
- Continue to seek opportunities for Alaska to use 'mandatory' CMAQ funds for roadway and trail dust mitigation through any vehicle possible that does not require designation of the locale as non-attainment; i.e. early action compact or similar process.

18. Rural diesel emissions health risk assessment

Unlike exposure to roadway diesel emissions in other regions, exposure to stationary source diesel emissions in Alaska villages and rural communities is a unique air quality issue in Region 10. There is no statewide power grid in Alaska and most communities rely on diesel engines for electrical power. Studies have measured the human health risks from exposure to diesel engine emissions from mobile roadway sources. To achieve DEC and EPA Region 10's common objectives to reduce the risk to public health from toxic air pollutants, the health risks of exposure to diesel emissions in Alaska' rural communities must be evaluated. Alaska rural power plants may represent a significant health risk. However, Alaska cannot further regulate the power plants to require additional control technology and cleaner fuel unless we have a strong scientific case that is specific to the Alaska rural exposure setting and source type.

In SFY 2005, DEC performed modeling reviews of numerous communities to determine optimum communities or villages for a pilot phase ambient air health assessment. Based on modeling results, DEC worked with two preferred communities to prepare for the pilot phase study that commenced in January 2006.

In the winter and spring of 2006, DEC conducted a joint air monitoring and health pilot study in a Yukon River village which is scheduled to conclude in early May.

Once the pilot phase results are available, and if funds are available, DEC will assemble a scientific review panel to peer review the study design and methodologies to determine if a full field study can produce scientifically valid information about health risks.

Pending the outcome of EPA's NSPS rule making for stationary diesel engines and the results of a peer review for the rural health study, DEC will determine the need for a full field study to proceed simultaneously in more than one rural community or village.

EPA is obligated under court order to adopt final rules for stationary diesel engines by late summer of 2006. Alaska has requested that EPA fund an economic cost benefit analysis prior to making this rule effective in Alaska due to the unique fuel distribution and infrastructure cost elements and the record high rates of electricity and heat in rural Alaska. How the final rule affects Alaska will likely directly the need for additional ambient air or health studies in rural communities.

DEC and EPA will:

- Communicate with the chosen study communities to convey the purpose and findings of the study with periodic updates to inform the community of study progress; this will primarily be a DEC task.
- As the study results become available, share scientific knowledge or resolve field study problems.
- Evaluate the study results with respect to options for stationary source emission controls and/or other appropriate mitigation measures.

DEC will:

- Continue to inform rural Alaska communities and tribes of the research purpose, goals, schedule, data gathering techniques and the implications of the research.
- If warranted, finalize the study design following the pilot phase and peer review with the expected completion date of SFY 2007.
- Take the lead in communicating with other rural Alaska communities and Tribes about the diesel health assessment work so those communities can be better prepared to make decisions about the use of ultra low sulfur diesel fuel conversion in their community.
- If funds are secured, execute alone or in partnership with EPA a cost benefit analysis for rural Alaska that closely examines the cost premium that may occur with the transition to ultra low sulfur diesel fuel to assist the communities in their fuel infrastructure decision making and if warranted prepare an Alaska transition plan for stationary diesel engines with respect to complying with the NSPS standards or exemption of those standards if the cost are unwarranted.

EPA will:

- Advocate for DEC with EPA headquarters to secure funding for the cost benefit analysis for rural Alaska as an integral part of the stationary diesel engines NSPS rule.
- Assist DEC should the rural health study features or logistics to execute the study requires unique regulatory, policy, consultative, or interpretive actions by EPA.
- To the maximum extent possible, support Alaska tribal governments and Alaska native health corporations who desire to participate with DEC in executing the pilot phase or full field phase study using eligible federal funds that may become available to tribes.
- Work with DEC staff to identify and create opportunities to share program information about the Rural Diesel Health Assessment with Alaska tribal governments.

19. Fish tissue monitoring

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

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

DEC will:

- Implement the statewide fish tissue monitoring plan for mercury and other contaminants, informing EPA of general progress in implementation of the plan and consulting with EPA in the case of deviations from the Quality Assurance Monitoring Plan.

- Maintain a web page where EPA, the public, and tribes can access data collected on the levels of mercury and other heavy metals found in Alaska fish.
- Submit to EPA a draft report of the data results when DEC has completed the evaluation and interpretation of study findings, allowing for EPA comment. This report will include all validated data from the analysis of fish tissue performed as part of the Fish Tissue Testing Program.
- Prepare fish consumption bulletins with the Alaska Department of Health and Social Services regarding the benefits and risks of consuming Alaska fish and will seek EPA review and comment prior to their publication.
- Provide EPA with all past and future validated fish tissue data.
- Hold public meetings to communicate the results of the program, and as a courtesy will provide take home messages to EPA prior to public meetings.

EPA will:

- Use Alaska's fish tissue data in developing consumption advice and consult with the Alaska Department of Health and Social Services and DEC before issuing any fish consumption advisories in the State of Alaska.
- Identify potential sources of EPA funding, including IGAP funding, for those tribes interested in collaborating with DEC and EPA regarding fish tissue testing.
- Following accreditation of the DEC lab, EPA will inform tribes of the laboratory services (fish processing and analysis) that the DEC Environmental Health Laboratory has to offer for fish tissue testing.

20. Core air quality functions

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

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

State fiscal year 2007 will be a peak year for DEC's preparation of a Regional Haze plan for the 4 PSD Class I areas in Alaska. A plan is required to be submitted no later than December 2007. The current schedule is for a draft plan to begin public review by January 2007. DEC will draft a Regional Haze SIP document (December 2006) and submit interim products to EPA such that both agencies fulfill the proactive SIP-PIP process established by Region 10. Under this process, the Regional Haze SIP development is expected to reflect advance planning in manner that is similar to the successful carbon monoxide maintenance SIPS for Anchorage and Fairbanks.

While not a traditional Core Air Quality function, reducing diesel exhaust emissions is considered to be the highest priority air toxics initiative in Alaska. For FY 2007, DEC and EPA agree that further technical analysis of health risks and emission reduction strategies are important to both agencies.

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

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

21. Drinking water laboratory certification program

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

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

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

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

DEC will:

- Participate with the EPA Region 10 Laboratory Drinking Water Certification Officers in the annual review of the Alaska Drinking Water Laboratory Certification Program and the EPA inspection of the State principal laboratories in August of 2006. This effort will include the EPA Region 10 Laboratory Drinking Water Certification Officers accompanying the Alaska Drinking Water Certification Officers on an audit of one or more commercial drinking water laboratories.
- Ensure Alaska Drinking Water Certification Officers are provided with a minimum of two weeks per year of laboratory bench experience in their area of drinking water analysis in order to maintain proficiency.
- The State of Alaska Certification Authority will inform the EPA Certification Officers of major changes to the State's Drinking Water Certification Program, including but not limited to, loss of Certification Officers, within a reasonable length of time.

EPA will:

- Conduct the annual review of the Alaska Drinking Water Laboratory Certification Program and the on-site inspection of the State principal laboratories in August of 2006. This effort will include the EPA Region 10 Laboratory Drinking Water Certification Officers accompanying the Alaska Drinking Water Certification Officers on an audit of one or more commercial drinking water laboratories.
- The EPA Region 10 Laboratory will provide the State Drinking Water Certification Officers with access to the Region 10 Laboratory in order to gain the two weeks of laboratory bench experience in drinking water analysis, needed to maintain proficiency.

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

22. Environmental laboratory cooperation

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

EPA and DEC Laboratory managers and staff will:

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

23. Pesticide application technical assistance

DEC implements a comprehensive pesticide program in the state. Alaska has had primary enforcement responsibility for pesticide misuse since 1989. DEC also trains and licenses pesticide applicators, and implements ground water, worker, and endangered species protection programs. All these programs are part of the Cooperative Agreement between EPA and DEC. The Department also implements a Pesticide Registration Program, which is not part of the Agreement. The mission of the DEC Pesticide Program is to protect human health, safety, and welfare, animals, and the environment by ensuring the proper use, sale, distribution, and disposal of pesticides.

DEC and EPA will:

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

EPA will:

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

VI. Compliance and enforcement

EPA has primary compliance and enforcement responsibility for non-delegated federal environmental programs and in "Indian Country" in Alaska as defined in 18 U.S.C. Section 1151. DEC has primary compliance and enforcement responsibility for the state's environmental laws and delegated federal environmental programs. It is essential that EPA and DEC coordinate enforcement and compliance with each other.

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

VII. Performance reporting and evaluation

As a condition of this agreement and subsequent grants awarded to DEC by EPA, DEC will report accomplishments to EPA semi-annually and EPA will report its accomplishments semi-annually to DEC. Reports will be based on information supporting performance measures and program activity measures identified in this agreement outlining accomplishment, existing or potential problems, and suggestions for improvement. The

reports will be exchanged by January 31 and July 31 of 2007. EPA will schedule a report preview meeting with DEC to discuss the report and make appropriate adjustments.

Reporting requirements are identified in this agreement and the workplans in Sections IX, X, and XI. In order to reduce transaction costs, any other reporting needs will be kept to a minimum need to meet national requests and particular, applicable program activity measures.

EPA and DEC programs directors agree to meet in September to discuss strategic environmental issues in Alaska. Information from this discussion will be used by each agency when developing subsequent strategies and budgets.

VIII. Conflict Resolution

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

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

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

IX. Air and Pesticides workplan (attached).

X. Water workplan (attached).

XI. Drinking Water workplan (attached).