

Chapter III

**Agreements
And Initiatives**

Clean Utah

EPA and UDEQ have signed an MOA outlining their commitment to the Clean Utah program, which encourages regulated entities to take steps beyond compliance to protect and improve the environment. This MOA is incorporated into this PPA by reference (see: http://www.deq.utah.gov/cleanutah/docs/EPA-UT_AGREEMENT_3-3.pdf).

There are currently fifteen Clean Utah members - 9 at entry level and 6 partners. It is anticipated that implementing Clean Utah will take considerable leadership at both EPA and UDEQ. EPA and UDEQ agree that program managers within each Agency are responsible for ensuring the MOA is implemented and appropriately incorporated into planning and accountability processes. Furthermore, managers are responsible to enhance cross-program communication about Clean Utah activities within each agency to insure the success of the program.

EPA and UDEQ also agree that any Clean Utah modifications to the inspection schedules agreed to in this PPA will be negotiated jointly and incorporated into the PPA by reference. The Agencies will review the accomplishments and any outstanding issues associated with Clean Utah and work toward resolutions and improvements as part of the PPA and End-of-Year Joint Evaluation processes.

Compliance/Enforcement Process

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The diagram on page III-2 outlines the general compliance/enforcement process agreed to by UDEQ and EPA. More detailed compliance/enforcement diagrams have been prepared for the Air, Drinking Water, Solid and Hazardous Waste, UPDES and UST programs to address their specific regulatory requirements. These additional process diagrams are contained in the Appendix in Chapter VII.

Emerging Issues

If both parties agree, UDEQ and EPA will reopen the PPA and amend to address emerging issues not originally discussed during the PPA negotiations. This “reopener clause” is intended to address new issues that emerge during the PPA period. In addition, during the course of this agreement, UDEQ and EPA will examine how a “reopener clause” will operate for a future, multi-year document.

Mercury

In 2005 the State of Utah issued its first fish consumption advisories due to elevated levels of mercury in fish tissue. Also in 2005, Utah issued a duck consumption advisory due to elevated mercury levels – the first ever in the nation. As a result of these conditions, EPA Region 8 and UDEQ have added mercury as a joint priority, and Region 8 has added mercury as a Region priority.

Two objectives for FY 2008 have been identified:

- UDEQ and EPA Region 8 agree to participate in a multi-state, multi-EPA Region effort to communicate and coordinate mercury issues; work with other western states (Utah, Idaho, Nevada) and Regions 8, 9, and 10 to develop a Memorandum of Understanding to establish a partnership. Once a partnership is established, participate in a meeting of the parties in the September –December 2007 timeframe on regional issues.
- Plan and develop with the partnership, a conference on western mercury issues with the possibility of additional stakeholders and concurrent sessions to address the broad range of multi-media issues associated with mercury with a target of the conference being in the March – May 2008 timeframe.

Children’s Environmental Health

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During FY08, UDEQ and EPA Region 8 agree to advance their joint priority to protect Children’s Environmental Health by:

1. Working together to develop a Children’s Health track for the Western Regional Mercury Conference; and
2. Meeting twice during the year with representatives from the University of Utah Vanguard Center and other interested partners, to enhance communication about the progress of the National Children’s Study and assess opportunities for more involvement.

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Environmental Justice (EJ)

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UDEQ and EPA agree that “Environmental Justice (EJ) means the fair treatment and meaningful involvement of people of all races, income, and cultures with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no person or group of people should shoulder a disproportionate share of negative environmental impacts resulting from the execution of environmental programs.” UDEQ and EPA agree to conduct all of their base regulatory programs within the framework and spirit of this EJ principle. UDEQ and EPA agree to communicate about EJ issues, grant outreach, and Grantee activities in Utah and continue to assist, upon request, EJ grant funded activities in the state. Lastly, UDEQ and EPA agree to exchange information, which, if appropriate, may give rise to opportunities for addressing additional EJ issues. EPA is prepared to offer EJ training to UDEQ for the purpose of increasing understanding and improving clarity about EJ concepts and application. UDEQ and EPA will discuss the applicability of this training to UDEQ programs.

EPA will provide the state access to its environmental justice Geographic Information System and other environmental justice tools and resources, as requested.

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Implementation of Goals and Measures

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By entering into this agreement, UDEQ and EPA agree to implementation of the goals and measures contained herein. The EPA commits to fund UDEQ in the amounts specified in the Performance

Partnership Grant application. Should final appropriations be different (i.e. more or less) than these amounts, both parties may renegotiate the goals and measures outlined in this agreement.

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Quality Assurance Program/Quality Management Plan (QMP)

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UDEQ continues to operate an EPA approved Quality Assurance Program that meets or exceeds federal requirements for all programs and provides input into the regional/national databases. The quality assurance plans developed by UDEQ for the RCRA, CWA, CAA, delegated programs are incorporated into this agreement by reference and will be reviewed annually by UDEQ and updated with the technical assistance of EPA as appropriate.

The aforementioned quality assurance language has been in Utah's PPA since FY 97. To meet the requirements of the latest EPA Order 5360.1 on Quality Management Plans, dated May 5, 2000, we are also providing the Internet link to our Quality Management documents. The UDEQ and EPA agree that this direct Internet link provides access to documentation that is "equivalent" to a QMP being prepared and submitted. The direct URL's for this site are:

http://www.deq.utah.gov/About_DEQ/Planning/EPA_QMP.htm

<http://www.epa.gov/quality/qs-docs/5360-1.pdf>--EPA Order 5360.1

<http://www.epa.gov/quality/qs-docs/r2-final.pdf>--EPA Guidance on QMPs

<http://www.epa.gov/quality/qs-docs/r5-final.pdf>--EPA Guidance on QAPPs

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State Grant Templates

The Office of Management and Budget (OMB), in EPA's FY 2007 budget, directed EPA to develop a standardized template that all states will use to develop and submit state grant agreements that will include clear linkages to EPA's Strategic Plan and long-term and annual goals, as well as consistent requirements for regular performance reporting. The template will also allow for meaningful comparisons between various states' past and planned activities and performance, making progress more visible and programs more transparent.

EPA's goal is to ensure that the Agency is responsive to the OMB directive, while affording states minimum disruption to preparation of grant work plans. EPA's approach is to develop a 'template' that consists of existing measures and data that states already report, serves as an addendum to current grant work plans, and can be implemented in the FY 2008 grant cycle.

The template will not add another layer of reporting. The template will include a limited set of existing performance measures and measures developed during OMB's Program Assessment and Rating Tool (PART) reviews that address high level environmental and program outcomes. The information to report these measures will be drawn to the extent possible from data currently provided by states and regions through a variety of national data systems and existing reporting mechanisms. In some cases, EPA may have to work with states to produce state-by-state data.

The limited set of measures identified for these continuing environmental state grant programs and PPGs covered by the OMB language is incorporated by here by reference. State specific populated templates have yet to be developed.

Office of Air and Radiation

- State and Local Assistance (CAA Section 105)
- Radon

http://www.epa.gov/ocfo/npmguidance/oar/2008/final_c_sgtm.pdf

Office of Enforcement and Compliance Assurance

- Toxic Substances Compliance (Lead and PCB/Asbestos)
- Pesticides Enforcement

<http://www.epa.gov/ocfopage/npmguidance/oeca/2007/measures.pdf>

Office of Prevention, Pesticides and Toxic Substances

- Lead
- Pesticides Program Implementation

http://www.epa.gov/ocfopage/npmguidance/oppts/2007/lead_v2.doc

http://www.epa.gov/ocfopage/npmguidance/oppts/2007/pesticides_v2.doc

Office of Solid Waste and Emergency Response

- Hazardous Waste Financial Assistance
- Brownfields (CERCLA Section 128)
- Underground Storage Tanks

http://www.epa.gov/ocfopage/npmguidance/oswer/2007/haz_waste_fin_asst.rtf

http://www.epa.gov/ocfopage/npmguidance/oswer/2007/brownfields_v2.rtf

http://www.epa.gov/ocfopage/npmguidance/oswer/2007/underground_storgae_tanks.doc

Office of Water

- Pollution Control (CWA Section 106)
- Non-point Source Pollution Control (CWA Section 319)
- Beaches Protection
- Public Water System Supervision
- Underground Injection Control

http://www.epa.gov/ocfo/npmguidance/owater/2008/final_a_measures_appendix.pdf

Since template measures are still in the review and comment stage, the Region will fill out the template in consultation with the State during FY08. The Utah Department of Environmental Quality recognizes this requirement and will negotiate the appropriate measures and incorporate the templates by reference in the PPA as they become final.

The link to the template guidance website:

<http://www.epa.gov/ocfopage/npmguidance/template.htm>

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Supplemental Environmental Projects

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EPA and UDEQ agree that Supplemental Environmental Projects (SEP's) can and should appropriately be used as a part of certain environmental compliance settlements.

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Training

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UDEQ and EPA agree to jointly identify training opportunities to support the goals and objectives in this PPA. During FY08, EPA agrees to support UDEQ in UDEQ's leadership succession and training efforts.

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Utah Base Program

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The Utah Department of Environmental Quality (UDEQ) certifies that it has, maintains, and implements adequate programs in conformance with federal and state law and regulations and conditions set forth in authorizing documents (delegation, MOA's, enforcement agreements) for the following federal laws: the Clean Water Act (CWA); the Safe Drinking Water Act; the Resource Conservation and Recovery Act (RCRA); the Clean Air Act (CAA); the Pollution Prevention Act; the Toxic Substances Control Act; and the National Environmental Policy Act. This agreement is not intended to and does not supersede authorization/delegation packages or enforcement agreements.

Currently Utah has the following delegated programs:

CAA

- Air Toxics (Partial)
- NESHAPS
- New Source Review (SIP)
- NSPS
- PSD (SIP)
- Title V

CWA

- Construction Grants
- Non-Point Source (SIP)
- NPDES Water Quality Permits
- Pretreatment
- Sludge Management (Biosolids)
- State Revolving Fund (SRF)
- Water Quality Standards (SIP)

FIFRA

- Enforcement
- Groundwater Protection (SIP)
- Pesticides Certification
- Worker Protection Safety

RCRA

- Base Program
- Boilers & Industrial Furnaces (Interim)
- Corrective Action
- Land Disposal Restr. 1/3 Wastes

- Land Disposal Restr. 2/3 Wastes
- Land Disposal Restr. 3/3 Wastes
- Land Disposal Restr. California Waste
- Land Disposal Restr. Construction & Demo Wastes
- Mixed Waste
- Solid waste
- Toxicity Characterization
- UST

SDWA

- Drinking Water
- UIC Class V (General)
- UIC Class II (Petroleum Related)
- Wellhead Protection (SIP)

TSCA

- AHERA Waiver (Enf)
- Asbestos (MAP)

CERCLA (Non-Delegable)

EPCRA (Non-Delegable)