UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

MEMORANDUM

SUBJECT: Update to the National Environmental Performance Partnership System Guidance for FY 2005-2007

THROUGH: Stephanie Daigle, Associate Administrator
Office of Congressional and Intergovernmental Relations

TO: Assistant Administrators
General Counsel
Inspector General
Chief Financial Officer
Associate Administrators
Regional Administrators

I am pleased to transmit updated National Environmental Performance Partnership System (NEPPS) guidance for FY 2005-2007. Collaborative, results-driven partnerships are essential to our success in protecting human health and the environment. Performance Partnership Agreements (PPA) and Performance Partnership Grants (PPG) are valuable implementation tools that can help us achieve better environmental results by taking full advantage of the unique capacities of EPA, states, and tribes.

The purpose of the NEPPS guidance is to (1) outline the Agency's national goals for advancing strong, effective partnerships with states and tribes to accomplish the partnership cross-goal strategy in the *EPA Strategic Plan*, and (2) update policies and initiatives that will help EPA, state, and tribal practitioners implement NEPPS.

New this year is specific interim guidance on implementing the new, standardized State Grant Performance Measures Template for reporting environmental and program results from state grants, as required by language in the President's 2007 Budget. (Performance measures for each of the major grant programs are included in the National Program Manager guidance.) This update also highlights Agency policy with regard to the timely award of state and tribal grants and clarifies the circumstances under which conditional approvals may be used to make PPG awards.

Thank you for your continued leadership in building performance-based partnerships with the states.

Attachment

cc: Deputy Assistant Administrators
Deputy Regional Administrators
Assistant Regional Administrators
State Environmental Commissioners
Regional NEPPS Coordinators
Grants Management Officers

Office of Congressional and Intergovernmental Relations

National Environmental Performance Partnership System

FY 2005-2007

National Guidance

FY 2007 Update

NOTE: Changes from FY 2006 Update are indicated by a blue arrow next to the text.

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National Environmental Performance Partnership System
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EXECUTIVE SUMMARY

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Office of Congressional and Intergovernmental Relations (OCIR)
FY 2005-2007 Guidance for National Environmental Performance Partnership System (NEPPS)

II. Introduction/Context

Performance partnerships – through which EPA and states set priorities and design strategies together – are integral to plan and implement our national environmental programs. To advance joint planning that is central to performance partnerships, the Office of Congressional and Intergovernmental Relations (OCIR) is issuing this guidance in conjunction with the Agency-wide process for production and review of national program guidance through the Office of the Chief Financial Officer.

This guidance sets out goals and objectives for the performance partnership program for FY 2005-2007. Although the structure of the FY 2006 update is different from the FY 2005 guidance, there are few substantive changes. This FY 2007 update contains a few additions and changes; changes are indicated by a blue arrow next to the revised text.

III. Program Priorities

For FY2005-2007, the focus will be on increasing results-driven state-EPA joint planning such that partnership agreements and grant work plans are informed by the strategic thinking of both partners; identifying and resolving issues affecting implementation of performance partnerships; promoting the greater use of the flexibility and innovation opportunities available through performance partnerships; and evaluating the overall effectiveness of NEPPS.

The goals and objectives for the performance partnership program in FY 2005-2007 are as follows:

Goal 1: **To increase the value of Performance Partnership Agreements (PPAs) as unifying agreements that explain how EPA and individual states will work together, EPA will work with states and tribes to take advantage of all joint planning and priority setting opportunities**.

Objectives:

The Agency's management team will:

- Encourage leaders of state environmental, public health, and agriculture agencies to engage with EPA in joint planning and priority setting and ensure that state priorities are fully considered in the Agency's planning and budgeting processes as well as in the

negotiation of PPAs, PPGs, and other grant work plans.

- Promote development of PPAs that: (l) use joint state-EPA planning as the starting point for negotiations; (2) reflect strategic thinking that is based on an understanding of environmental conditions and program needs; and (3) address the other recommended "essential elements" of effective PPAs.

Goal 2: EPA will advance opportunities for states and tribes to drive innovative approaches and cross-cutting initiatives through the flexibilities afforded by PPAs and Performance Partnership Grants (PPGs).

Objectives:

The Agency's management team will:

- Explain the benefits of PPGs to EPA and state program managers and staff, and encourage states to combine their environmental program grant funds in PPGs or expand the scope of their existing PPGs to include more eligible grant programs.

- Encourage states to incorporate regulatory compliance innovations – such as Performance Track, the Environmental Results Program, and state-run environmental performance programs – into new and revised PPAs and PPGs.

Goal 3: Partnership-related policy and implementation issues are identified and resolved through appropriate leadership mechanisms.

Objectives:

- The Office of Congressional and Intergovernmental Relations (OCIR) will engage state leaders and the Agency's Performance Partnership Steering Committee to identify and resolve key policy and implementation issues.

- EPA managers will inform OCIR of disagreements between offices on partnership-related matters so they can be resolved by the Performance Partnership Steering Committee, or if necessary, elevated to the Deputy Administrator.

- EPA officials will work with states to advance NEPPS-principled relationships through joint state-EPA work groups; the Environmental Council of the States; and other state organizations.

- OCIR will work with state leaders and EPA program managers to develop and implement a standard state grant performance reporting template, as the Office of Management and Budget (OMB) has required.

Goal 4: Policies, procedures, and requirements for state grants, including PPGs, will accommodate state needs for flexibility and minimum administrative

burden while ensuring fiscal and programmatic accountability.

Objectives:

- Consistent with 40 CFR Part 35, the regions will enhance and sustain a system of joint evaluations of state grants – including PPGs – to ensure accountability for results.

- EPA headquarters and regional offices will make the appropriate policy, administrative, and procedural changes to improve the timeliness of state grant awards.

IV. Implementation Strategies

Joint planning based on an understanding of environmental conditions and program needs is essential to building effective partnerships between EPA and states. Recent changes to EPA's planning and budgeting processes are designed to ensure greater state influence in the development of national and regional priorities and plans and have the results of joint planning reflected PPA, PPGs, and other state-EPA partnership agreements.

A principal activity for FY 2005-2007 is implementing a communications strategy to ensure that all EPA and state managers and staff are aware and take advantage of joint planning opportunities and develop partnership agreements and grant work plans that truly reflect mutual consideration of each other's needs and priorities. PPAs and PPGs provide flexibility and other benefits, such as opportunities to try innovative or cross-cutting approaches. However, many EPA and state officials – particularly at the program level – are not yet fully aware of how PPAs and PPGs can be used to leverage resources to achieve environmental results. Therefore, an extensive communications effort is underway to promote the value of PPAs and PPGs, how they are managed, and the role of program managers and staff in developing work plans that provide states with the flexibility state-specific priorities while still ensuring administrative and programmatic accountability.

Another key effort will focus on improving the quality and value of PPAs over time so they become the most effective strategic and operational tool through which the states and EPA can lay out jointly-developed goals and priorities and describe how we will work together to achieve environmental results. In addition, EPA and states are being encouraged to discuss innovative and multi-media approaches during joint planning sessions. Ideally, we will incorporate these efforts into new and revised state-EPA partnership agreements, and take advantage of the resource flexibilities available through PPGs to support implementation.

Leadership mechanisms and processes for raising and resolving policy and implementation issues are important to ensure the long term strength of our state partnerships. EPA's Performance Partnership Steering Committee, comprised of EPA senior managers will address state grant and other issues requiring EPA policy, regulatory, or administrative action. The joint Partnership and Performance Work Group, comprised of EPA leaders and state officials drawn from the membership of the Environmental Council of the States (ECOS), will provide a mechanism for raising and resolving partnership issues. In FY 2007, a key effort will be

developing and implementing a standard performance reporting for state grants as directed by OMB.

Last, enhancing and sustaining a well-managed system for conducting joint evaluations is essential to resolve the tension between providing more flexibility to states through PPAs and PPGs while concurrently maintaining accountability for results. Grant rules require annual joint evaluation of state grants, including PPGs. EPA and the state should agree on how they will assess the overall effectiveness of the PPA, and are encouraged to use the NEPPS principles as a starting point for discussion. The results of these evaluations inform the next round of PPA and grant negotiations.

V. Tracking Progress

Progress toward meeting the FY 2005-2007 goals will be monitored in several ways.

- The EPA Performance Partnership Steering Committee and State-EPA Partnership and Performance Work Group will assess progress in resolving policy and implementation issues (e.g., timeliness of grant awards, state grant performance template, joint evaluations).

- At least once a year, OCIR will collect program implementation information from the regions about the scope and contents of PPAs and PPGs. OCIR will analyze the results and coordinate activities with the regions to assess progress and identify topics where additional effort is needed (e.g., organizing PPAs around essential elements, integrating innovative approaches such as Performance Track and state environmental leadership programs into PPAs and other state-EPA agreements, use of leveraging opportunities through PPGs).

VI. Program Contacts

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National Environmental Performance Partnership System
FY 2005-2007 National Guidance

> ***"EPA's partnership strategy is based upon the belief that states and EPA are equal partners in the national effort to protect human health and the environment."***
> (Source: *2003-2008 EPA Strategic Plan*, p. 131)

EPA and states share responsibility for protecting public health and the environment. Since 1995, EPA and states have been implementing the National Environmental Performance Partnership System (NEPPS), an environmental performance system designed to improve the efficiency and effectiveness of state-EPA partnerships.

Several fundamental concepts underlie NEPPS. Goals, priorities, and strategies should be based on information about environmental conditions. Progress should be evaluated based on results that are achieved in the environment. And by taking full advantage of the unique capacities of EPA and states and leveraging our collective resources most efficiently and effectively, we can achieve the greatest results.

Performance partnerships – in which EPA and states set priorities, design strategies, and negotiate grant agreements together – are integral to the planning and implementation of our national environmental programs. To advance the joint planning that is central to performance partnerships, the Office of Congressional and Intergovernmental Relations (OCIR) is issuing this guidance in conjunction with the Agency-wide process for production and review of national program guidance through the Office of the Chief Financial Officer (OCFO).

This guidance[1] sets out goals and objectives for the performance partnership program for FY 2005 - 2007. Although the structure of the FY 2006 update is different from the FY 2005 guidance, there are few substantive changes. Goals have been organized around four higher order goals, with specific implementation objectives under each goal. New objectives encourage inclusion of innovative and multi-media approaches into partnership agreements and ensure timely award of state grants. A few additions and changes have been made in this FY 2007 update; they are indicated by a blue arrow next to the revised text.

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[1]This guidance is a compilation of existing policies and initiatives. It does not impose any legally binding requirements.

Important Note about Tribes: This guidance addresses performance partnerships between EPA and states. EPA regions and tribes may also find this guidance useful in negotiating partnership agreements. While tribes can combine grants in PPGs, tribal grants are subject to different administrative and match requirements (see 40 CFR Part 35.500-36.735).

Overview of Performance Partnerships

The goals for NEPPS have remained constant since they were first expressed in the 1995 *Joint Commitment to Reform Oversight and Create a National Environmental Performance Partnership System*, an agreement between EPA's Administrator and Deputy Administrator and several leading state environmental commissioners.[2] The goals are to:

- Promote joint planning and priority-setting based on information about environmental conditions and program needs;
- Give states greater flexibility to direct resources to the most pressing environmental problems;
- Foster use of innovative strategies for solving water, air, and waste problems;
- Increased use of indicators and outcomes to measure environmental and program results;
- Improve public understanding of and engagement in environmental protection efforts.

NEPPS has become the predominant way for states and EPA to coordinate the delivery of environmental programs. At least one agency in nearly every state is using one or both of the principal implementation tools – Performance Partnership Agreements and Performance Partnership Grants.

- **Performance Partnership Agreements (PPAs)** are agreements between individual states and EPA regional offices. Each PPA is different, but PPAs typically set out jointly developed goals, objectives, and priorities; the strategies they will use to meet goals and address priorities; the roles and responsibilities of each partner; and the measures to be used in assessing progress. There are no specific requirements for PPAs, and the scope and content of individual PPAs can vary. Some PPAs contain a summary of basic goals and priorities. Others cover just one or two program areas, programs for which PPG-eligible grants will be combined in a PPG, or special initiatives that the state and EPA plan to work on together. The most comprehensive PPAs are strategic, performance-based agreements that serve as work plans for the grants and programs within their scope.
- **Performance Partnership Grants (PPGs)** allow states and interstate agencies to combine multiple, PPG-eligible environmental program grants into a single grant. PPGs streamline administrative requirements and provide states with flexibility to direct

[2]Shortly after the NEPPS agreement, these state commissioners helped found and became the first officers of the Environmental Council of the States (ECOS).

resources where they are needed to address their most pressing environmental problems. PPGs also make it easier to fund efforts that involve multiple programs, such as geographic initiatives or data management projects.

More than half of the state environmental agencies negotiate Performance Partnership Agreements with EPA, and more than two-thirds receive some or all of their environmental program grants in Performance Partnership Grants. More than half of the state agriculture agencies combine their grants in PPGs, and a few of these agencies also negotiate PPAs.

FY 2005-2007 Goals

For FY2005-2007, the focus will be on increasing results-driven state-EPA joint planning such that partnership agreements and grant work plans are informed by the strategic thinking of both partners; identifying and resolving issues affecting implementation of performance partnerships; promoting the greater use of the flexibility and innovation opportunities available through performance partnerships; and evaluating the overall effectiveness of NEPPS.

The FY 2005-2007 performance partnership goals are listed below. The goals and their associated objectives are discussed in greater detail in the sections which follow.

Goal 1: To increase the value of Performance Partnership Agreements (PPAs) as unifying agreements that explain how EPA and individual states will work together, EPA will work with states and tribes to take advantage of all joint planning and priority setting opportunities.

Goal 2: EPA will advance opportunities for states and tribes to drive innovative approaches and cross-cutting initiatives through the flexibility afforded by PPAs and Performance Partnership Grants (PPGs).

Goal 3 Performance partnership-related policy and implementation issues are identified and resolved through appropriate leadership mechanisms.

Goal 4: Policies, procedures, and requirements for state grants, including Performance Partnership Grants (PPGs), accommodate state needs for flexibility and minimum administrative burden while ensuring fiscal and programmatic accountability.

Goal 1: **To increase the value of Performance Partnership Agreements (PPAs) as unifying agreements that explain how EPA and individual states plan will work together, EPA will work with states and tribes to take advantage of all joint planning and priority setting opportunities**.

Objectives:

The Agency's management team will:

- Encourage leaders of state environmental, public health, and agriculture agencies to engage with EPA in joint planning and priority setting and ensure that state priorities are fully considered in the Agency's planning and budgeting processes as well as in the negotiation of PPAs, PPGs, and other grant work plans.

- Promote development of PPAs that: (l) use joint state-EPA planning as the starting point for negotiations; (2) reflect strategic thinking that is based on an understanding of environmental conditions and program needs; and (3) address the other recommended "essential elements" of effective PPAs.

Joint Planning and Priority Setting

Several evaluations of performance partnerships and the Agency's Managing for Improved Results initiative[3] found opportunities for new approaches that could further advance performance-based state-EPA partnerships. To that end, a Planning Alignment and Performance Partnership Agreement Work Group (hereinafter, Planning Alignment/PPA Work Group), comprised of EPA and state leaders,[4] collaborated for almost a year on improvements designed to better align EPA and state planning and priority setting processes and have the results of this planning memorialized in PPAs.

The central improvement is a process for more fully engaging states in EPA's planning and budgeting processes. "Alignment" includes both *process alignment*, meaning that processes are timed in an optimal way to foster collaboration and mutual influence; and *directional alignment*, meaning that there is agreement on goals, joint priorities, roles, and accountability for results.

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[3]See "Managing for Improved Results Report" link from http://www.epa.gov/cfo/index.htm.

[4]The Planning Alignment and Performance Partnership Agreement Work Group (Alignment/PPA Work Group) was comprised of EPA senior managers and state leaders drawn from membership of the Environmental Council of the States (ECOS). In 2005, the name of the joint work group was changed to the Partnerships and Performance Work Group. For more information, see http://www.epa.gov/ocfo/opaa/alignment_perfpart_wkgrp.htm.

EPA designed its annual planning and budgeting processes to expand opportunities for regions, states, and tribes to participate both early and throughout the processes. Several complex planning processes take place on different schedules and cover different time periods. Key components and how they fit together are summarized below.

- The **EPA Strategic Plan** (2003-2008), with its five goal structure and cross-goal strategy for partnerships, provides an overarching framework for EPA's other major planning, budgeting, and priority setting systems.

- The **EPA Annual Plan and Budget** establishes annual performance targets and funding levels for the fiscal year to support accomplishment of the Strategic Plan. It includes Annual Performance Goals and Performance Measures for each goal in the Strategic Plan, as well as grant and budget information.

- EPA developed its first set of **Regional Plans**, which explain how regional offices will make progress toward the Agency's strategic goals over the next three to five years. Regional Plans are intended to highlight unique regional conditions and problems, reflect state and tribal priorities and concerns, and discuss strategies and tools for achieving results. Since the strategic thinking underlying the Regional Plans should reflect consideration of state priorities and strategies, this should reduce the transaction costs of negotiating PPAs and increase their value as unifying agreements that explain how EPA and a state will work together to achieve environmental results.

- **EPA National Program Manager (NPM) Guidance** presents three-year strategies that reflect consideration of input provided by the Regional Plans regarding state and tribal priorities. NPM guidance for all five major national programs are issued together so that regions, states, and tribes have an opportunity to consider proposed priorities, strategies, and performance measures for all programs at the same time. In preparing the FY 2005-2007 NPM Guidance, EPA program managers had access to information about regional and state concerns, priorities, and approaches as reflected in the Regional Plans.

- Ideally, **Performance Partnership Agreements** and Performance Partnership Grant work plans should reflect the results of previous joint planning and priority setting efforts (e.g., around the EPA Regional Plans, national program guidance, EPA Annual Plan and Budget, and state initiatives). The intent is for states and EPA to regularly engage in joint planning so that both parties' priorities are known and considered when making decisions of mutual importance. States and EPA are strongly encouraged to reflect joint planning in grant work plan commitments and other agreements even in states that do not negotiate PPAs or choose to receive their funds in a PPG.

- To streamline the annual process in which regions make performance commitments for the upcoming fiscal year, EPA developed a new automated database. Under the new **Annual Commitment System**, initiated in FY 2005, regional managers can consider their

commitments and resource allocation across all five programs at once. The online system has enabled the Agency to eliminated its old, paper-intensive Memorandum of Agreement (MOA) process between headquarters and the regions. Also, the system allows states and tribes to review and comment on draft commitments, offering an unprecedented level of transparency and collaboration and increasing opportunities to align national, regional, state, and tribal priorities. To facilitate negotiation of PPAs and grant work plans with states, regions are encouraged to develop state-by-state breakouts of draft and final commitments.

Further explanation of the current joint planning process can be found in OCFO's guidance for developing national program guidance – "Implementing Improvements to EPA's Planning Processes: Guidance for FY 2006 Operating Year"[5] -- and on OCFO's web page on Improving Planning and Priority Setting.[6]

State Strategic Planning Pilots. To help stimulate state strategic planning and implement the planning alignment and PPA improvements, states and EPA are conducting planning pilot projects, supported by a cooperative agreement between EPA and the Environmental Council of the States (ECOS).[7] The projects are designed to build states' planning capabilities, stimulate state-regional joint planning, and support improvements to Performance Partnership Agreements and other state-EPA agreements. Since the alignment and PPA improvements were recently adopted, it will take time for everyone involved to become familiar with the new approaches. States participating in the pilots will provide useful lessons that can inform future adjustments to help improve the process as more states participate.

Evaluations of Planning Alignment/PPA Improvements. Continuous improvements should help reduce the transaction costs of joint planning and, most importantly, help EPA and states work more effectively and efficiently together to achieve environmental results. To that end, two evaluations of the alignment and PPA improvements effort were conducted during FY 2004: an EPA internal evaluation and another sponsored by the EPA-state work group. These evaluations found that EPA and state managers generally support the reforms. Participants also suggested ways to streamline and strengthen joint planning.[8]

Improving the Value of Performance Partnership Agreements

The Planning Alignment/PPA Work Group also developed a framework for improving PPAs so that the agreements incorporate the results of the new joint planning approach and translate them

[5]Available at: http://www.epa.gov/ocfo/npmguidance/index.htm

[6]Available at: http://www.epa.gov/ocfo/opaa/index.htm

[7]For more information about the planning pilots, see http://www.ecos.org/section/projects/?id=645

[8]For more about the evaluation results, see the links from http://www.epa.gov/ocfo/opaa/index.htm

into plans at the operational level. The objective is to strengthen PPAs so they can better serve as the defining document for state-EPA partnerships. The new model for PPAs includes a description of the elements needed to foster alignment with other planning processes and provides a clearer definition of what a PPA should include. The model also provides for stronger accountability and results-oriented evaluation.

The most important way to improve performance partnerships is for states and EPA to engage in joint planning and priority setting – early and often. Effective partnership agreements will reflect the results of the joint planning and priority setting that takes place throughout the year, around such processes as the development of EPA Regional Plans, NPM guidance, Annual Performance Commitments, and the EPA Annual Plan and Budget.

A fundamental concept underlying performance partnerships is that each state is different, and that each EPA-state partnership negotiation must take into account the particular capacities, needs, and interests of that state. No single approach is appropriate for every state. Each state and EPA region must decide together what mechanisms and approaches are most appropriate for building their own partnership.

This purposely flexible approach has led to many variations in the scope, content, and format of PPAs. Individual PPAs can range from general statements about how the state and EPA will work together as partners (perhaps identifying joint priorities that will be addressed) to comprehensive, multi-program documents that detail each party's roles and responsibilities. Some PPAs meet relevant statutory and regulatory requirements and also serve as the work plans for PPGs and/or other grants. And while some states have not negotiated formal PPAs, many have nonetheless participated in joint planning and priority setting and other performance partnership-related activities with their respective EPA regional offices, and the results are articulated in grant work plans or other agreements.

- **Essential Elements of Performance Partnership Agreements**

The state-EPA work group embraced the flexible approach to building performance partnerships that are suited to the needs and interests of individual states. EPA regions and states are encouraged to continue making progress from their own current starting points. However, the longer-term goal is to improve the quality and value of PPAs over time so they become the most effective mechanism through which EPA and states can explain jointly-developed goals and priorities and how they will work together to achieve environmental results.

The Planning Alignment/PPA Work Group recommended the elements that should be included in PPAs to make them most valuable in defining the EPA-state relationship and the work the partners agree to accomplish. These recommended "essential elements" are:

- A description of environmental conditions, priorities, and strategies;

- Performance measures for evaluating environmental progress;

- A process for joint evaluation on the how well the PPA is working and an agreement to implement any needed improvements that are identified;

- A description of the structure/process for mutual accountability, including a clear definition of roles of each party in carrying out the PPA and an overview of how resources will be deployed to accomplish the work; and

- A description of how the priorities in the PPA align with those in the EPA Regional Plan, EPA Strategic Plan, and/or the state's own strategic (or other related) plan.

In keeping with the flexibility inherent in the NEPPS process, how these elements are addressed in individual agreements may vary. Incorporating each of these elements still allows for a wide range of PPAs. The topics may be covered at different levels of detail depending on what is appropriate for a particular state. There is also room for variation in content (e.g., PPAs that cover all programs or just a few programs), as well as in organizational structure and format.

A PPA that addresses the recommended essential elements will reflect the results of joint planning between EPA and the state and explain the strategic thinking behind the work it encompasses. The PPA should also define the roles and responsibilities of each partner and assure accountability by explaining how progress will be measured. With these elements, the PPA can become the unifying agreement that sets out the relationship between EPA and the state and how they expect to work together to implement the strategies for achieving the goals and objectives in the agreement and make progress toward environmental results.

The most effective PPAs have an underpinning of strategic thinking that is based on an understanding of environmental conditions and program needs. A state does not need its own strategic plan as a prerequisite for successful participation in joint planning and priority setting with EPA. However, joint planning will be more productive, and ultimately more successful, if both parties have done some degree of strategic thinking in advance and come to the table prepared with their well-developed strategic ideas. Entering into joint planning armed with the results of strategic thinking will help make sound arguments for resources; support requests for flexibility, such as requests to focus on some priorities but not others; and determine appropriate roles and responsibilities of each partner.

- **Other Considerations in Developing Performance Partnership Agreements**

Performance Measures. Ever since NEPPS was created, EPA and states have been working continuously on multiple fronts to improve how we measure the success of environmental protection efforts as well as to improve the data management systems used to report and analyze environmental and program information. Despite significant progress, there are still many opportunities for improvement. Consequently, perhaps the most challenging of the tasks in negotiating PPAs is developing an appropriate, balanced set of outcome and output measures that will allow for flexibility while ensuring accountability. Care should also be taken to minimize the reporting burden.

Each EPA national program office is working with regions and states to develop the measures and the information they need to manage programs nationally and to be able to report on progress. The NPM guidance for each program should guide the regions in negotiating appropriate measures for the PPA and grant agreements. Generally, though, PPAs that are broad, strategic documents are likely to focus more on intermediate and long-term outcomes linked to environmental goals and objectives. Implementing these PPAs would typically be supported by more detailed PPG and/or other grant work plans that include shorter-term output measures for activities or work efforts, linked to environmental goals and objectives, that would be undertaken with grant funds. PPAs that also serve as grant work plans would contain similar detail.

PPA Changes and Renewals. The EPA regional administrators and state commissioners are the decision-makers for PPAs; disagreements among staffs should be raised and resolved at that level. Affected national program managers should be involved if a dispute concerns issues of national policy. Both EPA and states should consider the PPA as voluntarily binding. However, the PPA can be re-opened and changed if both EPA and the state agree to do so; a formal re-opener clause can be included in the PPA if both parties think one is needed. Whenever possible, changes should be reserved for mid-course reviews or when a PPA is being renewed.

Multi-Year PPAs (and Grants). Some regions and states elect to negotiate multi-year PPAs that discuss priorities and strategies for two or more years. Although the intent is for such multi-year agreements to remain intact for the duration, they should be reviewed annually to ensure they reflect current needs, and amended if necessary. Although it is possible to negotiate multi-year grant work plans -- either as an integral part of, or in support of, the PPA -- PPGs and other grants are subject to the annual reporting and evaluation requirements that apply to all federal grants. While a multi-year work plan can reduce transaction costs by setting out the framework and plans for the goals, objectives, and work to be accomplished over time, specific commitments should be negotiated annually to reflect the amount of funding that is available.

PPAs and Legal Requirements. PPAs are voluntary agreements and cannot "trump" legal requirements such as delegation agreements. However, PPAs can articulate how each partner will fulfill the requirements under delegation agreements or similar legal documents. Should a state and region wish to review existing legally binding agreements, the PPA can be an appropriate vehicle for setting out how the review will be conducted, taking care to ensure compliance with any legal requirements for changing the legally binding agreement.

Joint Evaluation of Performance Partnerships

EPA and states share responsibility for building successful partnerships, working to make the best use of our collective resources to achieve environmental and program results. Defining the roles and responsibilities of each partner is integral to developing performance partnership and grant agreements, and successful implementation of these strategies and plans is dependent upon the partners carrying out their respective parts. Joint evaluation – in which EPA and state officials

assess progress and remaining challenges together – facilitates mutual understanding of each

other's strengths and opportunities for improvement, and sets the stage for continuous improvements in how they work together.

A well-managed system for conducting joint evaluations is essential to resolving the tension between providing more flexibility to states through PPAs and PPGs and ensuring accountability for results. Joint evaluation also provides EPA with the information needed to demonstrate the results of the significant federal investment in state and tribal assistance grants[9] and comply with the Government Performance and Results Act (GPRA). Joint evaluation also provides an opportunity for reviewing EPA's progress in meeting its own commitments to the state, such as commitments to provide technical assistance, staff training, and analytic or legal support.

Important Note: Joint evaluation of performance partnerships takes place at several levels and in many ways. This section discusses evaluation of individual Performance Partnership Agreements (PPAs) as well as general evaluation of NEPPS implementation at the national level. Evaluation of state grants, including PPGs, is subject to specific regulatory requirements under 40 CFR Part 35. These state grant evaluation requirements are discussed in detail under Goal 4, beginning on page 16.

- **Joint Evaluation of Individual Performance Partnership Agreements**

By design, there are no specific requirements for the performance partnership negotiation process or for the scope, contents, and structure of PPAs. This allows each EPA region and state to work out agreements that are appropriate to the needs and conditions of the state. Similarly, the process and contents for joint evaluation of individual EPA-State performance partnerships are not specified and can be designed to fit individual circumstances. At a minimum, EPA and the state are urged to reach agreement on how they will jointly evaluate their partnership, and ideally, outline their evaluation plans in the PPA. Taking stock periodically of the state-EPA partnership can be valuable for all states, however, even if they do not negotiate PPAs.

The original NEPPS goals (see page 2) can provide a good starting point for state-EPA discussion about what is working and where improvements are needed in the partnership. A discussion centered around the recommended elements of a PPA (see page 7) can help the EPA region and the state delve more deeply into their strategic planning efforts and how well they are working. Central to any evaluation is assessment of progress toward the goals and objectives set out in the PPA.

While there are no specific requirements for joint evaluation of PPAs that do not serve as grant work plans, the joint evaluation requirements for grant agreements (see page 18) can also be useful in guiding broader reviews of performance partnerships.

[9] In FY 2005, Congress appropriated nearly $1.2 billion, or 15 percent of EPA's budget, for state and tribal assistance grants to implement environmental programs.

- **Evaluation of Performance Partnerships at the National Level**

The NEPPS framework includes a commitment to joint evaluation of the performance partnership system. At the national level, EPA and state officials have used a variety of mechanisms to review how well the performance partnership system is working and to identify needed policy or procedural improvements.

The work now underway to better align EPA and state planning processes and improve the value of PPAs grew from a joint EPA-state examination of performance partnerships and related issues. The planning alignment and PPA reforms were evaluated in FY 2005, and the results are helping set the agenda for additional improvements.[10] The PPG-related issues raised by state and EPA participants in a series of workshops, such as the need to improve the timeliness of grant awards, are now on the agenda for resolution by the EPA's Performance Partnership Steering Committee and the state-EPA Planning and Partnership Work Group.

From the outset, EPA and state officials recognized that developing better performance measures and better information about environmental conditions were essential to fully implementing the results-oriented environmental management system envisioned in NEPPS. A major NEPPS goal – to provide states with greater flexibility to develop and implement strategies to address their environmental priorities while holding them accountable for the results they achieve – is predicated on having appropriate performance measures. Consequently, EPA and states will continue to work together – both at the national level and in individual states – to refine performance measures and associated information so that progress and needs in achieving environmental results can be assessed.

Goal 2: EPA will advance opportunities for states and tribes to drive innovative approaches and cross-cutting initiatives through the flexibilities afforded by PPAs and PPGs.

Objectives:

The Agency's management team will:

- Explain the benefits of PPGs to EPA and state program managers and staff, and encourage states to combine their environmental program grant funds in PPGs or expand the scope of their existing PPGs to include more eligible grant programs.

- Encourage states to incorporate regulatory compliance innovations – such as Performance Track, the Environmental Results Program, and state-run environmental performance programs – into new and revised PPAs and PPGs.

[10] For more about the evaluation results, see the links from http://www.epa.gov/ocfo/opaa/index.htm.

Purpose and Benefits of Performance Partnership Grants

In 1996, EPA asked Congress for new authority that would give states, interstate agencies, and tribes greater flexibility in how they use and manage federal grant funds. Congress responded by authorizing EPA to award Performance Partnership Grants (PPGs) in the Omnibus Consolidated Rescissions and Appropriations Act of 1996[11] and again in EPA's 1998 Appropriations Act.[12] The EPA administrator has authorized states and interstate agencies to combine funds from up to 18 environmental program grants into a single grant. (See Appendix A for a list of grants eligible for inclusion in PPGs.)

The Performance Partnership Grant program is designed to:

- Strengthen partnerships between EPA and state and interstate agencies through joint planning and priority setting and better deployment of resources;
- Provide state and interstate agencies with flexibility to direct resources where they are most needed to address environmental and public health priorities;
- Link program activities more effectively with environmental and public health goals and program outcomes;
- Foster development and implementation of innovative approaches such as pollution prevention, ecosystem management, and community-based environmental protection strategies; and
- Provide savings by streamlining administrative requirements.

States receiving funds in a PPG can realize administrative savings because a PPG requires only a single application, work plan, and budget, regardless of how many environmental programs provide the funds for the PPG. 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.

The minimum cost share required for a PPG is the sum of the cost share amounts required for each of the environmental program grants combined in the PPG.[13] This composite match provides valuable flexibility to states that may have difficulty meeting the state match requirement for one program grant but enough funds in another program in the PPG to cover the difference.

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[11]Pub. L. 104-134, 110 Stat. 1321, 1321-299 (1996)

[12]Pub. L. 105-65, 111 Stat. 1344, 1373 (1997)

[13]If a program has both a match and a maintenance of effort requirement, the greater of the two amounts is used to calculate the minimum cost share for that program.

PPGs also give states an opportunity to direct federal resources to address their priority environmental problems or program needs. The simplified accounting for PPGs also makes it easier to for states to try multi-media approaches and initiatives that were difficult to fund under traditional categorical grants. PPGs also give states greater flexibility to negotiate work plans with EPA that direct resources to their priority environmental problems or program needs.

The PPG program is popular with states: nearly three-quarters of state environmental agencies and half of the state agriculture agencies receive some or all of their grants in PPGs. Most have taken advantage of the administrative savings and flexibility available in PPGs. There has been only modest use of the ability to shift funds from one program to another. However, many states have used PPGs to fund cross-cutting, innovative efforts such as data integration projects, sector or geographic initiatives, compliance assistance programs, and pollution prevention projects.

Despite this progress, recent evaluations[14] found there are still many EPA and state officials– particularly at the program level – who are not fully aware of the PPG program and its potential benefits to them. Some have misgivings about participating, in part due to a lack of understanding – and sometimes even misinformation – about how PPGs work. Therefore, an extensive outreach effort is underway to explain PPGs, how they are implemented and managed, the continuing role of program managers and staff in developing work plans and ensuring accountability, and how PPGs can leverage the resources available to achieve environmental results.

Advancing Innovative and Cross-Media Approaches

There is growing recognition among EPA and state program managers that regulatory innovations and cross-media approaches can deliver increased environmental benefits through reduced administrative costs and better alignment of program resources to meet pressing environmental needs. EPA and states are encouraged to discuss innovative and multi-media approaches during joint planning sessions, incorporate them into new and revised PPAs, and support them through PPGs and other state grants.

The fundamental goal of programs such as Performance Track and Sector Strategies,[15] and the numerous state-based environmental performance programs is to achieve better environmental results by focusing on environmental outcomes (reduced emissions or higher compliance rates) rather than operationally-based output measures (number of inspections or permits). These

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[14]For more about the evaluation results, see http://www.epa.gov/ocfo/opaa/index.htm.

[15]The Sector Strategies approach (http://www.epa.gov/sectors/program.html) addresses regulatory and non-regulatory barriers to improved performance; promotes use of environmental management systems and stewardship to help businesses achieve a more systematic approach to environmental protection; and develops measures to track sectors' performance over time. The Performance Track program (http://www.epa.gov/performancetrack/) is a voluntary partnership that recognizes top environmental performance among participating U.S. facilities of all types, sizes, and complexity, public and private. Currently, the program has about 400 members.

programs often provide regulatory flexibility, creating opportunities for high performers to go beyond the compliance measures that are typically established by regulations. A main objective is to encourage and reward strong and sustained improvements in environmental performance among the regulated community that goes beyond compliance and addresses unregulated environmental issues. These initiatives also provide opportunities for state and federal government, as well as the regulated community, to target financial and human resources more strategically to produce better overall environmental results.

The PPA negotiation process presents an excellent opportunity for discussing and defining how EPA and a state will work together on innovative or cross-media projects. PPGs (and other state grants) may be leveraged to help support such initiatives. Because they are a high priority for EPA and many states, increasing collaboration and coordination between state performance-based environmental initiatives and corresponding programs such as Performance Track would be especially useful. Other possible topics for the PPA include relationships between EPA and state voluntary programs and pollution prevention efforts. It may also be useful to address how EPA and the state work together on data management projects, such as the effort to build the Environmental Information Exchange Network. Discussions might also explore ways to strengthen state capacity for developing and implementing innovative programs and the development of performance-based program measures or metrics that can be used to complement or replace traditional activity measures.

Goal 3: Partnership related policy and implementation issues are identified and resolved through appropriate leadership mechanisms.

Objectives:

- The Office of Congressional and Intergovernmental Relations (OCIR) will engage state leaders and the Agency's Performance Partnership Steering Committee to identify and resolve key policy and implementation issues.

- EPA managers will inform OCIR of disagreements between offices on partnership-related matters so they can be resolved by the Performance Partnership Steering Committee, or if necessary, elevated to the Deputy Administrator.

- EPA officials will work with states to advance NEPPS-principled relationships through joint state-EPA work groups; the Environmental Council of the States; and other state organizations.

Leadership Mechanisms for Performance Partnerships

- **Office of Congressional and Intergovernmental Relations (OCIR)**

OCIR was named lead office for performance partnerships in 2003.[16] As lead office, OCIR is responsible for advancing the Administration's goal to strengthen state-EPA partnerships and to facilitate the resolution of policy and implementation issues associated with performance partnerships. In doing so, OCIR will involve all interested program offices -- including the Office of General Counsel (OGC), Office of Grants and Debarment (OGD), and the Office of the Chief Financial Officer (OCFO) – in developing issues for the Steering Committee, or when necessary, the Deputy Administrator to decide. OCIR's responsibilities as lead office for performance partnerships also include coordinating the Agency's PPA and PPG development process; assuring that EPA program and grant guidance materials do not inappropriately limit the flexibility available in PPGs; maintaining a clearinghouse of information on performance partnerships; coordinating the work of the Performance Partnership Steering Committee; and developing guidance to advance performance partnerships. OCIR's roles and responsibilities as the lead office are discussed in more detail in Appendix B.

- **Performance Partnership Steering Committee**.

Recognizing the need for an ongoing mechanism for engaging the Agency's senior leadership in promoting performance partnerships, the Deputy Administrator established the Performance Partnership Steering Committee in July 2002. Comprised of Deputy Assistant Administrators and Deputy Regional Administrators, the Steering Committee was initially asked to recommend ways to ensure timely and efficient implementation of the Part 35 grant regulations, including PPGs; identify barriers to full implementation; and review EPA's process for preparing and concurring with program grant guidance to ensure it does not inadvertently conflict with or create barriers to implementing PPGs. A year later, the Steering Committee's charge was expanded to include all performance partnership matters. A staff-level work group supports the Steering Committee. The Steering Committee meets approximately once each quarter to address a full range of NEPPS and PPG issues.

- **State-EPA Partnership and Performance Work Group**[17]

The Partnership and Performance Work Group, comprised of EPA senior managers and state leaders drawn from the ECOS membership, is the principal mechanism through which EPA and states work together to advance performance partnerships and results-based management overall.

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[16] Linda Fisher, Deputy Administrator, "Performance Partnership Grant Steering Committee Recommendations and Decisions," memorandum, July 11, 2003.

[17] See footnote [4] for more information about the Partnership and Performance Work Group and its predecessor, the Planning Alignment/PPA Improvement Work Group.

Among the topics addressed by the work group are PPA and PPG implementation, performance measures, and information exchange. A PPG/Grant subgroup is currently addressing the issue of timeliness of state grants, and as its work proceeds, will address a variety of PPG and state grant issues.

Goal 4: **Policies, procedures, and requirements for state grants, including PPGs, will accommodate state needs for flexibility and minimum administrative burden while ensuring fiscal and programmatic accountability.**

Objectives:

- Consistent with 40 CFR Part 35, the regions will enhance and sustain a system of joint evaluations of state grants – including PPGs – to ensure accountability for results.
- EPA headquarters and regional offices will make the appropriate policy, administrative, and procedural changes to improve the timeliness of state grant awards.
- OCIR will work with state leaders and EPA program managers to develop and implement a standard state grant performance reporting template, as the Office of Management and Budget (OMB) has required.

Basic Part 35 and Performance Partnership Grant Requirements

State PPGs are governed by the regulations in 40 CFR Part 35, Subpart A: "Environmental Program Grants – State, Interstate, and Local Agencies."[18] These revised grant rules, which govern categorical program grants and PPGs, became effective in 2001. Sections 35.100-118 detail the administrative requirements for all grants, and Sections 35.130-138 pertain to PPGs specifically. This guidance does not introduce any administrative requirements not included in these sections.

The Part 35 rule was designed to incorporate the principles of NEPPS – fostering joint planning and priority setting, promoting results-oriented environmental programs, and requiring joint evaluations – even for states that choose to continue receiving their funds in categorical grants. However, states have the greatest administrative and programmatic flexibility under PPGs. At a minimum, a state can save on administrative costs because of the reduced paperwork involved in applying for and managing a PPG. In the most flexible form of PPG, a state can negotiate a work plan with EPA to increase efforts in some program areas where the state's environmental

[18] See 40 CFR Part 35 rule at: www.epa.gov/fedrgstr/EPA-TOX/2001/January/Day-09/t218.pdf

protection needs are greater, and decrease them in others where the state's needs are less. States are not required to negotiate PPAs with EPA in order to request funds in a PPG, but a PPA (or comparable agreement) often serves as the strategic underpinning for a PPG and other grants. The PPA itself also can serve as the grant work plan *if* it meets the requirements in 40 CFR Part 35.107. Many states and regions now have PPAs that also serve as grant work plans. A comprehensive PPA that serves as the PPG work plan can be the most strategic, flexible, and outcome-oriented option for states and regions.

Under PPGs, states have the same accountability for achieving the commitments in their grant work plans as they do for any other grant. Developing and managing a PPG involves coordinating the work of many offices, and the process varies among the regions. In all cases, however, EPA regional program managers are responsible for ensuring that the PPG work plan contains appropriate commitments for their respective program areas; they also participate in reviews and evaluation to monitor progress and identify and address problems. In addition to funding traditional program activities, PPGs can help programs achieve environmental goals that require work across multiple programs, such as sector or geographic initiatives, and they can fund data management and similar projects that will benefit all programs.

- **Grants Eligible for Inclusion in PPGs**

Congress determined which individual environmental program grants would be eligible for the PPG program when it first authorized the program in 1996. Under 40 CFR Part 35.133(b), the Administrator has the authority to add, delete, or change the programs eligible for PPGs. It is Agency policy[19] to presume that any new State and Tribal Assistance Grant (STAG) program will be approved for inclusion in a PPG unless there is specific legislative language or an Administration policy determination to the contrary.

For each new PPG-eligible grant program in the STAG appropriation, the Administrator will make the final decision whether that grant is approved for inclusion in a PPG. OCIR will coordinate with the appropriate offices to develop a decision package for the Administrator's signature approving new programs for PPG eligibility. If an EPA office believes a new STAG grant should be excluded from PPGs, the office must notify OCIR. OCIR will convene meetings with interested offices, develop the issue for Steering Committee deliberation, and raise the issue to the Deputy Administrator or Administrator as necessary.

The grant programs that are eligible and authorized for inclusion in PPGs in FY 2007 are shown in Appendix A.

[19] Linda Fisher, Deputy Administrator, "Performance Partnership Grant Steering Committee Recommendations and Decisions," memorandum, July 11, 2003.

Joint Evaluation of Performance Partnership Grants and Other State Grants

Joint evaluations of state grants serve several key purposes. Evaluations assure compliance with state grant rules (40 CFR Parts 31 and 35). They also produce valuable performance information to support state and EPA program planning and decision making and provide assurance to officials and the public that EPA and the states are carrying out their environmental program responsibilities. These evaluations are also of interest to NPMs, as they may help in gauging the results being achieved with state program grants.

EPA's Office of the Inspector General (OIG), in a March 21, 2003 report entitled *EPA Must Emphasize Importance of Pre-Award Reviews for Assistance Agreements,* highlighted EPA's responsibility for ensuring that regions and states conduct joint evaluations of grant agreements. Of the 53 grant agreements reviewed, OIG found that only 14 contained information on how EPA and the state will evaluate performance.

Essential Documentation. PPG project officers *must* maintain a document file of joint evaluations of PPG grant agreements and describe these evaluations in their PPG agreements. Though regions and states conduct many types of program evaluations and interactions during the year, the regulations require a documented joint evaluation, at least annually.

- **Part 35 Grant Evaluation Requirements**

EPA's Part 35 grant rule recognizes the importance of the state partnership in evaluating results, and establishes a joint evaluation requirement at 40 CFR Part 35.115. 40 CFR Part 31.40 provides additional detail on requirements for a satisfactory evaluation of state grant agreements.

The Part 35 rule sets out the elements for the joint evaluation process for state grants, including PPGs. The elements are:

(1) A discussion of accomplishments as measured against work plan commitments;

(2) A discussion of the cumulative effectiveness of the work performed under all work plan components;

(3) A discussion of existing and potential problem areas; and

(4) Suggestions for improvement, including, where feasible, schedules for making improvements.

EPA and the state must produce a documented joint evaluation within 90 days of the end of the grant period. All parties understand that this evaluation will be based on available program data and reports.

EPA and state officials recognize that the concept of joint evaluation applies throughout the entire year in a variety of contexts. Over the course of the year, such as during state-EPA mid-year meetings, much more substantial joint reviews can take place that can provide a deep understanding of environmental and program conditions. Regions and states are strongly encouraged to engage in these more in-depth interactions, as they provide the feedstock for successful joint planning and priority setting. While it is important to satisfy regulatory requirements for grants, it is more important to do so in a way that maximizes use of information and draws upon the knowledge of state and EPA program staff to produce evaluations that feed a meaningful joint state-EPA planning process.

EPA recognizes the need for a way for all program offices and other parties to have access to performance information related to state grants. The Agency is considering development of a repository of such grant evaluation information.

Appendix C contains an example of a process developed by a state and region for conducting joint evaluations as well as sample language taken from a PPA that describes a joint evaluation process. In the example provided, the PPA also serves as the grant work plan, so the evaluation process for the PPG and the PPA is the same. Other regions and states use other approaches that can work equally well, and may have other examples to share.

Timeliness of State Grant Awards

Through their ongoing collaborations with EPA on performance partnerships, states identified delays in awarding PPGs (and other state grants) as creating a variety of problems affecting their ability to implement programs. A state-EPA work group examining the issue characterized the problem as two-fold: delays in making initial awards, and delays in awarding all program grant funds after EPA receives its appropriations.

The findings and recommendations of the state-EPA work group were endorsed by the Performance Partnership Steering Committee and distributed as an attachment to a December 23, 2005 memorandum. Most of the recommendations can be implemented without additional authorities or resources. To monitor progress, OCIR will work with the Office of Grants and Debarment (OGD) to product and distribute reports on grant timeliness. An EPA work group, which will also involve state and tribal partners, is developing a formal EPA Order to address the recommendations.

Under current policies, project officers can improve the timeliness of state grant awards, including PPG awards, even when the Agency is funded by continuing resolution. Under continuing resolutions, regions receive that portion of all STAG accounts, including State Revolving Funds (SRF), that the Agency is allowed to spend while the continuing resolution is in effect. The Agency can make initial state grant awards with these funds. For PPGs, current policy allows regions to pool all STAG funds, if necessary, to make initial PPG awards. Project officers, by working closely with their budget officers and grants management officers, can determine how

much money is available for each state and prepare a funding recommendation for this amount once the PPG work plan is approved or conditionally approved.

Existing Agency policy governing the timely award of grants states: "It is EPA's policy to award assistance funds for continuing environmental programs as quickly as possible after funds become available." 40 CFR 35.115 describes time frames for regional action on a grant application. For more information on the current EPA policy, see Grants Policy Issuance GP 92-6. Regions, NPMs, and project officers will be notified formally when the Agency issues any policy that supplements or supersedes existing policy on timely awards.

Using conditional approvals can prevent situations where unresolved work plan issues in one program hold up the entire PPG award. If only minor changes are necessary to have a complete application, 40 CFR 35.111 allows the Regional Administrator to conditionally approve an application, thus allowing a grant to be made on the condition that certain changes are made to the work plan or application. The approval should contain the condition that the remaining portions of the work plan must be approved in order for the state to receive additional, specified funding.

If the work plan has been approved for other programs, but there are significant issues in a specific work program work plan that cannot be resolved in a timely manner, the PPG can be awarded without that program. Once the issues are resolved, the PPG can be amended to include the work plan (and funds) for that program.

State Grant Performance Measures Template

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. OMB's statement follows:

> The Administration believes that accountability improves a program's effectiveness and ensures resources are providing the intended results. However, while over half of EPA's budget provides grants to states to implement their environmental programs, EPA faces difficulties in getting states to report consistent, meaningful, performance information. To address this issue, EPA will develop a standardized template that all states will use to develop and submit their state grant agreements. This new template will include clear linkages to EPA's Strategic Plan and long-term and annual goals, as well as consistent requirements for regular performance reporting. It will also allow for meaningful comparisons between various states' past and planned activities and performance, making progress more visible and programs more transparent.

EPA worked with states -- through ECOS, the various state media program associations, and individual states – to develop a response to this challenging requirement.

In developing the measures, EPA's goal was to be responsive to the OMB directive, while affording states minimum disruption to preparation of grant work plans and using existing data sources and measures to the extent possible. The template established for FY 2007 is considered an interim step to facilitate implementation in the first year. EPA will continue its collaboration with states to improve performance measurement, reduce reporting, and strengthen grant accountability.

Specific performance measures for each of these grant programs is included in FY 2007 National Program Manager guidance.

Interim Guidance for Implementing the Template. The interim guidance (see Appendix D) provides additional information on the background and purpose of the template, the principles that guided EPA in developing it, instructions for completing the template, and guidance addressing several important implementation issues. Of particular importance is a discussion of the three circumstances in which it is appropriate to include caveat language in the template to clarify the relationship between specific measures and the grant work plan.

Other Performance Partnership Grant (and Related State Grant) Policies

- **EPA Order on Environmental Results**

Approximately one-half of EPA's budget is awarded to states and tribes and to educational, nonprofit, and other organizations. To meet its obligations under GPRA, EPA must be able to link the work performed with grant funds to the achievement of the goals and objectives in the EPA Strategic Plan. To do this, a new EPA Order[20] requires project officers to link proposed assistance agreements to the Agency's Strategic Plan; ensure that outputs and outcomes are appropriately addressed in work plans, solicitations, and performance reports; and consider how the results from completed assistance agreement projects contributed to the Agency's goals and objectives.

This order recognizes that PPGs and categorical state and tribal grants are among the primary mechanisms through which the nation's environmental programs are implemented. Because Part 35 already requires work plans that include performance measures (outputs and outcomes) as well as a joint evaluation of grant agreements, the order imposes only one additional requirement:

project officers must list on the funding documents the EPA Strategic Plan goals, objectives, and sub-objectives that the grant supports.

[20]The EPA Order on "Environmental Results under EPA Assistance Agreements" applies to all grants and cooperative agreements. For more information, scroll down to "Environmental Results" section on http://www.epa.gov/ogd/grants/regulations.htm or contact EPA's Office of Grants and Debarment.

- **Competitive Grants**

Some of the grants eligible for inclusion in PPGs are competitive (e.g., wetlands, pollution prevention, sector program). States must successfully compete with other states and sometimes other entities to be awarded these funds. PPG considerations are not a factor in decisions about competitive award recipients.

The schedule for grant competitions varies, but award decisions are typically not made until later in the year than for the environmental program grants. This means that EPA and the state are not likely to know whether or not the state will be receiving that grant until after the PPG has been negotiated. If the state does receive a competitive grant, the grant can be folded into the PPG if the state wishes to do so. However, the PPG work plan must be amended to include the specific work plan commitments that were the basis for the award. This requirement assures fairness in the competition as well as accountability.

EPA's grant competition policy ensures that when grants are competed, they are done so according to accepted government-wide principles of grant competition. These requirements do not apply to state environmental program grants. However, the competitive grants eligible for inclusion in PPGs must adhere to the Agency's competition requirements.[21]

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Conclusion

The unique relationship between EPA and states is the cornerstone of the nation's environmental protection system. Working together, EPA and states have made enormous progress in protecting our air, water, and land resources.

With performance partnerships, EPA and states are working to build a performance-based system for environmental protection. As the effort has grown and matured, performance partnerships have strengthened EPA-state relationships, promoted joint planning and priority setting based on an understanding of environmental conditions and program needs, focused resources on the most pressing environmental problems and needs, and fostered the development and use of environmental indicators to assess progress.

The experience EPA and states have gained has also pointed to improvements that would make performance partnerships still more effective. EPA and state leaders recognize that the key to making the system work better is strengthening joint planning and priority setting – and the steps now underway to align EPA and state planning set the stage for that to happen. PPAs, PPGs, and other grant agreements that stem from a better aligned planning process will reflect consideration

[21] For more information, see http://www.epa.gov/ogd/grants/competition.htm.

of EPA national, regional, and state priorities. PPAs that address the essential elements can be viewed as the definitive agreement setting out the relationship between the parties.

Implementing the initiatives outlined in this guidance will go a long way to advance stronger, more effective state-EPA partnerships that provide states with the flexibility they need to target state-specific priorities, balanced with a results-based system of accountability that will support achieving national goals. EPA staff and managers are encouraged to work with *every* state to take advantage of these opportunities and begin implementing these strategies – starting from whatever point is appropriate and working toward whatever level or type of partnership agreement makes sense for each state.

Appendix A

Grant Programs Eligible for Performance Partnership Grants

Grant Program	FY 06 Enacted*	FY07 President's Budget	Required Match
Air Pollution Control – CAA 105	$220,261,000	$185,179,500	40%**
Radon Assessment and Mitigation –TSCA 306	$7,439,000	$8,073,500	50%
Water Pollution Control – CWA 106	$216,172,000	$221,661,000	0%**
Non-point Source Management – CWA 319	$204,278,000	$194,040,000	40%**
Wetlands Development Grants Program – CWA 104(b)3 *(competitive)*	$15,765,000	$16,830,000	25%
Water Quality Cooperative Agreements – CWA 104(b)3 *(competitive)*	$0	$0	0%
Public Water System Supervision --SDWA 1443(a)	$98,279,000	$99,099,000	25%
Underground Water Source Protection – SDWA 1443(b)	$10,838,000	$10,890,000	25%
Hazardous Waste Management – SWDA 3011(a)	$101,944,000	$103,345,500	25%
State and Tribal Response (Brownfields) CERCLA 128(a)***	$49,264,000	$49,494,900	0%
Underground Storage Tanks – SWDA 2007(f)2	$11,774,000	$37,566,700	25%
Pesticides Program Implementation – FIFRA 23(a)1	$12,907,000	$12,968,000	0%
Lead-Based Paint Activities – TSCA 404(g)	$13,499,000	$13,563,000	0%
Toxic Substances Compliance Monitoring – TSCA	$5,074,000	$5,098,500	25%
Pesticides Cooperative Enforcement – FIFRA 23(a)1	$18,622,000	$18,711,000	0%
Environmental Information Exchange Network – EPA Appropriations Acts	$19,706,000	$14,850,000	0%
Pollution Prevention Initiatives – PPA 6605 *(competitive)*	$4,926,000	$5,940,000	50%
Sector Program (compliance/enforcement) *(competitive)*	$2,217,000	$2,227,500	0%

Budget data source: FY 2007 President's Budget and EPA Office of the Chief Financial Officer

* Reflects FY 2006 Enacted 0.476% rescission and additional 1% reduction.

**State must also meet Maintenance of Effort requirements.

Office of Congressional and Intergovernmental Relations:
Lead Office for Performance Partnerships

Roles and Responsibilities and Issue Resolution Process

The Office of Congressional and Intergovernmental Relations (OCIR) was named lead office for performance partnerships by the Deputy Administrator in a July 13, 2003 memorandum.[22] As lead office, OCIR is responsible for advancing the Administration's goal to strengthen the state-EPA partnership and for facilitating the resolution of policy and implementation issues associated with performance partnerships. OCIR's responsibilities include:

--Securing Administrator's approval for new grants to be eligible for PPGs. There is a presumption that any new State and Tribal Assistance Grant (STAG) program will be approved by the Administrator for inclusion in PPGs,[23] unless there is specific legislative or policy history indicating that Congress or the Administration meant for that particular grant not to be included. OCIR will coordinate with the appropriate offices to develop a decision package for the Administrator's signature approving new programs for PPG eligibility.

- If an EPA office believes a new STAG grant should be excluded from PPGs, the office must notify OCIR.

- OCIR will convene meetings with all interested offices, including the Office of General Counsel (OGC), Office of Grants and Debarment (OGD), and the Office of the Chief Financial Officer (OCFO); develop the issue for Steering Committee deliberation; and raise the issue to the Deputy Administrator or Administrator as necessary.

- When the Administrator determines a program is eligible for inclusion in a PPG, OCIR will prepare an announcement for the Administrator's signature in accordance with 40 CFR Part 35, Subparts A and B.

--Promoting PPG flexibility in EPA program guidance. OCIR may review -- in conjunction with OGC, OGD, and the American Indian Environmental Office (AIEO) – guidance issued by the National Program Managers (NPMs) to ensure the guidance is consistent with the PPG regulation (40 CFR Part 35, Subpart A and B) and does not inappropriately restrict PPG flexibility. All NPMs will share their drafts for mutual and timely review under the OCFO-led process.

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[22] Linda Fisher, Deputy Administrator, "Performance Partnership Grant Steering Committee Recommendations and Decisions," memorandum, July 11, 2003.

[23] Ibid.

--Coordinating the Agency's PPA and PPG development process. OCIR will work with OGD (including the grants competition advocate), program offices, and Regions, as appropriate, to ensure that grant guidance, planning cycles of competitive grants, and other grant-related implementation policies and procedures serve to enhance state and EPA joint planning and priority setting.

--Maintaining a NEPPS information clearinghouse. OCIR will track, analyze, and disseminate information about performance partnerships, such as information on which states are participating in NEPPS with a PPG and/or a PPA and the dollars and grant programs included in PPGs. OCIR will maintain a resource center on the web that will make available all performance partnership policy documents, PPAs, and relevant evaluations. OCIR will also be responsible for responding to Congressional or other third party inquiries about performance partnerships.

--Managing the Performance Partnership Steering Committee. As staff lead for the Steering Committee and staff work groups, OCIR will, as needed, organize sub-work groups or other forums to address PPG implementation issues. OCIR will coordinate regular PPG work group reports to the Steering Committee on issues and activities. Under the guidance of the Steering Committee guidance, OCIR will consider other longer term initiatives.

--Resolving internal EPA Performance Partnership Grant issues. When internal PPG issues arise (for example, where an NPM disagrees with a Regional Administrator's decision, after appropriate NPM consultation, to accede to a state request for flexibility[24]) involved program offices or regions should notify OCIR. OCIR will then:

- Bring the interested parties, including the program and regional offices, OGD, and OGC together to discuss issues and possible resolutions. OCIR will help facilitate an informal resolution if possible.
- If informal resolution is not possible within a reasonable time frame, OCIR will, after consultation with the involved offices, place the issue on the agenda for the Performance Partnership Steering Committee to discuss. The Steering Committee may either resolve the issue by consensus or elevate it to the Deputy Administrator.
- If the issue is elevated to the Deputy Administrator, OCIR will work with involved offices to coordinate briefing materials, including any Steering Committee advice or position(s), for the Deputy Administrator.
- Decisions of the Deputy Administrator will be final.
- OCIR will work with the Deputy Administrator's office and other involved offices to prepare and communicate any necessary documentation of the decision.

--Resolving performance partnership disputes involving EPA and external parties. External PPG disputes, such as those between states or other parties and EPA, will be resolved through

[24] 40 CFR Part 35.107(a)(2) states that "if an applicant proposes a work plan that differs significantly from the goals and objectives, priorities, or core performance measures in the national program guidance . . . the Regional Administrator must consult with the appropriate National Program Manager before agreeing to the work plan."

the EPA Disputes Resolution Process described at 40 CFR Part 31, Subpart F. However, states and regions should make every opportunity to resolve issues through direct communication and negotiation, with headquarters involvement where appropriate. The dispute resolution process should be regarded as a last resort option. When a state appeals the decision of the Regional Administrator, the Deputy Administrator will be the discretionary review official.[25]

--Developing guidance for performance partnerships. As NPM, OCIR will develop and communicate guidance on performance partnerships. Guidance will be updated as necessary, no more frequently than annually. OCIR will follow the Agency-wide process prescribed by the OCFO.

[25]Designating the Deputy Administrator as the discretionary review official for external disputes may require a deviation from 40 CFR Part 31, Subpart F.

Joint Evaluation Process
EXAMPLE – For Illustration Only

I. Joint Evaluation Process for State Agency and an EPA Region [26]

40 CFR Part 35 Subpart A requires a formal, annual evaluation of date and EPA performance in grant work plans for programs covered by Subpart A and receiving general assistance grants. Although the primary purpose of the evaluation is to identify progress toward accomplishing the commitments in the state/EPA Performance Partnership Agreement (PPA), the evaluation is also essential in planning, setting priorities, making adjustments to attain improvements, and defining roles in undertaking joint activities.

The PPA contains a binding set of commitments in the form of program-specific work plans, certain priority descriptions, and carryover projects. The work plans are negotiated between each media program and the EPA region. Each approved work plan reflects consideration of EPA national and regional guidance, state and EPA goals, objectives, and priorities, other jointly identified needs, as well as funding allocations. The basis for the joint evaluation will be the commitments made in the PPA.

The state agency and EPA will undertake a joint evaluation of commitments and accomplishments from the PPA as part of the preparation of the End-of-Year report for the grant period of October 1, 200x to September 30, 200x.

During the evaluation, the following will be discussed:

- accomplishments as measured against PPA/grant agreement commitments,
- cumulative effectiveness of the work performed under the PPA/grant agreement,
- existing and potential problem areas,
- suggestions for improvement, and
- resolution of issues.

[26] In this example, the PPA serves as the work plan for the PPG, so the evaluation process is the same for both the PPA and PPG. Therefore, the "commitments" in the PPA are grant commitments.

Joint Evaluation Process

Step 1 At the conclusion of the federal fiscal year and grant period, the state agency and EPA programs will each prepare a draft summary of their commitments and accomplishments as contained in the PPA. Concurrent program-to-program discussions may begin on the accomplishments of the goals, objectives, and commitments. The state agency and EPA will exchange the draft accomplishment summaries by mid-December.[27]

Step 2 State agency and EPA program and enforcement managers will conduct meetings to review their respective findings. They will discuss how to align the drafts, and will report results to their respective senior managers.

Step3 By December 31, 200x, state agency will produce an End-of-Year report based on the reports and discussions that take place in Steps 1 and 2.

Step 4 In January 200x, state agency and EPA program directors, with the appropriate senior managers of the two agencies, will meet to discuss results. Senior managers will resolve any outstanding issues by the end of January 200x.

Evaluation Follow-Up

During January and February 200x, the final End-of-Year Assessment report, with other reports - including the Unified Enforcement Oversight Survey- will be distributed to all EPA and state managers to be used to prioritize future efforts and track resolution of issues. Either party my propose changes to the PPA to address new issues or priorities.

During February and March 200x, programs conduct individual midyear reviews to check in on progress, review and set priorities and plan for future work. The findings and recommendations contribute to subsequent planning discussions, starting with the annual Spring Environmental Directors meeting.

During April or May 200x, state agency and EPA senior environmental directors meet to discuss significant program issues, set joint priorities, and develop plans and strategies to accomplish common program goals.

[27]This schedule needs adjustment to meet the Office of Management and Budget's current requirement for all Federal agencies to prepare and distribute their Annual Performance Reports by mid-November.

II. Sample Joint Evaluation Language from a Performance Partnership Agreement

Chapter XX Evaluation of the Performance Partnership

The state agency and EPA will jointly evaluate the success of the performance partnership using the four measures outlined below.

Does the work undertaken in the PPA:

- Address the stated strategic priorities and goals;
- Achieve administrative cost savings;
- Where appropriate, improve environmental results; and
- Improve EPA/state working relationships?

The state and EPA will use the End-of-Year Assessment report to jointly evaluate the partnership's success in achieving the environmental program goals, measures, and commitments contained in this agreement and to jointly plan for next year's PPA.

Interim Guidance
Implementing the State Grant Performance Measures Template in FY07
Office of Congressional and Intergovernmental Relations
Office of Grants and Debarment
Office of Planning, Accountability, and Analysis
May 2006

Introduction

The FY 2007 President's Budget for EPA includes language requiring that EPA "develop a standardized template that all states will use to develop and submit their state grant agreements."[1] This guidance includes background on the template and provides supplemental implementation information that was not available for inclusion in the FY07 updates to the National Program Manager (NPM) guidance.

Grant workplans are often structured to reflect the requirements of state legislatures, governors, and executive agencies, yet must also support the EPA accountability systems for reporting and analyzing performance on a national, regional, state, or local level. EPA's overarching goal for developing the performance measures template in FY07 was to build on these existing, sophisticated regional-state processes while ensuring they include a standard set of performance measures that will provide the Agency, the Office of Management and Budget (OMB), and others with consistent performance reporting.

Developing a performance measures template with clear linkages to the *EPA Strategic Plan* will improve the ability of EPA and states to demonstrate results from categorical grants and Performance Partnership Grants (PPGs). It will also enhance the transparency of environmental and program outcomes in state grant workplans, make it easier to compare and analyze data over time and across states, and help focus EPA and states on management actions to improve outcomes.

Objectives

In consultation with the National Program Managers (NPMs), the regions and states, the objectives for the FY07 template are that it:

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[1] **FY 2007 EPA President's Budget Language on State Grant Workplan Template**

MAKING GOVERNMENT MORE EFFECTIVE
Enhancing Accountability

The Administration believes that accountability improves a program's effectiveness and ensures resources are providing the intended results. However, while over half of EPA's budget provides grants to states to implement their environmental programs, EPA faces difficulties in getting states to report consistent, meaningful, performance information. To address this issue, EPA will develop a standardized template that all states will use to develop and submit their state grant agreements. This new template will include clear linkages to EPA's *Strategic Plan* and long-term and annual goals, as well as consistent requirements for regular performance reporting. It also will allow for meaningful comparisons between various states' past and planned activities and performance, making progress more visible and programs more transparent.

- Respond to the budget language;
- Facilitate national implementation in FY07;
- Achieve maximum involvement and ownership of the regions, NPMs, and states;
- Can be integrated with current and future efforts to improve performance measures;
- Use existing measures and data sources to the extent possible; and
- Augment current partnership agreements and grant workplans instead of restructuring or replacing them.

The template established for FY07 is an interim step to facilitate implementation in the first year. EPA has solicited input from the states and has worked to resolve many state concerns. Many states have been supportive of steps to improve and standardize performance measurement. However, they also view the template as a first step toward a larger joint effort to evaluate the entire universe of performance measures and reporting in order to identify the most useful measures (including potential new measures) and eliminate duplicative and low-value measures. The Agency will continue its collaboration with states to improve performance measurement, reduce reporting, and strengthen grant accountability.

Applicable Grants

The template applies to state grants for program implementation. It does not apply to project grants or to grants for program development activities. Tables 1 and 2 list the categorical grants that do/ do not require the performance measures template, respectively.

Table 1. Categorical Grants Subject to the Performance Measures Template

Office	***Grant Program***
Office of Air and Radiation	State and Local Assistance (CAA Section 105)
	Radon
Office of Enforcement and Compliance Assurance	Toxic Substances Compliance (Lead and PCB/Asbestos)
	Pesticides Enforcement
Office of Prevention, Pesticides and Toxic Substances	Lead
	Pesticides Program Implementation
Office of Solid Waste and Emergency Response	Hazardous Waste Financial Assistance
	Brownfields (CERCLA Section 128)
	Underground Storage Tanks
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

Table 2. Categorical Grants *NOT* Subject to the Performance Measures Template	
Office	***Grant Program***
Office of Water	Wetlands Program Development
	Targeted Watersheds
	Wastewater Operator Training
	Homeland Security
Office of Environmental Information	Environmental Information Exchange Network
Office of Prevention, Pesticides, and Toxic Substances	Pollution Prevention
Office of Enforcement and Compliance Assurance	Sectors Program

Supplemental Implementation Guidance

EPA and the states have worked through several implementation issues to date. This section provides supplemental guidance on a few process and policy matters that were not available for inclusion in the FY07 updates to the NPM guidance.

1. *Attaching the Template to Grant Workplans*

Each NPM has selected performance measures for the standardized template, which are included in the FY07 updates to each NPM's grant guidance. The template must be included with the categorical and PPG grant workplan for the applicable grants. The template must be attached to the workplan before the region (or NPM) can award FY07 grant funds to the state. The template also applies to previously approved workplans (e.g., open multi-year grants) intending to receive FY07 grant funds.

The template contains columns to input the following data for each measure: National Baseline, National Target, State Baseline, State Measurement, and Source of Data. The NPMs will fill in the National Baseline, National Target, Measurement Period, and Source of Data. The NPMs or regions, with input from the states, will fill in the State Baseline column. The regions shall seek input from the states on the baseline data. For measures that will be new in FY07, baseline information will not be available until FY08. The regions or the NPMs, with input from the states, will fill in the State Measurement column at the end of federal FY07. The regions must also provide the states with a sufficient review and comment period for reporting the end of year State Measurement data.

2. *Appropriate caveats to clarify the relationship between the performance measures template and the grant workplan*

There are significant challenges in attempting to use a concise list of simple and uniform performance measures that will fully reflect the effectiveness and efficiency of activities conducted by state agencies. States face a diverse array of environmental challenges which

influence the programs they implement. Many of the performance measures selected for this effort express progress in terms of environmental outcomes, such as reductions in the number of days per year that exceed the national ozone standard. These environmental outcomes may also rely on actions that go beyond the grant-funded programs of the state agency. In addition, while the standard set of performance measures is intended to be used by all states nationwide, some measures may not be applicable due to variation among the states' delegated programs and authorities. In some instances, states may perform activities that relate to these measures, but do not perform the work with funds provided by the state grant.

Due to these challenges, the states and EPA identified three circumstances when it is necessary to clarify the relationship between specific template measures and the grant workplan. EPA has drafted the following caveats to describe each circumstance. The template should reference the appropriate caveat where needed.

Caveats for Special Reporting Conditions

Important Note: The performance measures selected for the template are a subset of the overall universe of performance and accountability information that EPA and states report. Reporting for the purpose of the template, including the caveats described below, does not substitute for other performance and accountability reporting requirements.

I. Performance measures that reflect broad programmatic goals and may not be solely attributable to the activities funded by the grant.

Certain performance measures listed in the grant template express progress in terms of overall programmatic or environmental goals. In many cases state grants, in conjunction with federal- and state-funded pollution prevention and mitigation actions, and other actions by various parties will contribute to achieving these goals. However, it may be difficult to isolate the portion of the results achieved that are attributable to the grant-funded activity. There also may be multiple factors or constraints beyond the strategies and activities funded by the grant workplan that influence the results achieved.

For example, one PART measure in the template for Section 105 Clean Air Act grants is the reduction in the number of days during the ozone season that the national ambient air quality standard is exceeded. Success in this area depends not only on the actions that states take but also on the effectiveness of federal motor vehicle and fuel control technologies, and other complicating factors such as meteorology, economic activity, and demographic changes that can enhance or deter progress.

These measures will be reported on the template, but can be noted as "Results may not be solely attributable to the activities funded by the grant".

In subsequent years, EPA will work with states to better translate these broad measures into more grant-specific state goals.

II. Performance measures which are not applicable to a state grantee.

Some measures of performance will not be applicable to a state grant recipient for a variety of reasons. One reason could be that a state does not have the authorization or delegation to carry out a program that is the subject of a particular performance measure. For example, the performance measure for the hazardous waste financial assistance grants would not apply to a state that does not have an authorized hazardous waste program under the Resource Conservation and Recovery Act. Similarly, where EPA, in consultation with the state, determines an environmental problem is not applicable to a particular state, the state would not be expected to report on measures related to that problem.

Measures that meet this condition can be reported on the template as "Not Applicable".

III. Performance measures for <u>eligible activities that are not funded by the grant</u>, but are currently reported by the state to meet other accountability requirements.

In some cases, a performance measure currently reported on by a state may relate to work that is an eligible activity under the grant but is being funded outside of the EPA-approved grant workplan (this work is not subject to EPA's grant audit requirements). In these instances the measure will be reported as "Not applicable, results due to activities conducted outside of those funded by the grant workplan".

3. *Reporting*

Reporting the template measures consist of two components: 1) one for the EPA project officer and state grant file, and 2) one for national reporting purposes.

a. *For the Grant File*

A hard copy of the populated template must be included in the project officer's and the state's grant file with the appropriate caveats included for specific measures. National reporting on the template measures will occur after the end of federal FY07.

b. *National Reporting on Template Measures*

NPMs will include all template measures in the Annual Commitment System (ACS). The Office of the Chief Financial Officer (OCFO) will provide specific instructions for coding the measures so they are flagged as state grant template measures. Regions will enter individual, state-by-state performance into the ACS for all template measures.

OCFO and the Office of Congressional and Intergovernmental Relations will work with the NPMs, with input from the states, to design and produce reports for their template measures that compare performance across states and against national baselines and targets and state baselines.

Some operational details with regard to reporting remain to be determined. Over the next months, the State-EPA Grants Workgroup and the Partnership and Performance Workgroup will meet to work out additional details.

4. Contact Information:

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