



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
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COMMISSIONER'S OFFICE

2004 JUN 28 A 4: 26

DEPT. OF ENVIRONMENTAL
CONSERVATION

June 23, 2004

Winslow

Mr. Jeff Wennberg
Commissioner
Vermont Department of Environmental Conservation
Building One South
103 South Main Street
Waterbury, VT 05671-0411

Dear Mr. Wennberg:

Thank you for completing the Vermont Performance Partnership Agreement (PPA) for fiscal years 2004 through 2006, which I have approved and signed. I extend my congratulations to you for providing us with such a high quality document, which reflects your department's commitment to protecting the environment in Vermont.

I would like to commend you and your staff for the hard work that resulted in the completion of this PPA. In particular, special thanks are due to Winslow Ladue who spent months coordinating all of the public comments on the PPA and ensured that this PPA reflected the mutual goals of VTDEC and EPA.

EPA looks forward to working with you to address the environmental challenges that you face in Vermont. We would especially like to continue working with you to develop TMDLs and to implement a stormwater program consistent with federal and state requirements.

EPA is confident that this PPA will enable EPA and VTDEC to achieve our mutual environmental and public health goals and objectives. EPA also appreciates that you have provided meaningful indicators to allow you to measure your department's progress.

Please feel free to contact me or Jerry Potamis if you have any questions. Congratulations again and thank you very much for the work you put into completing this PPA. I appreciate the excellent work that you and your staff continue to do.

Sincerely,

Robert W. Varney
Regional Administrator

Enclosure



PERFORMANCE PARTNERSHIP AGREEMENT

between the

VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION

and the

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 1

for

FEDERAL FISCAL YEARS 2004, 2005 AND 2006

May 13, 2004

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Chapter 1 – Introduction

Part I - Statement of purpose

Vermont Department of Environmental Conservation has entered into Performance Partnership Agreements (PPA) with the Environmental Protection Agency (EPA) since federal fiscal year 1997. This agreement continues the new era of cooperation between the EPA, and the State of Vermont to jointly agree about environmental and public health priorities facing the state and to develop programs designed to manage those problems.

An important component of this process has been the establishment of public health and environmental indicators that will be used to measure the success of EPA and DEC in meeting the goals and objectives established by this agreement.

This agreement also serves as the basis for grants from EPA to the state covering a portion of the cost of operating DEC's programs, as well as pass-through funds for related projects. The development of the combined grants simplifies grant administration, provides the opportunity to prioritize the use of these funds as set forth in this agreement, and allows a reduction in the amount of state and federal resources devoted to grant oversight, reporting and administration.

This agreement covers federal fiscal years 2004, 2005 and 2006. Although the agreement will cover a three-year period, DEC will still apply for its grants annually by September 30.

Part II - Parties to the agreement

The parties to the agreement are the EPA, Region I, and the Vermont Department of Environmental Conservation. The agreement establishes continued oversight and reporting, based on the use of environmental and public health indicators, to measure success in meeting established goals and objectives. The department will provide the majority of resources necessary to carry out the agreement. EPA will provide resources to manage the agreement through the Performance Partnership Grant (PPG), as well as resources not included in the PPG to carry out selected tasks directly related to environmental or public health improvement as specified in the agreement. It is anticipated that the agreement will provide the opportunity for the department and EPA to work more closely and cooperatively together to address the established goals and priorities.

Part III - Programs Covered by the Agreement

This agreement covers these federal programs:

1. Water Pollution Control (CWA Section 106, surface and ground water)
2. Nonpoint Source Management (CWA Section 319)
3. Water Quality Cooperative Agreements (CWA Section 104(b)(3))
4. Wetlands Program Development (CWA Section 104(b)(3))
5. Public Water System Supervision (SDWA Sections 1443(a) and 1451(a)(3))
6. Underground Water Source Protection (UIC) (SDWA Section 1443(b))
7. Resource Conservation and Recovery Grant (RCRA) (SWDA Section 3011(a))
8. Underground Storage Tank Grant (UST) (SWDA Section 9010)
9. Pollution Prevention Incentive Grant (PPIS) (PP Act Section 6605)
10. Clean Air Act Grant (CAA Section 105)

Part IV - Public Participation

In developing this three-year PPA, the department administered a public input process that included an open house meeting, a stakeholder meeting and requests for written comments. Requests for comments were made by newspaper advertisements, letters to stakeholders and through the department's Web site. An open house and stakeholder meeting were held August 27, 2003.

In addition, an annual public meeting is planned with members of the Vermont Legislature to gain additional public feedback about DEC annual work plans.

Ongoing public feedback about the department's operations is an important part of public participation efforts. Meetings with the public and/or stakeholder groups are held throughout the year by request, to discuss a wide array of issues ranging from a specific decision about an application, to administrative strategies for complying with state and federal requirements.

Part V - Reporting

The PPA/PPG process is designed to reduce the level of EPA oversight and state reporting through the use of mutually agreeable priorities and environmental indicators. DEC already submits a significant amount of information to EPA under national and regional reporting requirements. In addition to those data, the department agrees to submit a mid-year report, consisting of a brief narrative discussing those activities where satisfactory progress has not been made toward meeting defined indicators or proposed accomplishments.

An end-of-year report and update for the coming year is submitted in November, following the end of the federal fiscal year. This report will be similar to the end-of-year reports submitted under previous PPAs, will summarize progress in special attention areas and discuss areas where we failed to meet established indicators or are experiencing difficulties in making anticipated progress. Updates to performance measures and proposed accomplishments also will be included as appropriate.

At least monthly, contact will be made between the EPA's Vermont state program unit manager and the DEC's representatives to discuss any areas that have been raised by their respective staff member that could affect the agreement. Staff-level workgroups will be formed, as needed, to cover areas of EPA assistance to the state on defined issues. Normal reporting of data required to support national databases, such as PCS and SDWIS, will continue under this agreement, as will normally required program reporting, such as 305(b) and enforcement-related actions. Vermont's list of high-priority, targeted, impaired waters will be submitted as required by Section 303(d).

Schedule of Reporting Dates and Milestones

Date	Milestones
May 2004	Submit mid-year report for 2004 consisting of a brief narrative discussing activities where satisfactory progress has not been made toward meeting defined indicators or proposed accomplishments.
Nov 2004	Submit combined end-of-year PPG report and update for 2005 PPA.
May 2005	Submit mid-year report for 2005 consisting of a brief narrative discussing activities where satisfactory progress has not been made toward meeting defined indicators or proposed accomplishments.
Nov 2005	Submit combined end-of-year PPG report and update for 2006 PPA.
May 2006	Submit mid-year report for 2006 consisting of a brief narrative discussing activities where satisfactory progress has not been made toward meeting defined indicators or proposed accomplishments.
June 2007	Begin discussion with EPA and stakeholders for the 2007 to 2009 PPA.
Sept 2007	Submit 2007 PPG and 2007 to 2009 PPA.

Part VI - Reopening Agreement and Resource Shortfalls

Although this is a three-year agreement, either EPA or the DEC can request to reopen discussions about this agreement. In general, reopening the agreement should be limited to a major omission or a new or unanticipated requirement or change in FFY 2005 or 2006. EPA's Enforcement Office only negotiates its activities annually. Therefore, the compliance-related sections of this agreement cover FFY'04 only. DEC and EPA will need to renegotiate the compliance and enforcement portions of this PPA for FFY 2005. Once the state and EPA reach agreement about the FFY '04 compliance plan, it will be hereby incorporated into this agreement. Lastly, for all programs, please note that DEC strongly encourages program discussions after the FFY'04 report is complete. DEC expects that the programs may need to make mid-course adjustments as appropriate. If the adjustments are minor and are mutually agreeable, we do not anticipate amending the PPA, we will handle this through written correspondence between EPA and DEC. If the adjustments are significant, then the parties will reopen the agreement.

Part VII - Dispute Resolution

The department and EPA agree that the following process will be used to resolve any disputes that cannot be settled by consensus agreement, although both parties agree that every effort will be made to resolve all issues in a timely fashion without resorting to this process.

1. The dispute shall be defined in writing by both parties, with the issues and obstacles clearly stated by both parties.
2. Written disputes shall be submitted to the Vermont state program unit manager and the department's commissioner.
3. The Vermont state program unit manager and DEC commissioner shall discuss the dispute and reach a decision within two weeks of the submission.
4. If agreement cannot be reached at this level, the dispute shall be raised to a higher level in each organization following the same process.

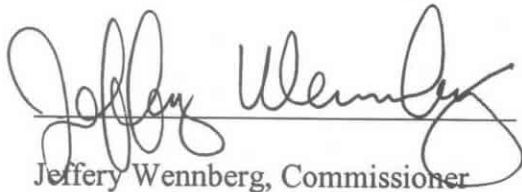
Part VIII – Signature Page

The Vermont Department of Environmental Conservation and EPA, Region 1, are pleased to enter into this FY 2004-2006 Environmental Performance Partnership Agreement. This agreement continues these parties' efforts to establish more effective working relationships. This agreement is a result of better involvement with the public in environmental and public health decision-making processes. It establishes greatly improved processes to define mutual environmental and public health goals and objectives, and provides understandable and meaningful indicators to allow the organizations to measure progress toward meeting those goals and objectives.

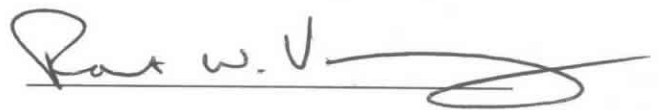
Using the above information will allow DEC and EPA to work better as a team, better integrate public needs and desires into planning and regular activities, and be more fully accountable for their actions. By living up to the expectations contained in this agreement, both parties believe that DEC and EPA will be able to provide the environmental and public health protections desired by the people of the State of Vermont in a cost effective manner and in a way that significantly contributes to their quality of life.

Entered into on this 2 day of ~~March~~^{April} 2004

For the Vermont Department of
Environmental Conservation:


Jeffery Wennberg, Commissioner

For EPA, Region 1:


Robert Varney, Regional Administrator

Chapter 2 – Vermont DEC and EPA Planning

Part I - Vermont DEC Planning

In 1996, the department initiated its first comprehensive long-range planning process. In order to complete detailed planning consistent with the strategic goals set by the Agency of Natural Resources, the department developed both a long-range strategic plan and a three-year operational plan. In 2000, the department adopted a five-year strategic plan to guide planning efforts.

This planning work was the basis for the federal fiscal year (FFY) 1997 Performance Partnership Agreement, the FFY 1998 PPA, the FFY 1999-2000 PPA, and the FFY 2001-2003 PPA covering all of the department’s activities related to EPA programs.

Presently, the department is in the process of updating its five-year strategic plan (2004 to 2009) while developing the three-year operation plan for 2004 to 2006. This strategic planning process has verified and updated the department’s vision and mission, and the six departmental programs’ goals and outcomes, to date. The new strategic plan will be reprinted by May 2004.

This 2004 to 2006 PPA has a different format from previous agreements. The department is using the new Vermont state planning “performance-based budget” (PBB) format for division programs. This format, shown in the table below, results in a separate plan for each of the 30 divisional programs that make up the department. The PBBs include key indicators, performance measures and proposed accomplishments used in previous PPAs. Each program’s PBB is included in Chapter 3 of this document.

Table of Performance-based Budget Elements

Element	Explanation
Division Program	Division program name, e.g., Wetland Program
Division	Division of the Department of Environmental Conservation
Date	Date of current version
Results	What programs are trying to achieve, its purpose
Key Indicators	Outcome Measures: One or two simple charts or graphics with several years of history (showing baseline, trend, and target or goal)
Story Behind the Baseline Performance	A history and trend line the program administrators are trying to bend. What do the trends mean? What story do they tell? Where have we been? Where are we headed?
Strategies/ Performance Measures / Proposed Accomplishments for 2004, 2005 and 2006	Strategies: What a program administrator thinks works and will have a positive impact on the indicators. List under sub-headings as appropriate: Regulation, compliance assistance and enforcement <ul style="list-style-type: none"> - Grants/loans/contracts - Education and technical assistance - Monitoring, assessment and direct services Include proposed and actual values for performance measures. Include proposed accomplishments for topics not fully addressed in performance measures tables.

Part II - DEC and EPA Planning Formats

The DEC planning format can be aligned with EPA’s new strategic planning format. This alignment is shown in the following table and is present, in part, to allow for easier location of relevant sections by EPA staff. This table lists existing department programs and newly adopted division program names.

Comparison of Vermont Department and Division Programs with EPA Strategic Plan Goals

Department Program	Division Program	EPA Planning Goals
Air	Air Pollution Control	Clean Air
Drinking Water	Drinking Water System Project Implementation	Clean and Safe Water
	Public Drinking Water Engineering and Financial Services	
	Public Drinking Water Operations and Compliance	
	Public Drinking Water Support and Planning	
Surface Water	ANR Engineering Services	
	Aquatic Nuisance Management	
	Dam Safety Program	
	Direct and Indirect Discharge Management	
	Flow Management	
	Riparian Corridor Management	
	Residuals	
	Stormwater Management	
	Surface Water Monitoring and Assessment	
	Water Pollution Control Projects Implementation	
	Watershed Planning and Projects	
Wetlands Management	Healthy Communities and Ecosystems	
Groundwater and Earth Resources	Drinking Water Resource Management	Clean and Safe Water
	Wastewater and Water, and UIC Permits	
	Vermont Geological Survey	
Management and Support Services	Department Operational Services	All Goals
	Laboratory Services	Clean and Safe Water
	Permit and Compliance Assistance	Compliance and Environmental Stewardship
	Enforcement	
Waste	Contaminated Sites Management	Healthy Communities and Ecosystems; Preserve and Restore the Land
	Pollution Prevention	Preserve and Restore the Land
	Hazardous Waste Management	
	Solid Waste Reduction and Management	
	Underground Storage Tanks	
Hazardous Materials Spills Response		

Part III - Vermont DEC Strategic Plan

The department's strategic plan includes a vision and mission, and outlines the department's six programs. Each department program has a name, goal and outcomes.

Vision Statement: We envision a Vermont where people live in harmony with diverse and healthy natural systems; appreciate and enjoy our natural resources; understand the environment; work together responsibly to reduce waste and risks to human health and the environment; and prosper without significant degradation of natural systems.

Mission Statement: To preserve, enhance, restore, and conserve Vermont's natural resources, and protect human health, for the benefit of this and future generations.

Department Program Goals and Outcomes:

AIR

Goal

Maintain a level of air quality in Vermont that supports a healthy, diverse ecosystem; a healthy, safe human environment; aesthetic beauty; and compliance with state and federal clean air laws.

Outcomes

1. By June 30, 2009, improve visibility on the haziest days (average of 2005 to 2009) by 1.25 deciviews over "current" (average 2000 to 2004) levels.
2. Through June 30, 2009, prevent deterioration of visibility on the cleanest 20 percent of days to haze levels perceptibly greater (more than 1 deciview greater) than the 2000 level of 6.5 deciviews, where haze levels are calculated from IMPROVE aerosol data at Lye Brook, based on EPA regulations and associated guidance.
3. By June 30, 2009, reduce emissions of the highest priority hazardous air contaminants: benzene, 1,3-butadiene, acetaldehyde, formaldehyde, methylene chloride and perchloroethylene
4. Through June 30, 2009, maintain compliance with 100 percent of national ambient air quality standards and prevent significant deterioration increments.
5. By June 30, 2009, reduce Vermont's statewide greenhouse gas (GHG) emissions in accordance with the New England Governors' and Eastern Canadian Premiers (NEG - ECP) Climate Change Action Plan, so that GHG emissions from the entire NEG - ECP region are reduced to 1990 levels by 2010.

SURFACE WATER

Goal

Maintain and enhance a level of surface water quality, quantity and stream morphology that supports the integrity of healthy ecosystems; protects the public health and safety; supports high-quality recreation associated with the waters; and supports use of state waters for public water supply, irrigation and industry. Provide for convenient public access to the state's waters. Assure compliance with the Federal Clean Water Act.

Outcomes

1. By June 30, 2009, there will be no more than 185 impaired water segments, and ore than half of these (95) will be receiving attention through stream, lake and wetland planning or implementation activities within watersheds.
2. By June 30, 2009, the numbers of waterbodies protected by volunteer Aquatic Nuisance Species Watchers will at least double, to include at least 110 waterbodies.
3. By June 30, 2009, the Lake Champlain Phosphorus TMDL action items for Vermont for 2003-2008 will be implemented.
4. By June 30, 2009, the percentage of priority dams known to be adequately maintained will increase from 20 percent (in 2000) to 75 percent of the dams.
5. By June 30, 2009, 10 river reaches will be restored to a more natural condition by removing dams that no longer serve useful purposes.
6. By June 30, 2009, 30 lake, wetland and river riparian corridor segments will be protected or restored to reduce erosion hazards and phosphorus loads and to improve aquatic and riparian habitats.

DRINKING WATER

Goal

Assure safe, affordable drinking water from public water systems for Vermonters and guests by helping those systems meet this goal and by managing the state's drinking water resources.

Outcomes

1. By June 30, 2009, increase the percentage of the population served by community public water systems in compliance with all health-based standards from 88 percent (in 1997) to 97 percent.
2. By June 30, 2009, increase the percentage of the population served by non-transient, non-community public water systems in compliance with all health-based standards from 73 percent (in 1997) to 86 percent.
3. By June 30, 2009, increase the percentage of community public water systems with a source protection plan in place from 60 percent (in 1999) to 100 percent.
4. By June 30, 2009, increase the percentage of non-transient, non-community public water systems with a source protection plan in place from 45 percent (in 1999) to 100 percent.

GROUNDWATER AND EARTH RESOURCES

Goal

Maintain a level of groundwater quality that is suitable for use as drinking water, protects users' rights, and complies with federal requirements; and properly manage and conserve Vermont's earth resources.

Outcomes

1. By June 30, 2009, increase the percentage of state public service maps coverage from 22 percent (in 2003) to 37 percent.

Public service maps include Bedrock and Surficial Geology; Aquifer, Groundwater Recharge and Fracture Maps; Naturally Occurring Constituents of Concern such as Radionuclides and Arsenic; General Groundwater Chemistry; Landslide, Slope Instability and River Erosion; Earthquake Risk and Mineral Resources.

WASTE

Goal

To reduce hazardous and solid waste generation through pollution prevention, source reduction, reuse and recycling; to ensure safe management of solid and hazardous wastes that are generated; and to mitigate health and environmental impacts of improper waste disposal actions and accidental releases.

Outcomes

1. By June 30, 2005, hold the annual number of private wells that become contaminated with volatile organic chemicals from seven per year (in 1997) to less than 10 per year.
2. By June 30, 2005, achieve a 50 percent diversion of solid waste from disposal through source reduction, reuse and recycling.
3. By June 30, 2009, maintain or exceed a 20 percent reduction in toxic substance use by all Vermont large users from the 1995 baseline.
4. By June 30, 2009, maintain or exceed a 50 percent reduction in hazardous waste generation from the 1992 baseline.

MANAGEMENT AND SUPPORT SERVICES

Goal

A department management system that assures: effective and efficient use of available resources; administration of federal programs at the state level; an informed public that appreciates the state's natural resources; monitoring of environmental quality; considerate and timely service to the people we serve; and a safe, comfortable and healthy work environment.

Outcomes

1. By June 30, 2009, at least 90 percent of DEC's permit customers will rate their experience with DEC's permit processes as at least satisfactory.
2. By June 30, 2009, achieve a reduction in the average time from receipt to resolution of citizen complaints handled entirely by DEC.
3. By June 30, 2009, achieve a 90 percent compliance with application processing time standards (PEP standards) for all DEC programs.
4. By June 30, 2009, achieve a downward trend of the number of significant quarterly non-compliance instances occurring across DEC programs.

Chapter 3 – Performance-based Budgets

Performance-based budgets (PBBs) contain a summary of the work planned for the next three years. These documents and department program outcomes comprise the agreements for the 2004 to 2006 work plan. The budget for the PBBs is the Performance Partnership Grant; PBBs funded in part by this grant are noted with an asterisk (*).

Department Program	Division Program	Letter
Air	Air Pollution Control	A*
Surface Water	ANR Engineering Services	B
	Aquatic Nuisance Management	C
	Dam Safety Program	D
	Direct and Indirect Discharge Management	E*
	Flow Management	F*
	Residuals Management	G
	Riparian Corridor Management	H*
	Stormwater Management	I*
	Surface Water Monitoring and Assessment	J*
	Water Pollution Control Projects Implementation	K
	Watershed Planning and Projects	L*
Wetlands Management	M*	
Drinking Water	Drinking Water System Project Implementation	N*
	Public Drinking Water Engineering and Financial Services	O*
	Public Drinking Water Operations and Compliance	P*
	Public Drinking Water Support and Planning	Q*
Groundwater and Earth Resources	Drinking Water Resource Management	R*
	Wastewater and Water; and UIC Permits	S*
	Vermont Geological Survey	T*
Waste	Contaminated Sites Management	U
	Pollution Prevention	V*
	Hazardous Waste Management	W*
	Solid Waste Reduction and Management	X
	Underground Storage Tanks	Y*
	Hazardous Material Spills Response	Z
Management and Support Services	Department Operational Services	AA
	Laboratory Services	BB*
	Permit and Compliance Assistance	CC
	Enforcement	DD*

Appendix A – Responsiveness summary to public comments

Vermont Department of Environmental Conservation Performance Partnership Agreement for federal fiscal year 2004, 2005 and 2006.

This responsiveness summary is organized by department and division programs. Comments appeared as received and are followed by the department's responses. Overarching comments and responses appear in the department operational services division program section. Note some division programs are listed and received no comments.

Comments were received from the following sources:

- DEC's open house, August 27, 2003
- CLF/VNRC letter of September 17, 2003
- EPA comments, October 16, 2003
- EPA comments, October 22, 2003
- EPA comments, November 7, 2003
- EPA comments, April and May 2004

The department notes that EPA New England reported by phone in January 2004 that anticipated additional comments from the EPA Air Program would not be forthcoming. At that time, EPA New England requested that the department not hold up submission of the responsiveness summary and the PPA.

Comments received in April and May 2004 are labeled "April 2004 Comment" to distinguish them from earlier comments. Responses to these comments follow each comment.

Air

- Air Pollution Control:

Air Quality Program (Section A, page 6)

Comment: There's a chart on page A-6 of the Air Quality Program section. It identifies 85 general engineering compliance inspections to be accomplished in FY 2004. A further breakdown would be useful. Perhaps the easiest way to do this is to put a bullet after the table that says, of the 85 general engineering compliance inspections, 15 of the inspections will be at major sources and 13 of the inspections will be at synthetic minor sources. Additionally, VT DEC plans to review 18 Title V annual compliance certifications.

Response: The Air Pollution Control Division concurs with EPA's comments. The department has added the requested additional breakdown of the category "general engineering compliance inspections" in the chart on page A-6. The additional information, using essentially the same language as EPA, is included in a footnote to the chart.

Surface Water

- ANR Engineering Services: No comments received
- Aquatic Nuisance Management: No comments received
- Dam Safety Program: No comments received
- Direct and Indirect Discharge Management

Comment: Overall, the draft PPA provides a general overview of DEC's programs but could be interpreted to be unambitious in scope. For example, on page E-4, the percentage of facilities in "significant compliance" has been 92% for five years, but the goal is lower to 90%.

Response: The department agrees with your suggestion that the goal of 92 percent of the facilities staying in significant compliance should be continued. The change has been made in the PPA

Comment: Another example from page E-4 is the number of inspections conducted at NPDES permitted facilities. For the past four years, DEC has completed an average of 56.8 inspections, but the goal for the next four years is to conduct only 45.

Response: The department will use the target of 45 inspections per year at NPDES facilities. This value is the result of negotiations between Vermont and EPA since 1998. While it is correct to note that DEC has done better than this value on average, the number per year has ranged from 37 to 68. Given increased workloads and the continued strain on state and federal resources, DEC believes it is prudent to stay with a target value that has been set and which the department has a high likelihood of achieving while implementing other priorities.

Comment: Somewhere in the PPA, and perhaps this is the most appropriate place, the document should include a section on DEC commitments for implementing the new federal CAFO regulations. This should include a schedule for major tasks or milestones under this program such as:

- a) preparation of revisions to state laws or regulations
- b) adoption of technical standards for nutrient management
- c) development and issuance of a CAFO general permit covering X number of CAFOs
- d) establishment of a compliance program

Response: The department will include a schedule for implementing the new federal CAFO regulations when current legal challenges have been resolved. Previous

experience has shown that DEC's efforts will be most successful in getting new regulations approved once these issues have been addressed.

April 2004 Comment:

- The document should include a section on DEC's commitments to implementing the new federal CAFO regulations. This should include a schedule for major tasks or milestones under this program such as:

- a) Preparation of revisions to state laws or regulations
- b) Adoption of technical standards for nutrient management
- c) Development and issuance of a CAFO general permit covering X number of CAFOs
- d) Establishment of a compliance program

Response: The following milestones have been established.

- a. Preparation of revisions to state laws or regulations - - - 1/05
- b. Adoption of technical standards for nutrient management - - 2/06
- c. Development and issuance of a CAFO general permit - - 2/06
- d. Establishment of a compliance program - - - 1/07

The milestones after 1/05 are contingent upon the legislature enacting any necessary statutory changes in Title 10.

Comment: On Page E-3: "The DEC and EPA will coordinate once per quarter to review those facilities that are in non-compliance and determine the appropriate course of action. All enforcement orders issued by the state will also be forwarded to EPA."

Response: This practice will be continued.

Comment: In the chart on Page E-4, "Number of Wastewater Treatment Inspection Reports" add (including all majors)

Response: The department prefers to continue the agreement it has had with EPA New England for the last three PPAs (1998 to 2003). For the last six years, the department has targeted "major" NPDES facilities for inspection with the exception that problem "minor" facilities may be substituted for complying "major" facilities. For example, this year, DEC is planning to substitute about nine inspections at problem "minors" for inspections at complying "major" facilities.

Comment: On page M-2, add a request to "Forward enforcement orders to EPA"

Response: This practice will be continued.

Minors Reporting:

Comment: The Vermont DEC agrees to submit an annual report of the compliance status of non-major NPDES permits to EPA's Water Technical Unit pursuant to 40 CFR 123.45 for the previous calendar year no later than March 1st. EPA Headquarters is requiring that the Region annually report on the compliance status of NPDES minors. The following information must be supplied to satisfy this reporting requirement:

- 1) Number of minor NPDES permittees
- 2) Number of minor NPDES permittees reviewed by the state
- 3) Number of minor NPDES permittees in non-compliance (Total of 3A and 3B, below)
- 3A) Number of minor NPDES permittees in Category I Non-compliance
- 3B) Number of minor NPDES permittees in Category II Non-compliance
- 4) Number of enforcement actions taken by the state against minors
- 5) Number of permit modifications extending compliance deadlines granted to minor NPDES permittees
- 6) Number of these minor NPDES permittees that failed to complete construction in violation of a compliance schedule

Category I and Category II Noncompliance is defined as follows:

Category I Noncompliance (3A):

- (A) Violations of conditions in enforcement orders except compliance schedules and reports
- (B) Violations of compliance schedule milestones for starting and completing construction, and attaining final compliance
- (C) Violations of permit effluent limits
- (D) Failure to provide a compliance schedule report for final compliance or a monitoring report.

Category II Noncompliance (3B):

- (A)(1) Violation of a permit limit
- (2) an unauthorized bypass
- (3) an un-permitted discharge or
- (4) a pass-through of pollutants
- (B) Failure of an approved POTW to implement its approved pretreatment program
- (C) Violations of any compliance schedule milestones (except those listed in Category I (B) above)
- (D) Failure of the permittee to provide reports within 30 days
- (E) Deficient or Incomplete Reports
- (F) Violations of Narrative Requirements
- (G) Other violations as deemed appropriate

Response: This practice will be continued.

Comment: The Vermont DEC shall take those measures that are necessary, including applying for available EPA funding, to ensure that its water compliance data is compatible with EPA's modernized PCS system. The modernized PCS system is not expected to be available until September 1, 2005. The Vermont DEC further agrees to assume responsibility for coding all required PCS data elements no later than December 31, 2004.

Response: The department agrees to continue to work with EPA New England to improve electronic data transmission over the next three years. To build on its existing node system, DEC agrees to make an application for a National Environmental Information Exchange Implementation Grant in FY 04. With this grant, DEC agrees to develop the necessary computer systems to transfer data from the "wastewater system" to the node in a manner compatible with the PCS system. Initially, existing data will be made available. DEC agrees to work towards full use of the modernized PCS system, in a step-wise fashion, with the timing based in part on the success of this initial step. The selection and timing of additional steps will be determined in subsequent revisions to this PPA. Until this new system is in place, the department plans to continue transferring data to the region both electronically and in paper formats.

- **Flow Management:** No comments received
- **Residuals Management:** No comments received
- **Riparian Corridor Management:** No comments received
- **Stormwater Management**

Comment: The discussion of the WIP approach in the "story behind baseline performance" should be updated to reflect the WRB's June decision to overturn 4 WIPs, and the current efforts to re-evaluate and possibly revise the WIP program. Also, the sections of the performance measure table on p. I-2 and the key indicators graphic on p. I-1 should be revised to take into account the uncertainty of the WIP program. If the DEC intends to unfold a modified WIP program in 04 that will have similar permitting results (in terms of effect on number of expired permits etc.) to the original WIP program, this could be indicated in these graphics, perhaps with a footnote explaining that these projections are conditional on the development of a new WIP program.

Response: The department acknowledges and appreciates the request to update the discussion about WIPs; however, at this time, the WIP approach is being reevaluated in a public process that includes EPA New England. Updates will be provided once this process concludes.

April 2004 Comment:

The sections of the performance measure table on p. I-2 and the key indicators graphic on p. I-1 should be revised to take into account the uncertainty of the WIP program. If the DEC intends to unfold a modified WIP program in 04 that will have similar permitting results (in terms of effect on number of expired permits etc.) to the original WIP program, this could be indicated in these graphics, perhaps with a footnote explaining that these projections are conditional on the development of a new WIP program pursuant to new legislation.

Response: The Vermont legislature is developing major changes to the stormwater program at this time. Results from this process should be completed by June 2004. The program prefers to delay any changes to the program description until the legislation is passed. We agree to make changes with the update for 2005.

Comment: Also, please indicate the year of issuance of the multi-sector and small construction permits.

Response: The department has not yet issued these permits. The small construction permit likely will be issued in 2004, and the multi-sector permit issuance date is yet to be determined.

April 2004 Comment:

The sections of the performance measure table on p. I-2 and the key indicators graphic on p. I-1 should be revised to take into account the uncertainty of the WIP program. If the DEC intends to unfold a modified WIP program in 04 that will have similar permitting results (in terms of effect on number of expired permits etc.) to the original WIP program, this could be indicated in these graphics, perhaps with a footnote explaining that these projections are conditional on the development of a new WIP program pursuant to new legislation.

Response:

Stormwater Management (Section I, page 2)

Comment: In the section entitled “Strategies/Performance Measures/ Proposed Accomplishments” it would be appropriate to add a reference to the small MS4 general permit in the overall Vermont stormwater management plan.

Response: The MS4 permit that was issued in fall 2004 has been appealed and is now in the pre-hearing process. Updates will be provided once this process concludes.

- Surface Water Monitoring and Assessment

Comment: Similarly, with regard to monitoring of Vermont's waters, although the number of FTEs devoted to monitoring and assessment activities rises from 11 to 14 over the next few years, the projected number of monitoring sites remains level at 200. We support monitoring and assessment that DEC performs, and would like to see this monitoring and assessment expand to include a greater number of sites with greater frequency in order better to understand the quality of Vermont's waters. To this end, the increase in personnel could perhaps be used to increase the number of sites and frequency of monitoring events. From the text and charts on I-1 through I-3, it is not entirely clear why the increase in personnel does not result in this increased monitoring.

Response: The department recognizes the apparent lack of correlation between FTEs and "sites monitored." This is caused by a varied amount of effort applied to the monitoring at a site. Of the 200 sites projected as monitored, effort per site ranges from a single visit by one person for 15 minutes to collect a grab water sample to multiple visits by a crew of four spending six hours per visit doing comprehensive chemical, physical and biological assessments. The increase in FTEs from 11 to 14 is designed primarily to increase the frequency and intensity of assessments conducted at individual sites, although increasing the number of sites visited is also a projected benefit. The department agrees that it is reasonable to project increases in sites monitored given the increase in resources. This projected increase in sites is reflected in revised estimates on the table on page J-4 of the Monitoring, Assessment and Research Program.

The department will continue to evaluate indicators (e.g., monitoring field efforts) that provide an accurate representation of the relationship between FTEs and the amount of effort that is applied to monitoring and assessment activities.

Future increases in DEC's monitoring network depend on maintaining existing resources and acquiring new funds. This will be particularly challenging given current state and federal fiscal constraints.

Comment: EPA encourages the state to continue integrating the new version of ADB for all types of waterbodies. EPA realizes that there have been some delays proceeding that have been out of DEC's control. The national contractor RTI (Research Triangle Institute) has been providing support to the state for ADB and STORET implementation. EPA is pleased with the state's progress with the implementation of STORET. Vermont should commit the necessary staff to maintain and operate these systems with current information.

EPA appreciates the state's commitment to both ADB and STORET. EPA is planning to initiate a regional State/EPA STORET Users Group in the near future, and we hope that Vermont will be an active participant. EPA will be holding an advanced STORET training workshop in the region in December 2003 to cover data upload, documentation and reporting options.

Development of a Comprehensive Monitoring and Assessment Strategy\ Vermont has made good progress in developing their Comprehensive Monitoring and Assessment Strategy. However, the state must develop a program to provide comprehensive coverage of 100% of its waters. On April 30, 2003, Vermont Water Monitoring staff met with representatives from EPA's Ecosystem Assessment Unit (ECA) to review the states current monitoring program. During this review, a questionnaire was recorded and a working draft of the of the strategy was available. Strengths and weaknesses of the program were identified in this review. EPA requests that the state's draft Comprehensive Monitoring and Assessment Strategy be submitted by January 31, 2004. EPA's Monitoring Contact for this effort is Tom Faber.

The due date for the final strategy is September 30, 2004, with implementation to begin during FY2005. The goal of the strategy is to achieve monitoring and assessment coverage (either by census or by approaches that provide a known/objective level of confidence in determinations) of waters across the state. This includes all types of surface waters (including wetlands) and all indicators respective to numeric and narrative water quality standards. The strategies can include milestones and goals which may take up to the year 2014 to put in place. The strategies will also include ground water assessments in the future, but may be on a delayed schedule based upon coordination between programs.

The strategy should address all sections of the Elements of a State Water Monitoring and Assessment Program (final, dated 3/14/03), including proposed schedules & frequencies of monitoring, priorities for filling gaps and a timetable with mileposts toward achieving goals. The sections include:

The Monitoring Strategy (comprised of the following)

- Monitoring Objectives
- Monitoring Design
- Core & Supplemental Water Quality Indicators
- Quality Assurance
- Data Management
- Data Analysis/Assessment
- Reporting
- Programmatic Evaluation
- General Support & Infrastructure Planning

EPA, ASIWPCA and other organizations are interested in projected costs and recommended sources of funds in filling gaps. The state is encouraged to partner with other organizations and citizen groups in filling gaps. The projected schedule for attaining the appropriate state monitoring and assessment program can be up to 10 years in length.

Response: A draft Comprehensive Monitoring and Assessment Strategy will be submitted to EPA by January 31, 2004.

IV. Probability-based Monitoring

Comment: EPA New England has been involved in a probability-based New England Wadeable Stream Survey (NEWS) for the past three years. In 2002, the Region completed a New England-wide survey of streams by monitoring the biological, chemical and habitat components of randomly selected streams. For 2002-2003, Connecticut, Maine, New Hampshire, and Vermont are conducting probability-based monitoring within each of their state boundaries following established protocols. Rhode Island was completed in 2000 as a pilot study. This will allow the states to make comprehensive assessments of their wadeable streams and rivers for 305(b) reporting and other purposes. The Vermont DEC monitoring team has been an active participant in these studies and has expanded its scope by doing comparative analysis at selected sites using their established sampling protocols along side NEWS protocols. EPA New England commends the effort and collaboration of Vermont's water monitoring program. The extra effort put forth will not only benefit the state by expanding the scope and extent of their monitored waters, but also add invaluable information regionally and nationally on methods comparison and multiple biological assemblage assessments. Vermont's application of probability design to their rotating basin monitoring program also serves as a model for the utility and application of randomly selected sites at the watershed level of resolution. As probability-based monitoring expands into lakes and ponds in 2004, the Vermont DEC's continued participation and valuable contributions are strongly encouraged.

Response: The department fully intends to continue participation in regional probability monitoring efforts as resources and program relevance allows.

V. Regional Workgroup for the Assessment of Wadeable Stream Data

Comment: The New England Regional Laboratory's Ecosystem Assessment Unit has formed a workgroup of the six New England States and EPA to assess the New England Wadeable Stream data using the Biological Condition Gradient (BCG). The BCG is a model for predicting biological response to the increased effect of human induced stressors. The Vermont biomonitoring team has a leadership role both regionally and nationally in the development and application of the gradient. The Region encourages the active participation of the DEC in this workgroup as experts and facilitators.

Response: The department fully intends to continue active participation in the news data assessment workgroup.

VI. Biological Criteria

Comment: Biological Criteria development is an EPA Office of Water national priority. The Vermont ANR has had a strong and experienced bioassessment program in place for many years. Vermont has explicit Aquatic Life Uses for

streams and rivers written into its water quality standards with formal numeric biological criteria adopted in July 2000. Vermont is applying similar concepts to other aquatic resource types and is making progress both in lakes and wetlands. Vermont has a very strong lakes program and initiated development of biocriteria for lakes in the mid-1990s with a variety of EPA assistance grants. In FY03, the VT Lakes Program received a biocriteria grant to further and finalize development of lakes biocriteria. EPA encourages Vermont to formally set a time line to develop lakes biocriteria over the next five years for incorporation into their state water quality standards. EPA also commends the efforts and progress that Vermont has made in wetland monitoring and assessment and supports continued program development in this resource.

Response: Vermont does not have “formally adopted numeric biological criteria” in its 2000 water quality standards (WQS). The state does have formal narrative biocriteria (tiered ALUS goals by water management type) in its WQS along with quantitative implementation procedures. Depending on the availability of necessary resources, the department fully intends to continue developing biocriteria for lakes and to investigate the feasibility of conducting biological assessments of different water body types and developing biological criteria as appropriate.

- **Water Pollution Control Projects Implementation:** No comments received

- **Watershed Planning and Projects**

Comment: For Figure 1, it would be more meaningful to break out the number of segments receiving attention through direct restoration and those receiving attention through planning. While both measures are important indicators, the direct restoration measure is especially key to CWA goals and should be tracked separately.

Response: The department agrees and has changed the graph to show number of segments receiving direct restoration.

Comment: For Section 319 projects, two additional notations are needed. The PPA should note that: 1) 319 projects will be entered into the national GRTS tracking system, and 2) separate semi-annual reports will be prepared covering all 319 projects unless or until all projects are entered into GRTS

Response: : GRTS data entry for 319 pass-through projects will be continued as will semi-annual progress reports for the projects.

April 2004 Comment: For Section 319 projects, two additional notations are needed. The PPA should note that: 1) 319 projects will be entered into the national GRTS tracking system, and 2) separate 319 workplans and semi-annual reports will be prepared covering all 319 projects unless or until all projects are entered into GRTS.

Response: GRTS data entry for applicable 319 pass-through projects will be continued. Semi-annual progress reports will be prepared for all pass through projects unless or until all projects are entered into GRTS. The Watershed Planning and Project PBB has been revised to reflect this language.

Comment: In the Performance Measure table on p. L-3, the amount of CWA 319 funding for non-DEC projects is projected to be \$467K, \$498K and \$560K for 04, 05 and 06 respectively. Consistent with past discussions between EPA and DEC regarding the purpose of the incremental portion of the 319 funding, EPA believes that the non-DEC project portion of the funds should remain in the vicinity of the 03 level of \$716K. The lower pass-through levels for 01 and 02, were, as DEC knows, approved by the EPA administrator as a special one time deviation from EPA guidelines on condition that pass-through funding for implementation projects be returned to previous levels (1999 and 2000) beginning with 2003. If DEC is concerned about the possibility of future cuts to the 319 programs nationally, then a footnote could be added to the funding levels indicating that amounts will be proportionately lower in the event of program reductions.

Response: This change has been made.

Comment: In the Performance Measure table on p. L-4 under section C, a couple of small adjustments should be made to the number of TMDLs completed rows. For 2002 the number of EPA-approved TMDLs should be 2 (the 9 LC TMDLs were approved about a month into the 03 fiscal year) and then for 2003 the bottom row should read 30/39. For the projected 04, 05 and 06 numbers of TMDLs, based on previous discussions with DEC and the regional commitments to HQ, we request that DEC change the 04 and 05 projections to 4/4 rather than 3/3. This is still a very modest goal that we are confident the DEC can meet or exceed, especially with the assistance EPA will be providing the state with some SPARROW pilot TMDLs in 03/04.

Response: Requested changes to the accomplishments were made. The department prefers to maintain the 3/3 target for 2004 and 2005 and use the 4/4 for 2006. This decision is based on the increasing degree of difficulty anticipated with the next six TMDLs caused by issues associated with stormwater and agricultural sources of pollutant loading.

April 2004 Comment: In the Performance Measure table on p. L-4 under section C, for the projected 04, 05 and 06 numbers of TMDLs, in order to maintain an adequate pace on TMDL development, the DEC really needs to increase the 04, 05 and 06 projections to 8/8, 10/10 and 10/10 respectively. This is still a modest goal (50% of the pace that is needed to complete all TMDLs by 2013) that we are confident the DEC can meet or exceed, especially with the 7 acid TMDLs underway for 04 and the assistance EPA is providing the state on stormwater TMDLs.

Response: The department has changed the 2004 target number of TMDLs Completed/Approved by EPA from 4/4 to 7/7. This number reflects the current work on acid lakes TMDLs. At this time we prefer to keep the 2005 and 2006 targets as

earlier stated and agree to revisit the target for 2005 in September of 2004. At that time we will be better able to project future work based on the direction of our stormwater program and the results from the SPARRPOW pilot.

Comment: Somewhere in this section, please add a bullet regarding DEC commitment to implementing the Lake Champlain TMDL and all other approved TMDLs where implementation is anticipated to occur during the PPA period. Please consider a format for reporting on the status of implementation efforts in the PPA reports.

Response: This information has been added.

Comment: Either in this section or another appropriate section, please include DEC commitments to completing agreed upon revisions to Vermont water quality standards. Two issues were held over from the last round of revisions completed by VT in 1999. Those issues are the “Limited Duration Activities” provisions and the absence of Antidegradation Implementation procedures. At a minimum, the PPA should include a statement that VT will work to resolve these issues. Given that the Water Resources Board (WRB) has ultimate responsibility for the WQS, VTDEC will need to work with the WRB to revise the WQS to address these issues. However, we are aware that the WRB has historically viewed development of Antidegradation Implementation procedures as an ANR responsibility.

Response: Two policies currently undergoing revision are the “Limited Duration Activities” (LDA) provision of Vermont’s Water Quality Standards (WQS) and the “Anti-degradation Implementation Procedure.” Both the LDA and the anti-degradation provisions of the WQS are the subject of ongoing litigation. A draft of an anti-degradation implementation procedure was prepared and circulated for public comment in November 2001. However, additional work on the anti-degradation implementation policy was put on hold due to the urgent need to divert staff resources to revising the state’s onsite sewage regulations and to litigating the recent spate of legal challenges to state and federal water quality permits. As discussed with Ann Williams, due to EPA’s disapproval of the LDA provision in the 2000 WQS, the LDA provision in the 1997 standards is the federally-approved water quality standard for this subject. However, because the 2000 LDA provision is narrower and more restrictive, the state is implementing the 2000 LDA pending resolution of the issue.

The commissioner’s office anticipates that preparing a revised anti-degradation implementation procedure and resolution of the differences in opinion regarding the LDA provision will occur after the conclusion of administrative litigation on these issues and after the upcoming legislative session (May or June 2004). Completion of these procedures is planned for FY 2004. It is important to note that the current litigation has been helpful in identifying critical issues that must be addressed in finalizing an anti-degradation implementation policy and in reaching agreement with EPA about the issue of the LDA provision. The final resolution of both issues will therefore be better informed and more robust due to the delay.


Comment: Vermont DEC should provide a short section on Lake Champlain in the Watershed Planning and Projects section. This section should provide an overview of the DEC's efforts on Lake Champlain that are not captured in the special project grant from EPA to ANR for Lake Champlain. Items that should be included are: Progress on implementing the Lake Champlain TMDL; progress on implementing the Missisquoi Bay Phosphorus Reduction Agreement; progress on combating cyanobacteria in Lake Champlain.

Most of these items can be adequately described with a simple narrative. However, where possible, specific goals and targets should be provided.

Response: This information has been added.

Comment: Submit an Integrated 305(b)/303(d) Listing Report by April 1, 2004, including an electronic assessment and listing of waters using the Assessment Database System (ADB). Submit an electronic update for new or revised assessments by April 1, 2005.

To understand the full statewide summary of waters, EPA New England requests that the state submit summary tables of waters supporting and not supporting Designated Uses as incorporated in state water quality standards, as well as a summary of causes and sources of impairments. The state has done this in the past, and this is a useful summary for the Regional 305(b) Coordinator. This enables EPA New England to readily understand the assessment decisions and rationale, particularly as they pertain to 303(d) listing and delisting.

Response: Vermont will submit a 305(b) report and a 303(d) list by April 1, 2004, including electronic submission of data. Vermont will submit a draft and a final Assessment and Listing Methodology document in conjunction with these documents. The 305(b) report will include summary tables as outlined in the 1998 guidance, as the state has done in the past. Vermont is working toward the Integrated Reporting format described in the 2002 guidance, and the state's 2004 submission will reflect that progress.  to issues discussed in # 2 below, Vermont cannot use the Assessment Database System (ADB) to report for this assessment period.

Water Program Data Management - ADB & STORET

Response: Vermont is moving toward the use of the ADB. As mentioned by EPA, there have been delays outside of DEC's control that have delayed implementation of this system.

- Wetland Management

Wetlands (Section M, page 2)

Comment: EPA met with Carl Pagel and Alan Quakenbush on August 21st to discuss the draft PPA and joint program interests and needs. We have agreed to modify the PPA with the additional tasks listed below. Also included are general questions and editorial suggestions for the draft PPA Wetlands document.

Proposed Accomplishments:

- 1) For each year of the PPA the wetlands program will develop a work plan which identifies and describes how the DEC Wetlands program will work towards building and refining any element of a comprehensive wetland program. Priority will be given to projects that address: 1) developing a comprehensive monitoring and assessment program; 2) improving the effectiveness of compensatory mitigation; and 3) refining the protection of vulnerable wetlands and aquatic resources.

WL1 Response: The department agrees to this request; the work plan is submitted each year for 104(b)3 funding. DEC's work plan will cover all core program elements.

Comment: 2) For each year of the PPA the VT DEC will produce the Annual Wetland Status and Trends Report which will assess strengths and deficiencies in the base program, identify areas of new or increased emphasis, recent program changes, innovations, emerging issues and future program objectives, and permitting information.

WL2 Response: The department will continue to complete an Annual Status and Trends Report, although DEC notes that other states do not provide this report annually.

Comment: 3) For each year of the PPA, a description of wetland monitoring and biological assessment tasks will be defined relative to the goals identified in the VT Water Quality Monitoring strategy and work with the NEIWPC, BAWWG and NEBAWWG workgroups. This year the wetlands program will collaborate with the DEC laboratory and the Lakes and Ponds section to focus on wetlands associated with lakes and ponds.

WL3 Response: See comments in the Water Quality Monitoring section of the PPA. The Wetlands Section will collaborate with Lakes and Ponds Section and the Biomonitoring and Assessment Section to integrate wetland bioassessment into stream, lake and pond assessments.

Comment: 4) The PPA will describe how the work traditionally completed by the VT Non-game and Natural Heritage program will be carried out by the wetlands program.

WL4 Response: Due to funding needs and priorities, DEC cannot pass-through base funds to the Heritage Program for these inventories. It was understood that the Heritage Program would apply for competitive grants to continue wetland inventory work. If it does not receive funding, the Wetlands Section will develop a strategy for continuing this work, most likely in conjunction with wetland bioassessment as noted above.

Comment: 5) The PPA will identify work to be done in cooperation with the NRCS and other groups to identify and implement wetland restoration projects in Vermont. The VT DEC will specify work that the state will do to evaluate the ecological effectiveness of wetland restoration projects (including compensatory mitigation) and improve the evaluation and ranking of potential wetland sites for restoration or acquisition at various levels. Focus this year will be the NRCS Pittsfield Farm wetland restoration project.

WL5 Response: The department agrees. The Pomainville Farm project will carry over into 2004 and will serve as a model for large-scale restoration projects. If funding is secured, wetland restoration projects will be focused on the Lake Champlain phosphorus TMDL.

Editorial Questions and Comments

Comment: Page 1 Results: This paragraph states that there will be continued data collection and reporting through monitoring, assessment and inventories on the status and trends of Vermont's significant wetlands. The PPA should describe the inventories to be completed for this PPA cycle.

WL6 Response: The Heritage Program should complete its reports about hardwood and softwood swamps during this cycle.

Comment: Key Indicators - Please provide a brief discussion of the wetland data used to generate the graph both prior to and after the Vermont Wetland Rules were adopted. What data were used to project the wetland loss if the VT wetland program ceased?

WL6 Response: As this is just a model, it was assumed that the rate of wetland loss would return to pre-program levels, based on data from Mitsch and Gosselink.

Comment: Page 2 - M-2: The table should include a title and also a brief discussion of how the projected numbers were obtained. How do the numbers generate performance measures? Is there any correlation between the number of site visits and the number of CUDs issued or withdrawn? There should be a column for the # of CUDs denied and a column for number of wetland acres gained through mitigation and watershed restoration efforts. Please explain the first column "Net number of known wetland acres." The values appear too small.

WL7 Response: The performance measure now reads “Net number of known wetland acres saved.” There is no direct correlation between the number of CUDs issued and site visits, although presumably more CUD applications would lead to a higher number of site visits. Site visits often lead to avoidance of the wetland and buffer so that no CUD is required.

April 2004 Comments: 1) For each year of the PPA the wetlands program will develop a workplan which identifies and describes how the program will work towards building and refining any element of a comprehensive wetland program. We expect that the workplans will need to address the following topic areas: 1) developing a comprehensive monitoring and assessment program; 2) improving the effectiveness of compensatory mitigation; and 3) refining the protection of vulnerable wetlands and aquatic resources.

WL8 Response: See response WL1 above. Note the program may in the future combine these reports into the PPA reporting format to reduce redundancy of reporting.

April 2004 Comments: The workplan should also discuss wetland monitoring and biological assessment tasks relative to the goals identified in the VT Water Quality Monitoring strategy and work with the NEIWPC, BAWWG and NEBAWWG workgroups.

WL9 Response: See response WL3 above.

April 2004 Comments: 2) For each year of the PPA, the VT DEC will produce the Annual Wetland Status and Trends Report which will assess strengths and deficiencies in the base program, identify areas of new or increased emphasis, recent program changes, innovations, emerging issues and future program objectives, and permitting information.

WL10 Response: See response WL2 above. Note the program may in the future combine this report into the PPA reporting format to reduce redundancy of reporting. In this case, the annual report would report on progress for that year and details on the longer term status and trends may be reported on a frequency other than annual.

April 2004 Comments: 3) The PPA will describe how the work traditionally completed by the VT Non-game and Natural Heritage program will be carried out by the wetlands program.

WL11 Response: See response WL4 above.

April 2004 Comments: 4) The PPA will identify work to be done in cooperation with the NRCS and other groups to identify and implement wetland restoration projects in Vermont. The VT DEC will specify work that the state will do to evaluate the ecological effectiveness of wetland restoration projects (including

compensatory mitigation) and improve the evaluation and ranking of potential wetland sites for restoration or acquisition at various levels. Focus this year will be the NRCS Pittsfield Farm wetland restoration project.

WL12 Response: See response WL5 above.

April 2004 Comments: Editorial Questions and Comments

Page 1 Results - This paragraph states that there will be continued data collection and reporting through monitoring, assessment and inventories on the status and trends of Vermont's significant wetlands. The PPA should describe the inventories to be completed for this PPA cycle.

WL13 Response: See response WL6 above.

April 2004 Comments: Page 2 - M-2 The table should include a Title and also a brief discussion of how the projected numbers were obtained. How do the numbers generate Performance measures? Is there any correlation between the number of site visits and the number of CUD's issued or withdrawn? April 2004 Comments: There should be a column for the # of CUD's denied and a column for number of wetland acres gained through mitigation and watershed restoration efforts.

WL14 Response: See response WL8 above. The number of CUDs denied and wetland acres gained will be added to the list of performance measures.

Drinking Water

Comment: In Chapter 2, under the Drinking Water program, the PPA identifies two Outcomes to be attained by June 30, 2005. It would be more informative and valuable for each of the outcomes to provide separate percentages for community water systems (CWS) and non-transient, non-community systems (NTNC) instead of combining the two types of systems under one percentage.

Response: This change has been made.

Comment: Since this PPA is multi-years and goes beyond 2005, it would be worthwhile and consistent with the other programs' outcomes for the Drinking Water program to identify additional outcomes that are projected beyond 2005.

Response: Drinking water outcomes have been projected to 2009.

Comment: It is my understanding that the "project/activity sheets" that were included in Appendix A of the 2001-2003 EPA/VT PPA will no longer be utilized by DEC nor provided to EPA. Instead, selected information from these sheets will be incorporated into each program's performance based budget write-up. Therefore, the following measures need to be added to the appropriate "Performance Measures" tables of the Drinking Water performance based budget write-ups :

Percent of CWS in compliance with health-based standards

Percent of NTNC in compliance with health-based standards.
Percent of CWS population in compliance with health based standards.
Percent of NTNC population in compliance with health based standards.

Response: These measures have been added.

Comment: Number of public water systems in compliance with monitoring and reporting requirements.

Response: This information has been added to the PBB.

Comment: *Number of monitoring waivers granted.

Response: This information has been added to the PBB.

Comment: *Percent of TNC with GWUDI Determinations.

Response: This information has been added to the PBB.

Comment: *Number of sanitary surveys (Separate For Each Category Of Systems).

Response: This information has been added to the PBB.

Comment: The PPA doesn't seem to identify/discuss the support activities and coordination of the Department of Health (such as the lab) and the WSD.

Response: Language has been added to the "Story Behind the Baseline Performance" section of the Operations and Compliance section of the PBB.

- Drinking Water System Project Implementation
- Public Drinking Water Engineering and Financial Services
- Public Drinking Water Operations and Compliance

April 2004 Comment:

a. ~Proposed number of GWUDI determination for 2004, 2005 and 2006 result in more determination being projected than number of determinations needed in Vermont, please revise the projections to reflect anticipated work.

b. Your revisions to the 2004 to 2006 projections for GWUDI and the % of NTNC s (systems and populations) in compliance with health based standards seem fine to me. However, the downward projections for the % of PCWS in compliance with health based standards ,especially the % of PCWS population, are significantly lower and troublesome to me. With regard to the % of population, I understand that some revision to the previous 95% may be warranted but a reduction of 6% seems quite a lot. As we discussed, we will have an opportunity to revisit the projections in 2005 and in 2006 but it would be good to start off this 3 year PPA with more positive projections. More positive projection for the PCWSs would also be

consistent with your e-mail, " After looking at the Health Based Standards performance measures, we agree that the projections should show an overall increase in compliance." I'd appreciate any reconsideration that you could give to the PCWS revised projections. Other than that every thing else seems fine.

Response: The table below reflects the agreed to values for the performance measures under discussion.

Performance Measures	2004	2005	2006
	350	150	10

- **Public Drinking Water Support and Planning**

Note, comments on these four division programs are addressed under Drinking Water above.

Groundwater & Earth Resources

- **Drinking Water Resource Management**

Comment: For the source water program, please acknowledge that the Water Supply Division plans to comply with the upcoming new program measures as developed by EPA, beginning in FFY 2005 and continuing each subsequent year.

Response: Source water protection involves multiple parties for it to be successful, and achieving targets in measures is not under control of the state drinking water program. Although EPA has not provided any funding for source water protection or for reporting on the measures, the program does plan to work with EPA and to report about the measures as resources permit.

Wastewater and Water; and UIC Permits


Comment: Wastewater and Potable Water Supply Systems and Underground Injection Control Permits (Section S, pages 1-3)

Vermont environmental regulations provide for management of many types of Under Ground Injection Control (UIC) regulated subsurface wastewater disposal systems (UIC systems). Vermont Department of Environmental Conservation (DEC), has the responsibility for overseeing the management of these UIC Systems. Of concern, however, is the degree of Vermont's commitment to identify and close or permit endangering UIC systems. There are large numbers of UIC systems that do not conform to Vermont regulations; and, their discharge poses a significant contamination threat to drinking water resources. In the past, the DEC has assigned responsibility to staff to coordinate UIC program activities and fulfill program responsibilities. The success of the Vermont UIC program cannot be fairly assessed and the Vermont work-plan successfully completed because Vermont has not

provided required program reports agreed to in their work-plan and they are a condition of UIC Primacy.

It is important that Vermont assigns responsibility for managing the UIC Program and fulfilling program-reporting responsibilities. Vermont's commitment to fully implement the UIC Program can result in substantial management of a large universe of UIC Systems and provide better protection of Vermont drinking water resources.

Also, please incorporate by reference the Extension Agreement sent by letter from Roger Thompson to Jane Downing of EPA on October 27th which outlines the timeline for completing the UIC Primacy Revision Package.

Response:  department plans to revise the UIC rules in calendar year 2003. Delays in the UIC program implementation primarily were due to the divisions' efforts to revise and begin implementing new onsite wastewater and water supply regulations.

- Vermont Geological Survey: No comments received

Waste

- Contaminated Sites Management: No comments received
- Pollution Prevention: No comments received
- Hazardous Waste Management

Comment: Please add a section on corrective actions.

Response: This information has been added.

Comment: Continue to provide program data required by RCRAInfo. One module of RCRAInfo is BRS reporting. 2003 is a BRS reporting year, therefore, the State should continue to implement and adhere to the schedules set by HQ and the Region for this reporting requirement.

Response: This information item has been added to the PPA.

Comment: Continue to provide the Region with recommendations and comments for the Waste Information Needs/Information Needs (WIN/INFORMED), which is a joint information reinvention project, conducted by the States and EPA.

Response: The department will continue to support these efforts.

Comment: Continue to be involved in training and conference calls to develop capability with RCRAInfo and RCRARep.

Response: The department will continue to support these efforts.

Comment: Work with the Region on facilitating data submissions through EPA's Central Data Exchange (CDX) which is the point of entry on the Environmental Information Exchange Network for environmental data submissions (such as the Site ID and Part A Form).

Response: Use of CDX to accept Vermont specific environmental data forms is contingent upon the Central Data Exchange's ability to accept data for state-specific forms.

- **Solid Waste Reduction and Management:** No comments received

- **Underground Storage Tanks**

Comment: EPA encourages VTDEC to add to its inspection targeting scheme facilities located in sensitive source water protection areas. Specifically, it is important to consider both surface water and groundwater sources in planning any upcoming work, especially targeting of inspections. Beginning in FY04, we are requiring our regional UST inspectors to conduct 50% of their inspections in these sensitive source water protection areas. We hope to work in conjunction with the VT UST staff to facilitate this effort and will need assistance identifying/mapping both the source water protection areas and the UST sites in individual communities in order to target our inspections.

Response: The department agrees to assign a higher priority to UST facility inspections in public water systems source protection areas.

- **Hazardous Material Spills Response:** No comments received

Management and Support Services

- **Department Operational Services**

Comment: PPA should be a one year agreement, instead of a three year agreement. We understand that the PPA is used to execute many USEPA grants to DEC. We do not want to see those dollars delayed, and as a result, we would like to see an agreement of some sort go forward. However, we feel strongly that this PA needs to be revisited and improved. CLF and VNRC are willing to help DEC and USEPA get more input from stakeholders on future PPAs early in the process, beginning with a new agreement next year.

Response: The department prefers to continue with the three year PPA, with annual updates to the agreement. This process has worked well for both EPA and Vermont staff. As previously noted, DEC welcomes input from all stakeholders about ways to improve soliciting public input to this planning processes.

Comment: Specific implementation steps and schedules should be discussed in the PPA. In a sense, the PPA is a strategic plan for how DEC will accomplish its delegated responsibilities. As such, it should describe its programmatic goals, the measures of success, the steps it will take to achieve these goals, and proposed timeline for these steps. We find that this level of detail is lacking in some aspects of this draft PA and that more appropriate goals could be established in other aspect.

Response: The Performance Partnership Agreement is founded on the notion that the state and EPA should evolve their grant work plans from one of detailed timelines and output monitoring (bean counting) to one of mutual agreement about improvements in environmental outcomes over the duration of the agreement. Outcomes ideally would measure environmental conditions and related public health trends. At this point, DEC and EPA also are using intermediate measures, such as the percentage of a regulated community in significant compliance with regulatory requirements. Additional details are available for most all of DEC's programs. Please let the department know what aspects of this document you would like more details about and where you would like to see changes made to our goals.

Comment: USEPA's role must be described in the PPA for all programs. The draft PPA does not provide much information on the role that USEPA will play in any of the programs outlined. While DEC is the delegated authority, it is essential the USEPA make a commitment to providing some level of oversight and assistance. Again, with improved stakeholder involvement, which CLF and VNRC are willing to organize, the agencies may be able to improve this aspect of future PPAs, beginning next year.

Please use the following language in your state's PPA. Submit an annual review letter of the [state agency name] Quality Management Plan by August 5, 2003 and include all revisions to the QMP as attachments to the letter. Submit at least one annual update to the [state agency name] Quality Assurance Project Plan Inventory list.

Response: These topics have been included in the PPA document.

Comment: I reviewed the Vermont DEC draft PPA for Quality Management elements. Following my review, I had a phone conversation with Winslow Ladue, the DEC Policy and Planning Coordinator (and QA contact), on September 23, 2003. I said that I had been unable to find Quality Management elements in the draft PPA. He agreed that none were included. I asked him to include two specific PPA requirements that Gerry Sotolongo requested in an email (attached below) to the EPA State Directors on 05/05/03:

Submission of an annual review letter of the Vermont DEC Quality Management Plan (QMP) with all revisions to the QMP included as attachments to the letter, and Submission of at least one annual update to the Vermont DEC Quality Assurance Project Plan (QAPP) Inventory List.

Winslow said he would add the two requirements to the PPA in the section for the Department of Operations - Commissioner's Office – Proposed accomplishments.

Response: These items have been added to the PPA.

- **Laboratory Services:** No comments received

- **Permit and Compliance Assistance:** No comments received

- **Enforcement**

Comment: Enforcement - EPA would like to see resolution of the remaining issues related to the draft A Review of the State of Vermont's Environmental Enforcement Programs and Assistance and Pollution Prevention Program. The draft was dated July 2002 and there are still outstanding issues that need to be resolved in a timely manner.

Response: A meeting is tentatively scheduled between EPA staff and Vermont RCRA staff for early January 2004 in order to resolve the last issues regarding the draft report.

PPA Text

Comment: Under Part V, Reporting, the PPA states that “. . . the Department will submit an exceptions midyear report, consisting of a brief narrative discussing those activities where satisfactory progress has not been made toward meeting the defined indicators.” The report should also discuss exceptions to the defined performance measures.

Response: This change has been made to the PPA.

Comment: In addition, the report should explain what is being done to rectify the exceptions; and where an exception cannot be rectified, the report needs to provide an updated status/schedule change.

Response: This change has been made to the PPA.

Comment: Public outreach and comments resulting from the draft PPA - As stated in the letter to Erik Beck from you dated September 26, 2003, EPA would like to receive a copy of the separate document you have which provides more details on the comments received and responses to those comments.

Response: Public comments are included in this responsiveness summary.

Comment: Accounting for unmet program goals and priorities in the 2001 through 2003 PPA. As you transition into the new PPA, it is unclear how you will account for outstanding program goals and priorities from the 2001 through 2003 PPA. In the final version of the 2004 through 2006 PPA, EPA would like you to address these outstanding issues and describe how they will be accounted for and met in the future.

Response: Outstanding issues are included in the performance-based budgets for division programs, as appropriate. Additional details can be added as requested.

Comment: Environmental Justice - This issue remains a priority for EPA and we encourage Vermont DEC to incorporate environmental justice into your program activities as appropriate. If there are any specific activities being undertaken by Vermont DEC, please make note of them in the final draft of the PPA. EPA is available to assist your agency with EJ issues and I would like you to provide you with some background on our recent EJ activities.

The EPA New England Environmental Justice (EJ) program continues to assist our state partners in providing technical assistance in the form of EJ training, mapping and policy support through the New England States/EPA EJ/Title VI Workgroup. The EJ/Title VI Workgroup met on June 17, 2003 in Boston. The meeting consisted of updates and information sharing by the six New England states on EJ work, and EPA updates from the both the regional and national office. Our regional focus this year was the completion of our internal training effort. EJ Awareness Training was mandatory for all staff at EPA New England. The purpose of this effort was to provide staff with a baseline understanding of the legal and policy frameworks for environmental justice as well as train staff on the tools such as the EJ Mapping Tool and the regional EJ inventory. Program implementation of EJ is a key element of the EJ Action Plan for FY 2003. We also continue to communicate with the public and our state partners through the quarterly publication of EJ News, a newsletter from the EPA New England EJ Council.

Response: Environmental Justice has been added to the Department Operational Services PBB.