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State Government Evaluation Act Report to the 124th Maine Legislature / Maine Department of Environmental Protection

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MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE GOVERNMENT EVALUATION ACT

**REPORT TO THE 124TH MAINE LEGISLATURE
2009**

David P. Littell, Commissioner



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MEETING MAINE'S ENVIRONMENTAL CHALLENGES

Maine enjoys tremendous natural resources. From 19 million acres of forests, 32,000+ miles of rivers, streams and brooks, and over 5,800 lakes and ponds, to the expansive and rich waters of the Gulf of Maine, Maine hosts some of the highest value resources and ecological systems in the United States. These resources have defined Maine's identity and driven our economy for more than 250 years.

Since 1971, DEP has been on the forefront of environmental protection. In the last decade, we have implemented innovative protections for Maine's air, water, and land, safeguarding wildlife habitats and aquatic ecosystems from traditional sources of pollution and new threats posed by climate change, multiple toxic contaminants, unwise development, and habitat destruction. DEP is also examining how we can enhance the resilience of our human and ecological systems to adapt to the global threat posed by climate change.

This introductory section briefly highlights some of most pressing environmental issues DEP has been charged with developing solutions to over the last decade.

1. Climate Change.

- A. *Maine Climate Action Plan.*** In 2003 the Maine Legislature enacted "An Act to Provide Leadership in Addressing the Threat of Climate Change". The law set goals for the reduction of greenhouse gas emissions within the state, adopting mandatory goals from those established earlier by the New England Governor conference / Eastern Canadian Premiers' (N.E.G./E.C.P.) conference.

A Climate Action Plan for Maine 2004 (developed by a 50+ member facilitated stakeholder process) was delivered by Governor Baldacci to the chairs of the Natural Resources Committee on December 1, 2004. The *Plan* lists 54 options to decrease G.H.G. emissions. Almost half of the options would reduce carbon at a negative or negligible overall cost to Maine citizens and Maine's overall economy.

In the fall 2009 Environment America released a report, *Too Much Pollution, State and National Trends in Global Warming Emissions from 1990 to 2007*. The report found that in Maine, global warming emissions declined between 2004 and 2007 because we moved to cleaner fuels for electricity generation and in the residential sector. Maine had the highest percentage drop in emissions of all other states under this analysis due in part to the fact that Maine's non-hydroelectric renewable generating capacity increased by 7% from 2004-2007, while fossil fuel capacity was essentially unchanged, with 86% of this increase in renewable capacity from wind power.

- B. *Regional Greenhouse Gas Initiative (RGGI).*** The 10 Northeast and Mid-Atlantic states participating in RGGI (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New Hampshire, New York, Rhode Island and Vermont) have implemented the first market-based, mandatory cap-and-trade program in the U.S. to reduce greenhouse gas emissions. As of 2009, the participating states have regulations in place to cap and reduce the amount of CO₂ that power plants in their region are allowed to emit. Power sector CO₂ emissions are capped at current levels through 2014. The cap will be reduced by 2.5 percent in each of the four years 2015 through 2018, for a total reduction of 10 percent.

The proceeds to Maine from auctioning CO₂ allowances from the region currently total \$15.2M. This revenue is primarily being used to fund electrical energy efficiency projects, with a small portion set aside for fossil fuel reduction; and are administrated through the Efficiency Maine Trust, separate from DEP. By using the proceeds for energy efficiency investments, a

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second independent reduction of carbon emissions is built into Maine's climate change emissions strategy which will reduce the costs of energy across the board by reducing demand as well as save Maine people money by directly reducing their usage and energy bills.

C. Climate Change Adaptation. DEP is leading a stakeholder effort involving 100+ representatives of business, industry, and trade associations, environmental groups, and state agencies in assessing vulnerabilities and responses to the effects of climate change. Stakeholders are identifying critical areas in Maine's communities and human infrastructure as well as in the state's natural resource economy. As authorized by the 124th Maine Legislature, DEP will make a report with recommendations to the Natural Resources Committee in 2010 which represents the initial effort toward a fully-developed state climate adaptation plan to be completed over the next 1-2 years. Completion of a full adaptation plan will be necessary if Maine is to qualify for Federal climate adaptation funds under the terms of pending Federal climate legislation.

D. Low Carbon Fuel Standard. Commissioners and Secretaries of eleven (11) environmental and energy agencies signed a letter of intent in December 2008 to examine the issues surrounding a regional low carbon fuel standard (L.C.F.S.). A L.C.F.S. is a performance-based standard that would limit the average carbon intensity of fuels using a lifecycle accounting method, which tracks emissions from all stages of fuel production and distribution. The goals of the Northeast/Mid-Atlantic L.C.F.S. are to reduce greenhouse gas emissions, encourage the development of low cost, low carbon fuel alternatives (e.g., electric vehicles and cellulosic ethanol from woody debris), and promote innovation of advanced fuels and technologies.

2. Protection of Significant Wildlife Habitat. Since the 1980's the state's Natural Resources Protection Act designates and regulates activities in, or adjacent to, Maine's most valuable wildlife habitats including sand dunes, seabird nesting islands, deer wintering areas, and wetlands. Until 2007, statutory direction to regulate wading bird habitats, waterfowl habitats, shorebird habitats and vernal pools was unmet due to resource constraints at Maine's Department of Inland Fisheries and Wildlife. In 2005 and 2006, the Legislature adopted an alternative regulatory framework through statutory amendment in 2005 and adopted implementing rules in 2006 by broad bipartisan majorities in both houses. Revisions put forth by Senator Kevin Raye and Representative Ted Koffman were adopted by the Legislature in 2007, again on a broad bipartisan basis. As a result Maine now reasonably governs development impacts to:

- > Significant vernal pools,
- > Shorebird feeding and roosting habitats,
- > Tidal wading and waterfowl habitats, and
- > Inland wading and waterfowl habitats.



Waterfowl breeding and nesting habitat, like that needed by these Wood Ducks, is protected through DEP's administration of Maine's Shoreland Zoning law and Natural Resource Protection Act.

Each of these habitats has an appropriate habitat around the wetland area, generally 250 feet of habitat for inland wading bird and waterfowl and significant vernal pools. The shorebird habitats are the only type of protected habitat with “buffers” to protect crucial adjacent areas, which were set at 100 feet for shorebird feeding areas and 250 for shorebird roosts in the 2007 amendments. Maine and the Bay of Fundy have the most important southern migration staging grounds for shorebirds on the East Coast of the U.S. and tremendous wildlife areas compared to other states. The significant wildlife habitat provisions in the Natural Resources Protection program protect hundreds of thousands of state, national, and internationally significant habitats in Maine that make Maine a unique place for naturalists, conservationists, hunters, fisherman, and anyone who enjoys the outdoors.

- 3. The Maine Natural Resource Conservation Program.** In order to make wetland compensation and mitigation requirements easier for developers that need permits for a project, DEP and the Army Corp of Engineers have jointly implemented a voluntary fee-based compensation program as an alternative to traditional wetland compensation for projects that disturb more than 15,000 square feet of regulated wetland or significant wildlife habitats. This program was launched in 2007 and has brought in almost \$2.75M in compensation payments on an ecoregional basis for preservation and enhancement projects. After significant negotiations with the U.S. Army Corps, we set up the program pursuant to a third-party administered contract arrangement with a competitive bidding and procurement process to select the best conservation projects in each ecoregion. This program provides a permitting flexibility mechanism to allow developers with large impacts to protected resources to pay a fee (purely at their discretion) rather than find adequate compensation projects.
- 4. Improving Maine’s Aquatic Ecosystems.** Maine's water quality standards are, along with only Ohio, based on a graduated set of biological criteria. The use of a tiered system of standards based on macroinvertebrates is uniquely powerful approach that integrates scientific information with all other elements of Maine’s water quality program. Businesses, environmentalists and regulated municipal entities recognize the scientific soundness of the way Maine approaches water quality management compared to other states.

Several recent initiatives build on these standards. The Long Creek watershed, an impaired urban stream in South Portland, Westbrook, Portland and Scarborough is subject of a significant local effort to restore its natural health. The only way to improve water quality in this watershed is to reduce stormwater and erosion impacts because there are no permitted dischargers – stormwater and erosion from development over time in the area has simply degraded water quality below acceptable levels. DEP has been working extensively with municipal officials, local businesses and citizens and the U.S.E.P.A. to develop a locally-driven plan and to use that plan to implement a permitting program to retrofit over 100 existing developments, primarily in the Maine Mall area, in order to bring the Long Creek back to its designated aquatic life standards.

In 2007, DEP adopted a unique rule that established in-stream flow and lake levels based on these tiered water quality standards. This rule does not stipulate how much water can be removed but rather how much needs to remain in the river, stream, brook or lake based on the stream or lake's classification and six scientifically specified hydrological seasons. As such the hydrograph of streams under these rules will continue to demonstrate seasonal variability between high and low flows to maintain the web of aquatic life from invertebrates through fish and the species that depend on them under conditions that mimic natural seasonal variability.

Lastly, a pending rulemaking at the Board of Environmental Protection implements L.D. 1333 passed by the Legislature in 2009. This law and rule are designed to improve culvert and crossings to allow for natural stream flow and fish passage. Surveys of fish passage in Maine reveal that existing culverts inhibit fish passage in as many as 90% of culverts and can completely block passage in as

many of 50% of existing culverts. This rule would restore significant stream and brook miles and is expected to be reviewed by the Legislature this coming winter.

5. Safer Chemicals in Children's Products Program. Maine's Legislature passed the Toxic Chemicals in Children's Products law in 2008. The law's goal is to protect children's health and the environment from toxic chemicals in toys and children's products. Maine's law directs DEP, in concurrence with the Maine Center for Disease Control and Prevention (C.D.C.), to publish a list of Chemicals of High Concern by January 1, 2010. DEP, after C.D.C.'s concurrence, published the list of approximately 1,700 Chemicals of High Concern in July 2009. A chemical may be included on the list only if it has been identified by an authoritative governmental entity on the basis of credible scientific evidence as:

- A. A carcinogen, a reproductive or developmental toxicant or an endocrine disruptor;
- B. Persistent, bioaccumulative and toxic; or
- C. Very persistent and very bioaccumulative

DEP is further directed by the law to designate at least two priority chemicals by January 1, 2011 from the list of Chemicals of High Concern. The rulemaking required by that law was initiated in November 2009, proposing that designation occur through routine technical rulemaking. To inform the rulemaking, the DEP conducted a significant stakeholder process to develop recommendations to the Commissioner. Four stakeholder meetings were held from March through May 2009, with robust participation from a broad group of stakeholders.

Designation as a priority chemical triggers authority for DEP to require disclosure of information from manufacturers and distributors of children's products that will assist in determining if: 1) distribution of children's products containing the priority chemical directly or indirectly exposes children and vulnerable populations to the priority chemical; and, 2) at least one safer alternative is available at a comparable cost. DEP may propose a sales ban on a children's product containing the priority chemical to the Board of Environmental Protection through major substantive rulemaking if these conditions are met.

6. Electronic Waste Recycling. DEP is a recognized national leader in product stewardship programs designed to reduce the release of toxics into Maine's environment. When manufacturers share in the responsibility for ensuring that their toxics-containing products are managed at the end of life to prevent environmental contamination, they have incentive to minimize their use of toxics and to create products that can be recycled back into the manufacturing process at the end of life, rather than disposed in a landfill or incinerator.

Maine was the first state to implement a product stewardship law for e-waste and since the 2004 landmark legislation, 20 states and New York City have passed e-waste legislation, many based on the Maine model. Since 2005, this program has diverted over 20 million pounds of Maine's electronic waste from disposal to recycling. This has kept 1.6 million pounds of lead out of Maine's environment as well as created lower cost commodities for the manufacturing of new products and reduced the amount of energy used in raw material extraction and production. (The "Environmental Benefits Calculator" model developed by the Northeast Recycling Council calculates that the recycling of 30,000 computers (C.P.U. and C.R.T. both) reduces power consumption by 32,578 million B.T.U.s, the equivalent of 5,617 barrels of petroleum.). Maine has one of the most comprehensive programs as we require the recycling of TV's and computer monitors, game consoles, desktop printers and digital picture frames.

7. **Toxics Reduction Programs for Mercury and Flame Retardants.** DEP has also implemented innovative programs to significantly reduce the release of mercury and flame retardants from products into Maine's environment. The mercury products notification program has enabled Maine policy-makers to identify and prohibit the sale of mercury-containing products for which there are safer, affordable alternatives. Mercury added products banned in Maine include batteries, thermostats, switches, relays, thermometers, manometers, wheel weights and motor vehicle components. Maine also prohibits the use of elemental mercury in schools and requires mercury amalgam separators in dentist offices. The mercury products labeling program seeks to ensure consumers are provided with the information they need to identify mercury-containing products and encourage recycling.

The mercury-auto switch removal program and the mercury thermostat recycling programs are product stewardship programs that require manufacturers to take responsibility for the recycling of these products that released significant amounts of mercury from past disposal practices. Further, DEP is working with mercury-added lamp manufacturers to implement the first-in-the-nation manufacturer responsibility program for the recycling of mercury lamps from households in Maine.

In 2004 and 2008, the Legislature banned the use of two brominated flame retardants in certain consumer products. The "octa" and "penta" formulations were banned from all consumer products by the Legislature in 2004. Most recently the "deca" formulation was banned from televisions, computers, upholstered furniture and bedding such as mattresses in 2008.

8. **Energy Infrastructure Development.** Maine is experiencing unprecedented energy infrastructure development driven by greenhouse gas emissions programs and renewable energy mandates.
- A. **On-shore Wind Power.** The DEP has approved 3 grid-scale terrestrial wind power projects, with 2 others developed in the northern unorganized portion of the state, with a combined total capacity of nearly 400 MW. Currently there are 2 more grid-scale pending wind power projects under review by the DEP and several others being designed in various locations in the western and northern parts of the state. These projects are being evaluated and permitted under new laws that went into effect in 2008, which were adopted to streamline the permitting process for wind development. This streamlining includes reduced scenic review, and DEP original jurisdiction with appeals based on a review of the record at the Board of Environmental Protection.
- B. **Off-shore Wind and Tidal Power.** The Governor created an Ocean Energy Task Force in November 2008. In June, the Legislature enacted legislation creating a 60 day DEP general permit for the testing and demonstration of emerging offshore wind (primarily deep-water) and wave technologies in pre-identified sites in state waters. In a related 2009 initiative, DEP signed a Memorandum of Agreement with the Federal Energy Regulatory Commission to create a virtual "one-stop" permitting process for tidal power pilot projects. This Task Force is currently in the process of drafting its report and recommendations, which will include recommended changes to DEP law and regulation related to permitting offshore wind and tidal power projects in state waters; submerged lands leasing for projects in state waters; better coordination and consistency between state and federal agency review and permitting procedures and standards; targeted marine spatial planning to designate appropriate areas for offshore wind development; development of financing mechanisms, including conversion of heating and transportation sectors to more efficient electric technologies, with use of revenues to help support above market costs of offshore wind and tidal power.
- C. **Electricity Transmission Grid Improvements.** Maine has set ambitious goals for development of its onshore and offshore wind resources, and significant wind development is already occurring in

Maine as mentioned above. This requires expansion of the state's transmission infrastructure, while electrification of heating and transportation could necessitate expansion of the distribution system as well. The southern Maine electrical transmission grid is currently being proposed for a more than \$1.4 billion upgrade along 400 miles of corridor in order to improve reliability and capacity for the New England electricity grid. Settlement discussions are underway at the Maine Public Utilities Commission (P.U.C.) on the petition for public convenience and necessity for the Central Maine Power Reliability Project. A second Downeast Reliability Project representing approximately \$60 million in reliability investments is pending before the P.U.C. and is in preapplication consultation with DEP. An important Bangor-Hydro interconnection with the New Brunswick electrical grid through Orrington and Baileyville was approved in 2005 and has been built. Additional smaller grid connections and improvements have also been approved or are under development.

- D. *Liquefied Natural Gas (L.N.G.)***. In late 2004, DEP became aware of the possibility that an L.N.G. facility may be located in Passamaquoddy Bay. Between the third week of December 2005 and first week of January 2006 two developers requested that the FERC allow them to enter what is known as "pre-filing review" of environmental considerations under the National Environmental Policy Act (NEPA). By late spring 2007, both developers had filed environmental license applications with the state. In May 2008, a third developer initiated the FERC pre-filing review process.
- 1. *Quoddy Bay, LLC***. Although the project is no longer under review by state and federal agencies, this was the first developer to file for an environmental evaluation with the FERC, and the second to file with the state. Quoddy Bay, LLC established a relationship with the Passamaquoddy Indian Nation, proposing to locate a 1,500 foot berthing pier out into Passamaquoddy Bay from Pleasant Point reservation land and have its storage facility located in the Town of Perry across an adjacent cove. The pipeline needed to deliver gas from the import location to an existing interstate distribution line was being proposed at 36 miles long. At potentially up to three (3) billion cubic feet per day, Quoddy Bay, LLC was proposing the largest gas delivery capacity of any facility being considered in Maine. Jurisdiction over the evaluation of, and decision on, the state applications was accepted by the Board in August 2007. After the developer failed to submit information necessary for its engineering evaluations that had been requested by the federal government earlier in the year, the FERC dismissed Quoddy Bay, LLC's applications in October 2008. At the end of October 2008 Quoddy Bay, LLC requested, and in November 2008 the Board accepted, withdrawal of pending state license applications.
 - 2. *Downeast LNG, Inc.*** This is the second developer to file for an environmental evaluation with the FERC, and the first to file with the state. Downeast LNG is proposing to locate a 3,800 foot berthing pier out into Passamaquoddy Bay from land located in the Town of Robbinston, with its storage facility located on that same parcel. A 30 mile long pipeline needed to deliver gas from the import location to an existing interstate distribution line is being proposed. At half (0.5) a billion cubic feet per day, Downeast LNG is proposing the smallest gas delivery capacity of any facility being considered in Maine. Jurisdiction over the evaluation of, and decision on, the state applications accepted by the Board in January 2007, and, with public hearings held in July 2007, the processing of those applications advanced further than any other Maine-based L.N.G. proposal considered to date. In September 2007, Downeast LNG requested, and in November 2007 the Board accepted, withdrawal of what

- were then pending state license applications. At the time of withdrawal, Downeast LNG expected to refile applications in December 2007 but as of this date nothing has been filed. Downeast LNG is currently representing to DEP that issuance by the FERC of an Environmental Impact Statement (E.I.S.), which documents the outcome of its NEPA review, will precede any state filings. The FERC review is ongoing.
3. **Calais LNG Project Company, LLC.** This is the third developer to file for an environmental evaluation with the FERC, but it has not yet filed with the state. Calais LNG is proposing to locate a 1,000 foot berthing pier out into the St. Croix River north of its confluence with Passamaquoddy Bay from land located in the Town of Calais, with its storage facility located on that same parcel. The 20 mile long pipeline needed to deliver gas from the facility to an existing interstate distribution line is being proposed. At one (1) billion cubic feet per day, Calais LNG is proposing the largest gas delivery capacity of any facility currently being considered in Maine. The FERC review is ongoing.
- E. **Riverbank Hydroelectrical Storage Project.** A 1,000 MW underground pump storage hydroelectrical facility has been proposed for a portion of the former Maine Yankee property in Wiscasset. This project represents capital investment in the range of \$800 million and would be capable of storing off-peak electricity generated from wind power and other sources of renewable power. The issues related to the withdrawal of significant portions of water from the Back River and Sheepscot River systems will need to be studied to ensure no unreasonable impact to these ecological systems. This would be a unique marine hydro-storage project in the country if permitted and built. The project is still in engineering and design phase and the DEP has submitted comments and studies requests for the potential application to address as it proceeds with developing its application for filing in 2010 according to its current schedule.
9. **Water Toxics Rule.** DEP rewrote the regulations governing water toxics in 2006 after a lengthy stakeholder process. The changes to the rule allowed for increased permittee flexibility in determining testing requirements, considerations of bioavailability (not just total concentration), as well as a unique approach for allocating toxics across watersheds and not at individual discharges. This allocation approach is innovative and allows for the broadest consideration of water quality standards. Because Maine law requires that all waters be suitable for cold-water species of fish, the rule requires that whole-effluent-toxicity testing be conducted with rainbow trout, a sensitive species.
10. **Maine Air Toxics Initiative (MATI).** In response to U.S.E.P.A.'s National Air Toxics Assessment, which indicated that Maine citizens faced an unacceptable health risk from air toxics, in 2002 DEP began the Maine Air Toxics Initiative (MATI). MATI is a facilitated stakeholder process aimed at identifying: 1) air toxic pollutants that pose the greatest risk to the Maine public; 2) sources of air toxic pollutants; and 3) cost-effective solutions to reduce the risk of toxic air pollution. The results of MATI enable the state to target available resources for maximum risk reduction.
- The Maine's Air Toxics Strategy was released in March 2009 and identified broadly-agreed upon strategies to reduce air toxic emissions. Two of the primary initiatives include:
- A. **Wood Smoke Emission Reduction.** Polycyclic Organic Matter or "wood smoke" was identified as the priority pollutant through the MATI process. DEP is exploring the following low-cost or no-cost reduction strategies alternatives to reduce air toxics from residential wood combustion:
- 1) Continued regulation of Outdoor Wood Boilers;

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- 2) Woodstove change-out programs that promote the use of cleaner existing home heating technologies, including how tax incentives could be used to foster change-outs;
- 3) Promotion of new home-heating technologies based on cleaner burning fuels that are derived from wood or other renewable resources; and
- 4) Education and outreach on proper stove use, maintenance, and the fuel savings achievable with the lower emitting stoves.

B. Statewide On Board Diagnostics. One of the most cost effective mobile source air toxics reduction strategies identified is expanding the Cumberland County Onboard Diagnostics (O.B.D.) program statewide. O.B.D. refers to a computer-based system available in 1996 and newer light-duty vehicles that alert owners to emission control problems. Prompt response to warning lights can prevent more costly repairs, save fuel, reduce wear and tear on the engine, and reduce pollution. DEP is currently working with the Department of Public Safety to verify the costs, benefits, and feasibility of this program including conducting a statewide voluntary O.B.D. and electronic data collection pilot project in 2010.

11. Revised NAAQS and Flat or Declining Federal Funding. A number of National Ambient Air Quality Standards (NAAQS) have been revised or are in the process of revision by U.S.E.P.A. These revisions may require us to implement new monitoring strategies and reporting requirements and incur more state costs at a time when our federal funding is flat and will decline by as much as 32 % in the upcoming years. Even without the new federal requirements, this decline in funding for the air program is simply untenable and will result in unacceptable reductions in air compliance and air licensing capabilities.

- A. Sulfur Dioxide.** On Monday November 16, 2009, U.S.E.P.A. will issue a proposed rule to revise NAAQS for sulfur dioxide. U.S.E.P.A. intends to issue a final rule by June 2, 2010.
- B. Nitrogen dioxide.** In June 2009, the U.S.E.P.A. proposed changes to the NAAQS for nitrogen dioxide (NO₂). U.S.E.P.A. must issue a final decision on the NO₂ standard by Jan. 22, 2010.
- C. Lead.** In October 2008 U.S.E.P.A. tightened the allowable lead level to one tenth of its previous level.
- D. Ozone.** On March 12, 2008, U.S.E.P.A. revised the NAAQS for ozone, lowering the primary 8-hour standard from 84 ppb to 75 ppb and setting the secondary 8-hour standard identical to the primary standard. Due to a legal challenge on March 10, 2009, U.S.E.P.A. requested that the court delay briefings on the consolidated lawsuits challenging the March 2008 revised ozone standard, citing its intent to “review the Ozone NAAQS Rule to determine whether the standards should be maintained, modified or otherwise reconsidered.” On September 16, 2009, U.S.E.P.A. filed a notice to the court that it would be reconsidering the Ozone NAAQS rule through comment and rulemaking with intent to propose by Dec. 21, 2009 and sign a final rule by Aug. 31, 2010. As part of this action, U.S.E.P.A. agreed to delay the nonattainment designation process for the 75 ppb standard but will use the 2008 standard for new and modified sources in attainment areas. Although the nonattainment designations under the 2008 standard would be not be issued in

March 2010, as originally intended, SIP plans will be required by the end of 2013, as required under the 2008 standard.

- E. **PM_{2.5}**. In 2006, U.S.E.P.A. revised the 24-hour NAAQS for particulate matter as small as 2.5 microns in size, commonly known as PM_{2.5}. On February 24, 2009, the United States Court of Appeals for the District of Columbia remanded the standards for fine particulates (PM_{2.5}). Since the rule was not vacated, state SIPs adopting the PM_{2.5} rule will remain in effect. Regardless of the timing of its reconsideration, U.S.E.P.A. will be required to publish another notice of proposed rulemaking.

12. Continued High Performance. Despite a 13% reduction in DEP's workforce since 2003, the Agency's capable and hardworking employees continue to find new and innovative ways to perform the crucial functions entrusted to them by the Maine people and the Legislature. The basic core air, water, remediation, and waste management programs continue to function at high levels and receive recognition for superior licensing, compliance, and oversight performance in audits and U.S.E.P.A. reviews. This high level functioning was demonstrated in 2009 when Maine became the first state to meet multiple U.S.E.P.A. and ARRA milestones for allocating and committing Clean Water Act, Leaking Underground Storage Tank, and Diesel Emission Retrofit Act stimulus funds.

As these efforts show, for nearly 40 years DEP has worked to preserve and enhance Maine's natural resources while ensuring that smart economic growth occurs in harmony with our extraordinary environment. With the support of Maine citizens, businesses, legislators, state agencies, municipalities, Indian tribes, neighborhood organizations, and environmental interest groups we have made significant progress toward a healthy sustainable environment by improving the quality of our land, air, and water.

In addition to responding to the chemical and petroleum spills that occur on a daily basis and threaten the health of our citizens and environment, DEP is asked to take the lead on important and complicated environmental challenges. These include establishing systems that have manufacturers share the responsibility for their products that create hazardous waste; supporting the reduction of sulfur levels in fuel, including heating oil, in order to minimize our effect on the vistas at Maine's most environmentally and economically significant locations – like Acadia National Park; and emphasizing the state's potential as a source of clean energy so all Maine citizens can enjoy the environmental and economic benefits these projects bring. Inherent in DEP's mission is enhancing the quality of life and place for all Mainers and protecting our resources for future generations.

GLOSSARY OF ACRONYMS & INITIALISMS

A.C.M.	Asbestos Containing Materials
A.D.A.	Americans with Disabilities Act
A.D.B.	Assessment Database
A.G.	(Maine) Office of the Attorney General
AHERA	Asbestos Hazard Emergency Response Act
A.S.D.W.A.	Association of State Drinking Water Administrators
A.S.T.	Aboveground Storage Tank
ASTSWMO	Association of State Territorial Solid Waste Management Officials
B.E.P.	(Maine) Board of Environmental Protection
B.H.R.	(DAFS) Bureau of Human Resources
B.M.P.	Best Management Practice
B.O.D.	Biological Oxygen Demand
BUSTI	Board of Underground Storage Tank Installers
C.A.A.	(U.S.) Clean Air Act
CAP	Community Action Program
CARB	California Air Resources Board
C.F.L.	Compact Fluorescent Lamp
C.D.C.	(Maine) Center for Disease Control
CERCLA	U.S. Comprehensive Environmental Response, Compensation and Liability Act of 1980
CFR	Code of Federal Regulations
CMR	Code of Maine Regulations
CONES	Consortium of Northeast States
CONEST	Consortium of Northeast States and Tribes
C.R.T.	Cathode Ray Tube
C.S.O.	Combined Sewer Overflow
C.W.A.	(U.S.) Clean Water Act
DAFRR	(Maine) Department of Agriculture, Food, and Rural Resources
DAFS	(Maine) Department of Administrative and Financial Services
DEP	(Maine) Department of Environmental Protection
D.H.H.S.	(Maine) Department of Health and Human Services
D.M.R.	Discharge Monitoring Report
D.O.D.	(U.S.) Department of Defense
DSMOA	(U.S. Department of) Defense State Memorandum of Agreement
E.E.O.	Equal Employment Opportunity
EFIS	Environmental Facility Information System
EGAD	Environmental Geographical Analysis Database
E.I.T.L.C.	Environmental Information Technology Leadership Council
E.P.R.	Expended Producer Responsibility
E.R.P.	Environmental Results Program
F.E.F.	Federal Expenditure Funds
FIRB	Fund Insurance Review Board
F.R.S.	Facility Registry System
F.T.E.	Full Time Equivalent
G.C.C.	Governor's Carbon Challenge
G.H.G.	Greenhouse Gas
G.I.S.	Geographic Information System
HOSS	Hazardous and Oil Spill System
I.M.	Information Management
IMERC	Interstate Mercury Education and Reduction Clearinghouse
I.T.	Information Technology

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JETCC	Joint Environmental Training Coordinating Committee
LANS	Lead and Asbestos Notification System
LIMS	Laboratory Information Management System
L.Q.G.	Large Quantity Generator
LUST	Leaking Underground Storage Tank
MAPA	Maine Administrative Procedures Act
MATI	Maine Air Toxics Initiative
MEMA	Maine Emergency Management Agency
M.E.P.F.	Maine Environmental Protection Fund
MOSIS	Marine Oil Spill Information System
M.O.U.	Memorandum Of Understanding
M.R.R.A.	Maine Resource Recovery Association
M.R.S.	Maine Revised Statutes
M.S.C.A.	Multi-State Cooperative Agreement
NAIS	Neutral Administrative Inspection Scheme
N.C.A.I.	National Congress of American Indians
NEEP	Northeast Environmental Enforcement Project
N.E.L.C.C.	New England Lead Coordinating Council
NESCAUM	Northeast States Coordinated Air Use Management
NESHAPS	National Emission Standards for Hazardous Air Pollutants
NEIWPC	New England Interstate Water Pollution Control Commission
NEWMOA	Northeast Waste Management Officials Association
NIMS	National Incident Management System
NOAA	National Oceanic and Atmospheric Administration
N.O.I.	Notice Of Intent
NPDES	National Pollutant Discharge Elimination System
N.P.L.	National Priorities List
NRDAR	Natural Resource Damage Assessment and Restoration
N.R.P.G.	Network Resource Partnership Group
N.R.S.C.	(DAFS) Natural Resources Service Center
N.S.R.	New Source Review provisions in the C.A.A.
O.B.D.	Overboard Discharge
OSHA	(U.S.) Occupational Safety and Health Administration
O.S.R.	Other Special Revenue (funds)
O.T.C.	Ozone Transport Commission
PAMS	Photochemical Air Monitoring Station
P.C.S.	Permit Compliance System
P.B.R.	Permit By Rule
P.S.D.	Prevention of Significant Deterioration (in the C.A.A.)
P.S.I.	Product Stewardship Institute
P.U.C.	(Maine) Public Utilities Commission
QAPP	Quality Assurance Project Plan
Q.M.P.	Quality Management Plan
RCRA	U.S. Resource Conservation and Recovery Act of 1976
RCRA-C	Hazardous waste management provisions of RCRA
RCRA-I	Underground storage tank provisions of RCRA
RGGI	Regional Greenhouse Gas Initiative
R.P.	Responsible Party
S.D.W.A.	(U.S.) Safe Drinking Water Act
SIP	State Implementation Plan (under the C.A.A.)
SLAMS	State and Local Air Monitoring Stations
S.P.M.	Special Purpose Monitoring station
S.P.C.C.	Spill Prevention and Countermeasures Control

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S.P.O.....Maine State Planning Office
S.Q.G.....Small Quantity Generator
S.R.F.....State Revolving loan Fund
S.S.T.S.....Spill Site Tracking System
SWANA.....Solid Waste Association of North America
SWAT.....Surface Water Ambient Toxics
T.A.G.....Technical Assistance Grant
T.M.D.L.....Total Maximum Daily Load
TSCA.....(U.S.) Toxic Substances Control Act
T.S.F.....Treatment and Storage Facility
TURA.....Toxics Use Reduction Act
U.I.C.....Underground Injection Control
U.S.....United States
U.S.C.D.C.....United States Centers for Disease Control
U.S.D.O.I.....United States Department of Interior
U.S.E.P.A.....United States Environmental Protection Agency
U.S.G.S.....United States Geological Survey
U.S.T.....Underground Storage Tank
V.O.C.....Volatile Organic Compound
VRAP.....Voluntary Response Action Plan

DEP'S MANAGEMENT TEAM

David P. Littell, Commissioner

Jody Breton, Deputy Commissioner
Donna Gormley, Director of Education and Outreach
Beth Nagusky, Director of Innovation and Assistance
Jim Dusch, Director of Policy Development and Implementation

Jim Brooks, Director, Bureau of Air Quality

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Regional Directors and Other Managers

Ed Logue, Eastern Maine Regional Office Director
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SECTION 1:

“Enabling or authorizing law or other relevant mandate, including any federal mandates”

Maine Revised Statutes Title 3, Section 956(2)(A)

BACKGROUND: Statewide regulatory oversight of pollution related matters through a government entity established by the Maine Legislature began in 1941 with the Sanitary Water Board. That legislation was the direct result of concerns over pollution in the Androscoggin River. Licensing through the Sanitary Water Board of facilities, like manufacturing companies, that discharged pollutants to Maine’s waters was authorized in 1945.

In 1951, the Water Improvement Commission replaced the Sanitary Water Board, and it was given the authority to create a statewide water classification system. In 1953, the first classifications were enacted by the Legislature. In 1951 the Water Improvement Commission was provided with the authority to accept federal grant money and at that time Maine also joined the New England Interstate Water Pollution Control Commission (NEIWPC).

In 1957, the state first got involved in funding the construction of municipal wastewater treatment facilities. In 1961, this involvement expanded to licensing municipal facilities and being given the authority to enforce license provisions. In 1963, Maine’s first marine water classification system was established to compliment the inland system that had existed since 1953.

In 1967, the newly established Water and Air Improvement Commission replaced the Water Improvement Commission, which signaled broader state involvement in environmental protection by beginning the regulation of air pollutants. By 1969 the Legislature enacted the authority for establishment of air quality regions and ambient air standards. In 1970, the Legislature enacted the Site Location of Development law, which got the state involved in land development licensing.

Establishment of the Department of Environmental Protection (DEP) as an executive branch agency was authorized in 1971 at the same time a major reorganization of state government occurred. Effective July 1, 1972, the authority passed in 1971 became law, establishing the general structure, and many of the authorities, that make up Maine’s environmental protection system today.



**Maine's Legislature
established the
Department of
Environmental
Protection in 1971.**

A. State Authorities. Maine’s Legislature codifies the environmental protection laws administered by DEP under Title 38 of Maine’s Revised Statutes. A list of all those statutory provisions is incorporated into this document as Appendix A. As appropriate, references to these laws have been incorporated into the program descriptions provided in Section 2 of this document.

B. Federal Authorities and Mandates. The state has applied for and accepted delegation for certain federal environmental protection programs. As a result of these delegations, numerous federal laws and mandates are administered in Maine by DEP on the federal government’s behalf.

- 1. Clean Water Act (C.W.A.).** Maine was delegated administration of the C.W.A. in 2001. Delegation requires that the DEP issue and enforce licenses for wastewater discharges to state waters. Those licenses must protect federally approved water quality standards. This work

requires a statewide program of water quality monitoring and assessment of all of the states fresh, estuarine, and marine waters. Prior to delegation, wastewater dischargers needed to apply for and receive a license from both the federal and state government.

2. Clean Air Act (C.A.A.)

- a) Stationary Source Licensing. DEP has authorization from the U.S.E.P.A. to implement certain aspects of the Clean Air Act through delegation of air pollution control programs which are embedded in the State Implementation Plan (SIP). The SIP is the repository of state rules and agreements which implement U.S.E.P.A. stationary source requirements and thus make DEP issued licensing decisions, federally enforceable. Major stationary sources are permitted by DEP in the U.S.E.P.A. Prevention of Significant Deterioration (P.S.D.), New Source Review (N.S.R.) and Title V Operating Permit Programs. Prior to delegation, air emission sources needed to obtain both federal and state permits to operate.
- b) Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAPS). DEP has authorization from U.S.E.P.A. to implement Maine's laws on licensing, compliance and enforcement for asbestos abatement activities in lieu of the federal C.A.A. Section 112 NESHAPS program for asbestos.

3. Resource Conservation and Recovery Act (RCRA)

- a) Hazardous Waste. RCRA subpart C (RCRA-C) establishes comprehensive requirements for all aspects of the management and oversight of hazardous wastes. DEP received base program authorization in 1988, corrective action program authorization in 1997, and universal waste program authorization in 2005. As a result of these program authorizations, DEP has primary administration responsibilities for the federal program in Maine. Regulated entities may receive permits and authorizations from the DEP that cover all applicable state and federal requirements. Prior to authorization of Maine's program, hazardous waste activities were regulated at the federal and state level, needing, for example, permits from two government entities.
- b) Petroleum Underground Storage Tanks (U.S.T.s). RCRA subpart I (RCRA-I) establishes federal requirements for all aspects of the management, operation and oversight of underground petroleum storage facilities used for motor fuels. The DEP application for program authority was approved in 1992. DEP has primary administration responsibilities for the federal program including the requirement that owners and operators provide financial assurance for the clean-up of petroleum releases and third party damages. Maine provides the financial assurance required under federal law through administration of the Ground Water Oil Cleanup Fund.



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U.S.E.P.A. has endorsed this state fund as meeting the federal requirements, thereby assuring compliance for all applicable tank owners in Maine. Prior to authorization of Maine's program, underground storage tank owners needed to contact both state and federal regulators to insure compliance with applicable requirements.

4. Toxics Substances Control Act (TSCA)

- a) Asbestos Hazard Emergency Response Act (AHERA). In accordance with TSCA Title 2, U.S. U.S.E.P.A. has delegated administration of the Asbestos Hazard Emergency Response Act (AHERA) to DEP. AHERA activities include providing technical assistance and conducting compliance inspections in all Maine schools to ensure asbestos-containing materials are managed to prevent the release of asbestos fibers into the school environment.
- b) Lead Abatement. In accordance with TSCA Title IV, section 404(g), U.S.E.P.A. has authorized DEP to administer Maine's *Lead Management Regulations* in lieu of the federal 402(c) regulations under 40 CFR Part 745. This includes conducting licensing, compliance and enforcement for lead-based paint activities in residential dwellings and child-occupied facilities.

SECTION 2:

“A description of each program administered by the agency or independent agency, including the following for each program:

- (1) Established priorities, including the goals and objectives in meeting each priority;**
- (2) Performance criteria, timetables or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and**
- (3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives”**

Maine Revised Statutes Title 3, Section 956(2)(B)

BACKGROUND: DEP has six (6) program functions it administers: management of the Agency; environmental standard setting; monitoring and assessment of environmental conditions; oversight of regulated activities; assistance to regulated entities and the public as well as promoting environmental stewardship; and response to pollution related events and the clean up of contamination. This section details each of these functions. The criteria required under this section of the G.E.A., i.e. priorities, goals, objectives, and performance measures, are presented in part in this section and integrated throughout the program descriptions.

I. AGENCY MANAGEMENT

GOAL: To assure that the DEP’s structures, systems, personnel and financial resources are sufficient to implement Maine’s environmental laws, provide expected public service, maintain accountability to state and federal funding sources, and improve organizational performance.

BACKGROUND. DEP’s organizational structure largely reflects the requirements of different statutory authorities (*e.g.*, C.A.A.; C.W.A.; etc.) and funding sources (state General Funds; dedicated revenues; federal funds) in the context of the environmental media -- land, water, air, solid and hazardous waste, petroleum -- associated with them. Regardless of the funding, these distinctions are particularly useful for planning purposes. As a result, DEP is structured in three media-oriented bureaus -- Air Quality, Land and Water Quality, and Remediation and Waste Management -- and an Office of the Commissioner that oversees agency activities and implements a number of initiatives and programs that affect multiple areas of the organization. Within each bureau are three (3) or more divisions having specific responsibilities associated with particular environmental needs (*e.g.*, solid waste; water resources) or functions (*e.g.*, engineering services).

A. Organizational Development. DEP actively maintains and enhances organizational structures and systems in order to support employees and promote continuous improvement.



DEP is organized into three bureaus:
- Air Quality
- Land & Water Quality
- Remediation & Waste Management

1. **Employee Training.** Staff, supervisors, and managers are continuously provided with opportunities to develop their skills and knowledge regarding safety, and service to internal and external customers. Technical training related to field operations is typically provided at the program level through regular review and upgrading of standard procedures and field protocols with all affected staff. Although widely varying types of training occur in all areas, the following are current examples of DEP's focus.
 - a) **Water Quality.** The wide variety of skill sets, including engineering, hydrology, biology, and toxicology, involved in water quality require a broad range of training to maintain and improve expertise.
 - 1) *Waste Water Control.* In 2006, all compliance, engineering, and permitting staff in the Division of Water Quality Management, which is where the staff who perform licensing, inspections, and technical assistance are organized, took what is known as the "Grade 3" waste water operator control exam following a one week intensive preparatory training. Continuing education courses in many facets of wastewater control are taken annually by staff in this division to maintain expertise.
 - 2) *Field Safety.* As much water quality work occurs in the field, there is annual safety training to ensure that watercraft operation and general water safety practices are current, as well as confined space safety and other related skills.
 - 3) *Water Quality Standards.* New staff are provided the opportunity to take either an on-line or in person short course on all aspects of the C.W.A. which familiarizes them with Maine's system of water classification, minimum standards associated with those classifications, and the regulatory authorities used to improve water quality.
 - b) **Land Development.** Because the core land development statutes govern impacts on a wide range of natural resources the staff who evaluate license applications and provide direct technical assistance to the public regarding development receive routine training on specific natural resources. Staff are trained to make jurisdictional and technical decisions about a wide range of regulatory issues to provide efficient service to the public.
 - 1) *Vernal pools.* Between 2005 and 2007, the Legislature established unique standards regarding development affecting significant vernal pools and the species habitat around these vernal pools. As this is a new program, all staff members who are responsible for vernal pool identification and regulation receive annual training focused on the biological characteristics of these pools that determine state jurisdiction.
 - 2) *Freshwater and Coastal Wetlands.* Since the revision of Maine's wetland rules in 1997, staff have been routinely trained in the identification of wetlands as well as the assessment of their functions and values. This training is required for staff to conduct accurate field assessments as well as evaluate applications for wetland impacts and fill as provided for in the rules.



Extensive training has been crucial to ensuring that DEP staff appropriately implement Maine's law that protects Vernal Pools

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- c) **Ambient Air.** Training is essential to assure the collection of the high quality ambient air quality data that is used for planning purposes and to protect the public health. Training in the licensing of sources as well as ongoing compliance inspections at licensed facilities is essential in maintaining compliance with ambient air quality standards.

Staff receive ongoing training on technical aspects of air pollution control technologies, ambient monitoring methodologies, and inspections of air pollution sources and management through training courses. This training is supplied by a variety of sources, including U.S.E.P.A., Northeast States Coordinated Air Use Management (NESCAUM) and the California Air Resources Board (CARB), and industrial trade associations.

Air monitoring, laboratory analyses, quality assurance, and compliance inspection staff, in addition to on-the-job instruction, require specific program related training in areas such as U.S.E.P.A.'s Air Quality database system; U.S.E.P.A. Visible Emissions Evaluation (Method 9 or "Smoke School"); manufacturer provided training on monitoring and laboratory equipment, and software applications (particularly used for specialized data handling and validation processes), and any number of position-specific air pollution control and management courses offered by U.S.E.P.A., NESCAUM and the CARB, in order to successfully carry out their job tasks and responsibilities.

- d) **Hazardous Substances.**

- 1) *Safety Training.* Many DEP employee's jobs require the performance of tasks that involve hazardous substances. For example, first responders and hazardous waste compliance staff regularly manage situations where hazardous substances must be sampled and remediated. It is essential that these tasks not affect the health and safety of those individuals.

- i. All employees whose work takes them to locations where hazardous waste or other hazardous substances are generated or released must receive training and pass tests regarding worker safety prior to carrying out those duties. This initial training is commonly referred to as 40-hour worker safety and 8-hour supervisor training. D.E.P currently has 149 staff certified under this training.

- ii. 8-hour safety refresher training, first aid training, and technical and regulatory training is provided as necessary to access and appropriately assess sites where hazardous waste is generated or released.



Leaking and corroded containers at a hazardous waste cleanup site in Lewiston (2007)

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- 2) *Petroleum.* Staff are trained in the delivery of technical assistance and regulatory guidance for U.S.T. owners and operators. Training is typically provided through participation at workshops sponsored by U.S.E.P.A., the Association of State Territorial Solid Waste Management Officials (ASTSWMO), the Northeast Waste Management Officials Association (NEWMOA), NEWIPCC and/or the Northeast Environmental Enforcement Project (NEEP).
 - 3) *Asbestos and Lead.* All employees whose work involves performing compliance inspections and technical assistance at locations with potential asbestos or lead hazards receive annual training to maintain professional credentials appropriate to performing their work, including First Aid and C.P.R., and asbestos/lead inspector and/or supervisor training.
 - 4) *Response Services.* In addition to the basic safety training required for all individuals who must encounter hazardous substances, emergency responders must also be certified with incident specific training.
 - i. Responders are required to receive training that includes technician level hazardous material response, National Incident Management System (NIMS) Incident Command System (ICS) 300 level, Coastal Oil Spill Response, technician level W.M.D., and more.
 - ii. Refresher training is provided through weekly meeting topics, bi-monthly division meetings and an annual one week refresher course as well as participation in numerous drills to ensure staff maintain the ability to respond safely and efficiently.
 - e) *Solid Waste.* In addition to basic safety training, solid waste staff receive specialized training in various technical aspects of solid waste management offered by U.S.E.P.A., NEWMOA, ASTSWMO, Solid Waste Association of North America (SWANA), and others. Examples include courses, workshops and other trainings addressing topics such as waste facility financial assurance administration, groundwater monitoring and remediation, innovative waste management technologies, landfill gas management, disaster debris management, and construction demolition debris management and recycling.
2. *Performance Reviews.* The mechanism used in state government for determining whether an employee is meeting or exceeding the annually-established expectations associated with their position is through face-to-face review of their performance. This system requires supervisors to



Collapsed bridge with truck in the stream and leaking diesel fuel from its saddle tanks.

perform and document a review at least once a year and routinely evaluate performance through the year. DEP requires supervisors to complete these reviews in a timely manner.

3. **Customer Service/Satisfaction.** DEP tracks external customer satisfaction, particularly among members of the regulated community, to identify how well we are meeting the needs of the public.
 - a) The Division of Water Quality Management conducts annual surveys of the regulated community as well as the interested public to determine these individuals' thoughts about the quality, efficiency, and fairness of the state's entire water quality program. Since 2005, three surveys have been conducted, asking the state's 400 licensed dischargers to rate the DEP in areas such as timeliness, accuracy, professionalism, job knowledge, and effectiveness in maintaining and improving water quality. These request a rating of excellent, good, fair, or poor. Average overall results for the three years show that 92% of respondents rate the program as excellent or good.
 - b) Air Quality. The bureau distributes and evaluates customer service cards provided to licensees after each license transaction and tabulates those results on a monthly basis. The card requests the applicant to provide a score of 1 to 5 based on the knowledge, courtesy and timeliness provided by the air quality licensing engineer for that particular transaction. The most recent four year average of the three categories combined show 92% satisfaction with the services provided.

B. Financial Stewardship. All the details regarding DEP's financial stewardship responsibilities and history are detailed in Section 5 of this document.

C. Performance Measures. Initiated in 2007, DEP tracks and regularly reports on measures that document the outcomes resulting from its administration of Maine's environmental protection system. These performance measures inform the public and decision makers about progress toward public service and environmental improvement goals. These are publicly reported at least annually, and are generally based on quarterly reviews of performance data. Trend data for some measures extend back ten or more years.

1. **Customer Service.** DEP provides services to the public at large, and more specifically to the regulated community. Maine citizens, businesses, interest groups, and members of the Legislature expect to receive courteous, professional, and timely response to their service requests.
 - a) License Application Processing. The Legislature has charged the DEP with overseeing more than 200 environmental licenses that exist to protect Maine's air, water, wildlife habitat and natural resources. These licenses typically use standard applications that call for technical evaluations by engineers, geologists and scientists. Many licenses have been abbreviated because the proposed activity allows for quick and effective evaluation of briefer submissions.

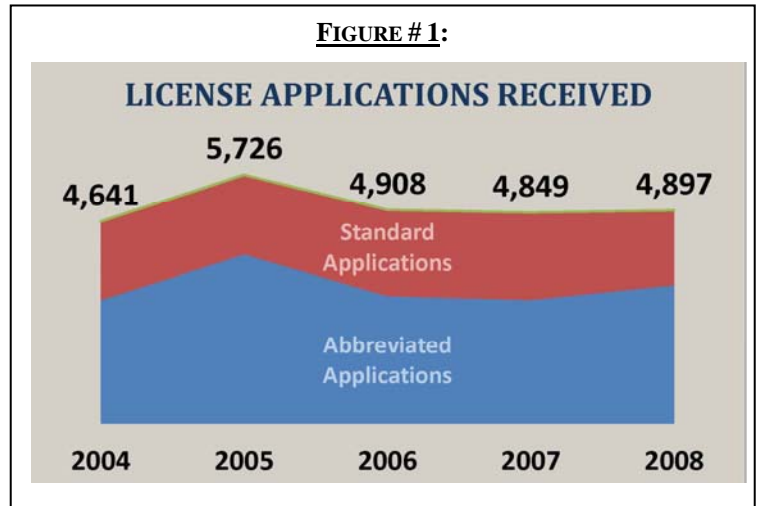
DEP's objective regarding license application processing



DEP oversees more than 200 types of environmental licenses that exist to protect Maine's air, water, wildlife habitat, and natural resources.

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is to issue decisions as quickly as possible while appropriately addressing all applicable environmental criteria and procedural requirements. Performance related to this objective is measured by calculating and tracking the average aggregate processing time for all permit types. In 2008, DEP received a total of 4,897 license applications, with 1,709 submitted as standard applications and 3,188 as abbreviated applications. Although licensing workload has been heavy for nearly 20 years and has generally increased in volume, the decrease in 2006 and 2007 reflected the general downturn in economic activity seen nationwide. Of 4,897 decisions issued in 2008, each was processed in an average of 51 days (with standard applications averaging 141 days and abbreviated applications averaging five (5) days).



- b) **Information Inquiry Responses.** Each day, DEP’s offices and staff field dozens to hundreds of requests for service. These range from reports of petroleum and hazardous materials spills, through requests for information and educational materials, to complaints about possible environmental violations. Each program area has its own system for responding to these requests, including designated “on call” staff who make certain that reports and requests are immediately evaluated and promptly routed to the appropriate employee. In many cases, such as reports of environmental hazards, DEP staff are immediately dispatched to the site, while for less critical matters, an appointment for a field visit is scheduled. Requests for written materials such as information or guidance brochures are mailed or e-mailed immediately.

DEP’s objective regarding the timeliness that members of the public should expect when requesting something from the Agency (*e.g.*, information requests; reports of spills; requests for field determination) is that they should, whenever possible, receive an immediate response or be taken care of as soon as possible thereafter. Performance related to this objective is measured by calculating and tracking the percentage of public requests for service that are responded to by the close of the second business day. These are compiled on a bi-weekly basis, and reported to management quarterly. For the six-month period ending June 30, 2009, 98.3% of all such requests met the standard (7,864 out of 8,002 requests).

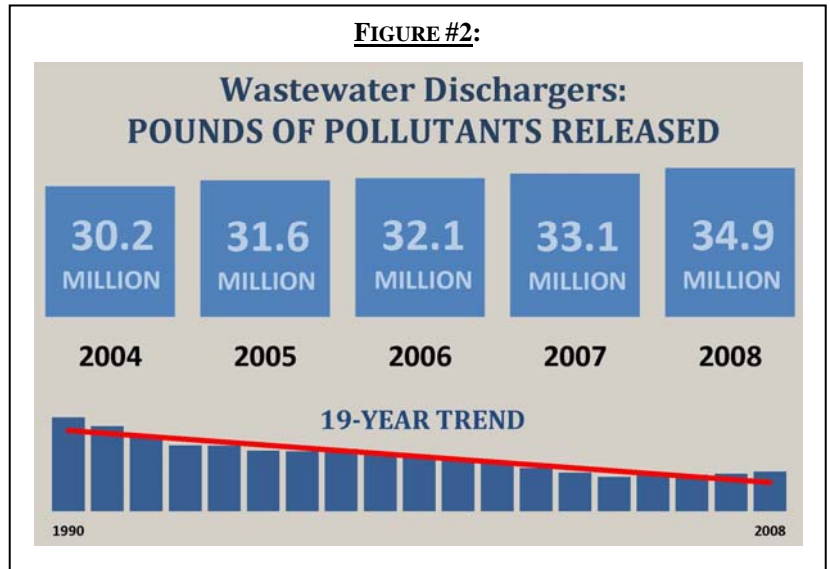
2. Environmental Indicators. DEP established the following measures of success to demonstrate that the quality of Maine’s land, water, and air is safe and improving.

- a) **Surface Water.** Maine is known internationally for the quality of its lakes, rivers, and streams. DEP directly contributes to the protection and improvement of Maine’s water quality by implementing state and federal water pollution control laws. The state’s pollution control laws charge DEP with limiting the discharge of pollutants to Maine’s waters through a multifaceted approach that includes licensing, compliance oversight, enforcement, and technical assistance. The DEP also administers several loan and grant programs to help

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maintain and improve municipal wastewater infrastructure and eliminate sources of pollution such as sewer overflows and contaminated stormwater.

DEP's objective when administering these laws is to appropriately limit the pollutants entering Maine's waters, which is the most direct and efficient way to improve water quality, so that all waters meet or exceed the classification assigned to them by the Legislature. Performance related to this objective is measured by calculating and tracking the total volume of regulated pollutant discharges into Maine waters as well as the ambient condition of receiving waters. Pollution loading is evaluated by aggregating the sampling results that are reported to DEP by licensed wastewater dischargers as a requirement of their license.



As Figure #2 illustrates, the discharge of pollutants to Maine waters has significantly decreased over the last 18 years. As indicators, Figure #2 uses the total pounds of two pollutants -- Total Suspended Solids (T.S.S.) and Biological Oxygen Demand (B.O.D.) -- released to Maine's waters by licensed facilities (this is the primary measure used throughout the United States to indicate water pollutant loading). The long-term decreasing trend is the result of physical improvements in publicly-owned treatment facilities funded by local, state and federal monies, more efficient operations at wastewater treatment facilities due to better operator training and technical assistance, elimination of some municipal discharges converted to land based spray irrigation systems, and production changes at industrial facilities.

Ambient water quality is determined by a wide range of sampling and assessment methodologies that are water-body dependent. This information is collected biennially and submitted to the U.S.E.P.A. per the requirements of the C.W.A.

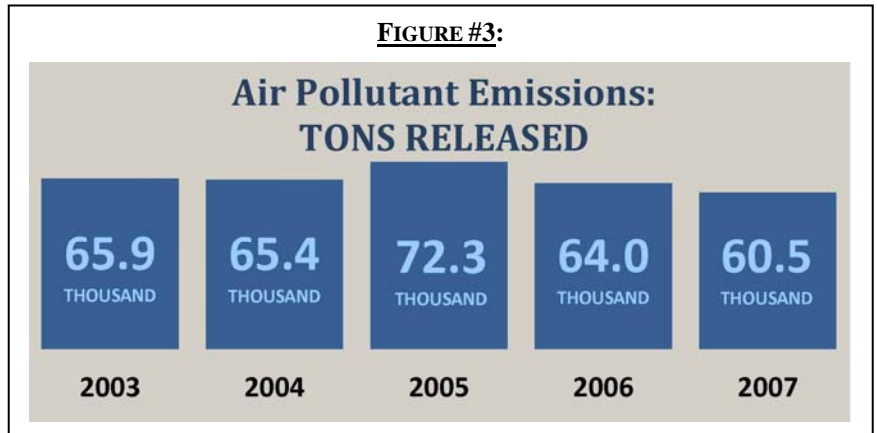
- b) **Ambient Air.** Even with a geographic location downwind from northeastern and midwestern pollutant sources, Maine is known for having some of the best air quality in the eastern U.S. DEP directly contributes to the maintenance and improvement of Maine's air quality by implementing the state's air pollution control laws and the C.A.A. DEP licenses 600 air emission sources, approximately 200 of which report actual emission volumes for pollutants that can affect public health: carbon monoxide, nitrous oxides, fine particulates (PM₁₀), sulfur dioxide, and volatile organic compounds. In addition, DEP maintains a network of air monitoring stations to document the concentration of Ozone (O₃) and particle pollution, made up of fine (PM_{2.5}) and coarse (PM₁₀) particles. All three pollutants have been part of a daily monitoring system since 2002.

DEP's objective when administering these laws is to appropriately limit the pollutants entering Maine's air, which is the most direct and efficient way to improve air quality, so that all regions of the state maintain a health status. Performance related to this objective is

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measured by calculating and tracking the total volume of regulated pollutant emissions into Maine air. This calculation is made by aggregating the sampling results that are reported to DEP by licensed air emission sources.

DEP has significantly reduced the primary air pollutants that affect Maine people and their air quality. As Figure #3 illustrates, the past 5 years have seen a steadily decreasing trend for emissions, with the only anomaly resulting from increased electricity demand for Wyman Station in Yarmouth in 2005. This trend is the direct result of pollutant reductions included



in DEP air emission licenses and other assistance efforts. This contributes to the vast majority of days each year being categorized as “healthy” for all Maine people. Since many of the days with less than fully healthy air result from pollution transported into Maine from other states, DEP continues with its significant investment in work with other states to improve our air quality.

- c) **Uncontrolled Site Clean-ups.** Remediation of contaminated sites is technically challenging, expensive and time consuming. DEP focuses many of the state’s efforts on preventing releases through its licensing, compliance and enforcement programs. When spills occur, the rigorous reporting requirements enable the state’s response services personnel to rapidly respond to the spill before contamination spreads. However, there still are some 1,500 uncontrolled sites of various sizes in the state where hazardous substances have been spilled and a remedial investigation and clean-up action may be necessary to mitigate the public health threats.

The state also oversees the investigation, characterization, closure, and clean up of releases at regulated RCRA-C facilities. These requirements also provide for the assessment and proper closure of sites that generate hazardous waste at the time of facility closure. Currently there are approximately 80 sites undergoing review for compliance with the closure, post closure or clean up criteria.

At petroleum remediation sites, including locations regulated under RCRA-I, oversight for the investigation, assessment, clean up, and monitoring also occurs regarding petroleum releases that happen in connection with underground and aboveground petroleum storage facilities. Currently there are approximately 495 petroleum sites awaiting characterization, assessment or clean up activities.

The primary metrics for measuring the success of remediation programs is the number of sites per year that have been restored to productive use, and the number of acres per year that have been restored to productive use. Secondary measures are

1,500 locations contaminated with hazardous substances are known to need cleanup or further investigation to determine whether clean up is required

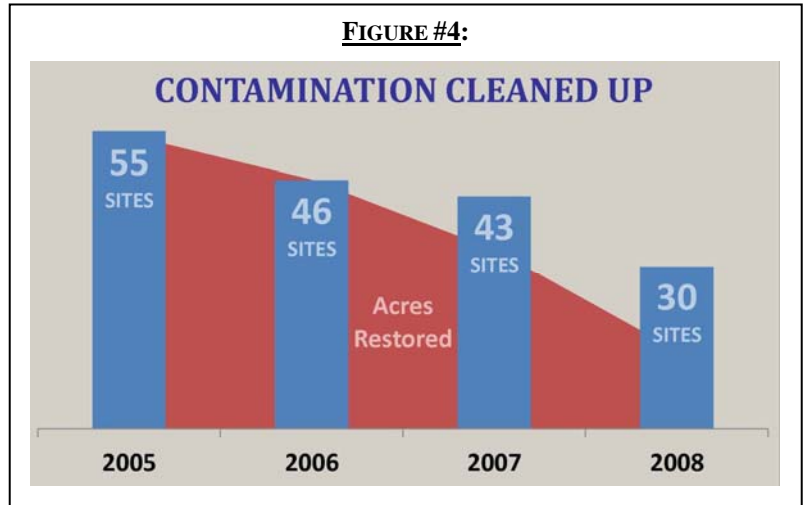
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the number of households currently at risk from exposure to hazardous substances, the number of households with temporary mitigation systems to prevent exposure, and attainment of site investigation and clean-up milestones towards ultimate reuse of the site. Each year the program re-evaluates the sites and schedules for remediation activities, considering the universe of sites at that time, the risk they pose to public health, advances in science, and funding availability.

Generally, the program has been able to attain the goals in its annual plans. However, new sites are reported to DEP each year, and there is inadequate funding for investigation and remediation of some sites that pose risk. For instance, advances in science have made DEP aware that numerous households are at risk from

releases of perchloroethelene from historic activities at dry cleaning establishments.

However, there are inadequate resources to investigate and mitigate the risk posed to citizens living above or near these sites so DEP has been forced to respond only when situation posing imminent threats arise.



D. Quality Management. In order to continually evaluate and improve the quality of all work the Agency performs, DEP operates in conformance with the requirements of a comprehensive Quality Management Plan (Q.M.P.). This Q.M.P., and in particular some aspects related to environmental data, was approved by the U.S.E.P.A. in 2001 in order to meet requirements in the Code of Federal Regulation. It establishes standards for the way D.E.P.’s management system assures quality throughout the Agency.

Because so much of DEP’s work requires environmental data for decision making, and the decisions made can have significant social, environmental, and financial implications, data must be of the highest quality. To ensure this quality, pursuant to the Q.M.P., individual Quality Assurance Program/Project Plans (QAPPs) are developed specific to the operations of a program or the demands of an individual project. Since DEP has been delegated the authority to administer certain laws on behalf of the federal government in Maine, many of these QAPPs are required and approved by the U.S.E.P.A.

Furthermore, in order to assure consistency and equity in the application of compliance and enforcement tools, DEP’s program areas develop and implement other quality assurance measures such as standard procedures and protocols.

The quality management system is itself regularly assessed in order to provide opportunities for continuous improvement. In addition to the environmental data-related protocols captured in the QAPPs, the following quality-related efforts are of note.

1. **Surface Water.** Licensing, compliance, and enforcement staff meet monthly to review compliance data from licensed wastewater dischargers. Compliance and enforcement actions are initiated based on the facts of each case as specified in the Division of Water Quality Management Compliance Policy.

2. **Ground Water.** All petroleum storage facility inspections are performed in accordance with standardized procedures and utilizing standardized checklists. A copy of the completed inspection checklist with a list and schedule for any needed corrective actions is provided to tank operators at the time of inspection. Passing annual inspections that have been performed by certified installers are reviewed for completeness and entered into the TANKS database.
 3. **Ambient Air.** Similar to the wastewater compliance review system, licensing, compliance, and enforcement staff meet monthly to review compliance data from licensed air emission sources.
 4. **Hazardous Substances.** All hazardous waste generator inspections are performed in accordance with standardized inspection checklists to ensure that the level of detail evaluated is consistent where full evaluations are conducted. In the case of non-notifier evaluation inspections and complaint investigations, inspectors may limit the standardized checklist to a partial checklist of those sections that concern the physical storage and handling of hazardous waste at a facility. Record reviews during the non-notifier evaluations and complaint investigations are typically limited to those records that determine the nature and character of wastes observed during the inspection.
 5. **Solid Waste.** Monitoring and assessment activities at solid waste facilities and sites are conducted in accordance with established standard operating procedures and methods. (e.g., odor monitoring, ground and surface water sampling and analysis, and waste characterization) Site inspections are conducted using standardized checklists, forms and guidance.
- E. Information Management.** State law charges DEP with collecting, maintaining, compiling, analyzing, and disseminating a wide variety of environmental quality and public health related data so that Maine citizens and policymakers can make decisions that are informed by the best available data. These data are recorded and managed in paper and electronic formats.
1. **Electronic Data Management.** DEP has a single high priority information technology (I.T.) development project. The Environmental Facility Information System (EFIS) is DEP's authoritative DEP-wide electronic source for all regulated facility and site data. This very large, and long-term system implementation was started in 2004 and is now managing licensing data for air emission sources, licensing, monitoring and compliance for wastewater dischargers and general permits, industrial stormwater permits, and biomedical waste generators. DEP continues to progress with moving facility data into EFIS by adding license programs and types into the system and testing that a newly added area is fully functional before moving on to another. After DEP's license data is fully recorded and operational in EFIS, the data used to oversee regulated activities will then be brought in.

DEP is also uploading, or "flowing", data from EFIS directly to U.S.E.P.A.'s Facility Registry System (F.R.S.) and the Permit Compliance System (P.C.S.). To date, DEP has received Exchange Network Grant funding through U.S.E.P.A. that totals \$1,603,700 for these National Systems Flows and \$1,104,121 that was spent on contracts for the development and implementation of EFIS.

Significant savings in the development of EFIS came from DEP's unique partnership arrangement made with the State of South Carolina in which Maine partnered for five years with South Carolina Department of Health and Environmental Control. South Carolina gave the extensive system it had already developed to DEP and both states jointly developed, maintained

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and paid for enhancements. At the end of the five-year partnership, South Carolina granted DEP a perpetual license to continue to use and developed the system to meet Maine's needs.

a) **Regulated Activity Oversight.** DEP documents the results of its oversight regarding regulated facilities so that the state maintains a clear record regarding environmental performance and compliance. The methods used to collect and record this data range from handwritten notes that are not transcribed into an electronic format to data electronically collected and recorded in the field for upload into a centralized database.

1) *Hazardous Waste.* Information collected as a result of regulated activity oversight at hazardous waste generators and related locations is recorded on paper and electronically in a federally-maintained database. The data provided to U.S.E.P.A. includes some inspection, violation, and enforcement information but unfortunately represents only a fraction of the compliance activities performed by DEP.

2) *Petroleum Storage.* DEP created and maintains what is known as the TANKS database, into which information regarding all registered underground petroleum storage tanks is recorded. These data allow tank population, compliance, enforcement, and inspection results to be tracked and reported.



Installation of new petroleum U.S.T.s and piping in Augusta

3) *Licensed Solid Waste Facilities.*

i. **Waste Fees.** A database was created and is maintained to manage information related to waste handling fees submitted to the DEP by landfill operators pursuant to 38 M.R.S. §§ 2202 to 2206. Fees, in amounts based on waste types and volumes disposed, are submitted to DEP quarterly. Revenues are forwarded to DAFS for deposit and management in the centrally administered Maine Solid Waste Management Fund. Both DEP and the State Planning Office receive allocations from this Fund to support state solid waste management programs.

ii. **Waste Volumes.** Data and information related to waste streams and volumes handled in Maine are maintained in an appropriate database, being developed in collaboration with the State Planning Office, that will establish a single, comprehensive solid waste data collection and management system. Such a system will be a valuable tool to the state, municipalities, regions, the Legislature and others in solid waste planning efforts.

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- 4) *Asbestos and Lead Abatement.* DEP maintains and/or utilizes several asbestos and lead databases to ensure accurate program tracking and to provide up-to-date information to the public and regulated community. The databases include: LEADNET, to track licensing of training providers and the courses they are accredited to offer; the Lead and Asbestos Notification System (LANS) to track abatement project notification data; U.S.E.P.A.'s CERT database for company licensing and individual certification information; U.S.E.P.A.'s CLASSACT for asbestos and lead training course audit information; and DEP's "COMPTRACK" database for field compliance, technical assistance, and educational outreach activities.
 - 5) *End-of-life product management programs.* DEP performed the research and established the first comprehensive database on electronics manufacturers, brands and product types necessary to implement extended producer responsibility (E.P.R.) programs. This database has been used as the source of information for all subsequently-implemented E.P.R. electronics programs in other states. DEP maintains additional databases on cell phone retailers, auto dismantlers, and thermostat wholesalers to implement compliance and educational outreach initiatives for the end-of-life product management programs.
- b) **Pollution Remediation.** DEP maintains Maine's public record of past and current sites where Voluntary Response Action Plan (VRAP), Brownfields remediation, closed landfills, federal facility, Superfund, and Uncontrolled Sites cleanups occurred.

- 1) *Spill Reports.* DEP created and maintains the Hazardous and Oil Spill System (HOSS) which is used to record and track all known or reported discharges in Maine. HOSS information includes spill type, cause, date and time, location, media effected or at risk, cause, material reportedly discharged as well as material identified by staff, quantity, cleanup information and more. This data is available on the DEPs web site and through the internet after completion of quality assurance checks.



Train derailment in Gilead (2009)

- 2) *Spill Clean-ups.* DEP maintains a database, the Spill Site Tracking System (S.S.T.S.), to track site clean-up progress and expenditures.
- 3) *Long-term Site Monitoring.* DEP tracks monitoring, engineering controls and deed restriction at remediation sites in the Institutional Controls Database.

2. Electronic Data Collection & Sharing. State law requires entities regulated under Maine's environmental laws to submit a variety of data for the purpose of DEP evaluation and

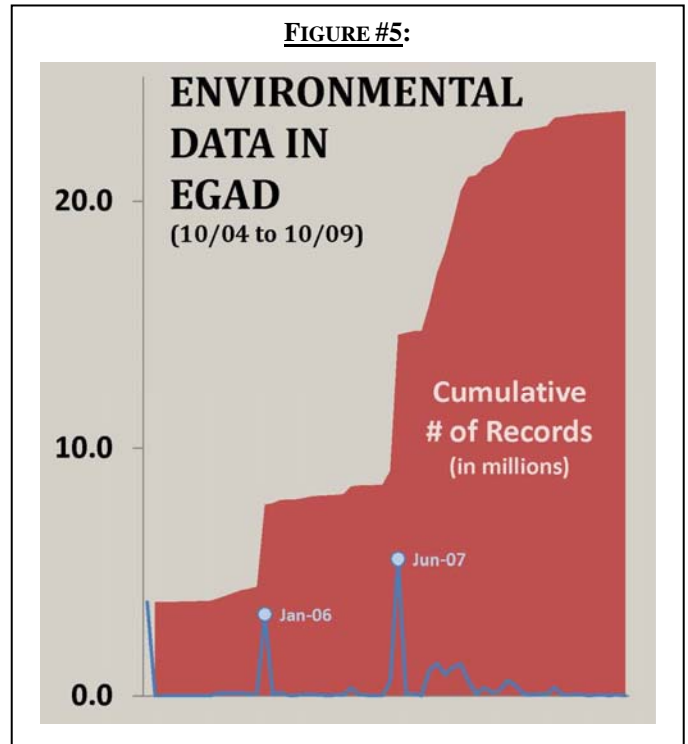
determinations of compliance. The most efficient system for submitters and DEP is one where those data are electronically transmitted to the state and uploaded into the databases used to record the information.

a) Monitoring & Assessment.

- 1) *Surface and Ground Water.* In order to make the biennial assessments of the state's water quality all water bodies must be given a unique identifier and an assigned length or area. These "assessment units" have been recently compiled into a national database (the Assessment Database System, or A.D.B.) to ensure consistent and accurate submissions by states of whether any particular segment meets its assigned water quality standards. This database system is linked to an electronic mapping system that allows for all water quality information to be presented in cartographic form for easier public understanding.

Much of the detailed information that is used to make the determinations on water quality recorded in the A.D.B. is now contained in a DEP-wide database of surface and groundwater samples. This database contains over 22 million records compiled over the last 30 years, providing a valuable and important source of information regarding the DEP's work. Information from this database, called the Environmental Geographical Analysis Database (EGAD) is widely requested by members of the public, technical consultants and can be presented in a wide variety of formats including maps, charts, and figures. The information in this database is routinely uploaded into a national data warehouse administered by U.S.E.P.A. called the water quality exchange, or W.Q.X.

As illustrated by FIGURE #5, EGAD houses a constantly growing body of data. As new sources are uploaded into the database (which is shown by the blue line in that figure) there will be additional spikes in the number of records housed, such as what was seen in January 2006 when landfill gas data was migrated into EGAD, and June 2007 when surface water biomonitoring data migrated.



2) *Ambient Air.*

- i. *Air Quality Monitoring.* DEP maintains air quality databases for all criteria pollutants (carbon monoxide, sulfur dioxide, nitrogen dioxide, ozone, particulate matter, lead, toluene and perchloroethylene), photochemical smog (ozone, volatile organic compounds and reactive nitrogen species), regional haze (fine and coarse particulate matter, volatile organic compounds, nitrogen oxides, ammonia and sulfur

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dioxide), hazardous air pollutants (as found on Maine's Air Toxics Priority List) and meteorology (includes but is not limited to: wind speed, wind direction, outdoor temperature, barometric pressure, relative humidity, and solar radiation). All of the systems are used to either assess compliance with state and federal air quality standards, issue air quality forecasts or public health advisories, determine long-term trends, validate and improve computer models, or make other health or environmental assessments as needed, such as background air quality determinations for licensing purposes.

- ii. Emissions Inventories. DEP maintains emission inventory databases for criteria pollutants (carbon monoxide, sulfur dioxide, nitrogen dioxide, ozone, particulate matter, lead, toluene and perchloroethylene), pollutants which contribute to photochemical smog (volatile organic compounds, nitrogen oxides), regional haze pollutants (fine and coarse particulate matter), hazardous air pollutants (or air toxics), and green house gases, primarily carbon dioxide. These databases are used to track long-term trends, evaluate effectiveness of emission control strategies, provide inputs for computer modeling and produce objective measures of reasonable progress for regulatory purposes.

- b) Regulated Activity Oversight. All of the approximately 475 licensed wastewater dischargers have the specific requirements of their permits coded into the DEP-wide database of facility information (EFIS). Each facility then reports monitoring and compliance data required by their permit on a monthly basis. Approximately 17,000 data points are submitted each month to the DEP, with now almost 80% of facilities using a newly launched web-based reporting system. The electronic discharge monitoring report, or eDMR, has replaced the filing of paper forms and the manual data input by DEP staff. This facility data is then uploaded on a batch basis to a national database. Unfortunately this batch uploading is a very cumbersome and error-prone process that can create erroneous information about facility compliance. DEP is currently working with other states and the E.P.A. to improve the quality of the public data report.

3. **Geographic Information System (G.I.S.).** DEP relies heavily on G.I.S. technologies to compile and distribute environmental data based on the location in Maine where an activity may occur, or has occurred. The data include the locations for priority environmental features such as contaminated sites, spills, and all regulated facilities. DEP has invested heavily in G.I.S. technologies and, as detailed in other sections of this documents, has integrated it into nearly all its I.T. functions.
4. **Data Availability.** DEP treats its dissemination to the public of environmental data as a fundamentally important obligation. The Agency is continually improving existing approaches and developing new approaches to making environmental data available and understandable. DEP distributes the data it collects in a number of ways for varying audiences, and is continuously seeking to expand the distribution of the state's environmental data.



Maine is at the forefront nationally with increasing efficiency for the State and regulated entities by collecting data electronically.

a) Electronic Accessibility

- 1) *DEP Databases.* Environmental data regarding continuous air quality, atmospheric deposition, air quality forecasts, hazardous spill sites, registered petroleum tanks, institutional controls, sites/samples/spatial data, closed solid waste municipal landfills, aquifer quantitative use assessment index, biomonitoring and wetland sampling data, municipal separate stormwater sewer systems, overboard discharges, permit-by-rule locations, wastewater facilities and outfalls as well as threats to groundwater and environmental monitoring are all available via the internet using searchable DEP databases. Regulations, permit applications, educational and technical assistance documents and issue profiles for all DEP programs may be viewed and downloaded from the agency's web site.
- 2) *U.S.E.P.A. Databases.* DEP uploads certain environmental and activity data to the federal government as part of its obligations for administering delegated programs. Some of that data is made publically available by the U.S.E.P.A. through it internet website.
- 3) *GoogleEarth.* An extensive amount of environmental data from DEP's databases has been embedded in files that can be uploaded for geospatial viewing through GoogleEarth. DEP currently has 24 projects that have data that can be viewed in GoogleEarth. They include: continuous air quality, atmospheric deposition, air quality forecasts, petroleum and hazardous spill sites, registered petroleum tanks, institutional controls, sites/samples/spatial data, closed solid waste municipal landfills, aquifer quantitative use assessment index, biomonitoring and wetland sampling data, municipal separate stormwater sewer systems, overboard discharges, permit-by-rule locations, wastewater facilities and outfalls as well as threats to groundwater and environmental monitoring.

An example of a project DEP is currently developing is a web-based application in coordination with Maine Drinking Water Program to assist in siting locations of new petroleum U.S.T. and Aboveground Storage Tanks (A.S.T.) facilities and hazardous waste generators that avoid public drinking water wells, their source water protection areas and significant sand and gravel aquifers.



DEP pioneered the use of GoogleEarth to distribute millions of records to the public without cost to them or the State

b) Publications

- 1) *Surface Water.* DEP uses its extensive monitoring & assessment database to create a narrative report that summarizes the water quality condition of all the waters of the state. This includes information on whether a particular section of river or stream, a lake, or estuary is meeting its legally defined water quality standards. This report, called the Integrated Water Quality Monitoring & Assessment Report, is required by federal law to be submitted every two years to the U.S.E.P.A. It is made publicly available on the DEP's website.

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- 2) *Ambient Air.* DEP continues to upload its air quality monitoring data to U.S.E.P.A.'s national air quality database system, A.Q.S., which is the DEP's single repository for final validated monitoring data.
- 3) *Hazardous Substances.* DEP maintains a central file room in Augusta that is available to the public. Regularly updated publications regarding hazardous substances, including reports and data on hazardous waste, biomedical waste, and waste oil transporters, and petroleum tanks can be found there.
- 4) *Consumer Protection.* The Chemicals of High Concern list is posted on the DEP Safer Chemicals webpage.

F. Planning. Decisions about the deployment of the DEP's resources of personnel and funds to achieve optimal environmental results are central to effective agency management. To support this decision-making, the agency utilizes a variety of planning processes at different organizational levels. In addition, development of the agency's legislative and regulatory agenda is frequently assisted by convening stakeholder groups to engage in shared planning. DEP program staff and managers also participate in planning processes and cooperative agreements initiated by a wide range of other agencies, in Maine, regionally, and nationally.

1. DEP-level Planning. The Office of the Commissioner is responsible for assuring that the Performance Partnership Agreement and corresponding Performance Partnership Grant are developed and submitted to U.S.E.P.A. to meet federal requirements for completeness and timeliness; for maintaining a mutually beneficial liaison relationship with U.S.E.P.A.; and for assuring that the DEP's program managers meet requirements for reporting and accountability.

- a) In conjunction with the development of a triennial Performance Partnership Agreement with the U.S.E.P.A., DEP produces a *Consolidated DEP Program Plan* covering the same period. This document provides the basis for overall programmatic decisions and resource allocation.
- b) The Performance Partnership Agreement (P.P.A.) is a three-year plan developed between DEP and the U.S.E.P.A. New England regional office that specifies how federal funds included in the Performance Partnership Grant may be used in Maine. Each federal fiscal year, a supplementary "Priorities and Commitments" list refines the mutually-agreed responsibilities of each in carrying out the programs and projects funded under the grant. At the end of each federal fiscal year, DEP reports its progress in meeting the obligations for which grant funds have been received and utilized.

2. Bureau- and Program-level Planning

- a) *Surface Water.* In order to devote existing federal and state resources toward the identification of nonpoint source pollution, the DEP annually solicits proposals from organizations and municipalities statewide to evaluate individual watersheds for the extent of water quality impairments caused by sediment and other nonpoint source pollutants as well as creating specific long-range clean up plans. These proposals are ranked according to several criteria including one that considers whether a project is located in a priority watershed. A statewide listing of priority watersheds is created by a wide range of stakeholders according

to its resource values, extent of existing or future development pressure, and current water quality impairment.

The DEP administers the state and federal programs that grant and loan funds for the construction and rehabilitation of wastewater treatment plants across the state. In order to understand all current and future needs, this unit routinely surveys all sewer districts and utilities to determine both the five and ten-year infrastructure needs and match that need up against available funds. Current five- and ten-year plans indicate that there is between a \$300 and \$500M infrastructure need at the 164 public facilities around the state. Funding projections indicate that there will be an approximately \$20M annual gap between C.W.A. infrastructure requirements and available funds.



The current forecast shows a \$20M annual gap between available funds and the needed investments at public wastewater treatment facilities

3. *Intrastate / Regional / National Planning Activities*

- a) New England Environmental Commissioners. The DEP Commissioner meets regularly with colleagues from the other New England states in order to develop regional priorities for environmental action. Maine's commissioner is currently in the midst of a two-year term as chair of the N.E.G./E.C.P. Committee on the Environment which is co-chaired by his Canadian counterpart, a provincial Minister for one of the five (5) Eastern provinces. Priorities are addressed in Commissioner letters signed by all six (6) New England states and in Governor's and Premiers Resolutions that are considered at semi-annual summits. These priorities form the basis for ongoing planning and negotiation with the U.S.E.P.A. Planners from each commissioner's office work as a group with U.S.E.P.A.-New England, and with the Association of New England Governors and Eastern Canadian Premiers, to assure that these priorities inform decisions on policy and resource allocation at the national and international levels.
- b) Coastal Waters. DEP updates and maintains the Maine Oil Spill Contingency Plan, which includes Geographic Response Plans and Environmental Vulnerability Index Maps for the entire coast of Maine, and with the U.S. Coast Guard and New Hampshire maintain the Maine and New Hampshire Area Plan. These plans are used in the event of a large coastal petroleum spill to prioritize our response to sensitive areas such as rivers, water supplies, wildlife habitat and coastal wetlands.
- c) Air Quality. Due to the regional nature of air pollution and the transport of emissions across large geographic regions of the country, DEP works closely with U.S.E.P.A., the Ozone Transport Commission (O.T.C.) and the Northeast States for Coordinated Air Use Management (NESCAUM) to develop and implement regionally consistent air quality programs. The O.T.C. is a multi-state organization created under the C.A.A., with membership consisting of 11 Northeast and Mid-Atlantic states from Virginia through Maine, along with the District of Columbia. The O.T.C. is charged with advising U.S.E.P.A. on transport issues and for developing and implementing regional solutions to the ground-level ozone problem in the Northeast and Mid-Atlantic regions. NESCAUM is composed of the six New England states, along with New York and New Jersey. NESCAUM provides technical and policy development assistance to its membership on a wide variety of issues ranging air toxics to climate change.

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- 1) Coordinate with U.S.E.P.A. and regional organizations on air toxics risk reduction policies.
 - 2) Participate in regional planning organizations to reduce transported pollutants.
 - 3) Coordinate with U.S.E.P.A. and regional planning organizations in the development of State Implementation Plans for ozone, PM, mercury, greenhouse gases and other air contaminants.
 - 4) Coordinate with U.S.E.P.A. in the development of State Implementation Plan elements addressing national ambient air quality standards and required program elements.
 - 5) *Regional Greenhouse Gas Initiative (RGGI)*. Coordinate with ten Northeastern and Mid-Atlantic states in the development and implementation of the Regional Greenhouse Gas Initiative (RGGI). RGGI is the first mandatory cap and trade program to reduce greenhouse gas emissions in the United States. It is designed to reduce carbon dioxide emissions from large, fossil fuel-fired electric generating units.
 - 6) *Greenhouse Gases*. Participate in state, regional, and National efforts to influence the development and adoption of national legislation to reduce greenhouse gas emissions in the United States in an effort to address climate change.
- d) Materials Handling
- 1) *Hazardous Substance Sites*. As funding permits, continue to work regionally and nationally to develop innovative approaches to investigate and remediate hazardous substance sites.
 - 2) *State Solid Waste Management and Recycling Plan*
 - a. S.P.O. Collaborate with and provides information and data to the Maine State Planning Office as it develops and revises the state Solid Waste Management and Recycling Plan.
 - b. Participates on the state Solid Waste Management Advisory Council addressing statewide issues related to waste management and recycling.

G. Advisory Committees, Workgroups, Partnerships, and Other Cooperative Efforts. DEP's experience is that the Agency is most effective in carrying out its functions when it collaborates with local, state, federal, and international organizations of all kinds. The following details describe many of the primary collaborative efforts in which DEP is currently engaged.

1. **Surface Water.** As much of the work of the DEP in protecting and improving water quality is interdisciplinary, there is a wide level of engagement with other state and federal agencies as well as private entities. These collaborations include:

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- a) Casco Bay Estuary Partnership. DEP was instrumental in putting together the original U.S.E.P.A. grant to create the Partnership and still sits on the governing council. The Partnership works with a wide range of organizations on water quality improvement projects, education, and environmental monitoring projects.
- b) New England Interstate Water Pollution Control Commission. The Commission has been in existence since the early 1940s and serves as a coordinating forum for all New England States and New York water quality programs. The DEP and D.H.H.S. Commissioners serve along with three other citizens on the governing body of the Commission.
- c) Beginning with Habitat Steering Committee. The Beginning with Habitat program was created jointly by the Department of Inland Fisheries & Wildlife and Maine Audubon Society to cast natural resource data in a format that is understandable and usable to local citizens and municipal officials.
- d) Vernal Pool Working Group. This inter-agency workgroup spent several years collecting basic information on vernal pool biology in order to develop management recommendations and a regulatory definition of significant vernal pools that could be evaluated by the Legislature for eventual enactment.
- e) Agricultural Water Management Board. The Commissioner sits on this Board with representatives of DAFRR and agricultural interests to develop policies on how to allocate state grant money for irrigation source development, as well as assist farmers in meeting the state's instream flow and water level rules.
- f) Water Use Planning Committee. DEP's Land & Water Quality Bureau Director sits on this standing committee, created in response to a citizen initiative on groundwater extraction, with other agency representatives and a range of water users and advocates. The Committee is charged with conducting pilot scale studies on water supply and demand in particular at-risk watersheds.
- g) New England Wetlands Biology Advisory Group. This regional organization serves as a common forum for wetlands and water quality scientists to develop common policies, methods, and regulatory approaches to water quality.
- h) Senator George J. Mitchell Center for Environmental and Watershed Research at the University of Maine. Various DEP staff collaborate with the Mitchell Center on projects ranging from the planning of the annual Water Conference, to collaborating on monitoring initiatives, to serving on policy advisory committees to guide the Center's strategic priorities.
- i) Piscataqua River Estuary Partnership. Similar to the Casco Bay program, staff and managers work with this New Hampshire based program to develop policies and standards for those waterbodies that are within both states' jurisdiction including the Salmon Falls and Piscataqua Rivers
- j) Association of State and Interstate Water Pollution Control Agencies. A variety of staff and managers work with this national association to ensure that Maine's interests are considered

in the development of national policy. This includes participating in a variety of workgroups and meetings.

2. *Ambient Air*

a) Air Toxics

- 1) *Dioxin*. Participate in the NESCAUM-led effort to improve the dioxin inventory for the Northeast. NESCAUM is a nonprofit association of air quality agencies in the Northeast (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Jersey, and New York). The purpose of NESCAUM is to provide scientific, technical, analytical, and policy support to the air quality and climate programs of the eight Northeast states.
- 2) *Diesel Emissions*. Participate in regional efforts with the Northeast Diesel Collaborative to address diesel emissions. The Collaborative builds upon a decade of success by its partners (NESCAUM, U.S.E.P.A., and the eight northeastern states) in reducing diesel emissions through innovative, first-in-the-nation pilot projects, laws, voluntary measures, and mandatory programs targeting the primary sectors contributing to diesel emissions in the Northeast.
- 3) *Ozone & Particulates*. Environmental Public Health Tracking partnership with C.D.C. (formally the Maine Bureau of Health) on Ozone and particulates.



b) Climate Change.

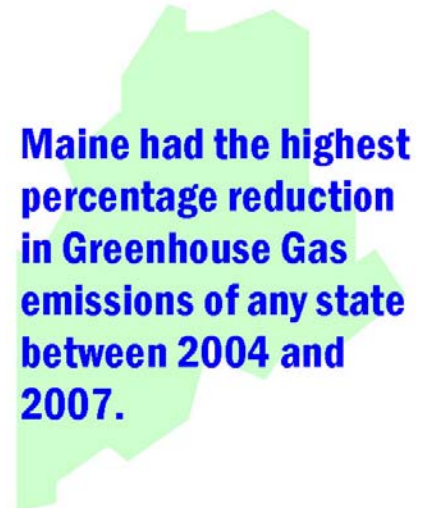
- 1) *Maine Climate Action Plan*. In 2003, the Maine Legislature enacted “An Act to Provide Leadership in Addressing the Threat of Climate Change”. The law set goals for the reduction of greenhouse gas emissions within the state, adopting targets established by the New England Governor conference / Eastern Canadian Premiers’ (N.E.G./E.C.P.) conference. These targets, the first in the nation to be established in a state statute, call for a reduction to 1990 levels by 2010, to 10% below 1990 levels by 2020, and in the long term, “sufficient to eliminate any dangerous threat to the climate” (long term goal was later amended to include 2050 as the long term target date).
A Climate Action Plan for Maine 2004 (developed by a 50+ member facilitated stakeholder process) was delivered by Governor Baldacci to the chairs of the Natural Resources Committee on December 1, 2004. The *Plan* lists 54 options to decrease

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G.H.G. emissions. Almost half of the options would reduce carbon at a negative or negligible overall cost to Maine citizens and Maine’s overall economy. If all 54 options are ultimately implemented the statutory goals in the original legislation will be met.

During the period 2005-2007, implementation of the eleven most important policy actions (the top 20% of activities, modeled to account for more than half of the target G.H.G. reductions) proceeded well in all but two cases. DEP is currently updating our statewide G.H.G. emissions inventory and emission projections and will be summarizing our reduction progress in our January 2010 biennial legislative report.

In the fall 2009, the non-governmental organization Environment America released a report, *Too Much Pollution, State and National Trends in Global Warming Emissions from 1990 to 2007*. They found that in Maine, emissions declined because we moved to cleaner fuels for electricity generation and in the residential sector. Between 2004 and 2007, Maine had the highest percentage drop in G.H.G. emissions of all U.S. states. Maine’s non-hydroelectric renewable generating capacity increased by 7% from 2004-2007, while fossil fuel capacity was essentially unchanged; 86% of this increase in renewable capacity was from wind power.



- 2) *Regional Greenhouse Gas Initiative (RGGI)*. The 10 Northeast and Mid-Atlantic states participating in RGGI (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New Hampshire, New York, Rhode Island and Vermont) designed the first market-based, mandatory cap-and-trade program in the U.S. to reduce greenhouse gas emissions. The participating states have regulations in place to cap and then reduce the amount of CO₂ that power plants in their region are allowed to emit, limiting the region’s total contribution to atmospheric greenhouse gas levels. Power sector CO₂ emissions are capped at current levels through 2014. The cap will then be reduced by 2.5 percent in each of the four years 2015 through 2018, for a total reduction of 10 percent.

Initial CO₂ allowance auctions were held in 2008 as pre-compliance events to facilitate market price discovery and compliance planning by regulated CO₂ emitters. A CO₂ allowance represents a permit to emit one ton of CO₂, as issued by a respective participating state. A regulated power plant must hold CO₂ allowances equal to its emissions to demonstrate compliance at the end of each compliance period. Because CO₂ allowances issued by any participating state will be usable across all state programs, the ten individual state CO₂ Budget Trading Programs, in aggregate, will form one regional compliance market for CO₂ emissions.

All RGGI auctions are overseen by RGGI, Inc.’s independent market monitor, Potomac Economics, a leader in the field of monitoring and competitive assessment of wholesale electricity markets in the U.S. The Maine results of the first five (5) auctions are in the following table:

		Allowances	Proceeds
Auction 1	9/25/2008	872,506	\$2,678,593
Auction 2	12/17/2008	872,506	\$2,949,070

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Auction 3	3/18/2009	872,506	\$3,262,078
Auction 4	6/17/2009	806,676	\$2,734,239
Auction 5	9/9/2009	806,676	\$1,883,428
Auction 6	12/2/09	806,676	<u>\$1,739,197</u>
		Total:	\$15,246,607

The Maine allowance proceeds are primarily used to fund electrical energy efficiency projects, with a small portion set aside for fossil fuel reduction; and are administrated through the Efficiency Maine Trust which was established in an independent agency responsible for energy efficiency investments.

Over the next few months, the RGGI states will be reviewing and considering:

- Jurisdictional requests to potentially join the RGGI program;
- Federal RGGI integration proposals into potential federal cap and trade programs; and
- Other climate change programs that would link the RGGI region with other regions in the country.

3) *Climate Change Adaptation.* As required by L.D. 460 of the 124th Maine Legislature, “Resolve, To Evaluate Climate Change Adaptation Options for the State,” DEP is currently leading a stakeholder effort involving 100+ representatives of business,

industry, and trade associations; public interest groups; and state agencies with a role in responding to the increasingly probable effects of climate change, such as the severe weather and flooding in Northern Maine in the Spring 2008 as ice was breaking up in the St John River. Stakeholders are identifying critical areas of vulnerability and opportunity in Maine’s communities and human infrastructure as well as in the state’s natural resource economy. The DEP will make a report with recommendations to the Natural Resources Committee by February 27, 2010, building upon the 2009 assessment by the University of Maine, “Maine’s Climate Future.” The report represents the initial phase toward a fully-developed climate adaptation plan for the state that will need to be completed over the next 1-2 years. Completion of a comprehensive plan will be necessary if Maine is to qualify for federal climate adaptation funds that would be used to implement the recommendations, since submission of a plan is specified as a funding condition under the terms of pending federal climate legislation.



Fort Kent, Maine (April 30, 2008)
(AP Photo)

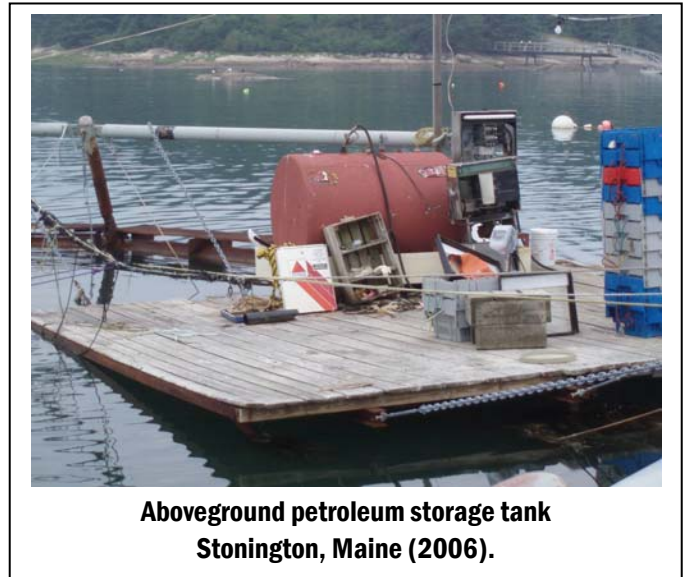
4) *Diesel Emissions.* Diesel combustion is a significant contributor of G.H.G.s and particulate matter into the atmosphere. DEP participates in regional efforts aimed at

reducing diesel/black carbon emissions, including what are being called “clean corridors” and work at seaports.

3. *Hazardous Substances*

a) Petroleum

- 1) *Fund Insurance Review Board (FIRB)*. The FIRB is an oversight board comprised of members appointed by the Governor. DEP involvement with the FIRB is generally centered around matters relating to the status of the Ground Water Oil Clean up Fund and implementation of the underground and aboveground petroleum storage facilities program. Staff from DEP also represent the Agency at administrative appeals related to eligibility for cleanup costs, assessment of deductibles, eligible costs and other claims related decisions.



**Aboveground petroleum storage tank
Stonington, Maine (2006).**

- 2) *Board of Underground Oil Storage Tank Installers (BUSTI)*. DEP staffs BUSTI to interact with members of the Board on matters relating to the certification of third party tank installers and inspectors. BUSTI consists of members appointed by the Governor and provides oversight for the certification of third party installers and inspectors. BUSTI proposes the resolution of violations through administrative consent agreements and holds hearings on disputed violations.
- 3) *NEWIPCC*. Participate in quarterly meetings of the New England Interstate Water Pollution Control Commission’s Underground Storage Tanks Task Force. Participation when possible allows staff to gain knowledge of regional significance regarding the petroleum industry, federal program changes and program challenges in the underground petroleum storage facilities program.

b) Asbestos

- 1) *Native Americans*. Coordinate with the Aroostook Band of Micmac, Houlton Band of Maliseet, Penobscot Indian Nation, Passamaquoddy Band at Indian Township and Passamaquoddy Band at Pleasant Point to provide training to tribal members and staff in asbestos abatement activities.
- 2) *Regional Efforts*. Coordinate with U.S.E.P.A. and other northeast states on regulatory initiatives through the Consortium of Northeast States (CONES), including comparison of training and certification requirements to streamline licensing of individuals certified to perform asbestos abatement activities in other states.

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- 3) *Occupational Health.* Coordinate enforcement responses with OSHA on asbestos abatement work sites with apparent violations of worker protection standards.

c) Lead

- 1) *Childhood Exposure.* Coordinate with the Maine Childhood Lead Poisoning Prevention Program within the C.D.C. through: participation in the state's Lead Elimination Advisory Council for Maine (LEAd-ME); joint implementation of the Lead Poisoning Prevention Fund initiatives in accordance with the terms of the statute and an M.O.U.; coordinated technical assistance to owners of housing with identified or potential lead dust and lead hazards; and planning and delivery of targeted training programs. Coordinated with Child Care Licensing in D.H.H.S. to develop training program and evaluative instrument for Child Care Licensing inspectors to determine if a facility needs further evaluation to ensure it is lead-safe.

- 2) *Native Americans.* Coordinate with the Aroostook Band of Micmac, Houlton Band of Maliseet, Penobscot Indian Nation, Passamaquoddy Band at Indian Township and Passamaquoddy Band at Pleasant Point under the terms of an M.O.U. which provides for: state support for training of tribal staff and members in lead-based paint activities; state licensing in lieu of tribal licensing required by federal regulation; and tribal performance of initial inspection and compliance activities in tribal housing. DEP also regularly coordinates with U.S.E.P.A. and other northeast states and tribes on regulatory initiatives through the Consortium of Northeast States and Tribes (CONEST), including comparison of training and certification requirements to streamline licensing of individuals already certified to perform lead-based paint activities in other states.



DEP coordinates its lead abatement efforts with all of Maine's Indian Tribes in order to most effectively eliminate threats, particularly for their children

- 3) *Regional Coordination.* Regional coordination of state lead poisoning prevention activities through participation in the New England Lead Coordinating Council (NELCC). This includes development of education & outreach materials (e.g., "Keep It Clean" campaign, "Don't Spread Lead" video); coordination of responses to federal requests for comments on new federal rules and initiatives; technical transfer sessions for learning latest research findings and successful new initiatives; and staff training.

d) Product Management

- 1) *Interstate Mercury Education and Reduction Clearinghouse (IMERC).* DEP participates in IMERC to provide comprehensive and coordinated information and data on the use of mercury in products, compliance assistance related to states' mercury-added products laws, and responses to requests for exemptions to sales bans and alternative labeling approvals. DEP staff is the current state chair of the IMERC Steering Committee (the position is rotated annually between participating states).

- 2) *Product Stewardship Institute (P.S.I.)*. DEP is active with P.S.I., a national non-profit membership-based organization that works with state and local government agencies to partner with manufacturers, retailers, environmental groups, federal agencies, and other key stakeholders to reduce the health and environmental impacts of consumer products. DEP staff participate on workgroups that have relevance to Maine's product stewardship laws and programs, such as performance metrics for mercury-added lamps and thermostats.

- 3) *National Center for Electronics Recycling - Electronics Recycling Coordination Clearinghouse (NCER-ERCC)*. Continue efforts to streamline manufacturer filing requirements and to harmonize implementation of Maine's e-waste recycling law *vis-à-vis* other states' programs through participation in the National Center for Electronics Recycling's Electronics Recycling Coordination Clearinghouse.

- 4) *State Planning Office*. DEP works with the State Planning Office to provide educational materials and training to municipalities on safe handling of Universal Wastes and implementing new end-of-life product management requirements.



- e) *Mercury Task Force*. The Mercury Task Force was created by the New England Governors Eastern Canadian Premiers (N.E.G./E.C.P.) in 1998 to coordinate implementation of the Mercury Action Plan, monitor and report on the progress, propose updates etc. In the U.S., the Mercury Task Force reports to the New England Commissioner's of the Environment. Approved annual updates, biennial reports and recommendations go to the New England Governor's for approval at annual meetings. The 2010 reporting year will be a lot of work as we will need to report on progress towards the 2010 goal of 75% reduction from the 1998 baseline.

Participating staff contribute time and each jurisdiction pays for it's own travel expenses when annual meetings are scheduled. State staff vary depending on the year and projects involved. For example, in the early years air issues were the major focus but staff has changed as product stewardship issues have been added.

All jurisdictions within the N.E.G./E.C.P. region participate, including Prince Edward Island, Nova Scotia, New Brunswick, Quebec Province, Newfoundland/Labrador, Maine, New Hampshire, Massachusetts, Connecticut and Rhode Island, with occasional participation from New York and New Jersey.

4. *Contamination Prevention and Remediation*

- a) *Brownfields*. Coordinate with regional Brownfields grantees throughout the state, as well as coordinate regionally and nationally through the North East Waste Management Officials

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Association (NEWMOA) and Association of State and Territorial Solid Waste Management Officials (ASTSWMO).

- b) Superfund. DEP participates with citizens that have received a Technical Assistance Grant (TAG) from U.S.E.P.A. and have formed a TAG group. The purpose of TAGs is to ensure that average citizens have financial resources to hire consultants to help them assess the highly technical information that drives the decision making process at Superfund sites. Currently there are active TAG groups at the Brunswick Naval Air Station, Loring Air Force Base, Portsmouth Naval Shipyard, Callahan Mine, and Winthrop landfill sites.

- c) Other Remediation Sites. Interact with other interested party groups that have formed to assess the DEP's activities at long-term remediation sites. Additionally, participate in NEWMOA workgroups to foster better, cost-effective approaches to remediating hazardous substance sites.

- d) Solid Waste. Collaborate with the following to coordinate solid waste program efforts on regional, state and national levels, and to improve and provide information and services.



**Pine Tree Landfill Cover System Under Construction
Hampden, Maine**

- 1) *North East Waste Management Officials Association (NEWMOA)*. Participate in workgroups, conference calls, workshops, etc. concerning solid waste management issues of regional interest (e.g. interstate waste transportation and disposal, construction demolition debris disposal and recycling) in order to coordinate state programs, provide support to other states, create regional program consistency, and solve problems.
- 2) *Association of State and Territorial Solid Waste Management Officials (ASTSWMO)*. Participate in ASTSWMO activities addressing solid and hazardous waste management, site clean-up, underground petroleum storage tanks, and issues of national concern, including implementation of U.S.E.P.A. rules, guidance and initiatives.
- 3) *Maine Compost Team*. Engage on research and pilot projects that advance the state's knowledge of composting processes and potential environmental impacts with the goal of facilitating more waste composting in Maine in conformance with the statutory solid waste management hierarchy.
- 4) *National Residuals Managers Group*. Participate in the groups activities addressing issues of national interest in the area of utilization and management of sludge, ash and other residuals.

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- 5) *Maine Resource Recovery Association*. Works with the M.R.R.A. on an ongoing basis to provide information on regulatory programs and training to municipal officials on topics such as the management and handling of mercury containing and electronic wastes, and effective transfer station operation.
 - 6) *Maine State Planning Office*. Collaborate with S.P.O. on matters concerning state solid waste program planning and implementation.
- e) Toxics in Products
- 1) *Safer Chemicals*. Serve as an information resource and participate in regional and national efforts through U.S.E.P.A. roundtables and regional and national associations working on safer chemicals.
 - 2) *Interstate Chemicals Clearinghouse (I.C.C.)*. DEP is currently working with other states to scope out resource and organizational issues involved in establishing an I.C.C., as authorized in Maine's Toxics in Children's Products Act.
 - 3) *Wheel Weights*
 - i. Coordinate with state fleets and purchasing authorities to effect the transition to lead wheel weight alternatives, and expand outreach to the school bus community.
 - ii. Serve as an information resource and participate in national efforts with U.S.E.P.A. and others to phase out the use of lead wheel weights.
- f) *Quality Management*. DEP actively participates in the quarterly regional "Quality Assurance Roundtable" with representatives of the other New England environmental agencies, and U.S.E.P.A. This collaborative effort is particularly focused on developing regional approaches to federal quality assurance requirements that lessen reporting burdens.
5. ***Stakeholder Planning and Policy Development Processes***. DEP uses the expertise provided by representatives of the regulated community, public interest groups, and the general public in developing legislative proposals and reports, policies, and regulations needed to implement its statutory responsibilities.
6. ***Exchange Network***. The Exchange Network is a partnership among states, tribes, and U.S.E.P.A. that is revolutionizing the exchange of environmental information. Partners on the Exchange Network share data efficiently and securely over the Internet. This new approach is providing real-time access to higher quality data while saving time, resources, and money for partner states, tribes, and territories.
- a) Network Resource Partnership Group (N.R.P.G.) – the One Stop Coordinator in the Office of Commissioner serves on this group. The mission of the N.P.R.G. is to provide planning, analysis, recommendations, and implementation support to the Board (and Council through the Board) on activities such as coordination with Exchange Network Grant Program; emerging funding sources (including work on grant alignment); Network communications,

outreach, and education; the support of Network Data Area Strategies; and maintenance of the Network Project Plan.

- b) Environmental Information Technology Leadership Council (E.I.T.L.C.). An O.I.T. representative working within the DEP serves on the E.I.T.L.C. The Council provides a collaborative leadership forum for information technology leaders, managers and their designees to transfer knowledge, share solutions and information, and provide opportunities for creative thinking in support of organizational goals. The purpose of the Council is to:
- 1) Collaborate on the exchange of ideas and information to save agencies time and money and to more efficiently achieve future information management goals.
 - 2) Provide a forum to discuss current and future business and I.T. policy including best management practices, resources, training and other critical issues.
 - 3) Provide a forum to discuss development of new I.T. management programs, technologies and applications.
 - 4) Identify, discuss, and resolve key state and federal policy issues in information management.
 - 5) Solicit and provide state input and recommendations into proposed guidelines, rules, and decisions in accordance with the federal Administrative Procedures Act.
 - 6) Provide a community to engage a broader group of organizations with experience in environmental information, such as state departments of health, natural resources, and agriculture; The Center for Disease Control (U.S.C.D.C.), Department of Interior (D.O.I.), U.S. Geological Survey (U.S.G.S.) and the National Oceanic and Atmospheric Administration (NOAA); and Non-profit organizations such as Association of State Drinking Water Administrators (A.S.D.W.A.), National Congress of American Indians (N.C.A.I.) and Natureserve.

H. Environmental Justice. DEP is committed to ensuring that all Maine citizens, and particularly those who live in communities identified by U.S.E.P.A. as communities of concern due to income, minority populations, and other factors, are fully aware of, and able to participate fully in, processes related to the issuance of environmental permits and licenses. For example, in 2009 DEP produced, and distributed multiple copies to each municipality in the state, a brochure outlining how Maine citizens can choose to be involved in the Agency's permitting and licensing processes. In the same year, staff of the Lead and Asbestos programs in the Division of Solid Waste, Bureau of Remediation and Waste Management, provided training and technical assistance to Maine's Indian tribes as an environmental justice initiative.

II. MONITORING AND ASSESSMENT

GOAL: To develop the information needed to understand environmental and public health conditions and issues of concern, and support the development of standards that protect or restore the environment and public health.

BACKGROUND. Maine citizens expect the DEP to maintain objective data regarding environmental conditions in the state. In order to fulfill this expectation, which is codified in state law, DEP must gather and analyze a wide range of data to produce the information used to inform the public and make environmental recommendations and decisions.

A. Monitoring. DEP administers a variety of ongoing and one-time efforts to document the quality of Maine's natural resources in order to understand the environmental factors that influences human and natural resource health.

1. Surface Water. As detailed in the Standards Setting section of this document, Maine classifies all its surface water using a system that generally indicates the environmental qualities, and thus health and condition, of a lake or river segment. That condition is documented using sampling results taken from those waters.

With nearly 6,000 lakes and 32,500 miles of rivers and streams, and 5,200 miles of coast line, water quality monitoring and assessment is a big job in Maine. DEP collects representative samples of each water resource type on an ongoing basis to document ambient conditions. Samples are monitored for biological, chemical, and physical characteristics in order to portray a comprehensive picture of water quality. Monitoring work is conducted on a watershed basis for rivers and streams with activity rotating on a five year basis between the five largest river watersheds.

a) **Biological Monitoring.** DEP has maintained over 20 years of consistent and statistically valid data on macroinvertebrates in our rivers, streams, and brooks. Macroinvertebrates, which are small water dependent organisms, are used as a biological indicator since they best demonstrate water's ability to support life. This information allows the use of a nationally-unique statistical model that takes monitoring data and determines how clean certain waterbodies are and the water classification that they attain. The staff who developed this work received a Lifetime Achievement Award from the U.S.E.P.A. in 2005.

Recent developments in biological monitoring include work in wetlands to characterize healthy invertebrate communities as well as algae sampling of rivers and streams to determine the presence of excess nutrients.

1) **Lake Water Quality.** Maine has a nationally recognized volunteer lake monitoring program which was created at the DEP in 1971, and is now run by a nonprofit. It has grown to include over 900 trained volunteers collecting physical and chemical data on at over 500 locations across the state. This

Maine has over 75% of the intact cold water fishery habitat on the U.S. East Coast, and over 90% of the brook trout living in lakes across the U.S.



Brook Trout, Pleasant River, Windham

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same program has trained over 1,500 people to identify invasive aquatic plants resulting in 374 lakes being screened.

- 2) Coastal Nutrients. In 2008, DEP and U.S.E.P.A. began working with local monitoring organizations, including Friends of Casco Bay, to understand coastal nutrient levels with the aim to establishing water quality standards.
 - b) Toxics Monitoring. In order to collect information on whether state waters are meeting their statutory requirement to support and sustain aquatic life, the Surface Water Ambient Toxics (SWAT) monitoring program has for the last 15 years monitored a wide range of toxic elements and compounds in coastal and fresh water as well as shellfish and certain bird species. A related program monitors fish tissue for dioxin in order to determine if fish consumption advisories can be modified or eliminated. The marine component to the SWAT program is done in collaboration with the Gulfwatch Program, a collaborative effort among states and Canadian provinces abutting the Gulf of Maine to monitor the presence and concentration of toxics.
 - c) Invasive Species. Relative to surrounding states and Canadian provinces many other areas of the Country, Maine has a low incidence of invasive aquatic plant populations in its waters. These plant species, which most notoriously include milfoil and hydrilla, destroy water quality by displacing native species and rendering waters unsuitable for some recreational activities. DEP monitors for the occurrence of new invasive plants in cooperation with the Maine Center of Invasive Aquatic Plants. DEP manages invasive species with vigilant inspections of boats entering Maine's waters and volunteer patrollers trained to identify the plants. A variety of control and eradication techniques are used when an infestation is discovered.
2. **Ground Water.** As detailed in the Standards Setting section of this document, all groundwater in Maine is classified with the goal of having it be of drinking water quality.
- Many locations in Maine require environmental monitoring as a result of the activities licensed at a location, prior releases of petroleum and other hazardous substances and the potential that pollutants could be released onto land or directly into ground water as a result of those activities. Where competent responsible parties are involved, DEP relies on the responsible parties and their consultants to perform sample collection activities and uses its staff to plan for and direct the monitoring activities at these locations in order to ensure that the analytical results are sound and meaningful. At other locations DEP uses its staff and outside contractors to direct monitoring and perform sample collection activities. Although most currently licensed locations are not monitored or assessed for remediation purposes, the locations where remediation monitoring occurs does vary from some currently licensed facilities to sites where pollutants were discharged and remediated many years ago.
- a) Hazardous Waste Management. DEP currently oversees ongoing monitoring programs at about 80 locations that generate, treat or store hazardous waste. This is a subset of the thousands of sites statewide at which hazardous waste is



DEP currently oversees monitoring at more than 80 locations that generate, treat, or store hazardous waste.

handled and subsequently shipped for recycling or disposal. These ongoing monitoring activities include the collection and analysis of soil, air and water samples so that the need for, or progress of, remedial actions can be assessed. Examples of the activities at these sites include sampling groundwater monitoring wells, surface waters, soils and sediment associated with the investigation of discharges.

- b) **Petroleum.** DEP currently oversees ongoing monitoring programs at hundreds of sites where petroleum products are stored and handled in bulk. This is a subset of the thousands of sites at which petroleum products are stored in aboveground and underground storage tanks. The number of A.S.T.s is not clear to DEP since a registration requirement does not exist and the Maine Fire Marshal has primary jurisdiction over those containers. The purpose of ongoing monitoring at these sites is to investigate, characterize, evaluate and, if needed, design remedial approaches to minimize and where possible eliminate threats to the public safety, health and environment.

DEP also monitors drinking water supplies that have been contaminated by petroleum releases. The monitoring program is designed to evaluate the effectiveness and reliability of point-of-entry treatment units that are installed to ensure the quality of water.

- c) **Solid Waste.** DEP currently oversees ongoing monitoring activities more than 100 sites licensed to handle solid waste, or where solid waste was disposed of or handled in the past. These monitoring activities are conducted to ensure that solid waste handling sites are not adversely affecting human health or environmental conditions. DEP evaluates and approves monitoring plans, and data collected from these sites are used to identify trends in environmental quality and to determine compliance with applicable standards. All requirements associated with solid waste monitoring activities derive from Maine law.

- 1) *Water Quality.* DEP oversees and sometimes conducts ground and surface water monitoring at solid waste facilities and sites. Monitoring is conducted to ensure that ground and surface waters are not contaminated by waste handling and disposal activities.
- 2) *Landfill Gas.* The DEP oversees and conducts landfill gas monitoring at selected sites to ensure that gases do not pose a health or safety risk. At certain levels, hydrogen sulfide and methane both have the potential to cause human health or safety risks. Hydrogen sulfide may create nuisance odor conditions.
- 3) *Verification Sampling.* DEP conducts a verification sampling program in order to independently verify testing that is required to be conducted by licensees in the agronomic utilization program. Sludge, ash, compost and other residuals are tested as well as water and soils from selected sites where utilization activities occur.
- 4) *Closed Municipal Waste Landfills.* State sponsored closure of municipal landfills occurred between 1988 and 2001. Although the ongoing payment for those closures all but ended on January 1, 2000, ongoing commitments to monitor the effect that these former facilities have on groundwater continues. This post-closure monitoring and the assessment of those results inform whether any additional remedial actions are needed because of discovered contamination.

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3. **Ambient Air.** DEP maintains and supports a statewide network of ambient air quality monitors that measure the concentrations of ground-level ozone and other gaseous criteria pollutants; fine particulates and regional haze; air toxics; and the deposition of several atmospheric pollutants. DEP also maintains an annual emissions inventory for greenhouse gases. This information allows the state to accumulate data sufficient to understand Maine's air quality. Current monitoring sites can be found in 32 different locations throughout the state. Whenever funding permits, the equipment that comprises this monitoring network is replaced and upgraded after five (5) or more years of use in order to maintain the highest integrity in Maine's data.

DEP currently collects air quality samples at 32 locations throughout Maine to test for Ozone, particulates, toxics, and other pollutants

a) **Ground-level Ozone.** Monitors for ozone and its precursors volatile organic compounds (V.O.C.) and nitrogen oxides (NO_x), are currently located at 14 sites. The ambient data from these monitors allow DEP to determine Maine's compliance with air quality standards that protect public health, assess likely environmental impacts, and formulate daily forecasts and reporting of Air Quality Index levels to the public. When inhaled, even at very low levels, ozone can: cause acute respiratory problems; aggravate asthma; cause significant temporary decreases in lung capacity of 15 to over 20 percent in some healthy adults; cause inflammation of lung tissue; lead to hospital admissions and emergency room visits (10 to 20 percent of all summertime respiratory-related hospital visits in the northeastern U.S. are associated with ozone pollution); and impair the body's immune system defenses, making people more susceptible to respiratory illnesses, including bronchitis and pneumonia.

b) **Gaseous Criteria Pollutants.** Monitors for carbon monoxide, sulfur dioxide and nitrogen dioxide are currently located at 5 sites. Operation of these monitors occurs, in part, as a result of commitments to U.S.E.P.A. in exchange for the receipt of federal grant money. DEP also participates in the regional assessment of monitoring networks to ensure all air quality data needs are being met and works with U.S.E.P.A. to implement recommendations. Health concerns from these pollutants are: headaches, reduced mental alertness, heart attack, cardiovascular diseases, impaired fetal development, eye irritation, wheezing, chest tightness, shortness of breath, lung damage, susceptibility to respiratory infections, irritation of the lung and respiratory



**Air Monitoring Station
Madawaska, Maine**

symptoms (e.g., cough, chest pain, difficulty breathing) and death.

- c) **Fine Particulates and Regional Haze.** Fine particulates pose human health risks because, when inhaled, the material lodges in lung tissue and over-time restricts lung capacity. Particulates also contribute to the formation of haze, which significantly restricts visibility at some of Maine's most valued scenic locations, such as Cadillac Mountain in Acadia National Park. Monitors for fine particulates and their precursors (sulfur and nitrogen related compounds) are currently located at 11 sites. The ambient data from these monitors allow DEP to determine Maine's compliance with air quality standards that protect public health, assess likely environmental impacts, and formulate daily forecasts and reporting of Air Quality Index levels to the public.
- d) **Air Toxics.** Maine's *Emission Statements* rule, 06-096 CMR 137, contains a list of chemicals and compounds that have toxic characteristics. The emission of these substances into the air in excess of quantities defined in that rule must be reported to the state, and in some instances the presence and concentration of the substances in the ambient air is monitored.
 - 1) *Mobile Sources.* Monitors are operated and maintained in Bangor, Lewiston, Portland, Presque Isle and Rumford to determine mobile source related V.O.C. concentrations.
 - 2) *Potential Hot Spots.* Monitors are deployed to varying locations, so called "hotspots", to measure the conditions at potential local areas of special concern.
- e) **Atmospheric Deposition.** A primary source of certain kinds of pollutant contamination in Maine's surface waters occurs as a result of contaminated precipitation. DEP monitors precipitation chemistry (acid rain) and wet mercury deposition as part of networks supported by the National Atmospheric Deposition Program. DEP monitoring locations are in Bridgton, Caribou, Freeport and Greenville.

DEP also coordinates with the University of Maine to make direct mercury analyzer equipment at the Sawyer Chemical and Environmental Laboratory available to Maine's native American tribes and other state agencies to determine the mercury content in samples of soil, vegetation, insects, fish, animals and other environmental materials.
- f) **Greenhouse Gases.** Maine's *Emission Statements* rule, 06-096 CMR 137, contains a list of greenhouse gases. The emission of these substances into the air in excess of quantities defined in that rule must be reported to the state, and in some instances the presence and concentration of the substances in the ambient air is monitored.
- g) **Capital Equipment and Infrastructure.** Maine's air monitoring network requires on-going capital equipment maintenance and procurement so that aging monitoring and laboratory equipment is repaired or replaced at the end of its expected useful lifetime. At the time of replacement, DEP always seeks to maintain and enhance the technical capacity in Maine's air monitoring and laboratory infrastructure.

- 4. Indoor Air.** DEP performs routine air quality monitoring at locations where releases have occurred indoors from a home heating oil tank and indoor petroleum vapor problems are suspected. The purpose of this monitoring is to document when indoor air has been polluted to unhealthy concentrations from petroleum constituents. In a typical year, DEP monitors indoor air quality at 10 to 20 residences and businesses as part of the investigation of heating oil tank discharges.

- B. Assessment.** DEP is continually striving to improve the standardized methods used to evaluate the condition of Maine's natural resources and the effects that those conditions may be having on the health of its citizens. These approaches and procedures include methods established and required by the U.S. Environmental Protection Agency for use nationwide in all federally delegated programs as well as approaches developed by DEP's nationally recognized experts for application in Maine.



- 1. Surface Water.** DEP uses the monitoring data it collects, and at times assembles from other sources, to understand the conditions existing in Maine's waters. This data allows determinations to be made on whether statutory water quality standards are being met, informs decisions about water classification recommendations, and assists in setting the pollutant discharge limits that are included in wastewater licenses. As a grant recipient from U.S.E.P.A., DEP submits to the federal government a report on the status of their waters every two years. Unlike many states, Maine assesses the condition of 100% of its waters every two years. Highlights from the 2008 report include documentation that: 95% of rivers and stream miles meet water quality standards; 92% of total lake acreage meets water quality standards; and that between 2006 and 2008, clean up plans for 17 miles of rivers or streams and eight (8) lakes were completed and approved by U.S.E.P.A. These impressive levels at which water quality standards are being met must be qualified with the fact that all Maine waters are subject to fish consumption advisories for certain individuals due to contamination with mercury.

Among the various methods for determining if there are water quality problems, Maine uses a sophisticated biological monitoring program to assess the water quality of rivers and streams. A linear discriminate model developed with over 30 years of data on the types and occurrence of various macroinvertebrates is able to tell with statistical confidence whether a sample of bugs taken under standardized sampling requirements is illustrative of good, fair, or poor water quality.

In 2008, 95% of all river and stream miles and 92% of all lake acres met water quality standards.

In addition to data collection and analysis, the DEP uses an array of computer models to estimate and project water quality conditions under a variety of management scenarios. These models are an important aid in establishing allowable pollutant loads.

2. **Ground Water.** DEP applies a wide variety of field and laboratory methods to the groundwater data it assembles in order to assess the environmental conditions at locations where regulated waste is handled, and where petroleum or hazardous substances have been released. Unique to Maine's Solid Waste program and in addition to the many standard sampling and analysis methods, assessment monitoring plans and data by law must be used to address water quality issues at solid waste handling facilities, including landfills, to provide a basis for development of corrective action plans.
3. **Ambient Air.** DEP works closely with U.S.E.P.A. to assess air monitoring data used to determine Maine's air quality status and any needs for special designation. DEP uses N CORE (Multi Pollutant Monitoring Network), SLAMS (State and Local Air Monitoring Stations), PAMS (Photochemical Assessment Monitoring Stations), and S.P.M. (Special Purpose Monitoring Station) data for these assessments. Part of these activities is a multi-pollutant periodic inventory required under the Federal Consolidated Emission Reporting Rule which requires certain point sources to report actual emissions criteria pollutant emissions on an annual basis, and reporting of actual emissions criteria pollutant emissions from point, area and mobile sources every three years.
4. **Soil.** DEP routinely samples and analyzes soils for hazardous substances, including petroleum, found at locations where a release has occurred. Sampling results help to determine the concentration, vertical and horizontal extent of contamination and potential threats to ground water, surface water and indoor air. Although long established sampling and assessment methodologies exist, DEP is looking to improve the state's capacity to analyze samples in the field so releases are most efficiently and cost effectively addressed.

III. STANDARDS SETTING

GOAL: To establish standards that protect environmental and public health; protect and improve environmental quality; and provide guidance to the regulated community and the general public.

BACKGROUND. As a regulatory agency, DEP carries out its responsibilities with reference to standards established through legislative action (statute), rulemaking, and permitting and licensing requirements affecting the regulated community. In addition, the DEP makes information about non-regulatory standards that promote good environmental practice and prevent environmental degradation available to the general public. Finally, through its participation in state and federal committees, workgroups, inter-agency task forces and advisory groups, and other cooperative efforts, DEP assures that environmental standards of all sorts are maintained and enhanced.

A. Legislation. DEP submits and supports legislation, as necessary, to keep Maine's standards current with scientific and legal knowledge regarding environmental issues. A list of the laws currently charged to DEP by the Legislature for administration is incorporated into this document as part of APPENDIX A. The following paragraphs describe existing or developing standards that are particularly essential to understanding Maine's environmental protection system and issues.

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

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1. **Surface Water Classification System.** One of the central elements of state and federal water quality laws is the classification of fresh and marine waters into a tiered framework that establishes the goals and standards for all Maine waters. The classification system is enacted by the Legislature and administered by the DEP. For classifications affecting federal law, the U.S.E.P.A. has final approval authority over any classifications or related standards. There has been a classification system in place in one form or another since the 1940s, with the latest revisions to these standards having been enacted in 1986. Surface water classifications are codified at 38 M.R.S. §§ 464 to 470. The minimum statutory goal for all waters is that they support fish and aquatic life and be suitable for swimming.

The classification of fresh water streams and rivers ranges from a designation of AA for “free-flowing as naturally occurs” waterbodies to C for those river and stream segments that are within urbanized areas or have historically supported industrial facilities. The table below summarizes the classifications and some of the standards that support each classification. In addition to the standards listed below the C.W.A. requires that all waters have a statutory goal of being fishable and swimmable.

	<u>Numeric Criteria</u>		<u>Narrative Criteria</u>	
	Dissolved Oxygen	Bacteria (<i>E. coli</i>)	Habitat	Aquatic Life (Biological)
Class AA	as naturally occurs	as naturally occurs	free flowing and natural; no dams or discharges	as naturally occurs
Class A	7 ppm or 75% saturation	as naturally occurs	natural; “equal to or better discharges”	as naturally occurs
Class B	7 ppm or 75% saturation	64 cfu/100 ml geometric mean	unimpaired; well-treated discharges, dams allowed	support all aquatic species indigenous to the receiving water; no detrimental changes to the resident biological community
Class C	5 ppm or 60% saturation; 6.5 ppm 30-day avg	126 cfu/100 ml geometric mean	habitat for fish and other aquatic life; well-treated discharges, dams allowed	maintain the structure and function of resident biological community

Marine waters are designated into 3 classes: SA (high quality waters), SB, and SC (urbanized or industrialized harbors)

	<u>Numeric Criteria</u>		<u>Narrative Criteria</u>	
	Dissolved Oxygen	Bacteria (Enterococci)	Habitat	Aquatic Life (Biological)
Class SA	as naturally occurs	as naturally occurs	free flowing and natural; no discharges	as naturally occurs
Class SB	85% saturation	8 cfu/100 ml geometric mean	unimpaired; well-treated discharges, allowed	support all aquatic species indigenous to the receiving water; no detrimental changes to the resident biological community
Class SC	70% saturation	14 cfu/100 ml geometric mean	habitat for fish and other marine life; well-treated discharges allowed	maintain the structure and function of resident biological community

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Lakes and ponds are all classified in the same class: GPA. GPA waters are all managed for their highest attainable quality and to attain a stable or declining trophic condition. Discharges are prohibited to GPA waters.

2. **Groundwater Classification System.** Maine law, 38 M.R.S. § 465-C, sets out the classification requirements for groundwater with two categories: GW-A and GW-B. Class GW-A are to be used for public water supplies and are to be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair usage of these waters, other than that occurring from natural phenomena. GW-B must meet all the same standards but need not be suitable as public drinking water supplies. All groundwater in Maine is classified as GW-A.
3. **Climate Change.** DEP will be closely tracking, conferring with other states and U.S.E.P.A., and commenting on the following pieces of legislation pending in the U.S. Congress and on activities at U.S.E.P.A. regarding the regulation of G.H.G. emissions.
 - a) **Waxman-Markey.** In the House, Representatives Waxman and Markey sponsored the American Clean Energy and Security Act of 2009 (ACESA, Waxman-Markey, H.R. 2454), which passed by the House in June 2009.
 - b) **Kerry-Boxer.** In the Senate, Senators Kerry and Boxer introduced the Clean Energy Jobs and American Power Act (Kerry-Boxer, S.1733) in September 2009.
 - c) **Senate Energy Bill.** In addition Senate Energy Bill (S.1462), the American Clean Energy Leadership Act of 2009 (ACELA) addresses six major areas: clean energy deployment, energy efficiency, energy security, responsible production of traditional resources, innovation and workforce, and energy markets. Two of the biggest areas covered by the legislation are transmission expansion and siting and a Federal Renewable Energy Standard.
 - d) **U.S.E.P.A. Efforts**
 - 1) *Greenhouse Gases as Air Pollutants.* In April 2007, the U.S. Supreme Court concluded that G.H.G.s are air pollutants, as defined by Section 202 of the C.A.A. The U.S.E.P.A. is thereby required to evaluate the science behind the global warming debate and determine whether G.H.G.s are an air pollutant that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.
 - 2) *Endangerment Finding.* In April 2009, U.S.E.P.A. issued a proposed endangerment finding and proposed 'cause and contribute' findings. The proposed endangerment finding states that the science supports a finding that a mix of certain G.H.G.s endangers public health and welfare of current and future generations. The proposed cause and contribute finding states that emissions of four of the G.H.G.s from new motor vehicles and engines contribute to and cause the danger to public health and welfare. Comments on the proposed findings were due in June and affirmation of the findings is pending.
 - 3) *California Motor Vehicle G.H.G. Waiver.* In June 2009, U.S.E.P.A. granted California's request for a waiver of preemption under the CAA.

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- 4) *Greenhouse Gases Reporting Rule.* In Sept. 22, 2009, U.S.E.P.A. has issued the Final Mandatory Reporting of Greenhouse Gases Rule. The rule requires reporting of G.H.G. emissions from large sources and suppliers in the United States, and is intended to collect accurate and timely emissions data to inform future policy decisions. Under the rule, suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more per year of G.H.G. emissions are required to submit annual reports to U.S.E.P.A.
 - 5) *Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards.* On Sept. 28, 2009, U.S.E.P.A. and the U.S. Department of Transportation (U.S.D.O.T.) issued a joint “Proposed Rulemaking to Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards” (Light-Duty Vehicle Proposed Rule). Under the joint proposed rulemaking, U.S.E.P.A. proposes to regulate CO₂ and other G.H.G.s from vehicles, and the U.S.D.O.T. proposes to set Corporate Average Fuel Economy Standards (CAFÉ Standards) with regard to CO₂ and other G.H.G.s.
 - 6) *G.H.G. Tailoring Rule.* On Sept. 30, 2009, U.S.E.P.A. issued a proposal for a “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” (G.H.G. Tailoring Rule). This rule would set regulatory thresholds for regulation of G.H.G.s under the C.A.A.
- e) **Low Carbon Fuel Standard.** Commissioners and Secretaries of eleven (11) environmental and energy agencies signed a letter of intent in December 2008 committing to examine the issues surrounding a regional low carbon fuel standard (L.C.F.S.) and signaling their intent to forward a recommendation about how such a program might proceed to their Governors by December 2009.
- A L.C.F.S. is a performance-based standard that would limit the average carbon intensity of fuels using a lifecycle accounting method, which tracks emissions from all stages of fuel production and distribution. The goals of the Northeast/Mid-Atlantic L.C.F.S. are to reduce greenhouse gas emissions, encourage the development of low cost, low carbon fuel alternatives (e.g., electric vehicles), and promote innovation of advanced fuels and technologies.

B. State Rulemaking. Through rulemaking under the Maine Administrative Procedures Act (MAPA) and provisions specific to DEP, which requires the endorsement of the Board of Environmental Protection and in some situations the Legislature, the Agency evaluates, develops, and upgrades regulatory requirements based in statutory authority. DEP’s current regulatory agenda is incorporated into this document as APPENDIX B.

C. Best Management Practices (B.M.P.s). DEP develops and maintains technical guidance materials that assist regulated entities and the general public with achieving or maintaining compliance with state law.

1. **Surface Water Protection.** DEP develops and makes available to the public and regulated community B.M.P. manuals to support water quality protection and restoration of impaired waters. Because stormwater runoff is one of the most significant contributors to water quality impairments, DEP works to develop and distribute a wide range of best practices. These manuals

include best practices for the creation and maintenance of camp roads, avoidance of soil erosion at construction sites, and the control of stormwater runoff from development during and after construction.

2. Ground Water Protection

- a) Hazardous Substances. DEP maintains on its website, and updates as needed, Remedial Action Guidelines (RAGs) for hazardous substance sites.
- b) Petroleum. DEP maintains, and updates as needed, *Guidance for Remedial Action* for locations impacted by petroleum releases.

3. Ambient Air Protection. DEP develops and implements projects and programs encouraging energy and production efficiency through the development of output-based emission standards. Emphasis is placed on control programs and/or strategies providing multi-pollutant and multi-media benefits, and has been successful in reducing air and water discharges at large paper facilities while minimizing fiber losses at the mills. Each program is tailored to the specific facilities needs. Other outreach programs have been targeted to specific source sectors and have normally resulted in a sector specific plan for best management practices.

4. Solid Waste

- a) Composting. Guidance, pilot projects, and B.M.P.s concerning the composting of a variety of waste materials including large animal carcasses, marine mammals, birds and organic wastes are developed and maintained.
- b) Waste Management. Developed and updates guidance concerning the management and disposal of various solid wastes such as those from spent septic systems, water treatment plants, wastewater treatment plants, and car washes.
- c) Product Stewardship. Develops and updates *Environmentally Sound Guidelines for Electronics* and other product waste streams.

IV. ASSISTANCE AND ENVIRONMENTAL STEWARDSHIP

GOAL: To provide Maine citizens and regulated entities with information about preventing, minimizing, or eliminating pollution and improving environmental performance.

BACKGROUND: DEP has a long-standing commitment to the prevention of environmental harm and damage that it exercises by supporting the regulated community, fostering the State of Maine’s “lead by example” efforts, and outreach to the public.

A. Regulatory Assistance. Maine’s environmental laws are extensive. As the agency responsible for administering those laws, DEP helps the regulated community to understand and comply with their requirements.

1. **Publications.** DEP makes guidance materials, forms, statutes and rules, maps and supplementary materials available *via* the internet. Most material is also available in hard copy. DEP's web site is www.maine.gov/dep.
 - a) Fact Sheets. Provide information specific to a technical or regulatory issue.
 - b) Issue Profiles. Issue profiles are generally utilized to explain situations where scientific and regulatory information must be considered in tandem and help to explain why certain actions are needed.
 - c) Handbooks. Handbooks may provide a condensed version of legal requirements such as regulations and statutes in easy to read terms. Handbooks may focus on a subset of the requirements that are applicable to a broad range of regulated entities.
2. **Training for Regulated Entities.** DEP sponsors and participates in training available to the regulated community and Maine citizens to inform them about requirements of, and how to comply with, existing law.
 - a) Surface Water Protection
 - 1) *Wastewater Treatment.* Operators of wastewater treatment plants must demonstrate proficiency in the operation of those facilities through an examination process and continuing education which is administered by the Joint Environmental Training Coordinating Committee (JETCC). JETCC was created by state statute and is overseen by a board that includes representatives from DEP. The Commissioner is the authorized official to approve and issue licenses to certified operators, which is done following successful completion of training and an examination. There are approximately 600 licensed wastewater treatment plant operators in the state presently, each of whom must take 18 hours of continuing education every two years to retain their operator's license.
 - 2) *Non-Point Source and Stormwater Pollution.* What is known as the *Nonpoint Source Resource and Training Center* is a long-running approach to training provided by DEP that makes a wide range of technical assistance and training available to the public. This has been the core resource that has provided the training and certification of earthwork contractors who are subject to the requirements of Maine's erosion and sedimentation control laws. This program annually trains between 1,200 and 1,500 individuals and maintains a listing of over 500 certified contractors who have demonstrated competency in appropriately managing erosion control during construction. A 2007 survey of erosion control practices at a variety of job sites around the state showed that a certified contractor was 30% more likely to have properly installed and functioning erosion control practices than someone who was not.
 - b) Land Development. DEP supports the training of local code enforcement officers by the State Planning Office in all



Every year, over 1,200 individuals seek out erosion control training from DEP's Non-point Source Resource & Training Center.

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elements of administering the mandatory shoreland zoning law as well as information on how the various elements of the Natural Resources Protection Act (wetlands, vernal pools, significant wildlife habitat) are administered by the state in order to ensure effective coordination between state and municipal law.

c) Ambient Air

- 1) *Emissions Inventory.* Conduct annual training sessions in Portland, Augusta, Bangor and Presque Isle on how to comply with Maine's *Emission Statements* rule, 06-096 CMR 137.
- 2) *Licensing.* Meet with holders of Title V licenses and renewals to review all license conditions so there is no misunderstanding about the intent or meaning of those conditions.
- 3) *Opacity and Particulates.* The observation of visible emissions is one of the simplest ways of determining whether an emission is in compliance with state regulation and emission standards. In general, the amount of particulates in the emission increases with the visible opacity of an emission. The training and certification of visible emission observers has been privatized but DEP will pay part of the fee for municipal officials such as code enforcement officers and fire chiefs. DEP hosts these training sessions twice per year.

d) Hazardous Substances

- 1) *Hazardous Waste.* Hazardous and universal waste is handled at tens of thousands of facilities in Maine each year. Unlike some states, Maine law does not require individuals managing hazardous substances or wastes to be professionally trained or certified, by a third-party or otherwise. As a result, direct education is often provided by DEP to provide these individuals with as much information as possible on hazardous waste management. This includes participating in speaking engagements regarding Maine's rules applicable to Universal Waste and Small Quantity Generators (S.Q.G.s).

2) *Asbestos and Lead*

- i. *Basic Education.* DEP staff offer presentations at initial asbestos and lead professional education courses which are provided to the regulated community by DEP-



Improperly stored Universal Waste

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licensed trainers. This provides the newly-regulated community with the opportunity to meet program staff and better understand how the DEP can assist them with achieving compliance.

- ii. **Advanced Education.** DEP staff offer presentations on lead and asbestos at meetings of professionals and the public to help them understand where these materials commonly are found in our built environment and how applicable regulations help mitigate risks posed by them. This includes education, outreach and technical assistance to code enforcement officers and landlords to encourage compliance with federal lead programs created by Title X, including TSCA Title IV Section 402, Section 406 and Section 1018.
- iii. **Training Curriculum.** DEP staff work closely with all Maine-licensed lead training providers to help refine and update lead training course curricula and teaching methods. This is important to ensure the regulated community receives current information on regulations and best management practices as they evolve to better address the risks posed by asbestos and lead. Additionally, DEP staff administers third-party course exams at all initial lead training courses to ensure confidentiality of exams as required by U.S.E.P.A.

e) **Petroleum Facilities**

- 1) **Installers and Operators.** Conduct workshops at least annually and as needed to provide regulatory and technical assistance to Certified Tank Installers and inspectors, facility owners and operators, and other interested parties. Workshop agendas are approved for continuing education credits by the Board of Underground Tank Installers. Completing continuing education accredited training is an annual requirement for certified installers and inspectors.
- 2) **Training Curriculum.** DEP staff regularly revise procedures for certification of underground tank installers and inspectors to ensure the knowledge required remains current and the experience required through apprenticeship is thorough yet attainable.



More than 1,600 solid waste professionals have received training from D.E.P. in the last five years.

f) **Solid Waste Management**

- 1) **Transfer Stations.** DEP has designed and regularly conducts a transfer station operator training program for municipalities, regions and others for the purpose of improving compliance with regulatory standards and assisting to achieve efficient and environmentally sound operations. This program was designed and implemented in direct response to compliance problems noted in the field and the need for an effective alternative means of improving compliance with environmental standards. Over the last 5 years, the DEP has provided training to 720 participants in transfer station operator training.

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- 2) *Household Hazardous Waste.* DEP designs and conducts training for municipalities and others on the handling of household hazardous waste and universal waste. Proper management of these wastes is an important aspect of many municipal and regional solid waste operations. Over the past 5 years, 273 participants have received training through DEP's household hazardous waste and universal waste program.
- 3) *Compact Fluorescent Lamps (C.F.L.s).* DEP staff conduct training for P.U.C. staff working with retailers on compact florescent lamp and mercury thermostat collections.
- 4) *Product Stewardship.* DEP staff develop and implement assistance and outreach efforts for product producers, distributors, retailers, and municipal officials to familiarize them with relevant statutory and regulatory requirements of end-of-life product management programs.
- 5) *Composting.* DEP is an active participant in the design and delivery of training and education programs through the internationally recognized "Maine Compost School". The Maine Compost Team, with representatives from DEP, S.P.O., DAFRR, and the University of Maine Cooperative Extension, serves as faculty to the school. To date, over 600 students from more than 40 countries have graduated from the program. DEP's representative on the Maine Compost Team currently serves as the school's director.



B. Technical Assistance. DEP staff has extensive expertise in helping regulated entities operate in a safe, effective, and efficient manner, frequently through on-site consultation and field determinations. DEP uses this experience to help regulated entities improve environmental performance, which typically also results in cost savings.

1. *Surface Water.* A core component of DEP's administration of the state and federal water quality laws is the provision of technical assistance to wastewater treatment plant operators. DEP staff literally have decades of experience trouble-shooting problems, providing on-site solutions, and recommending further resources. Although staffing levels necessarily fluctuate depending on available resources, there has been consistent technical assistance from the state on wastewater control since before the DEP existed. The majority of this technical assistance is currently provided to smaller municipal facilities that cannot support a diversified staff. However, staff have also been involved in multi-year, cross-media technical assistance programs at numerous pulp and paper mills over the years. Typical assistance relates to operating strategies to maintain compliance, to ideas on how to optimize performance for nutrient control, to sampling methodologies for required monitoring.

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Technical assistance staff have been repeatedly recognized for their work, including a 2005 U.S.E.P.A. commendation for excellence for the entire technical assistance staff and a 2008 U.S.E.P.A. “Sparkplug” award to staff for technical assistance in the use of a new electronic reporting program.



**In 2005 and 2008
Maine received
national awards from
U.S.E.P.A. for the
quality of technical
Assistance D.E.P.
provides to treatment
plant operators.**

- a) **Stormwater Control at Commercial & Industrial Facilities.** Beginning in 2005 with delegation of the federal industrial stormwater program to Maine, approximately 700 facilities were required to update or obtain a new permit, authorized under the federal C.W.A. This required the creation of a facility plan for the control of stormwater runoff. In order to facilitate the creation of this work and reduce costs to facilities, DEP staff conducted training sessions attended by several hundred facility representatives and followed that up with direct on-site assistance at over 600 facilities and over 1,000 hours of technical assistance on the creation of individual facilities’ plans.
- b) **Marinas.** To promote compliance with a variety of environmental regulations at marinas, several state agencies, environmental organizations, and the industry trade association collaborated on the creation of *Bright Work*, a best practices manual that has been distributed to the over 150 marinas around the state.
- c) **Shoreland Zoning.** Maine law charges municipalities with the primary responsibility for overseeing and enforcing the state’s shoreland zoning law. DEP provides a wide range of technical assistance to towns including support for compliance and enforcement, ordinance review, and map amendments. The unit responds to hundreds of phone calls annually, and in 2008 and 2009 conducted more than 50 workshops with municipalities or other organizations reaching hundreds of interested citizens.

2. Land Development. Staff members in the Division of Land Resource Regulation, located in the four regional offices, answer thousands of phone calls from property owners and the general public every year, as well as conducting hundreds of on-site field visits to answer specific questions on regulations. Training is regularly provided to land use professionals and municipal officials to ensure general familiarity with Maine regulatory issues; over the last two years more than 2,100 people have attended training sessions on new and recent changes to the Natural Resources Protection Act where DEP staff were presenting.

3. Hazardous Substances

- a) **Asbestos and Lead**
 - 1) *Lead-safe child care.* DEP provides technical assistance on request to daycare establishments identified with lead hazards through the D.H.H.S. program that oversees daycare facility licensing in Maine.

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- 2) *Renovations.* DEP provides on-site technical assistance on the TSCA section 406(b) requirements to contractors and property managers who are being paid to perform renovations in residential houses and apartments built before 1978.
 - 3) *Quality Control.* DEP provides quality control assistance to newly licensed lead inspectors, lead risk assessors, and lead abatement contractors.
 - 4) *Lead-safe housing.* DEP provides assistance to parents of lead-poisoned children, landlords, and others seeking to mitigate lead hazards in housing.
 - 5) *Safe management of asbestos-containing materials.* DEP conducts educational outreach activities to implement the federal *Asbestos Hazard Emergency Response Act - "Asbestos in Schools"* rule. Staff also provides technical assistance to building owners seeking to remove asbestos from residential, commercial and industrial buildings. Additionally, DEP maintains a web site with program and regulatory information and links to U.S.E.P.A.'s asbestos web site.
- b) **On-Site Business Assistance.** DEP provides guidance to sector-specific companies looking to maintain, and in some cases exceed, compliance requirements. Sectors include auto body and repair; dentists; boat building and repair; auto salvage; and cruise ships.
- c) **Solid Waste Facilities.** DEP provides regulatory and technical assistance through consultations, site visits and written opinions, on matters concerning regulatory requirements, facility operations, and reporting.
- 1) *Regulated Facilities and Activities.* DEP staff regularly provide on-site technical and regulatory assistance at solid waste facilities during site inspections. Assistance is also frequently provided to the regulated community on a broad range of waste management topics through consultations, e-mail and phone. The program places a focus on collaborative, problem solving work in the field.
 - 2) *Other Assistance.* DEP staff regularly provide information and assistance to Maine citizens, businesses, industries, and municipalities on solid waste management regulatory issues through web site information, attendance at meetings and hearings, and distribution of printed materials including guidance documents. This includes assistance through brochures, informational mailings, and web materials to support understanding of statutory requirements for manufacturers, retailers and consumers to recycle mercury-added products and electronics, and to ensure proper disposal of pharmaceuticals.
 - 3) *Landfill Gases.* Provides technical guidance in the design and implementation of landfill gas management systems.
- C. Funds Distribution.** DEP manages distribution and oversight of a wide range of federal and state funds through grant and loan programs that allow Maine communities and organizations to invest in pollution prevention.

1. **Surface Water.** DEP manages a variety of grant programs that are designed to help citizens, small-business owners, municipalities, or lake associations to undertake pollution prevention strategies for surface waters.

a) **Municipal Wastewater Treatment.** Since 1989, DEP has administered the Clean Water State Revolving Fund, which has for the last ten years provided between \$20 and \$40M annually in low-interest loans to over 100 different communities. The low-interest loan provides a subsidy equivalent to 20% of an average project's cost, resulting in millions of dollars of savings to communities. The total amount of loans issued since the program began is in excess of \$400M. This program, in conjunction with grant money authorized by state general obligation bonds, has been responsible for construction and rehabilitation of treatment plants across the state.

DEP is responsible for more than \$400M in low interest loans that have funded municipal wastewater treatment plant upgrades throughout Maine.

b) **Nonpoint Source Pollution.** Maine is unique in administering this pool of federal monies (authorized by §319 of the C.W.A.) dedicated to nonpoint source pollution. Approximately 60% of our competitive grants, which annually totals around \$600,000, are disbursed to projects designed to prevent nonpoint source pollution. Recognizing that prevention is much more cost effective than restoration, particularly for polluted lakes, the DEP has been funding projects that fix erosion control problems in watersheds that are not yet in violation of their standards.

c) **Coastal No-discharge Areas.** DEP has for the last six (6) years annually distributed approximately \$200,000 in federal grants to coastal marinas and municipalities for the installation and maintenance of sewage pumpout facilities. The installation of these facilities provides vessel owners an appropriate way to dispose of what is generally insufficiently treated wastewater from their boats. The installation of these facilities has allowed for the designation of five (5) no-discharge areas, including Casco Bay, Kennebunk-Wells, Boothbay region, Western Penobscot Bay, and southern Mount Desert Island, which can make a marked improvement in water quality and shellfish harvesting.

d) **Invasive Aquatic Plants.** The core objective regarding invasive aquatic plants is to stop any future infestations of aquatic invasive plants, again with the recognition that prevention is far more effective in time, dollars, and effort than trying to control an infestation. To meet this prevention goal, the DEP annually distributes several hundred thousand dollars to a wide variety of organizations or contractors to conduct courtesy boat inspections as well as control projects around the state. Annual invasive aquatic plant inspections are now in excess of 50,000 conducted at over 80 lakes and almost 100 different boat ramps or facilities. 49 different organizations support an inspection program and logged almost 30,000 inspection hours in 2008. This voluntary support effort is equivalent to 14 F.T.E.s. Every season inspectors "catch" an invasive plant fragment on a boat about

Rallying of volunteer support by DEP and lake associations has allowed invasive plant boat inspections to annually total more than 50,000 in Maine's lakes, ponds, and rivers.

to enter a Maine waterbody. In 2008, four “catches” of invasive plants were made on boats about to enter otherwise uninfested lakes.

2. Ambient Air

- a) School Bus Emissions. DEP has been overseeing the distribution of grants for school districts to retrofit existing school buses, and purchase lower-emission replacement buses, and pay 50% for 5 alternatively fueled school buses, for 6 years. The total distributed during this time has been \$887,820 affecting 536 vehicles. In addition, DEP spent \$50,000 for direct fuel-fired heaters on 28 new school buses to reduce idling. In FFY10, DEP expects to receive and distribute \$151,211 more from U.S.E.P.A. for this purpose. DEP also received federal American Reinvestment and Recovery Act (ARRA) funds in FY10 through the Diesel Emission Reduction Act and awarded \$21,700 for an early replacement school bus, \$80,840 for 2 propane buses, and \$30,000 for direct fuel-fired heaters.
- b) Outdoor Wood Boilers. To the extent that funding allows, compensate owners of documented nuisance outdoor wood boilers for the costs of a new, cleaner outdoor wood boiler (or other approved heating appliance), including installation, not to exceed \$15,000.

3. Hazardous Substances

- a) U.S.T. Replacement. DEP serves as the agent for federal funds distributed through Maine’s Community Action Programs to subsidize the replacement of aging underground petroleum storage tanks for low-income citizens.
- b) Lead/Asbestos Grants to Tribes. Provide annual grants to the tribes in Maine to support training in appropriate lead and asbestos disciplines. Each year DEP applies to U.S.E.P.A. for grants to help support compliance with federal lead and asbestos licensing and abatement work practice requirements, in part through enforcement of state regulations that are at least as protective as the federal requirements. Utilizing some of this funding to provide training to tribes located in Maine helps assure that the tribes are able to maintain compliance with both state and federal asbestos and lead laws.
- c) Ground Water Oil Clean Up Fund. DEP administers the Ground Water Oil Clean Up Fund which exists to pay for eligible costs that were incurred to clean up petroleum releases from tanks. DEP staff determine eligibility, the amount of deductibles, as well as the amount of eligible costs. Each year these expenditures average between \$7 and \$10 million and affect hundreds of locations where releases occurred. DEP must attend appeal hearings to resolve disputed eligibility determinations.
- d) Third Party Claims. Individuals near to and affected by a petroleum release may claim specific damages resulting from the discharge. DEP is charged with determining and authorizing payment of eligible third party damage claims. DEP must also attend arbitration to resolve disputed claims. DEP also seeks reimbursement of 3rd party damage claims from responsible parties when there is not eligibility for fund coverage or eligible costs exceed \$1M.

D. Supporting Voluntary Efforts. Maine law requires that DEP assist companies seeking to perform beyond what is needed to maintain compliance with regulatory requirements. DEP also actively supports the efforts of non-governmental organizations involved in environmental protection. Activities throughout the Agency contribute to these efforts in addition to certain programs being centrally coordinated.

1. Surface Water. There is widespread interest in and devotion to Maine's lakes, rivers, and streams. DEP has created a number of important and productive programs that use volunteers to gather the high quality information that is used to meet our statutory water quality goals.

a) Rivers. What is known as DEP's *Maine Stream Team* has organized over 60 teams of citizens who monitor stream water quality in all areas of the state. These teams are trained and mentored by DEP staff and to conduct a variety of monitoring as well as stream stewardship projects.

In 2009, a companion effort, the *Volunteer River Monitoring Program*, was established with 9 organizations monitoring river water quality on rivers around the state. The program provides training on monitoring procedures, equipment, and technical assistance throughout the monitoring season. The program is planned to grow each year with four more organizations expected to join in 2010.

b) Lakes. What has historically been known as Maine's *Volunteer Lake Monitoring Program* has been in existence for over 35 years. It now has over 900 trained water quality monitors who monitor basic and advanced water quality parameters on over 500 locations across the state. This is one of the country's oldest and largest efforts using trained citizens to collect high quality water samples statewide, and is now run as a non-profit agency based in Auburn that is supported by federal grants administered by DEP.

To encourage lakefront property owners to assist in maintaining or improving water quality DEP also administers what is known as LakeSmart. This voluntary program awards lakefront property owners whose property has been landscaped or maintained for the purpose of eliminating runoff and cultivating an appropriate vegetative buffer. DEP is working with 13 lake associations to offer the program and is exploring strategies to have the program offered statewide to proactively prevent the degradation of water quality that is important ecologically as well as to Maine's \$3.5 Billion lake tourism and real estate communities. To date 219 properties have achieved LakeSmart designation.



Maine's 35-year old Volunteer Lake Monitoring Program has over 900 trained monitors collecting water samples at more than 500 locations.

c) Invasive Plants. DEP's invasive aquatic plant efforts have recently integrated a training program for volunteers to learn how to identify invasive aquatic plants. Over 2,000 individuals have been trained in the last five (5) years, several of whom have identified infestations including the most recent infestation in Damariscotta Lake. More importantly, trained invasive plant patrollers have prevented at least four (4) near infestations in the last two-years alone. Several hundred lakes have been surveyed by these volunteers adding valuable baseline information on the status of infestations in the state.

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2. **Ambient Air.** Related to the diesel retrofit money administered by DEP (see § IV(C)(2)(a)), the Agency works with communities and school districts in the development and implementation of voluntary no-idling school bus programs.
3. **Innovation and Assistance.** DEP provides outreach to the business sector, institutions and municipalities through what are known as Environmental Leadership programs.
 - a) **Green Certification.** Tourism is the largest business sector in Maine and the hospitality sector can have a significant impact on the environment due to the amount of energy they consume and waste they produce. There are numerous low to no cost environmental preferable changes this sector can make to reduce their environmental impact. Certify hotels and restaurants that complete a self certification checklist and score a minimum number of points related to their environmental and energy footprint as Environmental Leaders/Hospitality. We continue to look for opportunities to expand the Green Certification/Hospitality to other Maine business sectors, including the piloting of a green certification with the Grocery Store sector including emphasis on reducing greenhouse gas and stormwater pollution impacts.
 - b) **Governor's Carbon Challenge.** Climate change is one of the biggest environmental issue our society is facing today. By encouraging businesses to join the Governor's Carbon Challenge and reduce their carbon footprint, Maine can be a leader in reducing carbon emissions which lead to global warming. DEP will expand the Governor's Carbon Challenge, a voluntary commitment to reduce greenhouse gas emissions, by signing on additional participants and providing resources, energy audits and technical assistance on methods to reduce energy and carbon emissions.
 - c) **Small Business Environmental Assistance Program.** This program is critical in helping small businesses who traditionally are resource challenged particularly when it comes to managing and following technical regulatory information. The technical assistance and Ombudsman responsibilities provided as stipulated under the federal Clean Air Act help reduce small businesses environmental impact.
 - d) **Smart Production.** Upgrade and enhance the historic STEP-UP (Smart Production) program to add rigor and challenges that encourage larger industrial facilities to further reduce their environmental and carbon footprint, particularly by establishing and recognizing achievement goals and fostering mentoring opportunities. We are able to promote sustainability practices through networking events, recognition and mentoring which further reduces environmental impacts and promotes newer sustainability practices.
 - e) **Environmental Results Program.** Continue to look for opportunities and funds to use the Environmental Results Program (E.R.P.) model with various business sectors to improve compliance rates with small sources while promoting voluntary reductions in carbon and toxic chemicals. The U.S.E.P.A. has funded successful E.R.P. projects in Maine regarding auto body repair and other business sectors but permanent funding to continue these efforts is unavailable due to state fiscal constraints.
 - f) **Public Swimming Pools.** Indoor swimming pools have been documented to pose indoor air quality risks which can have an impact on human health particularly with sensitive populations including children and people with underlying chronic health issues. This project

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provides pollution prevention technical assistance to public and private swimming pool owners and operators to encourage a switch from the use of chlorine treatment to safer alternatives including the development of a best management practices guidance document. We anticipate the results will have an impact on improving indoor swimming pool air quality and reducing health risks associated with this activity.

g) Workshops and meetings

- 1) *Energy Workshops.* Hold annual energy workshops to promote further reductions in energy and carbon emissions through peer to peer learning, technical experts and panels to further explore topics of interest.
- 2) *Environmental Leader Meetings.* Convene meetings for environmental leaders to report significant projects including state-of-the-art source reduction technologies.
- 3) *Compliance Advisory Panel.* Work with sector associations and the Pollution Prevention and Small Business Compliance Advisory Panel to promote transparency in regulations and environmental stewardship/leadership activities.
- 4) Participate in national conference calls and meetings that include but may not be limited to S.B.E.A.P. Steering Committee and Green House Gas Committee, E.R.P. Consortium, Building E.R.P. Support Committee, and the Pollution Prevention Roundtable.

h) Toxics and Pollution Prevention. DEP administers Maine's Toxics Use Reduction Act (TURA). Legislation to modernize TURA was heard during the first regular session of the 124th Legislature. That bill was carried over to the next session. During this time we have implemented an active stakeholder's process along with complimentary toxic research. Currently we have come to consensus regarding a direction to take TURA, which centers on a narrower chemical list that has a broader base of use throughout Maine and are chemicals that pose the most significant environmental risk. At the time of this writing, DEP is drafting changes to the bill that will capture the work of stakeholders.

E. State Lead by Example Activities. Maine's governors have exercised significant leadership through the issuance of Executive Orders directing state agencies to demonstrate high standards of environmental stewardship. DEP plays a leadership role in the "Clean Government Initiative," which assists state agencies in meeting applicable environmental compliance requirements, and incorporating environmentally sustainable practices into all state government functions. DEP has successfully advocated for the use of safer cleaning products, environmentally preferable carpet standards, electronics, lights, uniforms and paper. DEP has encouraged the purchase of renewable energy, and the purchase of hybrid vehicles.

F. Public Outreach. In addition to direct prevention efforts with the regulated community and other specific sectors, DEP provides information to the general public through outreach activities and educational programs designed to enhance its awareness of resource values, pollution threats, and environmental standards.

1. **Web Presence.** Maintains and continually improve the DEP web site. The breadth and types of information available through DEP's website is detailed in the section of this document on information management.
2. **Outreach and Education on Specific Issues**
 - a) **Surface Water.** DEP conducts a variety of specific outreach and education initiatives to reach different constituencies about different facets of water quality. These include:
 - 1) *Children's Water Festivals.* Since 1990, DEP has conducted all-day educational events for elementary school children across the state. Each year there is both a northern and southern Maine event that each reach several hundred children with a wide variety of messages about water quality.
 - 2) *Stormwater Pollution.* In order to improve all citizen's understanding of how their individual actions impact water quality DEP and various municipalities have collaborated on the ThinkBlueMaine campaign. This campaign has funded the creation and airing of the "rubber ducky" television ad campaigns.
 - 3) *No-discharge Areas.* In order to reach boat owners and inform them of newly designated coastal no discharge areas DEP has conducted annual surveys of boat owners to gauge their awareness of the availability of pump-out facilities at marinas and the legal requirements of the no-discharge designations.
 - b) **Ambient Air**
 - 1) *Data.* Expand education and outreach efforts to provide greater public access to technical materials including complete online access to monitoring data, emissions inventory data and air emissions licenses.
 - 2) Develop and provide environmental education activities, materials and resources online.
 - 3) Develop and implement a public education program on diesel emissions reductions.
 - 4) Integrate ozone and particulate outreach into a general air quality education and outreach campaign that also includes regional haze.
 - i. Integrate environmental education into K-12 curricula and provide teachers with supplemental materials and classroom support.
 - ii. Develop and provide online environmental education activities, materials and resources.
 - 5) *Residential Wood Combustion.* Develop and implement a public education program targeting residential wood burning, including development and delivery of outreach materials on proper use of outdoor wood boilers.

c) Hazardous Substances

- 1) *Lead and Asbestos*. Continue efforts to develop audience-specific educational materials, and to coordinate with D.H.H.S. and the Maine State Housing Authority to conduct outreach and education activities for lead poisoning prevention.
 - i. Train community-level partners and provides outreach materials to local partners in identification of asbestos containing materials and lead hazards, applicable laws and regulations, and appropriate management of these hazards so they may deliver technical assistance to local constituencies, *e.g.* on-going outreach program to Codes Enforcement Office staff to provide lead-safe work practices information when building permit issued for pre-1978 residence or when contractor is reported to be releasing lead dust to the environment.
 - ii. Educate non-regulated entities through formal presentations and in-field consultations on causes of childhood lead poisoning and measures they can implement to prevent exposure of children to lead in housing and child-occupied facilities to help achieve the state's goal of eradicating childhood lead poisoning.
 - iii. Seeking to utilize a less labor-intensive delivery system, DEP is developing the "Lead-safe Rental Housing Registry" required by 38 M.R.S. § 1298 as an interactive web-based registry. This will allow landlords to enter their own information subject to verification by DEP staff, and make lead-safe rental housing information readily accessible to prospective tenants. This registry is being designed to be readily merged with the "Smoke-free for ME" rental housing registry as the basis for the future development of a "Healthy Housing Registry".
- 2) *Petroleum*. In accordance with Energy Policy Act requirements, as a delegated state DEP must provide web-based information on causes of motor fuel U.S.T. discharges. DEP has chosen to meet the requirements of the Energy Act to provide operator training for operators of motor fuel stored in underground oil storage tanks through production of an internet based program. The training will also be available in a hard copy format. This training will be offered without a fee for those needing training.
- 3) *Solid Waste*. DEP produces educational materials and conducts outreach activities related to solid waste management issues, including presentations to solid waste professionals, local and regional governments, schools, and the public in various settings.
 - i. Printed Materials. Prepares and distributes informational materials on a range of solid waste management topics including waste disposal and handling, beneficial use, residuals management, and composting.
 - ii. Presentations. Designs and delivers presentations to local and regional governments, schools, business and industry, associations, solid waste professionals, and the public, and others on a variety of solid waste management topics in various settings. Participates in the activities and meetings of various regional solid waste organizations (*e.g.* the Old Town Landfill Advisory Committee and the Northern

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Maine Solid Waste Management Committee) to provide information, support and assistance.

- iii. Compost Education. Is an active participant in the design and delivery of training and education programs through the internationally recognized “Maine Compost School”. The Maine Compost Team, with representatives from DEP, S.P.O., DAFRR, and the University of Maine Cooperative Extension, serves as faculty to the School. To date, over 600 students from more than 40 countries have graduated from the program. DEP’s representative on the Maine Compost Team currently serves as the School’s director.
- iv. Monitoring data. Provides water quality and gas monitoring data from selected solid waste facilities to interested citizens through DEP’s website.
- v. Product Stewardship. DEP develops and implements outreach initiatives to encourage consumers to appropriately recycle mercury-added products, electronics, and pharmaceuticals at the end-of-life. This has included the development of TV ads and public service announcements, publication of information in the *Sunrise Guide*, and preparation of informational flyers and pamphlets for use and distribution at local facilities and events such as transfer stations, hospitals, health fairs, home & garden shows, etc.

3. *Specialized Publications.* These provide information addressed to the needs of particular identified constituencies and promote local stewardship of local resources.

a) Surface Water

- 1) *B.M.P.s.* Distribute information in training courses for contractors, local code enforcement officers, *etc.*, to promote use of effective B.M.P.s and land management practices.
- 2) Provide materials to support watershed surveys and restoration efforts.
 - i. Utilize annual watershed manager’s roundtable to provide information to local soil and water conservation districts, Casco Bay Estuary Project, *etc.*
 - ii. Provide targeted outreach to municipalities engaged in watershed planning through the Nonpoint Education for Municipal Officials program.

b) Hazardous Substances

- 1) *Homeowners.* Distribute educational materials to homeowners on how to prevent petroleum discharges from home heating oil tanks, including *Plain Talk for Heating Oil Tank Owners.*
- 2) *U.S.T. Operators.* Distribute educational materials to owners and operators of underground petroleum storage tanks used for storage and distribution of motor fuels

including *Plain Talk for Motor Fuel Owners* as well as instructions and forms for use in documenting compliance with operating and monitoring requirements.

- 3) *Hazardous Waste Generators*. Distribute publications including laymen guide to the requirements for hazardous waste generators as well as issue profiles and guidance information to hazardous and bio medical waste generators.
- 4) U.S.T. Installers and Inspectors. DEP distributes copies of the Tanks In Maine newsletter, which contains short articles on state, regional and national issues germane to petroleum storage and distribution.

V. REGULATED ACTIVITY OVERSIGHT

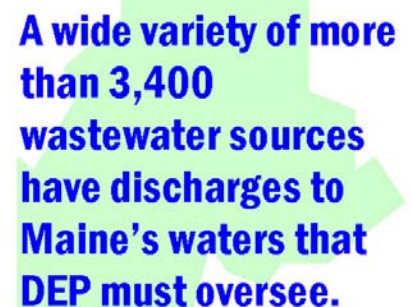
GOAL: To maintain current and historic information regarding the environmental performance of all regulated entities that is sufficient to understand compliance status and address non-compliance in an evenhanded manner.

BACKGROUND. Maine law charges DEP with assuring that the activities of regulated entities appropriately account for environmental requirements and that those entities maintain compliance. In each particular circumstance, the DEP evaluates the facts and exercises its discretion to determine which option or combination of options is appropriate to achieve compliance with environmental requirements. The result is a consistent and predictable compliance approach that retains enough flexibility to deal with the unique facts of a particular case or sector.

A. Licenses and Related Functions. DEP is charged with regulating a wide variety of facilities and activities through the issuance of licenses that specify the terms and limits of pollutant releases; land use changes; and the transportation and management of waste. DEP is also charged with administering the registration or certification of a wide range of activities and credentials.

1. **Surface Water Protection.** Maine's surface waters support nationally significant aquatic ecosystems and are the principal source of water for drinking water utilities and industrial users. A variety of water quality permits and licenses are issued for those activities that may affect surface water quality. Broadly speaking, water quality requirements can be divided into those applying to point sources, such as a wastewater treatment plant, or to nonpoint sources, such as parking lot runoff or failing septic systems. The federal C.W.A., S.W.D.A., and numerous state laws provide the authority to regulate these various sources of pollutants.

- a) **Wastewater Discharges.** Maine was delegated the authority by the U.S.E.P.A. in 2001 to administer the C.W.A. National Pollution Discharge Elimination System (NPDES) permitting program. Prior to delegation, NPDES permitting by the federal government was required in addition to state permitting requirements under Maine law. Under these programs, permits must be obtained prior to discharging wastewater from: public



A wide variety of more than 3,400 wastewater sources have discharges to Maine's waters that DEP must oversee.

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and private wastewater treatment plants; cooling or process water intakes; manufacturing or processing facilities, such as seafood or canning factories; aquaculture farms that raise fish; fish hatcheries; municipal stormwater systems; and a wide range of industrial and commercial facilities that have outside operations or storage of materials that are exposed to rainfall.

There currently are 384 licensed wastewater treatment facilities, 27 municipalities with stormwater discharge licenses, and 707 industrial or commercial facilities with stormwater discharge licenses. This represents a significant increase in the number of regulated facilities since the mid-1990s when there were 22 fewer wastewater treatment facilities and no stormwater discharge licenses issued by DEP.

Two new areas of regulation under federal water quality laws will be implemented in 2010. The first is the regulation of existing development within the Long Creek watershed, located in South Portland, Portland, Westbrook, and Scarborough.

This development is being regulated pursuant to U.S.E.P.A.'s and DEP's determination that significant water quality problems in Long Creek have been documented to be a result of the runoff from impervious surfaces. It is expected that approximately 100 properties will require a permit as a result of this requirement. Secondly, approximately 150 coastal marinas, following four years of stakeholder work, will be required to obtain permit coverage for their boat washing operations. This permit will require the installation of collection and treatment systems for the wash water which, when untreated, contains significant concentrations of metals and toxics in excess of state standards.



Typical siltation experienced in Long Creek after a storm event

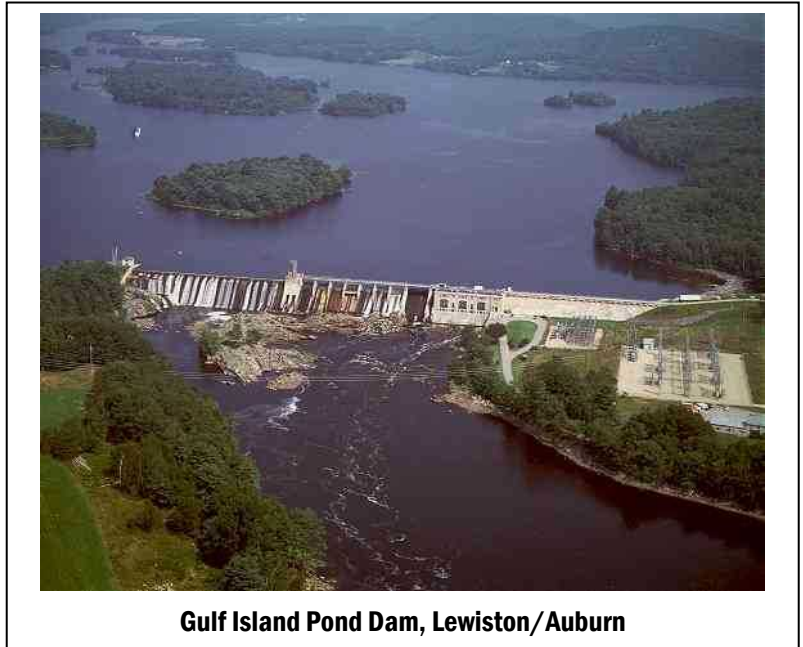
- b) Overboard Discharges. State law allows long-standing small-scale residential, commercial, and institutional wastewater treatment systems that discharge treated wastewater directly to surface waters to continue. New systems are prohibited. There are just over 1,350 of these licenses, most of which are located in coastal and estuarine waters. State law currently directs the DEP to provide available dollars, usually authorized by general obligation bonds, to license holders to remove these systems when there are alternatives.
- c) Pre-treatment. DEP's wastewater program oversees large-scale commercial and industrial facilities that discharge process wastewater into sewer systems that drain to Publicly Owned Treatment Works (P.O.T.W.s). Because these large facilities with complex wastewater effluent can impact the normal operation of municipal wastewater treatment plant, local municipal sewer districts are required to regulate these industries with permit limits and treatment requirements for the wastewater before it enters the municipal sewer system. The

DEP oversees fourteen of these local “pre-treatment” programs with annual inspections and technical assistance.

A less conventional pre-treatment program controls for the release of mercury into surface waters. Since 2004 a dental office that adds, removes, or modifies dental amalgam must ensure that wastewater containing dental amalgam particles must pass through a separator prior to discharge to either a private waste disposal system or a public sewer system. These simple systems, now in place at all affected dental offices, allow for the mercury to be safely handled and disposed.

Dentists are required to notify DEP of installation of a separator meeting the appropriate requirements. DEP tracks compliance with the law through records maintained by the dental offices. Offices are required to maintain records of filter replacements, inspections, and maintenance of the separator itself. DEP maintains a web site to assist with compliance. This includes listings of qualified separators with demonstrated performance.

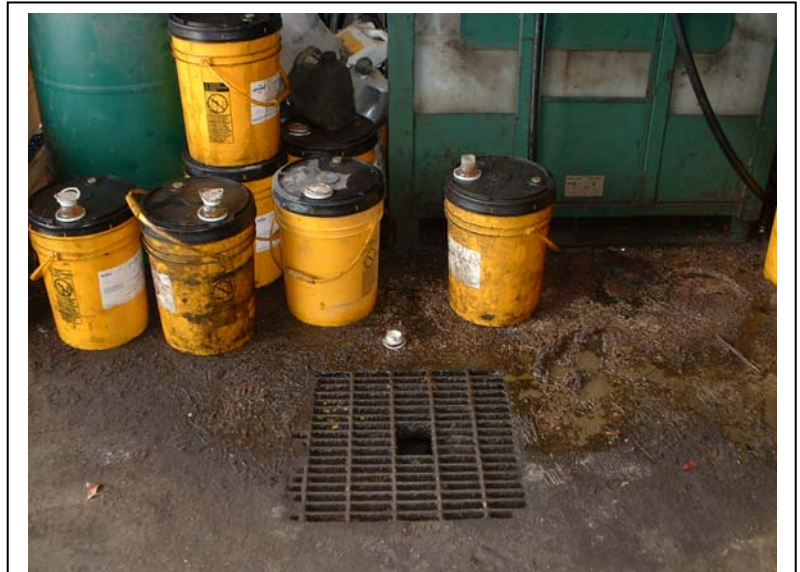
- d) Dams. Both federal and state law govern the licensing of dams that generate hydroelectric power. The state law, the Maine Waterway Development and Conservation Act, establishes a set of standards that requires the balancing of environmental impacts of impoundments with the benefits of hydroelectric power. Under federal law, the state is provided the opportunity to authorize a water quality certification that may condition the operation of hydropower facilities regulated by the Federal Energy Regulatory Commission. Once such a certificate is issued the federal government is obligated to apply those conditions to the facility in the issuance of its operating approval. The state uses this water quality certificate authority to require hydropower dams to implement fish passage or release a certain quantity of downstream water to maintain habitat. There are 119 hydropower project facilities in the state with an installed capacity of over 750MW.



2. **Ground Water Protection.** Groundwater is the primary source of drinking water for many Maine people and water-using businesses, either through direct removal for residential use, or from municipal drinking water systems that extract groundwater. DEP issues water quality permits and licenses for various activities that may affect ground water quality.
- a) **Underground Injection Control.** The federal S.D.W.A. authorizes the regulation of certain types of wells that can be used to dispose, or inject, wastewater into the ground. This program is called the Underground Injection Control (U.I.C.) program. This is one facet of the close coordination between DEP and D.H.H.S. for the protection of groundwater quality.

The U.I.C. program is principally an inspection-driven program whose standards cover floor drains located in commercial facilities, car washes not on sewer systems, and geothermal wells. It does not regulate drinking water wells.

Unlike western states with oil and gas wells or other large-scale underground injection systems, Maine's program does not issue many permits. Instead, this program has had significant success in closing off floor drains and implementing environmentally sound disposal systems for the industrial and commercial facilities that in the recent past quite literally poured polluted waters down the drain. Since 1998 the U.I.C. program has conducted over 3,000 inspections and closed over 500 floor drains and other inappropriate disposal methods across the state. These floor drains were often direct contributors to groundwater pollution.



Oil and hazardous materials leaking into a floor drain

- b) Petroleum. A wide range of facilities where petroleum-based products are stored require licensing by, or registration with, the DEP. All petroleum storage U.S.T.s must be registered with the state and meet minimum standards designed to minimize the possibility of leakage. These requirements and standards are codified in Maine law, most extensively in Maine's *Rules for Underground Oil Storage Facilities*, 06-096 CMR 691.
3. **Ambient Air Protection.** Maine law requires a wide variety of air pollutant emission sources to obtain a license prior to releasing pollutants into the environment. DEP evaluates and processes applications for what are known as "minor" and "major" sources of air emissions. The requirements and standards for these licenses are contained in Maine's *Major and Minor Source Air Emission License Regulations*, 06-096 CMR 115, and Maine's *Part 70 Air Emission License Regulations*, 06-096 CMR 140. DEP also manages a general permit program for nonmetallic mineral processing (rock crushers) and a registration-based program for activities subject to air emission control requirements that do not require air emission licenses, such as dry cleaners and stationary power generators. There are currently 63 major sources, 559 minor sources, and 49 mobile rock crushers licensed for air emissions by DEP.
4. **Land Development Oversight.** Maine law requires significant types of development projects to be evaluated, and potentially regulated, by the state. The types of projects that are evaluated, and must be approved prior to construction, include large commercial projects and subdivisions, projects with large areas of impervious surfaces that generate stormwater runoff, and activities adjacent to protected natural resources including wetlands, sand dunes, and certain wildlife habitats. Gravel mining and quarry operations over a certain size are regulated by a performance standards program established in statute which requires a notification, but not a typical permit.

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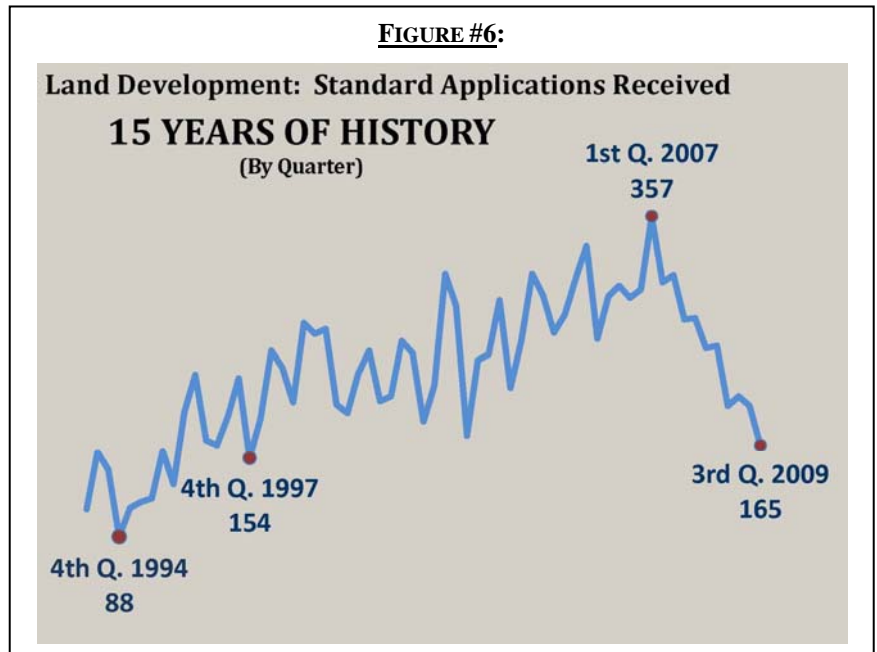
These land development license applications and notifications – totaling thousands throughout a year – have historically comprised approximately 75% of all applications processed by DEP in any given year. There are 629 gravel pits and 91 quarry operations covered by the performance standards program.

There is currently a downward trend in the number of standard applications being received. As illustrated in Figure #6, since the all time peak occurred in the 1st Quarter of 2007, land development application

filings have steadily decreased, mirroring the condition of the national and state economy.

The overall trend in land development applications is down from 2007. At the same time, the number of very large infrastructure-related development projects is at an all time high. Most of these projects relate to clean or renewable energy infrastructure.

- a) On-shore Wind Power. DEP has approved three (3) grid-scale terrestrial wind power projects and two (2) small wind projects, with four (4) others developed in the northern unorganized portion of the state, all having a combined total capacity of nearly 400 MW. Currently there are 2 other grid-scale pending wind power projects under review by the DEP and several others being scoped for near-term applications in various locations in the western and northern parts of the state. These projects are being reviewed and permitted under a new law and regulations adopted to “streamline” the permitting process for wind development in Maine’s organized territories. This streamlining includes reduced scenic review, and DEP original jurisdiction with appeals based on a review of the record at the Board of Environmental Protection.
- b) Off-shore Wind and Tidal Power. The Governor created an Ocean Energy Task Force in November 2008. In June the Legislature enacted emergency legislation creating a 60 day DEP general permit for the testing and demonstration of emerging offshore wind (primarily deep-water) and wave technologies in pre-identified sites in state waters. DEP signed a Memorandum of Agreement with the Federal Energy Regulatory Commission to create a virtual “one-stop” permitting process for tidal power pilot projects. The Task Force is currently in the process of drafting its report and recommendations, which will include recommended changes to DEP law and regulation related to permitting offshore wind and tidal power projects in state waters; submerged lands leasing rules for projects in state waters; better coordination and consistency between state and federal agency review and permitting procedures and standards; targeted marine spatial planning to designate appropriate areas for offshore wind development; development of financing mechanisms, including conversion of



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heating and transportation sectors to more efficient electric technologies, with use of revenues to help support the current above market costs of offshore wind and tidal energy.

- c) Electricity Transmission Grid. The states electrical transmission grid is currently being proposed for an over \$1.4B upgrade along over 400 miles of corridor in order to improve reliability and capacity for the New England Grid. Settlement discussions are underway at the Maine Public Utilities Commission on the petition for public convenience and necessity for the Central Maine Power Reliability Project.

Maine has set ambitious goals for development of its onshore and offshore wind resources, and significant wind development is already occurring in Maine as mentioned above. This will necessarily require expansion of the state's transmission infrastructure, while electrification of heating and transportation could necessitate expansion of the distribution system as well. Cost allocation for these transmission projects is being actively discussed at the ISO-NE and among the New England states.

- d) Liquefied Natural Gas (L.N.G.). In late 2004 DEP became aware that the possibility of locating an L.N.G. facility in Passamaquoddy Bay was being examined by developers.

Between the third week of December 2005 and first week of January 2006, two developers requested that the FERC allow them to enter what is known as "pre-filing review" of environmental considerations under the National Environmental Policy Act (NEPA). By late spring 2007, both developers had filed environmental license applications with the state. In May 2008, a third developer initiated the FERC pre-filing review process. The primary purpose of each development proposal was the importation of gas for its distribution throughout the northeast region.

- 1) *Quoddy Bay, LLC*. Although the project is no longer under review by state and federal agencies, this was the first developer to file for an environmental evaluation with the FERC, and the second to file with the state. Quoddy Bay, LLC established a relationship with the Passamaquoddy Indian Nation, proposing to locate a 1,500 foot berthing pier out into Passamaquoddy Bay from Pleasant Point reservation land and have its storage facility located in the Town of Perry across an adjacent cove. A 36 mile long pipeline is needed to deliver gas from the import location to an existing interstate distribution line. At potentially up to three (3) billion cubic feet per day, Quoddy Bay, LLC was proposing the largest gas delivery capacity of any facility being considered in Maine. Jurisdiction over the evaluation of, and decision on, the state applications was asserted by the Board in August 2007. After the developer failed to submit information necessary for its engineering evaluations that had been requested by the federal government earlier in the



Mars Hill Wind Farm (42MW)

(Photo courtesy of First Wind ©2007)

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year, the FERC dismissed Quoddy Bay, LLC's applications in October 2008. At the end of October 2008 Quoddy Bay, LLC requested, and in November 2008 the Board accepted, withdrawal of pending state license applications.

- 2) *Downeast LNG, Inc.* This is the second developer to file for an environmental evaluation with the FERC, and the first to file with the state.

Downeast LNG is proposing to locate a 3,800 foot berthing pier out into Passamaquoddy Bay from land located in the Town of Robbinston, with its storage facility located on that same parcel. A 30 mile long pipeline is needed to deliver gas from the import location to an existing interstate distribution line. At half (0.5) a billion cubic feet per day, Downeast LNG is proposing the smallest gas delivery capacity of any facility being considered in Maine. Jurisdiction over the evaluation of, and decision on, the state applications was asserted by the Board in January 2007, and, with public hearings held in July 2007, the processing of those applications advanced further that any other Maine-based L.N.G. proposal considered to date. In September 2007 Downeast LNG requested, and in November 2007 the Board accepted, withdrawal of what were then pending state license applications. At the time of withdrawal, Downeast LNG expected to refile applications in December 2007 but as of this date nothing has been filed. Downeast LNG is currently representing to DEP that issuance by the FERC of an Environmental Impact Statement (E.I.S.), which documents the outcome of its NEPA review, will precede any state filings. The FERC review is ongoing.

- 3) *Calais LNG Project Company, LLC.* This is the third developer to file for an environmental evaluation with the FERC, and it has not yet filed with the state. Calais LNG is proposing to locate a 1,000 foot berthing pier out into the St. Croix River north of its confluence with Passamaquoddy Bay from land located in the Town of Calais, with its storage facility located on that same parcel. A 20 mile long pipeline is needed to deliver gas from the facility to an existing interstate distribution line. At one (1) billion cubic feet per day, Calais LNG is proposing the largest gas delivery capacity of any facility currently being considered in Maine. FERC review is ongoing.



5. *Waste Management*

a) **Hazardous Waste.** Most of Maine’s hazardous waste management regime is implemented by conformity to legal standards that entities are expected to follow in compliance with federal and state laws, instead of requiring licenses for every entity generating the waste. Maine’s hazardous waste management laws exist to prevent the release or illicit disposal of hazardous waste, biomedical waste, and waste oil through the licensing, inspection and supervision of hazardous waste, waste oil and biomedical waste activities and handlers. The universe of entities regulated in Maine for hazardous waste and waste oil related activities includes approximately 5,000 waste oil handlers, 5,400 hazardous waste generators and 2,800 biomedical waste generators, as well as about 120 transporters licensed to transport these wastes. Approximately 94 hazardous waste, waste oil and biomedical waste facilities have been issued licenses or permits for treatment or storage activities. There are an estimated 60,000 generators of universal hazardous waste in the state. DEP also provides oversight at approximately 80 facilities that are implementing closure and corrective action plans related to the release or possible release of hazardous wastes. Relative to other license driven programs, the positions budgeted by the Legislature to oversee hazardous material related activities (13 staff and part of a division director) have the lowest staff to regulated facility ratio, with more than 72,000 entities regulated, of any DEP program.

Maine law charges DEP with oversight of more than 70,000 generators and transporters of hazardous waste, waste oil, biomedical waste, and universal waste.

b) **Asbestos.** Maine law requires asbestos abatement project designers, workers, supervisors, inspectors, *et al.*, to receive credentials from DEP prior to engaging in asbestos-related activities. DEP issues approximately 900 such credentials in any given year. Records from past projects are reviewed for contractors and consultants prior to re-licensing.

c) **Lead.** Project designers, workers, supervisors involved in lead abatement must receive credentials from DEP prior to engaging in their activities. DEP reviews applications for licensing and certification, and issue these credentials as appropriate. Records from past projects are reviewed for contractors and consultants prior to re-licensing.

In 1998, the DEP finalized an M.O.U. with four Native American Tribes in Maine, with the Penobscot Indian Nation signing in 2000. This M.O.U. addresses the areas of training, compliance, certification, and licensing for lead professionals and contractors.

d) **Solid Waste.** Maine law requires that the location, establishment, expansion, alteration, or operation of any solid waste facility or handling activity be licensed by the DEP, which reviews all license applications against comprehensive regulatory standards developed to ensure protection of ground and surface water resources, land and air quality, and public health and safety for the siting, design and operation of all types of solid waste facilities and activities including: landfills; transfer and storage sites; waste processing facilities; incinerators; beneficial use; agronomic use; and composting. DEP has been a leader in its development of comprehensive standards for waste reuse, and in facilitating the

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

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environmentally sound reuse of waste for industrial, agronomic and construction purposes in support of Maine's statutory solid waste management hierarchy.

DEP also makes determinations of "public benefit" for proposed new or expanded solid waste landfills or the proposed acceptance of out-of-state waste at publicly owned disposal facilities. These determinations by the DEP ensure that proposed new disposal capacity will yield a substantial public benefit to the State of Maine. DEP is also responsible for making determinations of host community status for requesting municipalities that are contiguous to municipalities in which a solid waste disposal facility is located, and facilitates mediation of host community negotiation disputes in accordance with statutory provisions. Presently, there are:

- 1) *Landfills*. 44 licensed landfills in Maine, 21 of which are "secure" landfills (*i.e.*, lined, engineered facilities), the majority of the remainder being small municipal landfills used for the disposal of wood waste, land clearing debris, and construction/demolition debris.
 - 2) *Transfer Stations*. 246 transfer stations and waste storage sites, the majority of which are municipal facilities that transfer municipal solid waste to a landfill or incinerator.
 - 3) *Processing Facilities*. 76 licensed waste processing facilities including those that separate, shred, pelletize, chip, or otherwise process wastes such as tires, construction/demolition debris, metal, etc.
 - 4) *Incinerators*. 4 licensed solid waste incinerators that accept municipal solid waste and approved "special" wastes.
 - 5) *Beneficial Use*. 29 licensed beneficial use activities including the use of wastes such as tires, dredge material, ash, and wood wastes in construction or manufacturing, or as fuel.
 - 6) *Agronomic Use*. 269 licensed programs and sites for the agronomic utilization of wastes such as sludge, ash, lime mud and food/fish waste.
 - 7) *Composting*. 79 licensed composting sites that compost wastes such as leaf and yard, sludge, fish, and food.
- e) *Septage*. Maine law requires that any facility or site that handles septage (*i.e.*, effluent or sludge from septic tanks) be licensed by the DEP. Currently, there are 90 sites in Maine licensed for the handling or disposal of septage.



Automobile shredding facility in Topsham

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- f) Universal Waste Consolidators. Each year, DEP reviews applications by universal waste consolidators to manage Maine's household e-waste recycling on behalf of the responsible manufacturers.
- g) Biomedical Waste. All generators of biomedical waste are required to register with DEP. There are currently about 2,800 generators registered. Ten (10) licensed biomedical waste transporter companies service these generators. Most biomedical waste generated in Maine is treated at a licensed biomedical waste treatment facility in Pittsfield, Maine. This facility uses steam sterilization technology to achieve treatment.
- h) Waste Transportation

1) *Non-hazardous Waste.* Maine law provides that certain categories of transporters of solid waste be licensed by the DEP. Currently, 438 companies involved in waste transportation and 2,339 separate conveyances are licensed.

2) *Hazardous Waste.* Maine's hazardous waste transporter program is one of the controls on hazardous waste management. Hazardous waste transporters must be licensed and thereby comply with standards intended to protect the health, safety and welfare of the public and the environment. DEP staff review license applications to ensure that insurance, training and safety standards are met, and conduct background checks on the applicants for environmental and safety violations. This evaluation includes a review of individual driving records for conveyance operators for past violations and to ensure the drivers licenses have not been suspended or expired. Hazardous waste transporters are also required to provide quarterly reports to DEP which are used to track the amount of waste moved. Maine currently has 80 entities licensed, which ranges from transporters that run one (1) operator and a single conveyance to 100 or more operators and conveyances.



Hazardous waste being properly packed for safe shipment over the road

B. Compliance Evaluations. A core activity in all DEP regulatory programs is evaluating compliance with licensed pollutant release limits, performance standards, reporting obligations, and record keeping requirements. These evaluations are performed through on-site inspections at regulated facilities or are based on the review of data submitted to DEP by regulated entities.

1. *Record Reviews.* State law requires that a variety of records be maintained by regulated entities for the purpose of demonstrating compliance. Some of these records must be periodically submitted to DEP for evaluation. DEP evaluates all records submitted for compliance demonstration purposes in order to document conformity with Maine law.

a) Surface Water

- 1) *Wastewater Dischargers.* All licensed wastewater dischargers, except small O.B.D.s, must test effluent as it leaves a facility to document whether wastewater being released into Maine's waters is in conformance with licensed limits. The results of those tests are forwarded to DEP for its evaluation. DEP reviews all data submitted by licensed dischargers on what are known as Discharge Monitoring Reports (D.M.R.) within five working days of submission in order to discuss, as needed, any reported violations with the submitter and identify all facilities failing to submit complete or timely data.
- 2) *Stormwater Dischargers.* Depending on the type of regulated stormwater discharge, a permit holder is required to demonstrate at the DEP's request that they are operating their facility according to an approved plan maintained at the facility, or are implementing best management practices. In general there is not comparable effluent monitoring of stormwater discharges given the difficulty in obtaining a representative sample during a rainfall event and the inherent ambiguity of any resulting monitoring data.

b) Ground Water

- 1) *Licensed Dischargers.* There are 70 licensed facilities that discharge treated wastewater to groundwater *via* spray irrigation to soil or *via* a subsurface system such as a leach field. These facilities must evaluate their effluent with respect to permit limits as well as monitor groundwater quality. This information is reported to the DEP in same fashion as surface water discharges.
- 2) *Solid Waste Facilities.* Maine law requires certain licensed landfills, incinerators, transfer/storage facilities, processing facilities, septage sites, and beneficial and agronomic use activities/sites to periodically submit environmental monitoring data and reports. DEP reviews those reports to determine whether requirements are being appropriately met.



Sludge being dumped into the Rockland Quarry

c) Land Development. Permitted land development activities typically have license conditions included in an approval. Compliance with those conditions during construction often

must be documented by the developer and submitted to DEP for its evaluation. License writers are usually responsible for that review because they are familiar with the project and required license conditions. The licensor will review what has been reported and identify any issues with the submission of complete or timely data.

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d) **Ambient Air.** Maine law requires licensed air emission sources that continuously monitor for certain criteria pollutants and opacity to submit reports on specific data parameters that document compliance with pollutant limits and monitor availability during periods when the source is operating. DEP reviews these quarterly compliance reports for emissions reported in excess of license requirements, monitoring equipment down-time, and/or process upsets and a variety of other requirements to quickly identify non-compliance and respond accordingly.

e) **Waste Management**

1) *Hazardous Waste and Waste Oil.* All shipments of hazardous waste must be recorded on a multi-copy manifest; one of the copies is submitted to DEP. Shipments of hazardous waste are monitored by tracking and evaluating copies of Uniform Hazardous Waste Manifests in order to determine whether there are any discrepancies between what has been manifest and what is delivered to a receiving facility and reported elsewhere, such as to the Maine Emergency Management Agency.

2) *Solid Waste Facilities.* Maine law requires all licensed landfills, incinerators, transfer/storage facilities, processing facilities, septage sites, and beneficial and agronomic use activities/sites to submit annual and other periodic reports on activities occurring at the facility. DEP reviews those reports to determine whether requirements are being appropriately met.

i. Reviews annual reports submitted by licensed solid waste facilities and activities. The content of annual reports is prescribed by rule and varies depending upon the type of facility or activity. Many annual reports include ground and surface water quality monitoring results and analysis for the previous year and require detailed

DEP evaluation. Last year, DEP worked collaboratively with the State Planning Office to design a single annual report form for those solid waste facilities previously required to file two separate reports to the agencies each year.

ii. Reviews water quality monitoring and other environmental data submitted by facilities to identify trends and to determine compliance with environmental standards; also evaluates environmental monitoring plans and corrective action plans submitted by solid waste facility applicants and licensees.

iii. Reviews reports submitted by approved electronic waste consolidators in Maine.



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- 3) *Asbestos and Lead Abatement Projects.* Maine law requires that notice be provided to DEP of any lead or asbestos abatement project that will be conducted by a professional, and that they take the actions needed to achieve compliance.
 - 4) *End-of-life product management programs.* Maine's extended producer responsibility laws require periodic registrations or reports by the manufacturers of mercury-added products and consumer electronics, and by consolidators for household waste electronics. DEP reviews and utilizes the data and information in these reports to assess the effectiveness of the programs in preventing disposal of these products in Maine's landfills and incinerators and the environmental benefits gained from the recycling of products into commodities that can be used to manufacture new products.
 - 5) *Toxics Use Reduction Act (TURA).* Maine's TURA requires submission of annual reports by entities using, generating, or releasing certain quantities of covered chemicals. Compliance review components of the current TURA program include review of progress reports and pollution prevention plans. These reports are submitted biannually.
 - f) *Petroleum.* Maine law requires petroleum U.S.T. and certain A.S.T. owners to hire a third-party inspector to perform an annual compliance evaluation. Annual inspection reports are submitted to DEP, which reviews those reports to determine whether requirements are being appropriately met. Facilities that do not pass the inspection are given a high priority for an on-site evaluation by DEP and U.S.E.P.A.
 - g) *Biomedical Waste.* The biomedical waste program provides regulatory oversight for the identification, management, transportation, treatment and disposal of biomedical waste. Biomedical waste generators are required to register with the DEP. A database is utilized to distribute information and assistance to handlers of biomedical waste.
 - h) *Marine Oil Terminals.* Marine terminals are required to periodically have qualified inspectors evaluate compliance at those facilities based on national standards specific to a tank's age and use.
2. ***On-site Compliance Evaluations.*** DEP has staff deployed throughout Maine to inspect regulated facilities in a strategic manner that makes best use of available resources in order to document compliance status. Such first-hand inspection assessments are key to assuring that license conditions and other indicators of environmental compliance are being met.
- a) *Surface Waters*
 - 1) *Underground Injection Control.* DEP focuses annual U.I.C. inspections on a watershed basis. For example, the Presumpscot River basin and Casco Bay basin will receive inspections during FY10, as will the St. John River basin. Inspections typically occur at between 200 and 250 facilities in designated watershed areas.
 - 2) *Licensed Discharges.* There are a variety of performance metrics used to direct program resources toward an appropriate level of compliance.

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- i. All licensed wastewater treatment facilities other than very simple facilities that are just discharging cooling water are inspected once a year with the aim of maintaining compliance at very high levels. In 2008, 90% of all facilities were in substantial compliance with their permits. The long term trend of wastewater discharger compliance is very positive, where the number of violations occurring annually regarding the two principal pollutants (biological oxygen demand and total suspended solids) have been reduced to 20% and 50% (respectively) compared to what they were 10 years ago.



- ii. Overboard Discharge facilities (O.B.D.). There are approximately 1,300 O.B.D.s. While historically all of these facilities were inspected at least once in a season, the compliance record of most facilities over many years demonstrated high levels of compliance. With an increased focus on sanitary surveys to identify failing septic systems that were impacting shellfish harvesting areas, inspection frequency was reduced to 50% (approximately 700) of all licensed O.B.D. each year and resources were redirected from the O.B.D. program to sanitary surveys. O.B.D. inspections continue to focus on facilities with past compliance problems.

3) *Spill Prevention and Countermeasure Control (S.P.C.C.)*. U.S.E.P.A. will conduct inspections in response to any major accidental release and will initiate enforcement actions as appropriate to ensure that compliance with Section 311 of the C.W.A. is achieved and maintained. U.S.E.P.A. conducts inspections and enforcement based upon release reports, region team targeting, tips, complaints, and referrals. The DEP will continue to encourage all facilities to report releases to the Federal National Response Center.

4) *Sand Salt Piles*. Investigate complaints as needed and perform site inspections for any variance requests.

b) Groundwater. There are approximately 1,630 facilities storing petroleum regulated under federal U.S.T. laws.

1) *U.S.T. Facility Inspections*. DEP inspects a minimum of about 400 U.S.T. facilities per year, as resources allow, for compliance with applicable rules and statutes. Selection of facilities to be inspected is based on potential environmental threat, location, compliance, and any history of change of ownership. Some of these inspections are conducted jointly

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with U.S.E.P.A. staff. Facility operators are provided with the inspection results and list of corrective actions at the time the inspection is completed.

- 2) *Oil Terminal Inspections.* DEP inspects, on average, half of Maine's 14 petroleum terminals each year.
- c) *Land Development.* DEP confirms compliance with the conditions included in all land development permits. A variety of performance goals are used to gauge compliance with permits, they include inspecting 100% of all new Site Location of Development permits; 100% of all of the larger wetland impact permits; as well as every gravel and quarry operation once every three years.
- d) *Ambient Air*
 - 1) *Stationary Sources.* DEP conducts inspections of air emission sources and review periodic monitoring reports to determine compliance with state air quality regulations and licenses. Compliance staff conduct 300 on-site visits and inspections annually to monitor compliance at 700 regulated or licensed stationary sources.
 - 2) *Mobile Sources.* DEP implements Maine's emission compliance program for on-road heavy-duty diesel testing, conducting inspections on approximately 63 days per year. DEP also oversees compliance inspections for Maine's Low Emission Vehicle Program, conducting approximately 60 inspections per year, and low-enhanced inspection and maintenance program, with approximately 192 inspections per year.
 - 3) *Area Sources.* DEP implements comprehensive area source compliance programs for the control of volatile organic compounds and hazardous air pollutants. Area sources include dry cleaners, gasoline stations, consumer products, coating and painting operations and others. Compliance staff conduct 100 on-site visits and inspection at area sources mostly at drycleaners and high volume gasoline stations.
- e) *Waste Management*
 - 1) *Licensed Hazardous Waste Facilities.* DEP inspects a variety of facilities that are licensed by, or registered with, the state as a result of hazardous waste related activities occurring at the location. There are currently two Treatment Storage Facilities (T.S.F.s) licensed for RCRA waste and one for P.C.B.s; approximately 90 Large Quantity Generators (L.Q.G.s) for hazardous waste; and over 600 Small Quantity Generators (S.Q.G.s) in Maine producing between 100-1000 kg of hazardous wastes *per* month.
 - 2) *Asbestos.* As mentioned in regard to licensing, hundreds of asbestos and lead abatement projects occur in Maine every year. DEP conduct targeted field inspections of those projects, and investigates complaints, to ensure no public health or environmental risks are created through improper abatements or renovations; that all parties are in compliance with state asbestos and lead laws; and that Local Education Agencies are in compliance with the Asbestos-Containing Materials in Schools rules, 40 CFR Part 763, Subpart E. Inspections are targeted under a Neutral Administrative Inspection Scheme (NAIS) and in response to credible complaints. The NAIS prioritizes projects in schools lead abatements

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performed in response to the identification of a lead-poisoned child, and projects performed by newly-licensed contractors. Additionally, DEP conducts five professional training course audits annually, targeting those offered by a training provider for the first time. and Lead

3) *Solid Waste Facilities.* As well as licensing and record reviews, DEP's solid waste regulatory staff are responsible for the conduct of targeted inspections for compliance, construction activity review, and monitoring purposes.

i. Conducts inspections of licensed solid waste handling facilities including landfills, transfer and storage sites, waste processing facilities, incinerators, composting facilities and septage utilization, storage and disposal sites for compliance with regulatory standards. Inspections may be either comprehensive or targeted (addressing a particular facet of the operation). Inspections of large, complex facilities, such as landfills, are frequently conducted by multi-disciplinary teams of staff (e.g. geologist, engineer, and compliance staff). DEP works regularly in cooperation with the DAFRR under the terms of a Memorandum of Understanding concerning the inspection of agricultural compost facilities.

Currently, there are 837 licensed solid waste and septage facilities in the state (including 44 landfills). Inspections of these facilities are conducted on a priority basis. Goals related to the frequency of inspections vary according to the type of facility and the circumstances. For example, inspections are generally conducted at least weekly at landfills under construction, but a small solid waste transfer station without a recent history of compliance problems may only be inspected every 2 years. The general goal of the program is to inspect most facilities at least annually, although many facilities are inspected with far more frequency. DEP annually conducts approximately 1,000 inspections (both targeted and comprehensive) at licensed solid waste facilities.



**Landfill Gas Combustor, Crossroads Landfill
Norridgewock, Maine 2009**

ii. Conducts on-site evaluations of beneficial and agronomic uses of waste to determine compliance with applicable standards and to evaluate the efficacy of the reuse programs. By way of example, the DEP has worked extensively to establish and ensure compliance with comprehensive fuel quality standards for the use of construction and demolition debris derived wood fuel.

iii. Performs compliance checks at retail sales outlets to ensure implementation of product sales bans and cell phone recycling laws.

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- iv. Conducts compliance inspections at approved electronic waste consolidation sites to determine compliance with requirements of Maine's electronic waste law.
- v. Conducts periodic field checks of waste transport vehicles for compliance with waste transporter licensing requirements.
- vi. Performs in-depth follow up compliance monitoring as appropriate including sampling and analysis of ground and surface water, soils, gas, and wastes at solid waste facilities, and waste derived products being distributed for use (*e.g.* compost). DEP's on-site inspection of solid waste facilities includes an evaluation of the monitoring wells to determine whether they are maintained in the manner needed to ensure accurate and meaningful test results.
- vii. Responds to complaints filed by interested parties concerning all types of solid waste and septage facilities, activities and handling. DEP often works in collaboration with local enforcement officials on the resolution of some types of complaints (*e.g.* illegal dumping and junkyards). Complaint investigation frequently involves a site visit or facility inspection. Initial staff response to a complaint occurs within 24 hours.

C. Enforcement. Maine law provides DEP with the authority to enforce all of the state's environmental regulatory requirements. When environmental violations occur at licensed facilities or in other regulated situations, the DEP initiates timely and appropriate enforcement actions in a manner that is consistent with state law, Memoranda of Agreement with U.S.E.P.A. and the Agency's written non-compliance response and penalty calculation policies. All DEP enforcement activities follow these protocols, which are long-standing and were developed after consultation with the Office of the Attorney General (A.G.). There are employees dedicated to such enforcement activities in each of the bureaus, and in the Office of the Commissioner, which is responsible for overall coordination and oversight of enforcement procedures and decisions.

All negotiated penalty cases that DEP believes are appropriate for administrative resolution must be evaluated and ratified by the Board and A.G. Cases that are inappropriate for administrative resolution, or where negotiations have failed, are pursued in court.

VI. POLLUTION RESPONSE AND NATURAL RESOURCE RESTORATION

GOAL: To respond quickly and effectively to incidents of pollution, and bring necessary resources to bear on the tasks of restoring the environment to a healthy state.

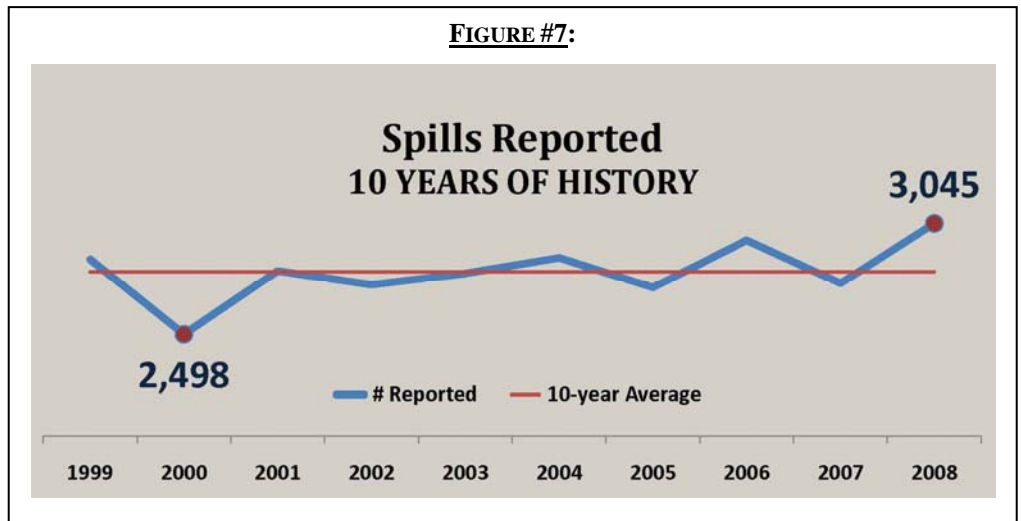
BACKGROUND: Maine law establishes a system whereby the state assumes responsibility for first-response to pollutant releases that threaten human health and the environment. Those laws also charge DEP with responsibility for overseeing, and in some situations implementing, the clean-up of released pollutants. The federal government also has jurisdiction over certain contaminated sites in Maine. Where concurrent jurisdiction exists, DEP works collaboratively with the federal government, which is primarily represented through the U.S.E.P.A., to effect the appropriate solution.

The principal categories of these actions include response to and assessment of unlicensed discharges of petroleum products and hazardous substances; remediation at locations where pollutants have been released to the environment; prevention of the spread of invasive aquatic species; and prevention of hazardous air pollution. Maine funds its pollutant remediation efforts with Other Special Revenues

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(O.S.R.) that are derived from fees on some of the materials that typically require clean-up. The state also receives a variety of federal grants to fund remediation at certain existing locations.

A. Response. DEP responds to thousands of pollutant releases every year and evaluates many reported incidents of invasive species. These pollutant release evaluation and clean-up responsibilities require the state to maintain a group of highly trained professional staff who are able and equipped to travel 24/7/365 to the location of an incident, ready to address any scenario involving hazardous substances, petroleum products, and/or weapons of mass destruction. The primary natural resources threatened or affected by pollutant releases are surface and ground water. The state’s response capacity aims at quickly addressing releases to the environment because the effort required to mitigate the effects of a release increase exponentially as time elapses. These actions and this capacity to respond to pollutant releases is particularly crucial given that more than half of Maine’s residents rely on private wells for their drinking water.



1. State Led Actions.

Pollutant releases to surface water, ground water, and land occur everyday in Maine. For instance, about 90,000 gallons of spilled petroleum are reported to the DEP each year. As first responder in such situations, DEP investigates these reports to assess threats to human health and the environment. Staff has the authority to immediately call for additional resources as needed. DEP also works with other New England states and the federal government to coordinate responses.

2. Federally Led Actions.

Under certain circumstances U.S.E.P.A. takes the lead in a Maine response action. U.S.E.P.A. spends several million dollars per year in Maine removing hazardous waste that poses an imminent threat to public health or the environment. Maine has one of the highest *per capita* expenditures by U.S.E.P.A. in this program, because DEP works cooperatively with U.S.E.P.A. to provide logistical support and oversight work. For instance, DEP personnel will use equipment to analyze in real time for lead in soil at the Rolnick site in Brewer, where U.S.E.P.A. is spending about \$1.5 in lead removal activities.

3. Ambient Air.

D.E.P investigate complaints, monitors air quality levels and restricts emissions, or issues shutdown orders, in the event of an air pollution emergency. This authority is designed to be a tiered process whereby DEP can initiate an action based on the monitored pollutant level. DEP’s *Emergency Episode Regulations*, 06-096 CMR 109, is intended to prevent air pollution from reaching levels that would cause imminent and substantial harm to the health of persons, by restricting emissions during periods of air pollution emergencies. The regulation is structured for various unhealthful levels of air pollution beginning with an alert level and progressing through warning to emergency warning levels. Each successive level has various restrictions tailored to

the alert level up to and including suspension of operations at facilities. The exercise of this authority has rarely been needed.

4. ***Invasive Plants.*** When reports of possible invasive aquatic plant infestations are received, DEP deploys a Rapid Response Team to assess the situation and take immediate action to limit the spread of the invasive species. This unit has responded to all documented infestations and takes action appropriate to the situation as outlined in the adopted rapid response plan. Initial responses range from ensuring that an infested private pond (an abandoned quarry) is secured and could not be accessed by the public, to establishing a surface use restriction on an infested cove to minimize boat traffic and plant dispersal, to screening off a small isolated shallow cove with a well established infestation to limit plant fragments from leaving during initial surveys of the area. These initial actions are followed up with longer term control strategies including hand removal, mechanical removal, and in certain instances herbicide applications.

B. Remediation and Restoration

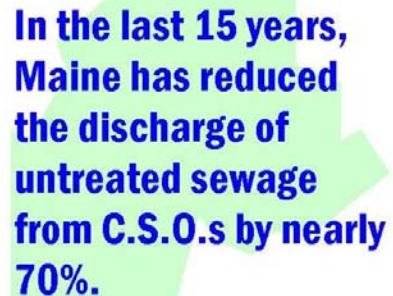
1. ***Surface Water.*** The broad outlines of how DEP and Maine citizens have improved water quality over the decades are very clear – there are no longer foam-covered rivers, discharges of brightly colored textile wastewater, or fish kills from pollution discharges. The state and federal water quality laws set the goal of restoring the chemical, physical, and biological integrity of our water. Several completed and ongoing projects over the last ten years illustrate current work toward that goal.

The science supporting state decisions on what must be done to bring a water body into attainment of its water quality classification is captured in a Total Maximum Daily Load (T.M.D.L.) calculation specific to the water body being evaluated. DEP typically completes 8-12 T.M.D.L. evaluations per year, each documenting the pollutant discharge limits for contaminant removal that will bring a non-attaining water bodies into compliance with water quality standards. In 2009, DEP completed 206 T.M.D.L.s by performing a statewide evaluation for waters that do not attain state bacterial standards.

- a) **Regional Mercury Strategy.** In 2008, the U.S.E.P.A. approved the country's first ever regional T.M.D.L., an innovative effort undertaken by the six (6) New England states and New York under the auspices of the New England Interstate Water Pollution Control Commission and the New England States for Coordinated Air Management. This T.M.D.L. was unique not only for its regional basis, but its demonstration of the amount of mercury emission reductions from both within and beyond the region that would be needed in order to bring the region's fish back into compliance with water quality standards. The New England states and New York were able to put this plan forward because of the extensive amount of work that has been done to date within the region to reduce our own emissions by approximately 75% since 1998. Following the T.M.D.L.'s approval the New England states and New York filed a petition under Section 319(g) of the Clean Water Act with the U.S.E.P.A. Administrator which requires the creation of a plan to meet the emission reductions stipulated in the approved T.M.D.L.

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- b) Combined Sewer Overflows (C.S.O.). All municipalities with sewer systems that have the potential to discharge partially treated or untreated sewage to the waters of the state during high rainfall events have mandatory abatement plans in place. Some highlights of this over 15-year and \$300M (and counting) investment include: 60-70% reduction in the volume of combined sewage discharged; half of all outfall structures have been removed completely; 25 of the 60 original C.S.O. municipalities have completely eliminated combined sewer overflows; and one-inch of rain now causes 1/3 of the volume of overflow discharge that it did in 1989.
- c) Lakes. In recent years, after decades of work to eliminate discharges, erosion and sedimentation problems, and nutrient runoff from parking lots or farms, several lakes now meet their required water quality standards. These include:
- 1) *Cobbosseecontee Lake, Kennebec County*. Until the early 1970's, this 5,200 acre lake was the receiving water of treated sewage from two municipalities as well as two textile mills, and has undergone intensive shorefront development. After 35 years of work this lake was declared healthy again in 2006 after it had not had an algae bloom in ten years and water clarity routinely met standards.
 - 2) *Mousam Lake, York County*. Due to intensive development over the last several decades, Mousam Lake suffered significant declines in clarity and reduced levels of dissolved oxygen. DEP has participated in, and in many cases provided funding for, over 200 separate nonpoint source projects completed around the watershed, including the education of several hundred individual property owners about septic system maintenance and shorefront buffers. As a result, the lake has high water clarity and dissolved oxygen levels, each of which are key indicators of a healthy lake.
 - 3) *Madawaska Lake, Aroostook County*. This 1,600 acre lake had suffered a decline in water quality with reduced clarity and regular algae blooms due to increased shoreline development and sedimentation from camp roads and logging operations. Due to almost 20 years worth of work, Madawaska Lake now has measured clarity in excess of 3 meters – a three fold improvement from its worst -- and has not had an algae bloom in five of the last ten years.
- d) Invasive Plants. While prevention is the cornerstone of this program, there are widespread efforts at control of the state's existing 31 known infestations. This work is conducted by lake associations and the DEP, working in close coordination to deploy the best available technologies and strategies. Some highlights include:
- 1) *Hand removal*. DEP and lake associations fund and carry out a variety of hand removal operations at infested lakes. This



In the last 15 years, Maine has reduced the discharge of untreated sewage from C.S.O.s by nearly 70%.



Neighboring states and provinces cannot compare to Maine's success in limiting invasive aquatic plant infestations to 31 of its 6,000 lakes and ponds as many of their waters are infested.

work includes the conduct of over 200 dives annually where plants are pulled by hand, or the use of suction harvesters. Presently four (4) lake associations now operate modified party barges that are outfitted with pumps, hosing, and a collection sluiceway. Plants are suctioned off the bottom with the aid of a scuba diver and collected via the sluiceway.

- 2) *Benthic barriers*. The use of heavy plastic mats deployed to cover and then smother infestations of plants has spread from a few trial applications five years ago to now being widely used at thirteen infested lakes. This low-cost solution has been developed and refined by volunteers over the years as more and more experience has been gained trying to control infestations in this manner.



***Hydrilla verticillata* in Damariscotta Lake
September 2009**

- 3) *Herbicide control*. There are three infestations that have been treated with a chemical herbicide in order to control the infestations. Pickerel Pond, Prout's Pit (a private quarry), and Salmon Lake have all had herbicide treatments conducted in close coordination with property owners and the general public. Herbicide treatments are conducted only after all other known control strategies are exhausted and an evaluation of their potential efficacy is found to be sufficient. Unfortunately invasive aquatic plant control is just that for the vast majority of cases. Based on experience over many years in a wide variety of locations, elimination of infestations is rare and unique and cannot be reasonably expected.

2. *Solid Waste Sites*

- a) *Scrap Tire Stockpile Abatement*. DEP initiated a scrap tire abatement program in the mid-1990s in response to legislation enacted to eliminate tire stockpiles determined to be a risk to public safety, human health and/or the environment. At that time, it was estimated that Maine had more than 18 million scrap tires in stockpiles of various sizes in all parts of the state.. Remediation was successfully completed at all priority sites (those containing greater than 10,000 tires) in 2006. Several additional sites were identified subsequently and have also been remediated.

DEP collaborated with the Maine Department of

Of the 15 million scrap tires cleaned up by DEP, most were processed and reused as fill in highway construction projects or for fuel.

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Transportation, the Maine Turnpike Authority, and the University of Maine in exploring new uses for shredded tires in civil engineering projects. This cooperative effort enabled Maine to lead the nation in the development and use of a new tire derived light weight fill material. One early project used this material to construct the new Maine turnpike exit at the Portland Jetport.

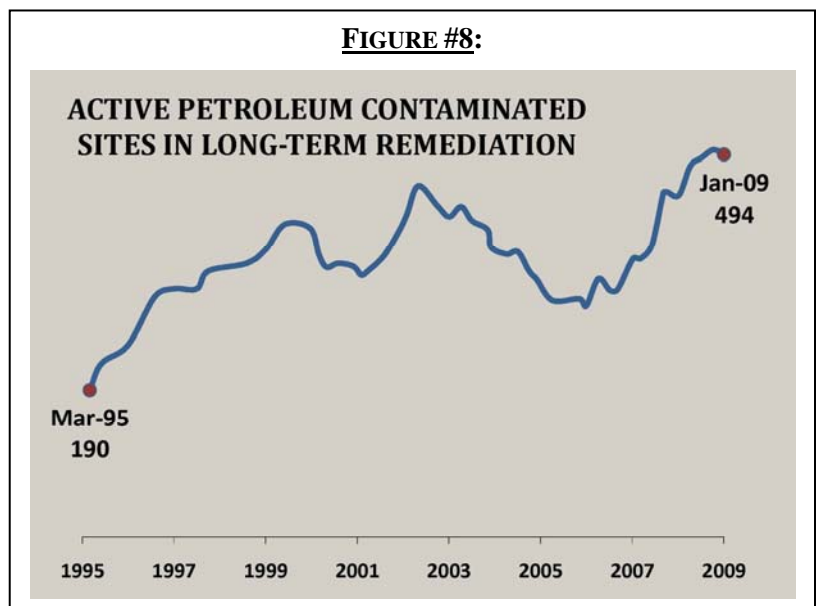
Over the life of the program approximately 15 million scrap tires were removed from 30 stockpile sites at a cost of approximately \$12.5 million, funded primarily through bonds. The vast majority of these tires were processed and beneficially reused in construction or for fuel.

- b) Abandoned Private and Industrial Solid Waste Disposal Sites. Nine abandoned or likely abandoned sites have been identified that require closure and/or remediation. Actual or potential ground and surface water impacts exist at all of the sites which are located in Androscoggin, Hancock, Kennebec, Penobscot and Washington counties. The combined estimated cost of this work is approximately \$18.3 million. A very small amount of bond money (\$300,000) has been made available for this purpose. DEP has drawn intermittently on the Maine Solid Waste Fund to finance immediately necessary evaluations, maintenance, and corrective actions at 2 of these “orphan” sites.

3. **Contaminated Locations.** There are a variety of sites in Maine that are known to be contaminated as a result of petroleum or hazardous substances being released to the environment. While there are a few locations where only one substance was released, at many others a mixture of substances were released, including combinations of petroleum and hazardous substances. The state’s involvement in, and in some cases responsibility for, remediation at the locations varies depending on the applicable laws; and often on parties who were responsible for the release remaining viable.

- a) Petroleum Sites. Since 1991, Maine has had a system to fund the clean-up of most petroleum-contaminated locations. Contamination at these locations primarily results from A.S.T. spills and U.S.T. leaks. The laws defining this system charge DEP with ensuring that the clean-ups are carried out in a way that is protective of human health and natural resources. These responsibilities require DEP to prioritize, budget, manage, and oversee the needed remedial services. Almost all petroleum contaminated sites in Maine are remediated by DEP with state funds pursuant to requirements in Maine law.

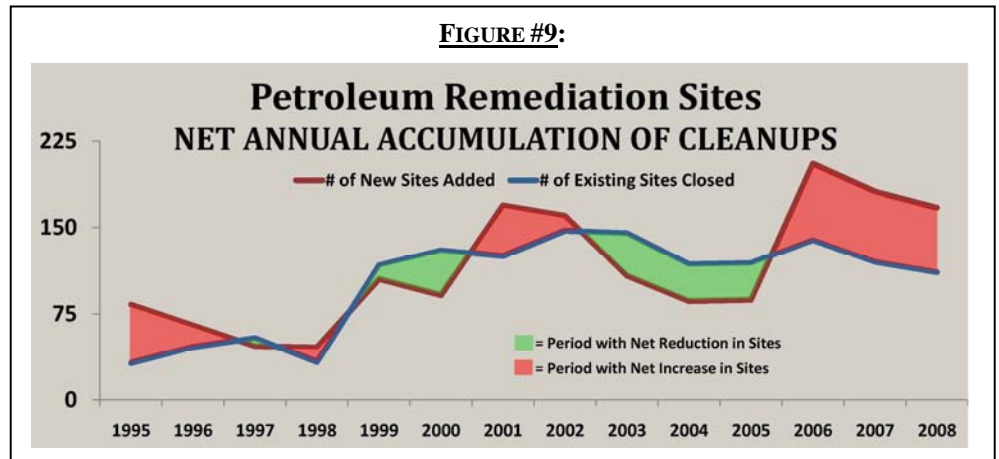
Since 1995, DEP has documented petroleum contamination at approximately 2,000 locations where drinking water wells, ground water, soil or indoor air required long-term remediation (typically taking 1-5 years to complete). Of



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these, DEP has remediated more than 1,500 sites. This does not include the larger number of locations of petroleum discharges requiring emergency response and clean up.

As illustrated in FIGURE #9, over the last 10 years DEP has steadily closed, on average, more than 125 sites per year. But unfortunately there has also been, on average, 136 sites added to the list of locations requiring remediation, with a significant spike in new locations each year since 2006. The net result is an increase of 164 sites being placed on the list since 1995.



b) Hazardous Material Sites.

- 1) *Time-critical Cleanups.* Emergency, time-critical clean-ups are usually conducted by DEP’s Response Services unit, as described above. Larger releases or emergency responses that are not time-critical and that are beyond the state’s financial capacity are often addressed by U.S.E.P.A. Response.
- 2) *Private Party Led Clean-ups.* Private entities will take the lead on remediating contamination at certain sites.
 - i. A location where a hazardous material spill occurred after 1980 and a viable responsible party (R.P.) exists are remediated by the R.P. under provisions in RCRA. RCRA provides a process for the investigation and characterization of releases as well as a process for the evaluation and selection of the remedies.
 - ii. Voluntary Response Action Plan (VRAP). Maine law allows entities to voluntarily investigate and clean up properties in exchange for assurances from DEP regarding future enforcement actions. This option allows anyone to voluntarily take the initiative to remediate a location, which encourages the cleanup and redevelopment of contaminated properties without need for state-issued investigations or orders. These sites are often lower priority clean-ups that should be addressed to protect human health and the environment, but do not rank at the top of the state’s priority list.
 - iii. Brownfields. In January 2002, the U.S. Congress enacted the Federal Small Business Liability Relief and Brownfields Revitalization Act in order to encourage the

The \$28.4M in federal Brownfields grants Maine has received is the highest of any state, *per capita*, in the U.S.

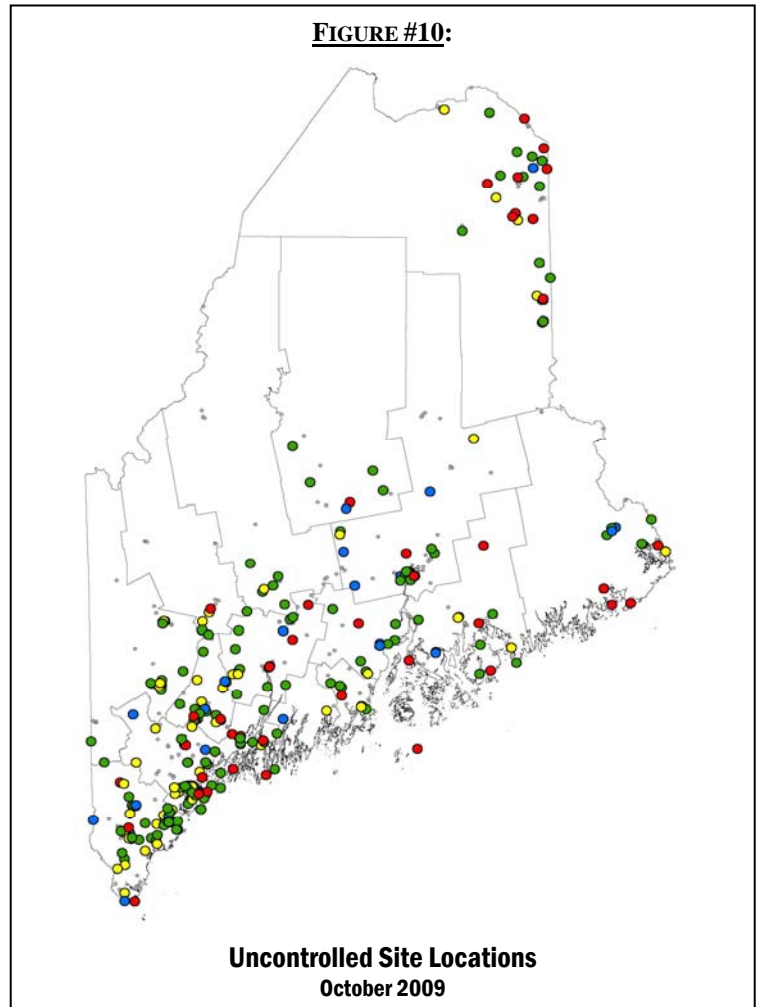
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re-development of locations impeded because of contamination, real or perceived. In that law, Brownfields are defined as "Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant."

Over the past 15 years, Maine has received over \$28.4M in Brownfields Grants, the highest *per capita* rate of any state in the country. This funding rate is the direct result of DEP's exceptional success in rehabilitating contaminated sites, which has been recognized by the federal government. In addition, DEP provides technical assistance to towns and regional planning organizations that receive another \$2M to \$4M *per year* in Federal Brownfields Grants directly from U.S.E.P.A. Maine provides the required matching funds for Brownfields grant money through the Uncontrolled Sites Fund.

3) *Government-led Clean ups.* Maine and the federal government take the lead in cleaning up certain sites.

i. *State Uncontrolled Sites.* In 1983, the Legislature established a system to fund the mitigation of threats to human health that are posed by abandoned locations contaminated with hazardous substances for which no other mechanism is available to effectuate the clean-up. In state law these locations are referred to as uncontrolled sites and in federal law they are known as Superfund sites. The laws defining this system charge DEP with ensuring that the clean-ups get done in a way that is protective of human health and natural resources. These responsibilities require DEP to prioritize, budget, manage, and oversee the needed remedial services. FIGURE #10 shows the broad geographic distribution of these sites, with the colors of the points showing that locations are at differing stages of investigation, evaluation, and clean-up.



What differentiates these locations from private party lead sites is that no responsible party is willing to take the lead in a timely manner to mitigate known

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threats. The applicable Maine law broadly defines responsible parties and provides for joint and several liability, so DEP may issue orders to R.P.s requiring them to remediate sites, or may undertake remediation and then recover costs from R.P.s. If there are no viable R.P.s, DEP undertakes necessary clean-up actions. Whenever feasible, DEP pursues and attempts to recover costs from R.P.s.

- ii. **Military Sites.** The U.S. Department of Defense (D.O.D.) has taken the lead on clean-up activities at Uncontrolled Sites where the contamination is solely the result of past military activity. Sometimes a military facility has been placed on the Superfund list and both U.S.E.P.A. and D.O.D. are involved. Beginning in 1991, D.O.D. entered into a Defense-State Memorandum of Agreement (DSMOA) with DEP, in which it agreed to give grants to cover oversight costs for DEP to oversee D.O.D.'s investigations and clean-ups at these federal military facilities. Since 1991, DSMOA grants to DEP have totaled \$10.2M. Certain costs that are not covered by the DSMOA must be picked up by the Uncontrolled Sites Fund, but there is no specific match requirement for these grants.
- iii. **Superfund Sites.** Certain contaminated locations are ranked and listed on the National Priorities List (N.P.L.) or "Superfund" list in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). The law was written to respond to improper disposal of hazardous substances that took place before disposal of wastes was regulated. This federal law is commonly referred to as the Superfund law. U.S.E.P.A. is lead agency on clean up at Superfund sites. Sites are placed on the N.P.L. only after initial investigation indicates that federal involvement is warranted. Since 1982, 14 Maine sites have been placed on the N.P.L. Twelve are still active, including two active Navy bases and one closed Air Force Base.

In addition to the millions of dollars *per* Maine site that U.S.E.P.A. expends on remedial activities, U.S.E.P.A. provides three grants to the Uncontrolled Sites Program for Superfund related activities. First, U.S.E.P.A. has provided DEP with money to investigate and score sites for possible inclusion on the NPL (Multi-Site Cooperative Agreement II, or M.S.C.A. II grant). Secondly, since the 1980's, U.S.E.P.A. has provided DEP with grants to oversee remedial activities at sites that have been listed on the N.P.L. (M.S.C.A. I grant), which since 1997 have totaled \$1.7M. Finally, to cover some administrative costs related to Superfund, since 1980, U.S.E.P.A. has provided DEP with \$4.5M (Core Grant). The Core Grant has a specific fund matching requirement, which is met from staff time allocated to the Uncontrolled Sites Fund. State activities on Superfund sites that are not eligible under these federal grants are covered by state funds.

- 4. **Remediated Locations.** State law charges DEP with long-term tracking and oversight of locations that were remediated in the past but, because of the nature of the site or clean-up performed have the potential to threaten the environment or human health in the future. When ongoing monitoring and assessment or regulatory oversight of a previously remediated site identifies such a situation, DEP must act.
 - a) **Solid Waste Facilities.** Maine has about 413 municipal landfills. These include current licensed operating sites, closed sites, and inactive sites that no longer take municipal waste

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but never completed an approved closure process. In 1988, the Maine Legislature created the Landfill Closure and Remediation Program (38 M.R.S. §§ 1310-C to 1310-I) which provides for the closure and remediation of municipal landfills. The law also provides for the development of institutional controls on these sites. Its objectives are to promptly close landfills that pose hazards to public health and the environment; and to remediate existing hazards posed by closed municipal solid waste landfills. DEP regularly inspects these facilities to assure the closure requirements continue to be met.

State law charges DEP with management of Maine's cost-sharing program for the closure and remediation of municipal solid waste landfills that pose an actual or potential hazard to the environment and public health. The state's obligation to provide cost sharing to municipalities is subject to the availability of funds provided by the Legislature or approved by voters.

Since January 1, 2000, Maine law no longer requires the state to share the cost of closing municipal solid waste landfills, except under a few circumstances. Since there are no longer any closure-related cost share applications pending, DEP expects no further expenditures related to municipal landfill closures.

Although there are no new closure obligations, closed municipal landfills require ongoing maintenance, and remediation of contamination that poses an actual or potential hazard to the environment and public health. When available, remediation funding pays for 90% of the costs associated with municipal landfills constructed on or before December 31, 1999. The maximum reimbursement for remediation funding is 50% for structures constructed after that date.

Since the beginning of this effort, the state has spent \$80.2M in bond money and another \$1.325M in General Fund. A total of 398 sites have been permanently closed. State expenditures for landfill remediation projects totaled \$528,320.46 for fiscal year 2009, all of which was paid with bond dollars. DEP's current estimate of likely future costs is \$3.5 million. There is no bond money remaining to fund remediation.

- b) Long Term Remediation from the Release of Hazardous Waste at Facilities Licensed After 1980 under (RCRA). DEP investigates such sites to assess hazards, oversee remediation activities carried out by responsible parties, and continue monitoring to assure that contamination is not moving off-site.



Town of Millinocket Landfill 1978

- c) Uncontrolled Sites (Long-term remediation of sites contaminated by hazardous substances prior to 1980). DEP investigates and carries out clean-up of sites that poses a risk to public health or the environment, or compels potential Responsible Parties (R.P.s) to undertake the activities themselves. For more costly sites, the state also works closely with U.S.E.P.A. At hazardous substance sites created and operated by federal defense agencies, the Army Corps of Engineers oversees remedial activities, with state input.

C. Coordination with Other Response Providers. Responding to pollutant releases often requires coordination across jurisdictions. DEP facilitates these efforts by training first responders, including fire departments, on state laws and response strategies such as tanker rollover classes and coastal petroleum spill response. DEP also meets regularly with the Regional Response Team, the Maine New Hampshire Area Committee, Maine Emergency Management, the Civil Support Team, local Emergency Planning Committees teams, and others for planning, coordination and training.

D. Natural Resource Damage Assessment and Restoration (NRDAR). DEP's commissioner is designated by Maine's Governor as the lead trustee for the state in matters involving the destruction, loss of, or loss of use of natural resources. Commissioners of the Departments of Conservation, Marine Resources and Inland Fish and Wildlife have also been designated by the Governor as co – trustees. Damages to natural resources including, but not limited to, flora, fauna, wildlife, birds, fish, marine mammals, land, water, and sediment resulting from the release of hazardous substances or petroleum may require assessment. Damages must be scaled, appropriate restoration projects evaluated and selected for implementation.

DEP coordinates with trustee representatives throughout the assessment and restoration process to obtain and evaluate existing and new data. Coordination is also needed with federal trustee agencies including but not limited to the National Oceanic and Atmospheric Agency (NOAA), U.S. Fish and Wildlife Service and Department of Interior. Responsible parties are also involved to insure that damage assessments are thorough and accurate. The public also is provided with the opportunity to review and respond to suggestions and questions regarding the NRDAR process and specific project. A recent example of the DEP's involvement is the settlement involving \$930,000 and real estate at the former Maine Yankee nuclear facility, which resulted in 6 projects in the Sheepscot Valley watershed and estuary. The settlement was utilized to leverage private and federal funding with an estimated value of \$3.5M. The six (6) projects included environmental restoration, improved habitat and public access projects.

SECTION 3:

“Organizational structure, including a position count, a job classification and an organizational flow chart indicating lines of responsibility”

Maine Revised Statutes Title 3, Section 956(2)(C)

DEP’s basic organizational structure is outlined in Maine law. The law establishes a Commissioner to head the Agency and empowers that individual with the authority to organize DEP into bureaus, divisions, regional offices, and necessary other administrative units. Today DEP’s four major administrative units are The Office of the Commissioner, Bureau of Air Quality, Bureau of Land and Water Quality, and Bureau of Remediation and Waste Management. The employees assigned to these units are distributed among offices in Portland, Augusta, Bangor, and Presque Isle.

DEP has a legislatively authorized headcount totaling 410.020 of Full Time Equivalent (F.T.E.). Most positions at the Agency are full-time but some are authorized as part-time or seasonal, which in terms of F.T.E. means that a position represents only some fraction of a full-time position. For example, a seasonal Conservation Aide

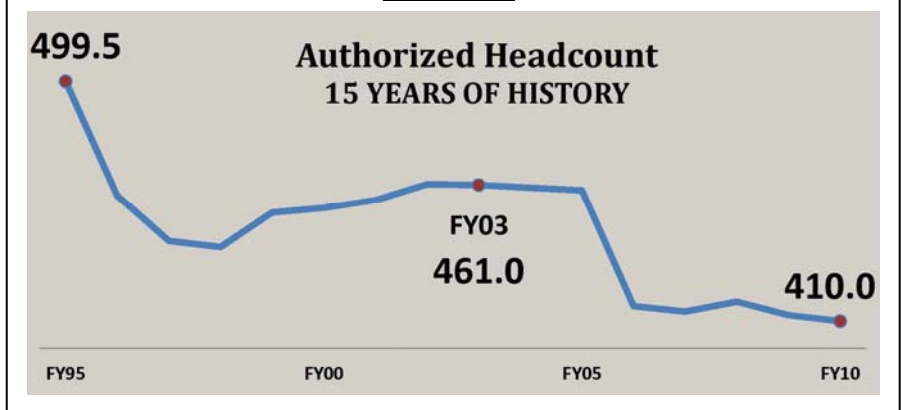
authorized to work 40 hours a week for 16 weeks has a unique position number associated with it but the reduced weeks make it only count as 0.308 of an F.T.E.

DEP has consistently implemented the Legislature’s budget directions regarding headcount, with nearly a 12% reduction in workforce since the Baldacci administration took office (from 461.4 in FY03 to 410.3 at the beginning of FY10). The cuts at DEP from FY03 to FY10 are in

addition to the 38.1 positions that had been abolished in the eight years between FY95 and FY02 (from 499.5 to 461.4). FIGURE #11 illustrates these reductions. The net result is that DEP’s headcount has been cut by more than 18% under Maine’s last two governors.

Of the 410.02 F.T.E. currently existing at DEP, the Office of the Commissioner has 38 positions working primarily in three (3) organizational units – the Office of Policy Services, Office of Innovation and Assistance, and Office of Education and Outreach (this count excludes two positions shown on the attached organizational charts that work closely with the Commissioner but are allocated to the B.E.P.). The Bureau of Air Quality has 59 positions working primarily in three (3) divisions – Division of Field Services, Division of Licensing and Enforcement, and Division of Program Planning. The Bureau of Land and Water Quality has 156 positions working primarily in four (4) divisions – Division of Water Quality Management, Division of Land Resource Regulation, Division of Environmental Assessment, and Division of Watershed Management. The Bureau of Remediation and Waste Management has 175 positions working primarily in five (5) divisions: the Division of Oil and Hazardous Waste Facility Regulation, Division of Response Services, Division of Remediation, Division of Solid Waste Management, and Division of Technical Services.

FIGURE #11:



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Charts showing every position at DEP and where each fits into the Agency are incorporated into this document at APPENDIX D. In addition to providing a graphic representation of lines or responsibility and supervision, the information provided on the charts regarding each position includes its job classification as well as a working title which indicates the type of work typically performed by the position.

A few noteworthy management reorganizations and efficiencies that have been implemented in the last 10 years include:

- 1) Merger of two divisions in the Bureau of Land and Water Quality, which resulted in the elimination of a division director position.
- 2) Elimination of a division director position in the Bureau of Remediation and Waste Management
- 3) Elimination of funding for the Southern Maine Regional Office Director, which was a senior management position in the Office of the Commissioner.
- 4) Elimination of DEP's Management Services Director, which was a senior management position in the Office of the Commissioner.

Each of these eliminations required careful management attention to the reorganization of duties, functions, and administration of the Agency.

SECTION 4:

“Compliance with federal and state health and safety laws, including the Americans with Disabilities Act, the Federal Occupational Safety and Health Act, affirmative action requirements and workers’ compensation”

Maine Revised Statutes Title 3, Section 956(2)(D)

Since the consolidation across state government of many human resource functions, DEP is no longer responsible for administering or overseeing many human resource related requirements. Where DEP remains responsible, it must rely heavily on staff at DAFS Bureau of Human Resources (B.H.R.) and N.R.S.C. who are tasked with providing these services to the Agency. The following paragraphs detail this relationship.

- 1. Health and Safety.** DEP is committed to continually improving, as appropriate, the health and safety of the workplace, both through facility management and providing employees with information on safe work practice, and equipment. DEP has a very active Safety Committee in place which meets and addresses concerns on an on-going basis. The Safety Committee organizes an annual safety summit which is effective at presenting timely and relevant information to focus management and staff on safety and health issues. Employee injury statistics are monitored by B.H.R. staff, with annual OSHA reports completed and posted in all work sites, as required.
- 2. A.D.A. Requirements.** DEP makes every reasonable effort to comply with the A.D.A. requirements to ensure that work sites and public use areas are readily accessible. DEP complies with all requirements under A.D.A. relating to employment and public meetings, which includes striving to successfully accommodate employees in employment related requests.
- 3. Affirmative Action/E.E.O.** DEP complies fully with federal and state affirmative action requirements. An Affirmative Action Plan is in place and the Agency strives to meet the goals established for recruiting purposes. All recruitment and employment initiatives comply with federal and state laws for equal employment opportunities. DEP has been told by DAFS that it intends to update the plan for all state agencies within the coming year in order to ensure that the most current information is documented and available.

DEP has no tolerance for sexual harassment, discrimination, or employee harassment. Allegations or complaints are investigated promptly and appropriate action taken. B.H.R. staff continues in its efforts to ensure that employees and managers are aware of policy requirements and updates, to include training, as necessary. In addition, DEP has been told by DAFS that B.H.R. intends to provide the mandatory training to all other employees within the natural resource agencies within the coming year. Workplace harassment training is also provided to all new employees during the new employee orientation process. DEP’s policy on both Workplace Harassment and Equal Employment are distributed to all employees. All DEP employees participated in domestic violence training, as mandated by Governor Baldacci.

As changes and/or interpretation of the law come from the Equal Employment Opportunity Commission and court decisions, B.H.R., on behalf of DEP, will continue to conduct additional training. B.H.R. has recently received approval to fill an E.E.O. Coordinator position which will further advance compliance with requirements within the natural resources agencies, to include DEP

4. **Workers Compensation.** DEP is in compliance with all workers compensation requirements including notification of injuries, filing of reports, compensation to employees, coordination payment of bills, and coordination of necessary medical evaluations in a timely manner. Through management by B.H.R. staff on DEP's behalf and assistance from the Workers Compensation Division, the Agency continues to review long-standing cases for possible settlement in order to reduce overall workers compensation costs.

Through B.H.R., supervisory workers compensation training has been provided to managers to ensure that supervisors are trained in and aware of notification requirements. DEP, again with the assistance of B.H.R. staff, has also issued written procedures on notification processes for employee injuries. This information is also provided via the internet, along with all necessary forms, which is available to employees.

SECTION 5:

“Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years”

Maine Revised Statutes Title 3, Section 956(2)(E)

BACKGROUND: DEP has the responsibility for annually managing a budget that in FY10 is in excess of \$74M, but with expenses that are expected to be less than this amount due to funding shortfalls in the majority of the Agency’s dedicated and federal accounts as well as excess allocation that exists in some dedicated accounts in order to allow for immediate emergency response capacity. This responsibility receives the highest level of attention and scrutiny since responsible stewardship of, and full accountability for, public money is the fundamental expectation of Maine’s tax and fee payers. The revenues managed by DEP come from the General Fund, Federal Expenditure Funds (*i.e.* grants), Other Special Revenue (*i.e.* dedicated fees), and the Highway Fund.

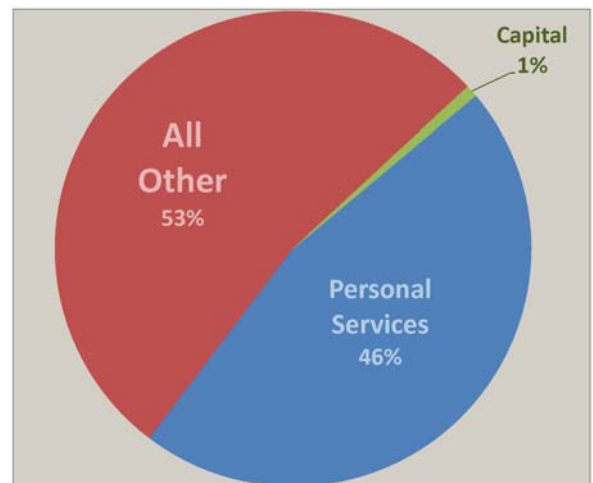
DEP maintains capacity at the Agency to oversee and manage its finances. Since 2006, when much of the accounting and budgeting work performed across state government was consolidated into the Department of Administrative and Financial Services (DAFS), many aspects of DEP’s finance-related work must rely on a partnership with that agency’s Natural Resources Service Center (N.R.S.C.). DEP and the N.R.S.C. have worked very hard to maintain this as a functional relationship.

DEP primarily depends on General Fund, federal grants, and dedicated funds to support operations. Within the seven (7) budget programs assigned to DEP, it administers 33 funds: four (4) as General Fund budget programs; 18 Other Special Revenue funds that are budgeted within six (6) of DEP’s budget programs, 11 Federal Expenditure Funds that are budgeted within four (4) of DEP’s budget programs; and one (1) budget program that includes Highway Fund money. Within these accounts there are hundreds of financial reporting units that require separate accounting treatment in order to maintain the integrity of the funding streams and meet state and federal accounting standards.

In terms of spending categories, Figure #1 illustrates that DEP’s budget has a relatively even split between support for staff and the fiscal demands from all the activities that the state supports, particularly emergency response and pollution remediation. For example, the cost of state responsibility for the investigation and clean up of pollutant releases to the environment comprises nearly 70% of DEP’s total All Other budget. A 10-year history of DEP’s budget and expenditures is incorporated into this document at APPENDIX E.

- 1. General Fund.** In FY09, the portion of the General Fund that was appropriated to support DEP programs was approximately 2/10^{ths} of 1% of the statewide expenditures from this source, or \$6.1 million. As a percentage of DEP’s total expenditures, the General Fund provided 11% of all program support.

**FIGURE #12:
FY10 Budget: Spending Mix**

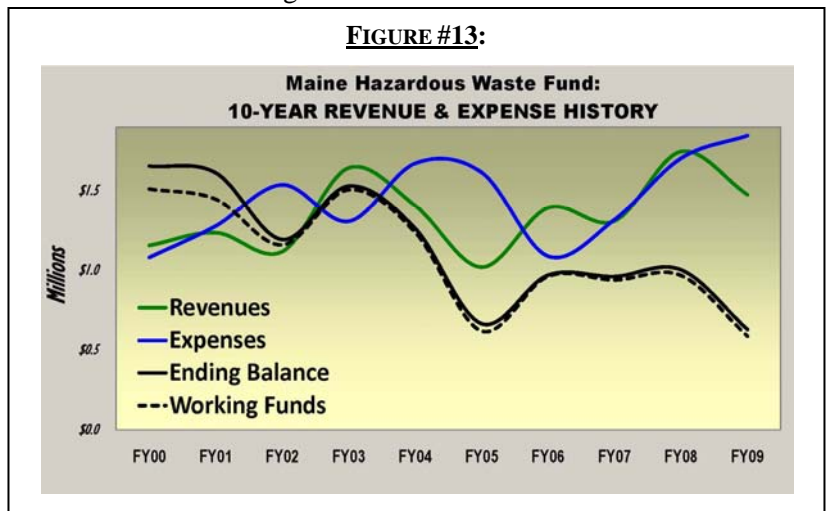


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2. **Other Special Revenue Funds.** At 66%, DEP’s primary support for operating programs derives from dedicated funds, that in FY09 totaled \$35 million. These dedicated funds are generated from fees paid by regulated entities for a specific purpose tied to the state law authorizing the fee. For example, fees on petroleum pay for activities associated with storage facilities and spill cleanups, while licensing fees pay for the activities needed to issue licenses, monitor compliance regarding license requirements, and provide technical and regulatory assistance to licensees. The following paragraphs contain descriptions of the currently notable circumstances surrounding DEP’s most significant dedicated funds.

A. **Maine Hazardous Waste Fund (014-06A-0247-14).** The Maine Hazardous Waste Fund (H.W.F.) exists to support the state’s ability to immediately respond to hazardous substance releases; license and oversee compliance at hazardous waste generators; and, oversee long term environmental clean ups where viable parties exist. The portion of DEP’s hazardous waste program that administers licensing and compliance at facilities generating waste has the authority to implement federal Resource Conservation and Recovery Act provisions in Maine that have been delegated to it by the United States Environmental Protection Agency. As a result, a portion of the funding supporting these programs comes from federal grants.

At the end of FY09, working funds in the H.W.F. totaled \$587,865. As illustrated in FIGURE #13, this fund has periodically experienced spending in excess of revenues since FY01 and overall spending in the account has generally trended up since a fee adjustment was enacted into law in 2005. In spite of the additional revenue generated by the 2005 adjustment, flat funding from the federal government in combination with normal increases in the cost of doing business again find the H.W.F. with an all-time low of cash available for clean ups.



The majority of fees paid into this account are received quarterly from licensed hazardous waste, waste oil, and biomedical waste transporters based on the amount of waste generated and transported. Revenue is affected by several factors, including the state’s pollution prevention initiatives. Increased petroleum costs and unregulated use of waste oil burners has significantly affected revenue from waste oil shipments and a decrease in large scale site cleanups with waste shipments has decreased the number and amount of contaminated soils and sediment excavated for disposal.

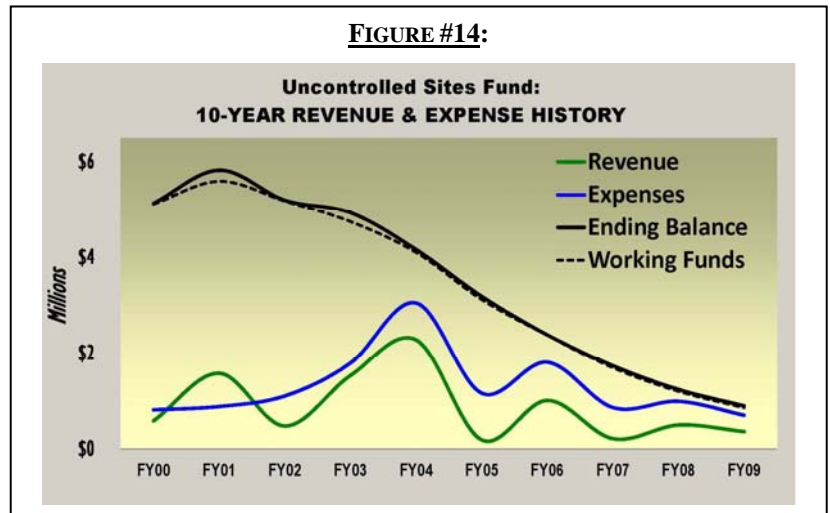
Costs to the state associated with responding to a train wreck or stabilizing a bankrupt manufacturing plant or mill can easily reach millions of dollars in the matter of days. In order to maintain a trained and equipped emergency response team for deployment statewide it is crucial that we maintain a carrying balance in the H.W.F. that is sufficient to pay for pollutant clean ups and maintain program capacity. This fund is currently below adequate working balance to

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respond to regular spills and additional support will be necessary to maintain adequate hazardous waste spill response and program capacity.

- B. Maine Uncontrolled Sites Fund (014-06A-0247-24).** The Maine Uncontrolled Sites Fund (U.S.F.) primarily exists to support the state’s Uncontrolled Sites Program (38 M.R.S. §§ 1361 *et seq.*). The U.S.F. was established to provide Maine with resources to clean up locations where hazardous substances have been released and no viable parties exist to pay for the needed work.

At the end of FY09, the working funds in the U.S.F. totaled \$862,523. As illustrated in FIGURE #14, this fund has experienced spending in excess of revenues since FY02 and overall spending in the account has dwindled as the working balance has been driven down. There is currently no regular revenue source to this fund for the purpose of cleaning up older and often abandoned locations, so all activities supported by it are paid using the working balance. The only new revenue for cleanups is derived from cost recoveries, which are increasingly rare.



Today 348 sites are known to require additional investigation or cleanup to protect the public at a cost of more than \$31 million. These sites are located throughout the state, presenting imminent health risks to Maine citizens and the environment.

The working balance in the fund includes lump-sum, upfront payments from a few responsible parties to pay for DEP’s expected future oversight costs. This includes sites with mechanical systems that stop the spread of groundwater contamination, and at which the state may have oversight obligations that continue for as long as 100 years.

The U.S.F. has also historically been used to leverage millions of dollars from U.S.E.P.A.’s Superfund and Brownfields grant program. As the working balance diminishes, Maine’s ability to receive these moneys also diminishes.

The last eight (8) years have seen the Uncontrolled Sites program dramatically reduced as a result of the state’s diminishing capacity to pay for the cleanup of abandoned hazardous waste sites. Until the revenue problems in this program are corrected, any reduction in the working balance of the account accelerates the end of the state’s ability to cleanup these sites, some of which pose to Maine citizens from contaminated indoor air, drinking water and soil. New support for this program is critical.

- C. Maine Coastal and Inland Surface Oil Clean Up Fund (014-06A-0247-34).** The Maine Coastal and Inland Oil Surface Fund (Surface Fund) was established in 1970 to pay expenses incurred by DEP when carrying out its responsibilities under Maine's Oil Discharge Prevention and Pollution Control Act, 38 M.R.S. §§ 541-553. This include cleaning up petroleum spills, purchasing and maintaining petroleum spill clean up equipment, restoring water supplies contaminated by petroleum spills, paying 3rd party damages, and oversight of all these functions.

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Surface Fund related functions regard petroleum spills that reach surface water, whether originating from shipping vessels, vehicles, trains, pipelines, or where the source is unknown.

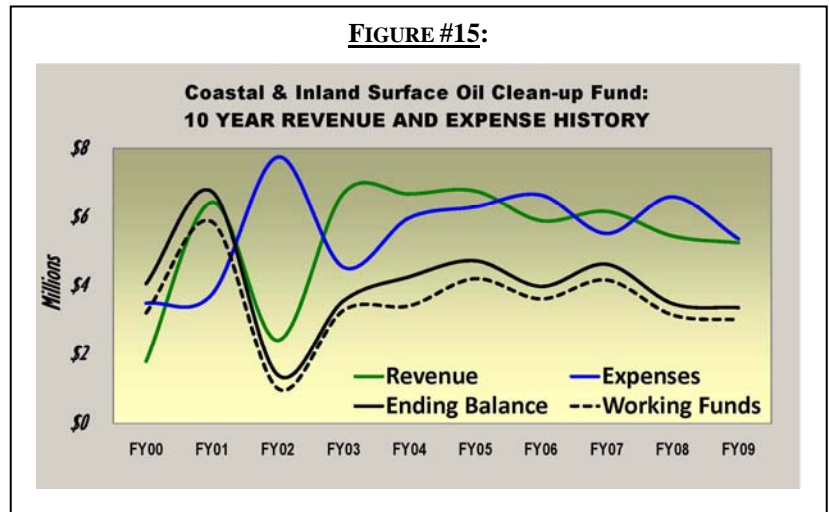
At the end of FY09, working funds in the Surface Fund totaled \$2,996,869. As illustrated in FIGURE #15, this fund has periodically experienced spending in excess of revenues since FY02 and overall spending in the account has generally remained flat since FY04 while revenues trended down. As a result, the carrying balance has trended down. As that balance reduces, the state's ability to respond in emergencies caused by surface water oil spills is compromised.

Petroleum spills to Maine's surface water occur weekly. The occurrence and magnitude of spills is unpredictable, and the state, as a matter of policy, has chosen to maintain the capacity to take response measures immediately to and clean up petroleum spills so that citizens and natural resources are protected.

During 2008 in Portland Harbor alone, 174,051,718 barrels (7.3 billion gallons) of petroleum was delivered into Maine via oil tankers and barges. On a regular basis there are individual oil tankers in Portland Harbor delivering 42,000,000 gallons of petroleum. The spill threats posed by this size vessel are the reason the Surface Fund exists. After the Julie N. hit Portland's Million Dollar Bridge the ship spilled 186,000 gallons of petroleum into the water. The costs to respond, contain, and cleanup this large petroleum spill ran hundreds of thousands of dollars a day.

The Surface Fund is capped at \$6 million, which, as can be seen in FIGURE #5, was last reached in 2001. Even as the costs of preparing for and responding to spills have steadily risen, the cap has remained unchanged since 1989. A reduction in the working balance of the account reduces DEP capacity to prepare for and respond to petroleum spills that occur frequently and present imminent health risks to citizens and Maine's natural resources.

FIGURE #15:



- D. Maine Ground Water Oil Clean Up Fund (014-06A-0247-44).** The Maine Ground Water Oil Clean Up Fund (Groundwater Fund) was established in the mid-1980s to pay expenses incurred by DEP when carrying out its responsibilities under Maine's Underground Oil Storage Facilities and Ground Water Protection laws, 38 M.R.S. §§ 561-570-M. These responsibilities include program maintenance, emergency cleanups at residences of home heating oil tank failures, retail gasoline tank failures and spills at commercial bulk petroleum storage facilities contaminating the indoor air of neighboring residences and commercial buildings, polluting both private and public drinking water supply wells and contaminating significant ground water aquifers needed as future municipal drinking water supplies. The Groundwater Fund meets federal law requirements that require Maine's underground petroleum fuel storage industry to maintain adequate financial assurance for cleanup costs and third-party damages. The primary revenue source to this account is a fee on petroleum imported into Maine.

At the end of FY09, the working funds in the Groundwater Fund totaled \$5,151,941. As illustrated in FIGURE #16, over the last 10 years this fund has periodically experienced spending in excess of revenues and overall spending in the account has generally remained flat during the

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period except in FY07 and FY08 when the money spent on petroleum spill clean ups jumped. The working funds vary depending on spending, and at times, such as FY00, FY02, and FY08, has reached low points that significantly compromise the state's ability to clean up petroleum spills.

Because of inadequate revenue in combination with the need to maintain a balance in the Groundwater Fund so that emergencies can be immediately addressed, the state has needed to defer \$11M in cleanup projects over the last two years and an additional \$19M on backlogged petroleum spill locations that now total nearly 500 sites.

Each year over 600, or nearly two (2) a day on average, new petroleum discharges occur that must have cleanup costs supported by the Groundwater Fund. Approximately 25% of these new spill cleanup situations also require long-term remedies, including hydro geological investigations and engineered solutions. Such projects typically require 3-5 years to complete and often require ground and drinking water treatment systems, replacement of contaminated private and public wells, construction of community water systems to replace larger numbers of contaminated private wells, and indoor air ventilation and treatment systems.

Similar to the Surface Fund, the Groundwater Fund is capped, but at \$12.5 million which has never been reached. Reductions in the carrying balance of the account increases the threat that state resources will be inadequate to respond to petroleum spills that present imminent health risks to citizens and Maine's natural resources. Also, a reduction in the working funds also could trigger federal requirements that the facilities comprising Maine's petroleum distribution industry individually acquire and maintain pollution insurance adequate to cover the costs of petroleum spills.

For these reasons, we spent considerable time at the Joint Select Committee on Natural Resources this year seeking solutions to the working balance in The Groundwater Fund that has reached critically low levels over the last two years.

- E. **Stormwater Compensation Fund (014-06A-0248-44).** The Stormwater Compensation Fund was newly established in 2000, deriving revenue from fees paid by land developers for projects that cannot meet phosphorous

FIGURE #16:

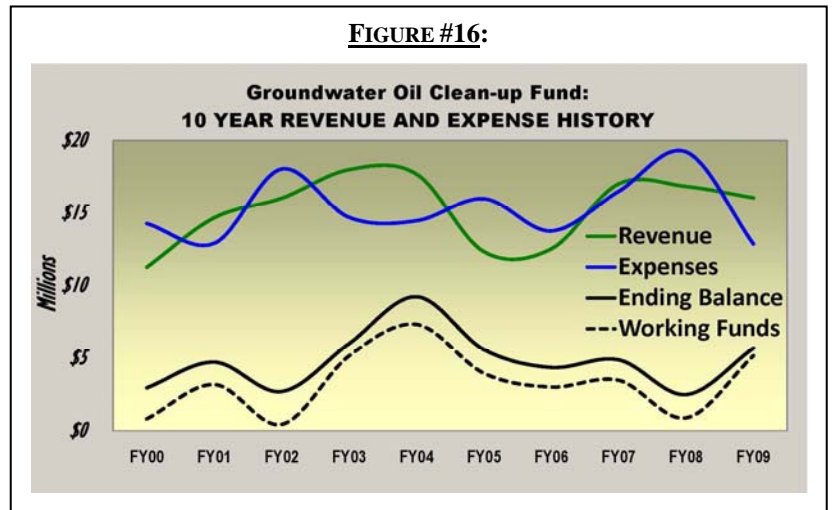
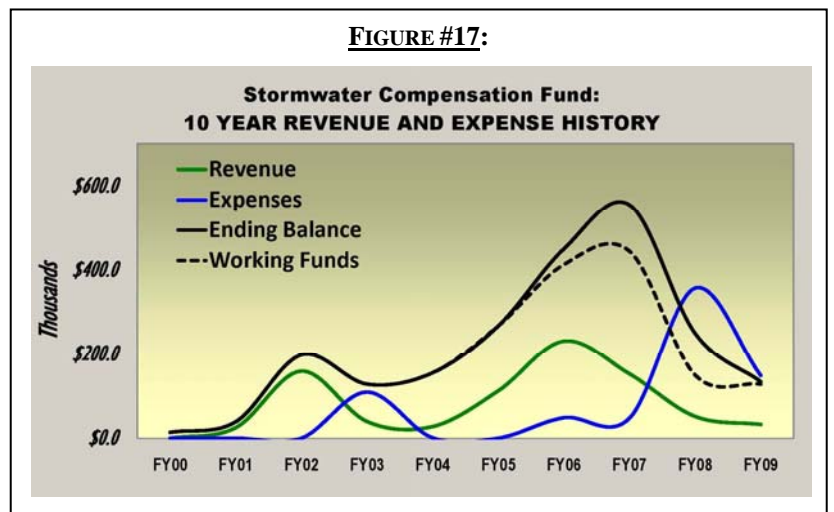


FIGURE #17:



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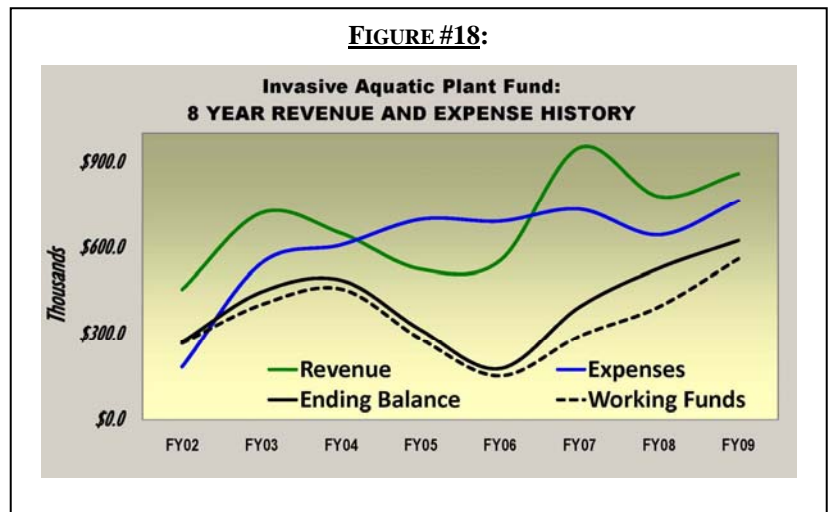
reduction requirements in lake watersheds. By law, these fees are managed so that they are used only within the same watershed as the permitted project in order to maintain a nexus between the fee and its purpose and to ensure the offsetting environmental outcome is achieved by the money. The fees are based on the cost of designing, installing, and maintaining projects that remove phosphorous, a nutrient, but also a pollutant, that degrades lake water quality from stormwater runoff.

These projects funded with these fees include buffer restoration, drainage improvements, and other remedial projects. The cost of remedial actions, typically ranging between \$25,000 and \$45,000, and the requirements that fees only be used in the watershed of the originating project often means that it takes time to accumulate enough money to pay for a project. As such the Stormwater Compensation Fund carries a balance until there are sufficient funds that can be dedicated in any particular watershed. All fees collected are passed through to contractors for project funding; these fees do not support the operation of state government, including being exempt from STA-CAP charges.

F. State Revolving Loan (S.R.F.) Administration Fund (014-06A-0248-54). The S.R.F. Administration Fund exists to support DEP’s oversight of all public wastewater construction projects in the Maine. This fund derives revenue from a percentage of the interest payments made on loans from the State Revolving Fund and federal grant dollars provided to DEP for wastewater construction loans. As such, this is a non-traditional Other Special Revenue account that contains a mix of federal dollars and interest on loaned federal dollars. This and other DEP federal grant accounts are subject to annual audit to ensure that national requirements related to the disposition of federal money are met. Federal authorities conducting past audits discovered funds rescinded for deposit in the General Fund and required the Office of the Controller to restore the funds.

G. Aquatic Invasive Plant Fund (014-06A-0248-84). The Aquatic Invasive Plant Fund (Invasives Fund) exists to pay DEP expenses that are associated with its support a state wide prevention and control program for invasive aquatic plants, most prominently Milfoil. These plants quickly spread, destroying habitat and the value of lakefront properties on the infested water bodies. The need for preventive measures and control of invasives has been steadily increasing, along with costs to the state. Public awareness campaigns, along with volunteer training have resulted in an increase in the number of infested lakes identified. Revenue into the Invasives Fund is derived from a fee on boat registrations that is collected through the Department of Inland Fisheries and Wildlife specific to supporting this program. By statute, DEP receives 60% of the fee and Department of Inland Fisheries & Wildlife retains 40%.

FIGURE #18:



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At the end of FY09, the working funds in the Invasives Fund totaled \$560,253, see FIGURE #18. One reason why the working funds at year end appear large is that most boat registrations occur in the spring which results in large transfers from the Department of Inland Fisheries & Wildlife in May and June. These funds must support the entire year’s worth of program expenses.

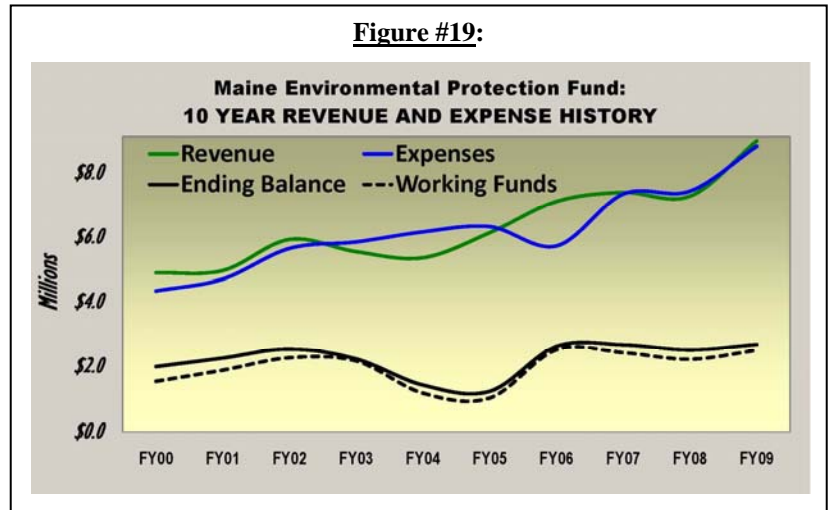
There are planned increases in the prevention program that will build on its steady growth from just a few thousand boat inspections in 2002 to nearly 50,000 in 2007 and 2008. Control efforts include funding a wide range of lake associations and interested citizen’s work to manage existing infestations, as well as substantial expenditures for the herbicide treatment and other management of three infested lakes by DEP’s Invasives Program. For example, two (2) well-established infestations of the highly aggressive Eurasian Milfoil and Hydrilla were documented last year alone: one on Salmon Lake that received an herbicide treatment (including treatment design and herbicide concentration monitoring); and the second on Damariscotta Lake which will require considerable expenditures in the coming years to keep the just discovered infestation in check. The cost of two (2) herbicide treatments conducted by DEP this year totaled more than \$40,000. Because of these recently discovered infestations of Eurasian Milfoil and Hydrilla the necessary expenses for early detection and eradication efforts are forecast to increase by 25% (to \$530,000) in FY10.

DEP has historically budgeted and spent conservatively in this account since there was no dependable schedule for revenue in the first few years of the program and because we anticipated increased costs as new infestations arrive. Also, boat registrations are a discretionary expense closely tied to the economy and have not increased to any extent over the last 10 years. The working funds in the Invasives Fund are crucial for maintaining the state’s early detection, prevention, rapid response, and long-term plant management efforts over the next four years. DEP’s current budget forecast for this account over the next two (2) biennial budgets, which capture the costs of the infestation trends the state is currently experiencing, indicate that the annual year end balance will decrease to \$218,000 by June 2011, \$107,000 in 2012, and end up in a deficit by FY13. A reduction in working funds will compromise the state’s ability to remove invasive plants and prevent infestations over the next three four years.

H. Maine Environmental Protection Fund (M.E.P.F.) (014-06A-0421-14). The M.E.P.F. is an umbrella under which pollution-based fees are paid to the state for licenses DEP administers. As such, the M.E.P.F. is composed of 35 separate subaccounts for each program including air emissions, wastewater discharges, solid waste, land development, and some specific enforcement case and cleanup escrows. Each of these program subaccounts have specific statutory authorities specifying

how these funds in each subaccount must be managed and spent.

DEP annually submits a report to the Joint Standing Committee on Natural Resources in order to detail the Agency’s administration of this account. At the end of FY09, the working



funds in the M.E.P.F. totaled \$2,488,796. As illustrated in FIGURE #19, although this fund as a whole has experienced spending in excess of revenues, overall spending and revenue in the account is closely tied. To the extent there is a working balance in this account, it remains because of specific fluctuations in the individual subaccounts.

In other words, the program support provided by M.E.P.F. fee revenue, by design, varies over time. The intent of the design is that a program will remain solvent regardless of revenue variations during any individual year in the fee cycle.

A prime example of this approach to fee setting and the delicate balance among revenue sources exists with the state's air quality programs. The funding mix in that program is comprised of fee revenue, federal grants, and General Fund. The history in the program is of closely managed and balanced funds. This has resulted in a 16% reduction in headcount (72 to 60) between FY99 and FY09, and the need to periodically adjust fees to maintain minimal program capacity.

Until now this approach has allowed the state to maintain a functional and well-regarded air program, but FFY11 air funding may be reallocated among states based on an O.M.B. mandate to U.S.E.P.A. (criteria include population and non-attainment status; both these factors work against Maine as a small state with good air quality). This reallocation is expected to result in a 32% cut in federal funds, which based on FFY10 would amount to a cut of \$414,383 to Maine's program. Such a reduction would immediately result in serious cuts to Maine's air program that would devastate its effectiveness or require a significant infusion of fees or general funds to continue operations. At a time when this account is recovering as a result of fee adjustments enacted in 2007, it may be that solvency and effectiveness in the program is again in jeopardy because of an upcoming federal reallocation of Clean Air Act funding.

3. Federal Expenditure Funds. In FY09, federal grants accounted for 22% of all program support, or \$11.8 million. Nearly all that grant money comes to DEP through the U.S.E.P.A.

A. Performance Partnership Grant (P.P.G.). The P.P.G. is single grant provided by U.S.E.P.A. to support a portion of most federal programs delegated to Maine for administration by DEP. In FFY10, the total of that grant is expected to be \$7.08 million. The following program areas covered within the P.P.G. are noteworthy because of funding trends in that grant or changes being discussed for future years.

- 1) Clean Air Act. Money provided to DEP for support of Maine's administration of the C.A.A. will total approximately \$1.3M in FFY10. This is approximately 25% of the funding for Maine's air quality programs. The U.S.E.P.A., at the direction of the Federal Office of Management and Budget, is proposing to impose a new funding formula, largely based on population and air quality, that will redistribute C.A.A. § 105 grant funding beginning in FFY11. Should this occur, DEP's understanding is that it will result in a 30% reduction in C.A.A. funds to Maine, which is a total of as much as \$400,000. This redistribution approach is a dramatic proposal that DEP is providing input on and closely watching. The Commissioner organized his colleagues in New England, who jointly submitted a letter of concern to U.S.E.P.A. The Commission has also contacted Maine's Congressional delegation, informing them that this is a top priority for the state

U.S.E.P.A.'s planned reallocation of C.A.A. grant money in FFY11 threatens to remove more than \$400K in support for Maine's air quality program, a 33% cut in this federal grant.

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- regarding U.S.E.P.A. funding. DEP is hopeful that Senator Collins, who sits on the Senate Appropriations subcommittee with oversight regarding U.S.E.P.A., can forestall or turn back this proposed reallocation.
- 2) Hazardous Waste. Money provided to DEP for support of Maine's administration of the federal hazardous waste management program (RCRA-C) will total \$446,000 in FFY10. This is approximately 15% of the funding needed to support Maine's hazardous waste related efforts. This level of funding from U.S.E.P.A. has remained flat for nearly 15 years, and as a result it's contribution toward support of Maine's efforts annually decreases. Federal support that fails to remain current with the cost of living is one of the factors contributing to the decline of solvency in the Maine Hazardous Waste Fund, which is the only alternative source of funds available to support the program.
- B. *American Reinvestment and Recovery Act of 2009 (ARRA)*.** A bump of DEP's federal spending in FY10 will result from awards made pursuant to the ARRA. The following paragraphs describe those awards.
- 1) Maine State Clean Diesel Grant Program. DEP was awarded a state Clean Diesel Program Grant worth \$1.73M to fund direct fuel-fired heaters for school buses, retrofit transit buses, refuse trucks and cargo equipment; replace marine engines and school buses. The general purpose of the grant is to reduce diesel emissions and improve air quality. Retrofit technologies being used are Diesel Oxidation Catalysts and Diesel Particulate Filters. The project will also improve shore power to reduce emissions on the water front at Fore River Dock. During the FY10 1st quarter, two lobster boats were repowered with new EPA Tier 2 engines. The shore power project was also completed on Fore River Dock and Dredge, Inc. pier at South Portland.
 - 2) Capitalization Grant for the Clean Water State Revolving Fund. The State of Maine was awarded \$30,336,800 to capitalize its revolving loan fund for the financing for the construction of wastewater treatment facilities and associated infrastructure, green infrastructure, non-point source projects, estuary projects and program administration. The primary purposes of the money are preservation and creation of jobs and promotion of economic recovery through the investment in infrastructure projects that will improve water quality and will provide long-term economic benefits.
 - 3) Brownfields Petroleum Assessment Grant. DEP was awarded \$200,000 to conduct community-wide assessments at potential Brownfield sites contaminated with petroleum. During the FY10 1st quarter, activities included cooperative agreement management and site evaluation and selection.
 - 4) Brownfields Hazardous Substance Assessment Grant. DEP was awarded \$200,000 to conduct community-wide assessments at potential Brownfield sites contaminated with hazardous substances. During the FY10 1st quarter, activities included cooperative agreement management and site evaluation and selection.

- 5) Leaking Underground Storage Tanks. DEP was awarded \$1,436,000 for the remediation of environmental contamination caused by motor fuel leaking underground petroleum storage tanks, and the removal of abandoned tanks suspected of causing contamination. Purposes of projects funded by this grant are to identify and remediate gasoline contamination from discharges at underground petroleum storage tank facilities in Maine.

Three types of projects are being undertaken: 1) site assessment of former U.S.T. locations; 2) proper removal, site assessment and clean up of abandoned U.S.T.s; and 3) remediation of gasoline contaminated soils.

- 6) Water Quality Management. DEP was awarded \$306,400 under C.W.A. § 604(b) to fund four (4) water quality management projects needed to help restore designated urban impaired streams.

- a. Bangor Stormwater Utility Planning. The City of Bangor will develop a Stormwater Utility program that will include plans and a sustainable

community-supported long term funding mechanism to implement best management practices designed to improve water quality. Five streams in Bangor are listed as "impaired" due to stormwater runoff from urban developed areas.

- b. Capisic Brook Restoration Plan. The City of Portland will develop a locally-supported watershed based plan that will outline a strategy to help restore the water quality of Capisic Brook and attain Class C water quality and biological criteria. The watershed plan will identify pragmatic and sustainable short and long-term solutions that will guide the City of Portland in its effort to improve and sustain Capisic Brook.
- c. Red Brook Watershed Based Management Plan. The Town of Scarborough will develop a locally-supported watershed based plan that will outline a strategy to help restore the water quality of Red Brook in order for it to attain its Class C water quality and biological criteria. Red Brook is on Maine's § 303(d) list for degraded habitat and contamination by polychlorinated biphenyls caused by unspecified nonpoint sources.
- d. Long Creek Restoration. The Cumberland County Soil & Water Conservation District will establish institutional structures necessary to support the implementation of the Long Creek Management Plan. The District has been working in cooperation with the four (4) watershed municipalities to complete an inter-local agreement to establish the Long Creek Watershed Management District. Project work includes assessment of watershed properties to provide the basis for financing implementation of the plan; development of



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financial controls; outreach to designated property owners; securing landowner commitments for plan implementation; and establishment of water quality monitoring program to assess the success of plan implementation.

- 7) **Clean Construction Project.** Separate from #1, DEP was awarded \$746,715 under the National Clean Diesel Funding Assistance Program to retrofit 21 diesel non-road engines used in material handling operations and nine (9) on-highway dump trucks. Retrofit technologies being used are Diesel Oxidation Catalysts, Diesel Particulate Filters, engine upgrades and engine repowers. This project will create and or preserve jobs and promote economic growth through manufacture and installation of verified technologies and/or certified engine configurations. The general purpose of this grant is to reduce diesel emissions and improve air quality.
- 4. Highway Fund.** DEP receives approximately \$35,000 each Fiscal Year to support the funding for implementation of Maine's enhanced inspection and maintenance program and the heavy duty diesel opacity testing program. In addition, the funds are used for mobile source outreach and public education initiatives.

SECTION 6:

“When Applicable, the regulatory agenda and the summary of rules adopted”

Maine Revised Statutes Title 3, Section 956(2)(F)

A summary of the Maine rules that DEP administers and the current version of the Agency’s regulatory agenda is incorporated into this document as APPENDIX B and APPENDIX C.

SECTION 7:

“Identification of those areas where an agency has coordinated its efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative agreements. Including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements”

Maine Revised Statutes Title 3, Section 956(2)(G)

The cooperative efforts in which DEP is currently engaged are included throughout the detailed program descriptions provided in Section 2 of this Report. Many of those descriptions are condensed into Section 2(I)(E). A few particularly noteworthy efforts currently underway are described here.

1. Chemicals of High Concern.
2. Climate Change Adaptation.
3. Natural Resource Service Center.
4. Office of Information Technology
5. Bureau of Human Resources

SECTION 8:

“Identification of the constituencies served by the agency or program, noting any changes or projected changes”

Maine Revised Statutes Title 3, Section 956(2)(H)

The responsibilities administered by DEP exist to benefit all Maine people and protect specific natural resources. As such, DEP’s programs do not serve any definable constituency other than the citizens of the state and those who obtain licenses under the DEP programs that are detailed in the report.

SECTION 9:

“A summary of efforts by an agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives”

Maine Revised Statutes Title 3, Section 956(2)(I)

DEP is constantly innovating within the systems established in Maine law by the Legislature. In addition to highly motivated employees at the Agency always wanting to do as much as possible with the resources available to them, the current cycle of budget cutting without commensurate reductions in program responsibilities has demanded innovation. These innovations result in alterations to existing delivery systems in order to improve performance.

In order to achieve the Agency’s mission over three and a half decades, the DEP implemented traditional regulatory approaches in the 1970s and 1980s. In the 1990s and this decade, the DEP developed many of the innovative approaches to meet the needs of expanded programs while addressing the public’s demand for rapid response and a fiscal reality requiring increasingly greater staff efficiency. When DEP streamlines its processes, DEP focuses on the dual goals of: (1) meeting scientific and technical standards that protect the environment and the health of Maine’s citizens, and (2) reasonable compliance measures to ensure permitted activities meet these standards. The following are examples of DEP implementation of these goals.

LOWERING COSTS WHILE INCREASING ENVIRONMENTAL PROTECTION

Maine’s Legislature obligates DEP to continue implementing legislatively enacted policies for as long as they are in law. Agency procedures are constantly evolving to meet these obligations. In many cases, the costs to the regulatory community are actually reduced. Some examples of DEP efforts to reduce costs without sacrificing environmental protection are as follows:

- 1. Stormwater Rule Flexibility.** The recent revision to Maine’s stormwater rules (created after much public and stakeholder input) provided authorization for improved stormwater control structures that in many instances require less “real estate” space to install. This allows more room for development and at the same time provides better environmental protection. As well, redevelopment projects in urban areas can avoid expensive treatment systems in certain cases under this new stormwater rule flexibility.
- 2. Online Training for Underground Storage Tank (U.S.T.) Operators.** Maine’s nearly 5,000 underground storage tanks and thousands of operators need cost-effective training to help them prevent petroleum releases to the environment. DEP is developing a comprehensive, easy to access on-line training program for U.S.T. operators. This *free* program is being designed to enable operators to receive the training, take a test and print out a certificate using a computer, without the need to travel to a specific location on a specific day and time.
- 3. Environmental Groundwater Analytical Database.** Licensed entities and DEP together monitor the condition of groundwater at many locations throughout the state in order to detect pollutants and remediate problems. DEP’s groundwater database allows regulated entities to electronically submit raw data, which then enables DEP staff to perform automated analysis and graphic presentation of data and statistics. Prior to the development of this electronic database, data was submitted in

writing, copied from those monitoring reports and analyzed by hand. This database cuts costs for regulated entities by allowing electronic submission and vastly improves the availability of data for a better scientific understanding of Maine's groundwater conditions.

4. **Consolidated Air Emission Inventories.** In 2005, DEP consolidated the data collection processes, forms, formats and storage for each of the three air emissions inventories (criteria pollutants, hazardous air pollutants (HAP) and greenhouse gases (G.H.G.)) into an electronic system that *removed duplication* for regulated sources and resulted in the collection of the most complete and accurate air pollutant HAP and G.H.G. inventories ever. The next step in this process is the use of a newly-awarded \$500,000 federal grant for the development of a web-based emissions inventory tool that will continue to enhance the speed, ease, and cost effectiveness of the consolidated inventory collection process. Work is underway on that project and it is expected to be complete by December 31, 2009.
5. **Marine Oil Spill Information System (MOSIS).** DEP makes data from MOSIS available to first responders all along the coast of Maine so they can quickly and accurately identify valuable natural resources in the event of a major marine petroleum spill. Environmental Vulnerability Information maps, created from this database, show coastline, coastal marshes, estuaries, bird habitat, clam flats, fishing areas, boat launches, boom locations, and other important coastal landmarks and habitats so responders can instantly see what critical habitats might be in danger and indicate locations where petroleum spill boom and other measures can be placed to protect these valuable resources. Having all this database information on readily accessible maps speeds response time and allows responders to protect valuable habitats.
6. **Wastewater Discharge Electronic Data Submission.** In 2008, wastewater treatment facilities began electronic submission of certain required discharge monitoring data over the internet. This reduces costly and duplicative data entry for both license holders and the state.
7. **Ambient Air Laboratory Information Management System (LIMS).** Frequent data requests from the public as well as DEP's need to efficiently analyze large volumes of air monitoring data have resulted in the implementation of LIMS. Previously, data was manually entered into various office software applications for data validation, reporting and archival purposes, which was time-consuming and error-prone due to manual data manipulation. Our ambient air toxics data can now be validated, reported and assessed in a much more efficient and cost-saving manner with LIMS in place.

STREAMLINING ENVIRONMENTAL PERMITTING

When the Legislature first established Maine's environmental protection programs, most required a full permit to perform certain activities. Since 1992, DEP has improved and streamlined many permitting processes and has established innovative approaches to expedited permitting. The constant goal has been to minimize the regulatory burden on Maine citizens and businesses, effectively use permitting staff on the most complex projects, and to eliminate unnecessary oversight by state government when simpler processes afford the same protections. Here are some examples:

1. **Land Development Permit-By-Rule (P.B.R.).** Many categories of smaller scale development and simple activities are now routinely permitted using a reduced Permit-By-Rule (P.B.R.) procedure. This process typically involves completing a simplified application with an accurate sketch and photos of the area to be disturbed rather than the technical or engineered documentation needed to license large or complex projects with a full permit. A P.B.R. permit for simple activities can be

issued with guidelines that are the responsibility of the permittee to follow in order to maintain compliance. Pictures showing completed work are required to be submitted for many activities so DEP staff can confirm compliance with a simple photo review rather than visiting the site. Last year there were 20 specific types of activities eligible for permit-by-rule, resulting in over 3,000 licensed development activities using this streamlined approach, which provides a permit in *14 days*. For example, the new Penobscot Narrows Bridge, one of the largest construction projects in Maine, was permitted in 2003 using P.B.R.

2. **Air Emissions Permit-By-Rule (P.B.R.).** Air emissions from most rock crushers are licensed by P.B.R. This eliminates use of a standard license application for a number of sources and eliminate resource intensive full air licensing applications when specific standards for rock crushers can be met.
3. **Permit Processing Times.** Over the last 10 years, DEP has annually issued between 3,500 and almost 5,000 air, water, waste and land permits with between 1,500 and 1,700 full licensing decisions each year. The decisions fall into more than 200 categories of activities. Examples of the variety of these permits range from permanent coastal docks to solid waste landfill licenses. The latter require a great deal of scientific and engineering analysis along with significant public input, so of necessity take a longer to process. There is a strong and ongoing emphasis on increasing the efficiency of the comprehensive permitting processes. For all applications (including P.B.R.s) decided in FY07, the processing time for all DEP programs averaged under 60 days from the date of submission. For full licensing application only, the processing time for all DEP programs averaged 128 days. This is a raw number that includes everything: the most complex applications, as well as situations where an applicant's request to slow the process was approved. For land development, which is often scrutinized because of particular interest in proposed projects, in FY07 new applications for large scale commercial and industrial projects were decided in an average of 152 days. More than half of DEP's approvals are P.B.R. processed within 2 weeks. In 2007, for all DEP programs, 96.6% of all permits were issued within the statutorily guaranteed processing times.
4. **Electronic routing, signature, and delivery of orders.** In order to leverage the existing investment in the state's email system and network, DEP has begun to systematically implement several permit processing efficiencies. Because the existing email system provides for routing and tracking of documents, word processing systems allow for on-line editing and approval, and simple secure and verifiable digital signatures, it has been easy to transition from a physical routing, signature, and mailing system to an electronic one. Presently all land and water licenses are routed electronically within DEP for review and approval, signed with a digital certificate that provides the user with validation of its authenticity, and then sent to recipients via email as secured and uneditable documents. This has shaved days off the average permit processing time and saved DEP several thousand dollars each year for not having to send permits via registered mail.
5. **Clean Water Permit Backlog Eliminated.** In 2005, DEP eliminated a longstanding backlog of Clean Water Act wastewater discharge permits. Now no more than 10% of the 400+ permits are expired at any one time. This was accomplished with only 1/3 of the staff recommended by the U.S. Environmental Protection Agency (E.P.A.). By eliminating the backlog of permits, water quality has been improved through the application of updated discharge standards and implementation of current wastewater treatment technology.
6. **Wastewater General Permits.** For discharges to water, DEP has developed a reduced licensing procedure that provides environmental protection when nearly identical wastewaters are discharged .

These separate yet nearly identical discharges of pollutants qualify for a General Permit and currently are available for important growing industries like aquaculture, for widespread activities like stormwater control, and for potential public health emergencies involving mosquito control. The benefit of the General Permit is that it allows similar projects to be expedited with simpler permitting under common permit requirements for the entire category.

- 7. State Revolving Loan Fund (S.R.F.) Applications.** DEP is updating the rules governing the state revolving loan fund for clean water infrastructure projects so that the application process is no more complicated than seeking a standard commercial loan. S.R.F. below-market-rate loans essentially provide an average 18% subsidy for municipalities. In order to make these funds readily available so that projects can come on line quickly, it must be easy to apply for and receive funding.

REGULATORY INNOVATION

Consulting with the public, DEP is constantly evaluating the laws and rules it administers to ensure that they are up-to-date and working as efficiently and effectively as possible. Recent examples include:

- 1. Continuous Air Quality Data Available on the Internet.** A multi-year effort has resulted in the posting of all the ambient air quality data measured in real-time by the continuous (24 hour/7 day a week) air pollutant monitors operated and maintained by DEP across the state. This system avoids the need for individual inquiries and saves staff time. It has resulted in better information being available to the public on the internet in an up-to-the-latest-hour timeframe. The website is:
http://www.maine.gov/dep/air/air_quality/aq_step01.php
- 2. Streamlined Underground Storage Tank (U.S.T.) Repairs.** A recent change to Maine's U.S.T. rules allows third-party certified inspectors to conduct minor repairs during required annual inspections. This change saves the U.S.T. facility owner the money it previously cost to hire a separate private certified installer (by allowing the use of inspectors), minimizes the time a portion of a facility is out of operation, and brings the facility back into compliance sooner, thereby reducing the risk of a costly discharge.
- 3. Oil Spill Reporting Agreements.** State law prohibits the discharge of petroleum to the ground or waters, but now includes a unique provision added in 2007 that exempts the spiller from all civil penalties and fines if the spill is reported within two hours, cleanup is performed to the Commissioner's satisfaction by the spiller, and DEP is reimbursed for any costs it incurred. More than 2,900 spills were reported in this way last year, which constitutes a considerable workload for DEP's 25 petroleum and hazardous materials spills response services staff. To alleviate the reporting burden on qualified facilities and end unneeded emergency responses for the state, certain facilities can now sign a Memorandum of Agreement (M.O.A.) with DEP and clean up certain spills of less than 10 gallons without immediate reporting. The MOA details the reporting of small volume spills (less than 10 gallons) that are promptly cleaned up and reported using a written log that is submitted to DEP periodically. There are now 18 signed M.O.A.s and more are in process. Partners in these M.O.A.s have found they can reduce their spill reporting by up to 40%, saving them time and money, while the process enables state resources to concentrate on cleaning up spills with higher risks to Maine people and their environment.



DEP has invested in the distribution of air quality data via the internet so that citizens can monitor ambient conditions in real-time.

- 4. Wetland In-lieu Fee Program.** To provide flexibility in permitting, the "fee-in-lieu of wetland compensation" program allows applicants seeking to alter significant amounts of wetlands to pay a fee instead of performing traditional wetland compensation when wetland impacts are unavoidable. Before this program was initiated in 2007, each significant wetland loss required an individual mitigation project provided by the applicant. The in-lieu fee program allows payment instead of a compensation project. The fee is deposited in a compensation fund and can be combined and directed to priority wetland projects with greater regional conservation value. For those applying for wetlands alteration projects, the in-lieu fee program can save considerable time and expense over traditional site-specific compensation efforts. It also will improve freshwater wetland conservation in Maine by providing a formal process for finding the best restoration and preservation projects in each ecological region.

ACCOUNTABILITY

DEP has initiated a formal internal auditing process to reinforce accountability throughout its many programs. DEP's Quality Management System is similar to the Office of Inspector General that exists in many of the federal agencies, conducting audits of different programs and functions throughout each year. These audits drive standardized procedures as well as improved efficiency -- they make programs accountable. Standard operating procedures (S.O.P.s) are in place for all licensing functions to ensure consistency, standardized permit language, and the use of common forms and templates. In addition, DEP is audited by the E.P.A routinely. Our most recent audit of compliance and enforcement programs noted that our programs perform better than similar programs in other states in terms of timeliness and effectiveness. Our financial administration of the federal Clean Water State Revolving Loan Fund is consistently given the highest scores on annual audits.

ENVIRONMENTAL PROTECTION RESULTS

The bottom line for all DEP programs is that of accomplishing the agency's environmental protection mission. The success can be tracked in terms of environmental results. Some examples of these results include:

- 1. Greenhouse Gases and Air Toxics.** Maine's ability to track and report on total greenhouse gas emissions and total toxic air emissions has improved markedly since the 2005 consolidated air emission inventory reform. Maine now has better quality, more reliable and more comprehensive statewide data on air emissions. This air inventory reporting replaces separate reporting requirements and has avoided regulatory duplication for regulated sources.
- 2. Growth in Permitted Projects.** Streamlining initiatives allow the DEP to provide effective and efficient protection of Maine's outstanding water, air and wildlife habitat resources – while permitting more projects whether large or small.
- 3. Maine School Chemical Program.** DEP has initiated and worked with 80 schools to identify and remove over 700 pounds of elemental mercury, 6,500 pounds of hazardous waste, and over 1,000 gallons of liquid hazardous waste. About 45% of all public high and middle schools had chemicals that presented risks which greatly outweighed any teaching values. These were chemicals that had the potential to be explosive and/or were shock sensitive, extremely toxic or known or suspected carcinogens, teratogens or mutagens.

- 4. Home Heating Oil Tank Replacement.** Over the past 12 years, DEP has responded to over 5,000 leaks from home heating oil tanks at the average rate of more than one per day. To prevent the expenditure of large sums of money on cleanup, DEP obtained the authority to spend dedicated money on the replacement of high-risk tanks. This replacement is significantly less expensive than a cleanup, and, since most of the money is granted through Community Action Programs (CAPs), it is a particularly cost effective way for the state to get results while minimizing administrative costs. The average cost of a tank installation is \$1,144 per tank; the average cost of a home heating oil spill cleanup is over \$7,700 per spill without counting DEP staff time. A CAP will often combine these monies with other public assistance funds to replace everything from the tank to the burner on the furnace of a low income household, preventing many kinds of pollution while saving energy costs for the homeowner at the same time. As a multi-agency initiative, DEP and the CAP agencies have replaced heating oil tanks at 6,555 homes over the past nine years.
- 5. Manufacturer Responsibility for Toxics in Commerce.** Maine is a national leader in product stewardship, which encourages manufacturers to design products with fewer toxics, to make them more reusable and recyclable and to partner in the end-of-life recycling of their products. Maine's electronic waste program requires TV, game console, printer, and computer monitor manufacturers to take on recycling responsibility. Maine has also enacted laws that prohibit the sale of products that contain mercury or certain brominated flame retardants. These toxics product bans include mercury auto switches, cathode ray tubes from electronics, and mercury thermostats; most recently, cell phones were added to this list. One example of the success to date is measured by the 20 million pounds of Maine electronic waste ("e-waste") collected from January 2006 until June 2009. Another example is the more than 41,000 automobile mercury switches collected over the past six (6) years removing more than 90 pounds of mercury from our waste stream. Finally, our mercury thermostat collection program has collected nearly 20,000 thermostats removing an additional 157 pounds of mercury since 2006. Requiring manufacturers to pay for handling and disposal of toxics put into manufactured products saves taxpayers, municipalities, and Maine's environment the costs of handling and properly disposing of these toxic materials – it also encourages good product design to avoid high end-of-life product disposal costs.

SECTION 10:

“Identification of emerging issues for the agency or program in the coming years”

Maine Revised Statutes Title 3, Section 956(2)(J)

In addition to these, the introductory section of this report lists additional emerging issues.

- 1. Pharmaceuticals.** The increasing number and use of pharmaceuticals and personal care chemicals in a wide variety of formulations and products has required the development of new monitoring and assessment strategies to determine their occurrence and fate in the environment. While we are now able to detect a wide variety of these compounds in waterbodies there is still need to establish criteria or limits to ensure no adverse impacts to aquatic organisms or humans.
- 2. Green Infrastructure.** Traditional solutions to water pollution control have been focused on the creation of treatment systems involving pipes, pumps, and mechanical systems – what is traditionally called “end of pipe” solutions. With the increasing importance placed on stormwater’s significant contribution to water quality impairments, pollution prevention through the use of green infrastructure is being given more attention by municipalities and regulators. Green infrastructure involves the retention of existing vegetative buffers, creation of new green spaces within developed areas, and installing structures that detain water, grow vegetation, and cause the majority of stormwater to infiltrate to groundwater after treatment. The American Reinvestment and Recovery Act (“stimulus”) as well as the FFY10 budget appropriation for wastewater infrastructure included incentives for the installation of green infrastructure for the first time.
- 3. Lead-safe Housing.** Maine’s Lead Poisoning Prevention Fund initiatives implemented by Maine-C.D.C. will result in the identification of housing with lead dust prior to a child being poisoned by it. DEP’s Lead Hazard Prevention Program expects a significant increase in requests for technical assistance from parents and landlords as a result of the new “primary prevention” initiatives. The program responds to all requests for technical assistance from parents of lead-poisoned children.
- 4. Lead Paint Abatement.** Implementation of federal *Renovation, Repair and Painting* rule will impose regulatory requirements for training, certification and implementation of lead-safe work practices on anyone who performs work for remuneration that impacts more than a *de minimis* amount of lead-based paint in housing and child-occupied facilities. Although U.S.E.P.A. is the implementing agency, there are tens of thousands of contractors and landlords in Maine who will be affected by this regulation, and we expect many will seek assistance from DEP to understand and comply with this new rule.
- 5. Mercury-added Product Management.** Maine has recently enacted the first extended producer responsibility program for household fluorescent lamps. Whenever a new program is implemented, a significant amount of staff time is needed to identify affected entities, provide information and compliance assistance to manufacturers and retailers (as appropriate), technical training and outreach assistance to municipal and retail collection sites, and database development to appropriately track and manage data and reports related to the new program.

6. **End-of-life Product Management.** The Legislature will be considering framework legislation that sets criteria and responsibilities for extended producer responsibility programs and delegates authority for determining products for new E.P.R. programs to DEP. This new administrative process will enhance the state's ability to require manufactures and others to support safe recycling of products, with potential for decreasing the solid waste management costs borne by municipalities.
7. **Maine Air Toxics Initiative (MATI).** MATI was a facilitated stakeholder process aimed at identifying which air toxics are most responsible for creating health risks, the source of those pollutants, and creation of cost effective solutions to reduce the risk. DEP applied the Air Toxics Advisory Committee's recommendations to develop the Maine Air Toxics Strategy. The strategy maps out concrete goals, steps, resource allocations and timelines to achieve air toxic reductions. The plan includes provisions for continued gathering, analysis and communication of air toxics data.
8. **Wood Smoke.** Polycyclic Organic Matter or "wood smoke" was identified as the priority pollutant through the MATI process. DEP believes that significant reductions in estimated toxic emissions from woodstoves can be achieved and demonstrated through a strong outreach program and improved inventory, and that an emissions reduction goal should be established as a target for DEP's efforts.
9. **FOAL Responses.** The last five (5) years have seen a dramatic change in the manner that Maine's Freedom of Access Law (FOAL) is being used to access public records as well as a dramatic change in the type of records that must be produced. First, in many proceedings, DEP is seeing lawyers use that public records process to avoid what otherwise would be a trial discovery process overseen by the courts. In any case, the amount of time and effort needed to comply with the FOAL and make good-faith efforts at giving the public access to DEP's records is increasing at a staggering pace. Without the addition of staff to handle these requests, some alternative technology will need to be explored and invested in so that access to records can be reasonably afforded.
10. **Asbestos in Schools.** Consolidation of school districts will complicate and add significantly to the amount of work required to complete an AHERA *Asbestos in Schools Rule* inspection in each new school district. The realignment of schools and reassignment of responsibilities will result in many new personnel taking on oversight of asbestos management in buildings with which they are unfamiliar, so there will be an increased need for DEP to provide technical assistance in these circumstances. Additionally, DEP will need to integrate information on the new R.S.U.s into our tracking and record-keeping systems in order to maintain connections to historic information and appropriately target schools and school districts for future AHERA inspections.
11. **Low Carbon Fuel Standard.** Commissioners and Secretary' of 11 northeast states, including Maine, signed a letter of intent in December 2008 committing to explore the potential for a regional low carbon fuel standard (L.C.F.S.).

A L.C.F.S. is a performance-based standard that would limit the average carbon intensity of fuels using a lifecycle accounting method, which tracks emissions from all stages of fuel production and distribution. The goals of the Northeast/Mid-Atlantic L.C.F.S. are to reduce greenhouse gas emissions, encourage the development of low cost, low carbon fuel alternatives (e.g., electric vehicles), and promote innovation of advanced fuels and technologies.
12. **Congressional Climate Change Action.** DEP will be closely tracking, conferring with U.S.E.P.A., and commenting on the following pieces of congressional legislation pending in the U.S. Congress regarding the regulation and reduction of G.H.G. emissions nationally:

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- A. In the House, Representatives Waxman and Markey sponsored the American Clean Energy and Security Act of 2009 (ACESA, Waxman-Markey, H.R. 2454), which passed by the House in June 2009.
- B. In the Senate, Senators Kerry and Boxer introduced the Clean Energy Jobs and American Power Act (Kerry-Boxer, S.1733) in September 2009.
- C. In addition Senate Energy Bill (S.1462), the American Clean Energy Leadership Act of 2009 (ACELA) addresses six major areas: clean energy deployment, energy efficiency, energy security, responsible production of traditional resources, innovation and workforce, and energy markets. Two of the biggest areas covered by the legislation are transmission expansion and siting and a Federal Renewable Energy Standard.

13. Federal Climate Change Action. DEP will be closely tracking and commenting on the following pieces of federal rulemaking actions:

- A. April 2007: The U.S. Supreme Court concluded that G.H.G.s are air pollutants, as defined by Section 202 of the CAA. The U.S.E.P.A. is thereby required to evaluate the science behind the global warming debate and determine whether G.H.G.s are an air pollutant that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.⁴
- B. April 2009: U.S.E.P.A. issued a proposed endangerment finding and proposed “cause and contribute” findings. The proposed endangerment finding states that the science supports a finding that a mix of certain G.H.G.s endangers public health and welfare of current and future generations. The proposed cause and contribute finding states that emissions of four (4) of the G.H.G.s from new motor vehicles and engines contribute to and cause the danger to public health and welfare. Comments on the proposed findings were due in June and affirmation of the findings is pending.
- C. June 2009: EPA granted California’s request for a waiver of preemption under the C.A.A.
- D. Sept. 22, 2009: EPA has issued the Final Mandatory Reporting of Greenhouse Gases Rule. The rule requires reporting of greenhouse gas (G.H.G.) emissions from large sources and suppliers in the United States, and is intended to collect accurate and timely emissions data to inform future policy decisions. Under the rule, suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more per year of GHG emissions are required to submit annual reports to U.S.E.P.A.
- E. Sept. 28, 2009: U.S.E.P.A. and the Department of Transportation (U.S.D.O.T.) issued a joint “Proposed Rulemaking to Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards” (Light-Duty Vehicle Proposed Rule). Under the joint proposed rulemaking, the U.S.E.P.A. proposes to regulate CO₂ and other G.H.G.s from vehicles, and the U.S.D.O.T. proposes to set Corporate Average Fuel Economy Standards (CAFÉ Standards) with regard to CO₂ and other G.H.G.s.

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- F. Sept. 30, 2009: The USEPA issued a proposal for a “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” (G.H.G. Tailoring Rule). This rule would set regulatory thresholds for regulation of G.H.G.s under the C.A.A.

SECTION 11:

“Any other information specifically requested by the committee of jurisdiction”

Maine Revised Statutes Title 3, Section 956(2)(K)

At the time this self-assessment was drafted, the Joint Standing Committee on Natural Resources had no specific requests for information pending regarding the State Government Evaluation Act. DEP is prepared to answer any questions from the committee that arise during its evaluation of this report.

SECTION 12:

“A comparison of any federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program”

Maine Revised Statutes Title 3, Section 956(2)(L)

As a general matter, Maine’s environmental laws are significantly more comprehensive than federal counterpart laws. The following is an overview of these differences.

A. Surface Waters. Maine has had a classification and permitting program for its state waters since the 1940s. However, with the enactment of the Federal Water Pollution Control Act (“Clean Water Act”) in 1972, the state system began to be more closely integrated with federal requirements. Since 2001, the state has been granted formal authority to issue Clean Water Act permits. As part of that delegation of authority all of the standards, criteria, and classifications are subject to final review and approval by the U.S.E.P.A. This delegation of authority has created a significant degree of consistency between Maine and federal water quality statutes.

The regulation of wetland impacts is still regulated by two separate programs – one via the state’s Natural Resources Protection Act and the other via the U.S. Army Corp of Engineers who have been given authority to regulate the placement of fill into waters of the United States. These two programs have different jurisdictional thresholds and different approval standards as well as compensation requirements for unavoidable impacts to wetlands. For the most part, these two programs have been coordinated as closely as is feasible, particularly with regard to smaller projects with less wetland impacts.

B. Ground Water - Underground Storage Tanks. Maine statute and regulations that govern underground storage tanks, particularly underground petroleum storage tanks, are broader and more stringent than federal law and U.S.E.P.A. regulations. Maine’s fund (Maine Ground Water Oil Clean Up Fund) providing pollution liability insurance to U.S.T. owners and operators is also broader and more generous than that required by federal law and regulations. This is in large part because Maine is far more dependent on ground water as a drinking water resource than the rest of the nation. Approximately 50% of Maine’s population drinks water obtained from ground water. Maine’s installation standards differ significantly than those of U.S.E.P.A., in part because Maine’s requirements have included improvements in hazardous material storage technology while U.S.E.P.A.’s regulations still rely on late 1980s technology. For example, Maine requires all new tanks and piping to have secondary containment with electronic leak sensors to catch leaks before they reach ground water.

C. Ambient Air.

1. Hazardous Air Pollutants. DEP implements Sections 112 and 129 of the Clean Air Act, which affect stationary sources of hazardous air pollutants. The B.E.P. adopted by reference and accepted delegation of federal New Source Performance Standards (N.S.P.S.) and NESHAPs in Chapters 143 and 144, respectively. Maine adopted requirements exceeding federal standards for perchloroethylene dry cleaning facilities in Chapter 125, including a prohibition on the co-location of affected facilities with residences, childcare or elder care facilities, and other sensitive

populations. Chapter 121 includes mercury emission limitations for municipal waste combustors that are more stringent than federal standards.

In 2005, the Maine Legislature established a mercury emission limit for all facilities in the state, prohibiting emissions in excess of 35 pounds through 2009, and in excess of 25 pounds beginning in 2010. This limitation exceeds mercury emission reductions that would have been achieved by EPA's vacated Clean Air Mercury Rule by affecting all source categories.

DEP monitors for toxic air pollutants at several sites across the state, and is developing the capability to apportion combustion byproducts to identify ambient quantities contributed by motor vehicles as opposed to wood burning.

In response to the U.S.E.P.A.'s National Air Toxics Assessment, which indicated that Maine citizens faced an unacceptable risk from air toxics, in 2002 DEP began the Maine Air Toxics Initiative (MATI). MATI is a facilitated stakeholder process aimed at identifying: 1) air toxic pollutants that pose the greatest risk to Maine people; 2) sources of air toxic pollutants; and 3) cost-effective solutions to reduce the risk of toxic air pollution. This will enable Maine to target available resources for maximum risk reduction. The ultimate goal of the initiative is to reduce exposure of all Maine citizens to acceptable levels of air toxics.

2. ***Air Emission Licensing.*** In early 2006, DEP conducted a review of its New Source Review (N.S.R.) program and determined that it is at least as stringent as the federal N.S.R. program as revised on December 31, 2002. Utilizing U.S.E.P.A. guidance, DEP examined baseline emissions, applicability tests and other provisions of the federal N.S.R. rule in comparison with the Maine program, and determined that Maine's current program provides a level of environmental protection that is at least as stringent as U.S.E.P.A.'s N.S.R. program, while maximizing operational flexibility and efficiency for Maine's major and minor sources.
3. ***Criteria Pollutants.*** Maine's ambient air quality standards for criteria pollutants, which include tropospheric (ground-level) ozone and fine particulates (PM_{2.5}), are identical to the current Federal standards.

D. Hazardous Substances.

1. ***Hazardous Waste.*** Federal hazardous waste requirements provide a baseline standard for the management, treatment and disposal of hazardous wastes. The Maine Legislature determined that to adequately protect the public health, some wastes not identified by the U.S.E.P.A. as hazardous such as Polychlorinated biphenyls (P.C.B.s) should be identified and managed as hazardous waste. The Board of Environmental Protection identified P.C.B.s in concentrations of 50 parts per million or greater as state listed hazardous wastes. Maine's hazardous waste program also differs from the federal program in other areas. For example, the Maine hazardous waste management regulations require that shipments of hazardous waste be accompanied by a hazardous waste manifest and that universal hazardous waste be accompanied by a manifest or Uniform Bill of Lading (UBOL). The state has also not adopted some of the federal exemptions for certain activities involving the treatment of hazardous wastes. Maine has demonstrated that the program is at least as stringent as the federal program and that Maine has sufficient resources and authority to administer the federal program at the state level. U.S.E.P.A. has delegated program authority to the state for the base program, as well as administration of the universal hazardous waste and corrective action programs.

2. **Asbestos.** Federal law regulates a wide variety of activities related to asbestos abatement. Maine law is structured to cover those activities at least as stringently as federal law. The federal requirements for inspection, notification, training, accreditation of workers, and work practices for asbestos abatement activities are all encompassed within the scope of Maine's asbestos law and regulation, but in a greatly simplified manner. The applicability of Maine's law is broader than the federal law, as it applies in all buildings and when a smaller amount of asbestos-containing materials (A.C.M.) is disturbed than is required by the federal regulations. Maine's asbestos laws and regulations do not include requirements for asbestos identification and management in schools; however U.S.E.P.A. has delegated authority to DEP to oversee implementation of these federal requirements in Maine.

3. **Lead.** Federal law regulates a wide variety of activities related to lead abatement. Maine law is structured to cover many, but not all, of the federal provisions. Maine requires that professionals performing lead based paint activities in residential dwellings and child-occupied facilities be properly trained and certified and sets forth work practice standards to ensure that lead in the environment is accurately identified and lead hazards are properly abated. Commercial buildings, public buildings, and superstructures are not regulated by Maine's rule. The scope of this rule is narrower than the federal rule as it does not include licensing, certification and work practice standards for renovation, repair and painting projects conducted in target housing and child-occupied facilities.

SECTION 13:

“Agency policies for collecting, managing and using personal information over the Internet and nonelectronically, information on the agency’s implementation of information technologies and an evaluation of the agency’s adherence to the fair information practice principles of notice, choice, access, integrity and enforcement”

Maine Revised Statutes Title 3, Section 956(2)(M)

In general, implementation of the laws administered by DEP does not require the collection or management of personal information. In the rare situations where the receipt of personal information is necessary, such as when grant eligibility is being determined, that data, regardless of format, is separated from other information in DEP’s files and is not produced should a Freedom of Access Law request be received.

Since the complete consolidation of all the state’s information technology functions, DEP must rely on O.I.T. for compliance with any requirements related to electronic information management. O.I.T. will make staff available should there be any questions related to its oversight and management of electronic information.

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SECTION 14:

“A list of reports, applications and other similar paperwork required to be filed with the agency by the public. The list must include:

- 1) The statutory authority for each filing requirement;
- 2) The date each filing requirement was adopted or last amended by the agency;
- 3) The frequency that filing is required;
- 4) The number of filings received annually for the last 2 years and the number anticipated to be received annually for the next 2 years; and
- 5) A description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication.”

Maine Revised Statutes Title 3, Section 956(2)(N)

REPORT TYPE / NAME	FREQUENCY REQUIRED	STATUTORY AUTHORITY	LAST AMENDMENT OF STATUTE	AVERAGE NUMBER RECEIVED ANNUALLY	CHANGES CONTEMPLATED?
Asbestos abatement activities license applications	Annually	38 M.R.S. § 1274-A	1993	1,100	None
Lead-based paint activities license applications	Annually	38 M.R.S. § 1295(1)	1997	140	None
Mercury-added product notifications	Tri-annually	38 M.R.S. § 1661-A	2001	300 (received tri-annually)	None
Vehicle mercury switch recycling report	Annually	38 M.R.S. § 1665-A(9)	2007	1	None
Mercury-added thermostat recycling report	Annually	38 M.R.S. § 1665-B(2)(G)	2005	1	None
Electronics manufacturer registrations for product stewardship	Annually	38 M.R.S. § 1610(6-A)	2009	125	None
E-Waste consolidator applications for approval and reports	Annually	38 M.R.S. § 1610(5)(B) and § 1610(10)	2003	20	None
Cell phone recycling reports	Annually	38 M.R.S. § 2143(4)	2007	6	None
Semi Annual Title V Compliance Certification	Twice Yearly	38 M.R.S. § 590	2001	130	No
Annual Title V Compliance Certification	Annually	38 M.R.S. § 590	2001	65	No
Air Emission License Renewal	Every 5 years	38 M.R.S. § 590	2001	130	No
Solid Waste Facilities – Annual Reports (received from landfills, transfer and storage facilities, processing facilities, incinerators, beneficial uses, agronomic uses, composting facilities, septage disposal and utilization sites)	Annual	38 M.R.S. § 1310-N(6-D)	1995	700	Minor changes to report due dates
Solid Waste Facility Water Quality Monitoring Reports	3/year unless otherwise required or approved	38 M.R.S. § 1304(1)	1989	200	No
Solid Waste Facility Leachate Monitoring Reports (from facilities with leachate collection and/or detection systems)	3/year unless otherwise required or approved	38 M.R.S. § 1304(1)	1989	90	No

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REPORT TYPE / NAME	FREQUENCY REQUIRED	STATUTORY AUTHORITY	LAST AMENDMENT OF STATUTE	AVERAGE NUMBER RECEIVED ANNUALLY	CHANGES CONTEMPLATED?
Other Environmental Monitoring Reports (including monitoring of soils, waste characteristics, air, stability, and waste derived products)	Varies in accordance with individual license requirements	38 M.R.S. § 1304(1)	1989	200	No
Annual Adjustments to Solid Waste Disposal Facility Financial Assurance Mechanisms for Closure and Post-Closure Care and Corrective Actions	Annual	38 M.R.S. § 1304(1)	1989	25	No
Non-hazardous Waste Transporter Manifests	Quarterly	38 M.R.S. § 1304(1-A)	1999	90,000	No
Non-hazardous Waste Transporter License Renewal Applications	Biannual	38 M.R.S. § 1304(1-A)	1999	285	No
Septage Site Renewal Applications	Every 5 years	38 M.R.S. § 1304(1)	1989	8	No
Solid Waste Facility Applications (including applications for new, amended, and revised licenses related to all type of solid waste facility licenses)	NA	38 M.R.S. § 1310-N	2009	100	No
Public Benefit Determination Applications (received from applicants for new or expanded solid waste disposal facilities, or from publicly owned solid waste landfills proposing to accepted waste generated out of state)	NA	38 M.R.S. § 1310-AA	2007	1	No
Hazardous Waste Activity Report	Annual	38 M.R.S. 1319-O(1)	1999	350	None. Computerized data provided by DEP for ease of completion
Hazardous Waste and Waste Oil Transporter Activity Report	Quarterly	38 M.R.S. § 1319-O(1) & (2)	1999	320	None
Hazardous Waste and Waste Oil Transporter License Application or Renewal Application	Annual	38 M.R.S. § 1319-O(1) & (2)	1999	80	None
Abbreviated License for Hazardous Waste Treatment	Once every 5 years	38 M.R.S. § 1319-O(1)	1999	22	None
Hazardous Waste Generator Notification	Once, and updates as needed	38 M.R.S. § 1319-O(1)	1999	225	None
Biomedical Waste Generator Registration	Annual	38 M.R.S. § 1319-O(3)	2005	120	Will become annual (3,200 Total)
Biomedical Waste Transporter Application	Annual	38 M.R.S. § 1319-O(3)	2005	10	None
Universal Waste Quarterly Reports	Quarterly	38 M.R.S. § 1319-O(1)	1999	100	None
Underground Oil Tank Registration	Once, and when required info. changes.	38 M.R.S. § 564(1, 2, 3, 4, 5)	2009	100 to 200 annually.	None
Annual Statistical Inventory Report for Underground Tanks	Annual	38 M.R.S. § 564(2-A)(B)	1991	175 facilities (444 tanks)	None
Annual Inspection for Underground Tanks	Annual	38 M.R.S. § 563(9)	2007	2,261	None
Oil Terminal Transfer reports	Monthly	38 M.R.S. § 551(4)	2007	144	None
Registration of transportation of oil in inland areas	Annually	38 M.R.S. § 545-B	1989	8,555	None
Discharge Monitoring Reports	Monthly-quarterly	38 M.R.S. § 414(3)	1997	4800	None
Combined Sewer Overflow Annual Report	Annual	38 M.R.S. § 414(3)	1997	37	None
Pretreatment Reports	Annual-Biannual	38 M.R.S. § 414(3)	1997	39	None

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REPORT TYPE / NAME	FREQUENCY REQUIRED	STATUTORY AUTHORITY	LAST AMENDMENT OF STATUTE	AVERAGE NUMBER RECEIVED ANNUALLY	CHANGES CONTEMPLATED?
MEPDES/Waste Discharge License & Overboard Discharge License Renewal Applications	Every five years	38 M.R.S. §§ 413 & 414	1989 & 2003	350	None
Hydropower initial licensing, relicensing, modifications	Varies – licenses issued for 30-50 years	38 M.R.S. § 633	2007	15	None
Groundwater monitoring report gravel pits & rock quarries-(variance requirement)	annual	38 M.R.S §§ 490-E & 490-CC	2009	45	none
Reclamation Bond cost changes gravel pits & rock quarries -(variance requirement)	annual	38 M.R.S §§ 490-E & 490-CC	2009	30	none
Stormwater management system recertification requirement	5 years	38 M.R.S. § 420-D	2008	None received to date[first ones due 10-2010]	none
Natural Resources Protection Act (NRPA) applications	Applications submitted daily	38 M.R.S. § 480	2008	450	none
Stormwater Management Act applications	Applications submitted daily	38 M.R.S. § 420-D	2008	45	none
Site Location of Development Law applications	Applications submitted daily	38 M.R.S. § 483	2008	220	none
Permit-by-Rule applications	Applications submitted daily	38 M.R.S. §§ 480 & 420-D	2009	2,200	none
Maine Construction General Permit applications	Applications submitted daily	38 M.R.S § 349 & § 309 of the U.S. Clean Water Act	2004	10	MCGP will be renewed in 2010

APPENDIX A:
Laws Administered

Statutory Names, Popular and Short Title

Sections:

341 to 349-A	Organization and Powers
351 to 354.....	Maine Environmental Protection Fund
355 to 357.....	Lake Environmental Protection Fund
358.....	Maine Pollution Prevention Fund
361-A to 372	Protection and Improvement of Waters Laws – General Provisions
401 to 404.....	Groundwater Protection Program
410-F to 410-G.....	Marine Environmental Monitoring Program
410-H to 410-K.....	Nonpoint Source Pollution Program
410-L to 410-N.....	Lakes Assessment and Protection Program
411 to 424.....	Water Pollution Control
435 to 449.....	Mandatory Shoreland Zoning
451 to 452.....	Water Pollution Enforcement
464 to 470.....	Water Classification Program
470-A to 470-H.....	Water Withdrawal Reporting Program
480-A to 480-BB	Natural Resources Protection Act
481 to 490.....	Site Location of Development
490-A to 490-N.....	Performance Standards for Borrow Pits
490-W to 490-FF.....	Performance Standards for Quarries
491 to 537.....	Interstate Water Pollution Control
541 to 560.....	Oil Discharge Prevention and Pollution Control
561 to 570-M.....	Underground Oil Storage Facilities and Ground Water Protection
571.....	Criminal Liability for Corrupting Waters
581 to 610-A	Protection and Improvement of Air
611 to 612.....	Mills and Dams Laws — General Provisions
630 to 637.....	Maine Waterway Development and Conservation Act
640.....	Mills and Dams — Public Participation in Licensing Hydroelectric Dams
651 to 659.....	Mills and Dams — Rights and Liabilities
701 to 728.....	Mills and Dams — Action for Damages
771 to 776.....	Mills and Dams — Protection of Ways From Overflow
815 to 933.....	Maine Dam Registration, Abandonment and Water Level Act
951 to 969.....	Saco River Corridor
971 to 979.....	Floating Timber
991 to 1002.....	St. Croix International Waterway Commission
1021 to 1027.....	Wharves and Fish Weir
1061 to 1210	Maine Sanitary District Enabling Act
1231 to 1234.....	Community Sanitary Districts
1251 to 1255.....	Sewer District
1271 to 1284.....	Asbestos
1291 to 1297.....	Lead Abatement

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1301 to 1319-Y Maine Hazardous Waste, Septage and Solid Waste Management Act
1361 to 1371..... Uncontrolled Hazardous Substance Sites
1401 to 1404..... Hazardous Material Spill Clean-up Liability Laws
1601 to 1610..... Sales of Consumer Products
1661 to 1671..... Mercury Added Products and Services
1861 to 1865..... Invasive Aquatic Plants Prevention
1871 to 1872..... Invasive Aquatic Plants and Nuisance Species Control
2001 to 2013..... Coastal and Lake Watershed Districts
2301 to 2313..... Toxics Use and Hazardous Waste Reduction
3001 to 3013..... Uniform Environmental Covenants Act

APPENDIX B:
Rules Administered

<u>Chapter</u>	<u>Title</u>	<u>Filing Date</u>	<u>Pages</u>
2	Processing of Applications	April 1, 2003	1-26
20	Regulations for hearings on applications	March 3, 1981	1-07
30	Special regulations for hearings on applications for significant public interest	March 8, 1981	1-13
40	Regulations for the conduct of enforcement hearings	June 30, 1978	1-07
100	Definitions of regulations	December 19, 2005	1-35
101	Visible emissions regulations	May 13, 2003	1-06
102	Open-burning regulation	April 15, 2005	1-03
103	Fuel burning equipment particulate emission standard	October 29, 1990	1-04
104	Incinerator particulate emission std.	October 29, 1990	1-02
105	General process source particulate emission standard	October 29, 1990	1-02
106	Low sulfur fuel regulation	September 23, 1991	1-04
107	Sulfur dioxide emissions standards for sulfite pulp mills	October 10, 1979	1
109	Emergency episode regulation	September 16, 1991	1-08
110	Ambient air quality standards	August 1, 1996	1-05
111	Petroleum liquid vapor storage control	September 24, 1999	1-03

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112	Bulk Terminal Petroleum Liquid Transfer Requirements	February 17, 1998	1-03
113	Growth offset regulation	April 13, 1999	1-10
114	Classification of air quality control regions	May 4, 1994	1-05
115	Emission license regulations Appendix A & B	July 30, 2008	1-43
116	Prohibited dispersion techniques	October 25, 1989	1-04
117	Source surveillance	May 4, 1994	1-12
118	Gasoline service stations vapor control	July 20, 1995	1-11
119	Motor vehicle fuel volatility limit	May 2, 2000	1-02
120	Gasoline tank truck tightness self certification	July 5, 1994	1-03
121	Emissions testing of resource recovery facilities	November 9, 1007	1-10
123	Paper coating regulation	October 3, 1989	1-06
124	Total reduced sulfur control from kraft mills	April 21, 2004	1-10
125	Perchloroethylene dry cleaner regulation Appendix	June 19, 2009	1-10 1-15
126	Capture efficiency test procedure	June 4, 1991	1-55
127	New motor vehicle emission standards	May 20, 2009	1-21
129	Surface coating facilities	February 26, 1998	1-46
130	Solvent degreasers	June 23, 2004	1-11
131	Cutback asphalt and emulsified asphalt	February 5, 1993	1-02
132	Graphic arts-rotogravure and flexography	February 5, 1993	1-42
133	Petroleum Liquids Transfer Vapor Recovery at Bulk Gasoline Plants	July 5, 1994	1-03

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134	Reasonably Available Control Technology for Facilities that Emit Volatile Organic Compounds	February 8, 1995	1-08
135	Hexavalent chromium particulate emission standard	October 29, 1990	1
137	Emission Statements	November 3, 2008	1-19
138	Reasonably Available Control Technology for Facilities that Emit Nitrogen Oxides	July 29, 1994	1-10
139	Transportation Conformity	September 14, 2007	1-15
140	Part 70 Air Emission License Regulations Appendix A, B & C	December 19, 2005 April 7, 2000	1-75 1-47
141	Conformity of General Federal Actions	May 16, 2007	1
143	New Source Performance Standards	June 15, 2005	1-06
144	National Emission Standards for Hazardous Air Pollutant	June 15, 2005	1-07
145	NOx Control Program	July 17, 2001	1-06
146	Diesel-Powered Motor Vehicle Emission Std.	March 31, 2000	1-06
148	Emissions from Smaller-Scale Electric Generating Resources	August 4, 2004	1-07
149	General Permit Regulation for non-metallic Mineral Processing Plants	July 20, 2008	1-12
150	Control of Emissions from Outdoor Wood Boilers	April 7, 2009	1-08
151	Architectural and Industrial Maintenance (AIM) Coatings	October 27, 2005	1-18
152	Control of Emissions of Volatile Organic Compounds from Consumer Products Attachments	December 10, 2007	1-39 1-96
153	Mobile Equipment Repair and Refinishing	February 20, 2004	1-04

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155	Portable Fuel Container Spillage Control Rule Appendices	July 9, 2004	1-07 1-41
156	CO ₂ Budget Trading Program	July 17, 2008	1-84
157	CO ₂ Budget Trading Program Waiver and Suspension	May 15, 2008	1-04
158	CO ₂ Budget Trading Program Auction Provisions	July 17, 2008	1-08
159	Control of Volatile Organic Compounds From Adhesives and Sealants	June 19, 2009	1-14
160	Outdoor Wood Boiler Replacement and Buy Back Program	February 20, 2009	1-04
200	Metallic mineral exploration, advanced exploration and mining	August 21, 1991	1-80
305	Natural Resources Protection Act – Permit-By-Rule standards	February 20, 2008	1-60
310	Wetland protection rules	January 21, 2009	1-14
315	Assessing and Mitigating Impacts to Existing Scenic and Aesthetic Uses	June 24, 2003	1-09
335	Significant Wildlife Habitat	February 24, 2009	1-14
355	Coastal sand dune rules	May 9, 2006	1-17
371	Definitions of terms used in site location of development law and regulations	October 4, 1982	1-07
372	Policies and procedures under the site location law	October 26, 1979	1-04
373	Financial capacity standard of the site location law	October 26, 1979	1-05
374	Traffic movement standard of the site location law	June 25, 1997	1-16
375	No adverse environmental effect	January 13, 2006	1-32

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	standard of the site location law		
376	Soil types standard of the site location law	October 26, 1979	1-04
377	Review of roads under the site location of development law	September 9, 1980	1-08
378	Performance standard review of borrow pits and topsoil mining operations	February 22, 2007	1-17
380	Planning Permit	June 25, 1997	1-06
400	Solid Waste Management Rules General Provisions Appendix A - D	February 13, 2009	1-82
401	Landfill Disposal Facilities Appendix A	September 1, 1999	1-84
402	Transfer Stations/Storage Facilities for Municipal Solid Waste	June 6, 2006	1-51
403	Incineration Facilities	September 22, 1998	1-12
405	Management, Testing & Disposal of Special Wastes plus Appendix A - E	June 6, 2006	1-48
409	Processing Facilities plus Appendix A	February 13, 2009	1-34
410	Composting Facilities	February 13, 2009	1-35
411	Non-hazardous transporter licenses	March 8, 1991	1-08
415	Reasonable Costs for Handling And Recycling of Electronic Wastes	September 17, 2007	1-11
418	Beneficial Use of Solid Wastes plus Appendix A - B	June 6, 2006	1-38
419	Agronomic Utilization of Residuals plus Appendix A -B	December 24, 1999	1-54
420	Septage Management Rules plus Appendix A - C	September 3, 1997	1-42

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424	Lead Management Regulations plus Appendix A - C	December 6, 2004	1-66 1-41
425	Asbestos Management Regulations	May 24, 2004	1-69
450	Administrative regulations for hydropower projects	January 5, 1987	1-14
500	Stormwater Management	December 22, 2006	1-66
502	Direct Watersheds of Waterbodies Most At Risk From New Development....	December 22, 2006	1-06
514	Regulations concerning the use of aquatic pesticides	January 24, 1989	1
517	Certification of persons servicing and repairing sanitary waste treatment facilities	December 28, 1978	1
519	Interim Effluent Limitations and Controls for Discharge of Mercury	October 1, 2001	1-06
520	Definitions for the Waste Discharge Permitting Program	March 31, 1999	1-07
521	Applications for Waste Discharge Licenses Plus Appendices	March 31, 1999	1-33 34-45
522	Application Processing Procedures for Waste Discharge Licenses	March 31, 1999	1-08
523	Waste Discharge License Conditions Appendix A	March 31, 1999	1-22 23
524	Criteria and Standards for Waste Discharge Licenses	March 31, 1999	1-16
525	Effluent Guidelines and Standards	March 31, 1999	1-28
528	Pretreatment Program plus Appendices	March 12, 2008	1-50 51-59
529	General Permits for Certain Wastewater Dischargers	June 22, 2007	1-06
530	Surface Waters Toxics Control Program	October 4, 2005	1-12

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531	Regulations for wastewater operator's certification program	May 03, 2006	1-06
532	Large Commercial Passenger Vessels	May 20, 2005	1-05
543	Rules to control the subsurface discharges of pollutants by well injection	September 28, 2006	1-14
550	Discontinuance of wastewater treatment lagoons	December 28, 1978	1-02
555	Standards for the addition of septage and fluid hazardous waste to municipal wastewater treatment facilities	March 4, 2009	1-04
570	Combined sewer overflow abatement	January 31, 2000	1-09
573	Snow Dumps: Exemption from Waste Discharge License	September 1, 1988	1-02
574	Siting & Operation of Road Salt and Sand-Salt Storage Areas	November 28, 2001	1-07
579	Classification Attainment Evaluation Using Biological Criteria for Rivers And Streams Appendices	May 22, 2003	1-14 1-04
580	Regulations relating to sampling procedures and analytical procedures	February 18, 1989	1-03
581	Regulations relating to water quality evaluations	January 24, 1989	1-02
582	Regulations relating to temperature	February 13, 1989	1
584	Surface Water Quality Criteria for Toxic Pollutants	October 4, 2005	1-23
585	Identification of fish spawning areas and designation salmonid spawning areas	February 13, 1989	1-02
586	Rules pertaining to discharges to Class A waters	February 13, 1989	1-02

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587	In-stream flow and water level standards	July 25, 2007	1-10
592	Small Community Wastewater Program	May 15, 2001	1-08
594	State contribution to overboard discharge replacement projects	November 23, 2004	1-06
595	State Revolving Loan Fund	April 30, 2007	1-31
596	Overboard discharges: licensing, and abandonment	November 22, 2004	1-08
600	Oil discharge prevention & pollution control rules for marine oil terminals, transportation pipelines and vessels	March 19, 2001	1-49
650	Damage claims-oil conveyance fund	June 20, 1983	1-18
680	Tanker anchorage rules	December 19, 1979	1-05
685	Payment and Reimbursement of Oil Transfer Fees	November 23, 2005	1-03
691	Rules for Underground Oil Storage Facilities	March 29, 2007	1-127
695	Registration, installation, operation and closure of underground hazardous substance storage facilities	October 17, 1996	1-46
800	Identification of hazardous matter	January 29, 1981	1-21
801	Discharge of hazardous matter; removal and written reporting procedure	January 29, 1981	1-03
850	Identification of hazardous waste	July 15, 2004	1-96
851	Standards for generators of hazardous waste	January 18, 2001	1-11
852	Land Disposal Restrictions	March 11, 1994	1-17
853	Licensing for transporters of hazardous waste	October 29, 2002	1-11
854	Standards for hazardous waste facilities	March 11, 1994	1-56
855	Interim license for waste facilities for hazardous waste	March 11, 1994	1-14

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856	Licensing for hazardous waste facilities	October 29, 2002	1-47
857	Hazardous waste manifest requirements	January 18, 2001	1-13
860	Waste Oil Management Rules	June 13, 1988	1-30
870	Labeling of Mercury Added Products	October 24, 2006	1-05
872	Exemptions from the Ban on Sale of Mercury Switches, Relays and Measuring Devices	August 22, 2007	1-08
900	Biomedical Waste Management	December 11, 1989	1-70
1000	State of Maine guidelines for municipal shoreland zoning ordinances plus Manure Utilization Guidelines	March 14, 2006	1-64
			1-14

APPENDIX C:
Regulatory Agenda

06

Department of Environmental Protection
2009-2010 Regulatory Agenda

[096: The Department](#)

AGENCY UMBRELLA-UNIT NUMBER: 06-096
AGENCY NAME: Department of Environmental Protection

CONTACT PERSON FOR FOLLOWING CHAPTERS: Peter J. Carney, Office of the Commissioner, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-4305

CHAPTER 2: Rules Concerning the Processing of Applications

STATUTORY BASIS: 38 MRSA §341-D

PURPOSE: Amend provision concerning revocation, modification or suspension of licenses to be consistent with the Maine Administrative Procedure Act; clarify provisions pertaining to appeals of licensing decisions; update provision to be consistent with recent statutory amendments; and possible amendments to reflect revisions to the Chapter 30 hearing rules.

ANTICIPATED SCHEDULE: As needed basis

AFFECTED PARTIES: Parties filing applications and members of the public participating in Department review of pending applications, and persons filing appeals or petitions for consideration by the Board.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 20: Rules Governing the Conduct of Rulemaking Hearings

STATUTORY BASIS: 38 MRSA §341-D

PURPOSE: Repeal existing Chapter 20: Hearings on Applications and replace with new Chapter 20: Rules Governing the Conduct of Rulemaking Hearings.

ANTICIPATED SCHEDULE: As needed basis

AFFECTED PARTIES: Parties and members of the public appearing in Department hearings on rulemaking.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 30: Rules Governing the Conduct of Licensing Hearings

STATUTORY BASIS: 38 MRSA §341-D

PURPOSE: Repeal existing Chapter 20: Hearings on Applications and existing Chapter 30: Special Regulations for Hearings on Applications of Significant Public Interest, and replace with new Chapter 30: Rules Governing the Conduct of Licensing Hearings.

ANTICIPATED SCHEDULE: As needed basis

AFFECTED PARTIES: Parties and members of the public appearing in Department hearings on licensing.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 40: Rules Governing the Conduct of Enforcement Hearings

STATUTORY BASIS: 38 MRSA §341-D

PURPOSE: Repeal existing Chapter 40: Conduct of Enforcement Hearings and replace with new Chapter 40: Rules Governing the Conduct of Enforcement Hearings.

ANTICIPATED SCHEDULE: As needed basis

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AFFECTED PARTIES: Parties and members of the public appearing in Department hearings on enforcement.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Deborah Avalone-King, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7028

CHAPTER 100: Definitions Regulation

STATUTORY BASIS: 38 M.R.S.A. § 585-A

PURPOSE: This existing rule is proposed for amendment on an ongoing basis to reflect recent federal and state legislative and regulatory changes affecting definitions.

ANTICIPATED SCHEDULE: Ongoing

AFFECTED PARTIES: These administrative changes will not have a direct impact on the regulated community or the environment.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Jeffrey Crawford, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7647

CHAPTER 110: Ambient Air Quality Standards

STATUTORY BASIS: 38 M.R.S.A. §§ 584

PURPOSE: The existing rule will be proposed for amendment to incorporate new federal ambient air quality standards for ozone and particulate matter.

ANTICIPATED SCHEDULE: June 2010

AFFECTED PARTIES: General public and regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 114: Classification of Air Quality Control Regions

STATUTORY BASIS: 38 M.R.S.A. §§ 583-B, 585-A

PURPOSE: The existing rule will be proposed for amendment to update air quality control region classifications based on new federal ozone and particulate matter standards.

ANTICIPATED SCHEDULE: June 2010

AFFECTED PARTIES: General public and regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Deborah Avalone-King, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7028

CHAPTER 121: Emission Limitations and Emission Testing of Resource Recovery Facilities

STATUTORY BASIS: 38 M.R.S.A. § 585, 585-B, 590

PURPOSE: This existing rule is proposed for amendment to incorporate new federal requirements for resource recovery facilities..

ANTICIPATED SCHEDULE: December 2009

AFFECTED PARTIES: Owners and operators of resource recovery facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Lynne Cayting, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207.287.7599

CHAPTER 127: New Motor Vehicle Emission Standards

STATUTORY BASIS: 38 M.R.S.A. §§ 585, 585-A, 585-D

PURPOSE: The existing rule will be proposed for amendment to incorporate changes to the greenhouse gas standards component of the program.

ANTICIPATED SCHEDULE: June 2010

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AFFECTED PARTIES: Manufacturers of motor vehicles.
CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Jeffrey Crawford, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7647

CHAPTER 129: Surface Coating Regulations

STATUTORY BASIS: 38 M.R.S.A. §§ 583-B, 585-A

PURPOSE: The existing rule will be proposed for amendment to incorporate federal control technique guidelines (CTG) requirements for metal furniture, miscellaneous metal and plastic parts, and flatwood paneling coatings.

ANTICIPATED SCHEDULE: June 2010

AFFECTED PARTIES: General public and regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Carolyn Wheeler, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-8159

CHAPTER 117: Source Surveillance

STATUTORY BASIS: 38 M.R.S.A. §§ 585-A, 590

PURPOSE: This existing rule will be proposed for amendment to improve consistency with federal regulations and across source categories.

ANTICIPATED SCHEDULE: June 2010

AFFECTED PARTIES: Licensed sources required to operate continuous emission monitoring systems (CEMS).

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 118: Gasoline Dispensing Facilities Vapor Control

STATUTORY BASIS: 38 M.R.S.A. §§ 585, 585-A

PURPOSE: This existing rule will be proposed for amendment to incorporate recent federal changes to Stage I vapor control requirements and to incorporate state changes to the Stage II program, including sunset provisions

ANTICIPATED SCHEDULE: February 2010

AFFECTED PARTIES: Owners and operators of gasoline dispensing facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 123: Paper Coating Regulation

STATUTORY BASIS: 38 M.R.S.A. §§ 343-A, 585-A

PURPOSE: This existing rule will be proposed for amendment to incorporate federal control technique guidelines (CTG) requirements for paper, film and foil coatings.

ANTICIPATED SCHEDULE: December 2009

AFFECTED PARTIES: Owners and operators of paper, film and coating operations.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Deborah Avalone-King, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7028

CHAPTER 143: Standards of Performance for New Sources of Emissions of Air Pollutants

STATUTORY AUTHORITY: 38 M.R.S.A. §§ 585, 585-A

PURPOSE: This existing rule will be proposed for amendment to incorporate the latest federal new source performance standards (NSPS) for the control of air pollutant emissions.

ANTICIPATED SCHEDULE: March 2010

AFFECTED PARTIES: Owners and operators of stationary sources of air pollutants.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

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CHAPTER 144: Standards for Hazardous Air Pollutants for Stationary Sources

STATUTORY AUTHORITY: 38 M.R.S.A. §§ 585, 585-A

PURPOSE: This existing rule will be proposed for amendment to incorporate the latest federal new source performance standards for hazardous air pollutants for stationary sources (NESHAPS).

ANTICIPATED SCHEDULE: March 2010

AFFECTED PARTIES: Owners and operators of stationary sources of air pollutants.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Lynne Cayting, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7599

CHAPTER 146: Diesel-Powered Motor Vehicle Emission Standards

STATUTORY BASIS: 29-A M.R.S.A § 2114, 38 M.R.S.A. § 585-A, 585-D

PURPOSE: The existing rule will be proposed for amendment to incorporate more stringent opacity limits.

ANTICIPATED SCHEDULE: June 2010

AFFECTED PARTIES: Owners and operators of heavy-duty diesel-powered motor vehicles.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Carolyn Wheeler, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-8159

CHAPTER 150: Control of Emissions From Outdoor Wood Boilers

STATUTORY BASIS: 38 M.R.S.A. §§ 585-A, 610-B

PURPOSE: This existing rule will be proposed for amendment to incorporate statutory changes that amend the definition of outdoor wood boiler and commercial outdoor wood boiler and change the qualifications for those preparing outdoor wood boiler recommendations.

ANTICIPATED SCHEDULE: December 2009

AFFECTED PARTIES: Manufacturers, retailers and owner/operators of outdoor wood boiler units.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Andrea Lani, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-5902

CHAPTER 154: Flexible Package Printing

STATUTORY BASIS: 38 M.R.S.A. §§ 585, 585-A

PURPOSE: This new rule will address federal control technique guideline (CTG) requirements for flexible package printing activities.

ANTICIPATED SCHEDULE: December 2009

AFFECTED PARTIES: Owners and operators of flexible package printing facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 156: CO2 Budget Trading Program

STATUTORY BASIS: 38 M.R.S.A. §§ 585-A, 580, 580-A, 580-B, 580-C

PURPOSE: This existing rule will be proposed for amendment to incorporate statutory changes from the last Legislative session.

ANTICIPATED SCHEDULE: March 2010

AFFECTED PARTIES: Owners and operators of CO2 Budget Sources.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Carolyn Wheeler, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-8159

CHAPTER 160: Outdoor Wood Boiler Replacement and Buy-Back Program

STATUTORY BASIS: 38 M.R.S.A. §§ 585-A, 610-B

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PURPOSE: This existing rule will be proposed for amendment to incorporate statutory changes that remove the installation date requirement to be eligible for reimbursement from the fund.

ANTICIPATED SCHEDULE: December 2009

AFFECTED PARTIES: Manufacturers, retailers and owner/operators of outdoor wood boiler units

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Andrea Lani, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-5902

CHAPTER 162: Fiberglass Boat Building

STATUTORY BASIS: 38 M.R.S.A. §§ 585, 585-A

PURPOSE: This new rule will address federal control technique guideline (CTG) requirements for fiberglass boat building activities.

ANTICIPATED SCHEDULE: March 2010

AFFECTED PARTIES: Manufacturers of fiberglass boats and boat components.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Mike Mullen, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-4728

CHAPTER 305: Permit By Rule Standards

STATUTORY BASIS: 38 MRSA §341-D

PURPOSE: This existing rule will be proposed for amendment to address any updates as needed.

ANTICIPATED SCHEDULE: As needed basis

AFFECTED PARTIES: Regulated community

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable

CONTACT PERSON FOR FOLLOWING CHAPTERS: James Cassida, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-592-1864

CHAPTER 310: Wetlands and Waterbodies Protection Rules

STATUTORY BASIS: 38 MRSA §341-D and PL 2003, c. 592

PURPOSE: These existing rules are proposed for amendment in order to make adjustments and clarifications, and update as needed.

ANTICIPATED SCHEDULE: Summer/Fall 2010

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable

CHAPTERS 335: Significant Wildlife Habitat

STATUTORY BASIS: 38 MRSA §§ 341-D, 480-A *et seq.*

PURPOSE: These existing rules are proposed for amendment in order to make adjustments and clarifications, and update as needed.

ANTICIPATED SCHEDULE: Fall 2010

AFFECTED PARTIES: Regulated community.

CONSENSUS BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 340: Community Public Water Supply Primary Protection Areas

STATUTORY BASIS: 38 MRSA §341-D and PL 2007, ch. 353

PURPOSE: Adopt rules concerning community public water supply primary protection areas, as required by recent legislation.

ANTICIPATED SCHEDULE: Not yet scheduled

AFFECTED PARTIES: Regulated community.

CONSENSUS BASED RULE DEVELOPMENT: Not applicable.

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CONTACT PERSON FOR FOLLOWING CHAPTER: Hetty Richardson, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7799

CHAPTER 342: Significant Groundwater wells (or alternative chapter # and title on this subject)
STATUTORY BASIS: 38 MRSA §341-D and PL 2007, ch. 399 and PL 2009, ch 295
PURPOSE: To specify fees associated with significant groundwater wells, as provided for in recent legislation.

ANTICIPATED SCHEDULE: Winter 2009-2010

AFFECTED PARTIES: Regulated community

CONSENSUS BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTER: James Cassida, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-592-1864

CHAPTERS 371 et seq.: Site Location of Development Rules (several chapters)

STATUTORY BASIS: 38 MRSA §§ 341-D and 481 *et seq.*

PURPOSE: Some or all of several chapters of existing rules adopted pursuant to the Site Law may be proposed for amendment in order to update provisions and standards as needed.

ANTICIPATED SCHEDULE: Winter 2009-2010

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR THE FOLLOWING CHAPTERS: Paula Clark, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7718

CHAPTER 400: General Provisions

STATUTORY BASIS: 38 MRSA § 1304(1); Resolves 2007, c. 170

PURPOSE: The rule will be amended to include a general standard related to odor management at solid waste facilities, and to revise the schedule for submission of solid waste facility annual reports.

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Solid waste facility operators

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CHAPTER 401: Landfill Siting, Design and Operation

STATUTORY BASIS: 38 MRSA § 1304(1); Resolves 2007, c. 170

PURPOSE: Revisions to provisions on landfill gas and odor management

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Solid waste facility operators

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CHAPTER 402: Transfer Stations and Storage Sites for Solid Waste

STATUTORY AUTHORITY: 38 MRSA § 1304(1)

PURPOSE: The rule will be amended to provide for collection of household hazardous waste.

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Operators of solid waste transfer stations and storage facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CHAPTER 409: Solid Waste Processing Facilities

STATUTORY BASIS: 38 MRSA § 1304(1); 38 MRSA §1310-N(5-A), PL 2009, c. 412, §A-2(2).

PURPOSE: The rule will be amended to: 1) revise requirements for crushing, shredding or other processing of automobiles, white goods and scrap metal; and 2) to set recycling requirements for facilities that process solid waste.

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Solid waste handlers and facility operators

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CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CHAPTER 411: Non-Hazardous Waste Transporter Licenses

STATUTORY BASIS: 38 MRSA § 1304(1-A) and (1-B)

PURPOSE: The chapter will be revised to update and clarify the rules related to the transportation of non-hazardous waste.

ANTICIPATED SCHEDULE: Spring 2010

AFFECTED PARTIES: Businesses and individuals who transport solid waste

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CONTACT PERSON FOR THE FOLLOWING CHAPTER: Carole Cifrino, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7720

CHAPTER 415: Reasonable Costs for the Handling and Recycling of Electronic Wastes

STATUTORY BASIS: 38 MRSA § 1610

PURPOSE: The rule will be amended to be consistent with recent statutory changes, including adding desktop printers and digital picture frames to the covered electronic devices and implementing a market-share basis for allocating costs to some manufacturers.

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Manufacturers of televisions, computer monitors, desktop printers, and digital picture frames; Universal Waste consolidators working within Maine's household e-waste program

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR THE FOLLOWING CHAPTER: Paula Clark, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7718

CHAPTER 418: Beneficial Use of Solid Wastes

STATUTORY BASIS: 38 MRSA § 1304(1), (1-B) and (13)

PURPOSE: To rule will be amended to clarify and revise certain provisions related to fuel substitution activities

ANTICIPATED SCHEDULE: Spring 2010

AFFECTED PARTIES: Persons who process solid waste for use as fuel and persons who use fuel made from solid waste

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CONTACT PERSON FOR THE FOLLOWING CHAPTER: Carole Cifrino, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7720

CHAPTER 425: Asbestos Management Regulations

STATUTORY BASIS: 38 MRSA § 12771 et seq.

PURPOSE: The rule will be amended to integrate recent statutory changes and to update certain work practice standards to current standards of professional practice

ANTICIPATED SCHEDULE: Fall 2009/Winter 2010

AFFECTED PARTIES: Asbestos abatement professionals

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Don Witherill, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7725

CHAPTER 500: Stormwater Management

CHAPTER 502: Direct Watersheds of Waterbodies Most at Risk from New Development

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CHAPTER 523: Proposed Requirements for Individual Stormwater Discharge Permits
STATUTORY BASIS: 38 MRSA §§ 341-D, 420-D
PURPOSE: This existing rules will be proposed for amendment to address issues identified during program implementation.
ANTICIPATED SCHEDULE: Fall/Winter 2009-2010
AFFECTED PARTIES: Land developers and businesses.
CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTERS: Brian Kavanah, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7700

CHAPTER 519: Interim Effluent Limitations and Controls for the Discharge of Mercury
STATUTORY BASIS: 38 MRSA §§ 341-D, 413, 420
PURPOSE: This existing rule may be proposed for amendment to implement statutory changes enacted in 2001 and/or to modify the process for establishing mercury limits and monitoring frequencies.
ANTICIPATED SCHEDULE: Fall 2010
AFFECTED PARTIES: Dischargers of mercury to surface waters of the state.
CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTERS 520-529: MEPDES Wastewater Discharge Program
STATUTORY BASIS: 38 MRSA §341-D
PURPOSE: This existing rule will be proposed for amendment to respond to U.S. EPA comments and/or changes in related Federal regulations.
ANTICIPATED SCHEDULE: Not yet scheduled
PARTIES AFFECTED: Persons having or applying for waste discharge licenses.
CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR FOLLOWING CHAPTER: Tom Danielson, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7728

CHAPTER 583: Nutrient Criteria for Fresh Surface Waters
STATUTORY BASIS: 38 MRSA §341-D
PURPOSE: Adopt nutrient criteria for fresh surface waters
ANTICIPATED SCHEDULE: Winter 2009-2010
AFFECTED PARTIES: Persons having or applying for waste discharge licenses
CONSENSUS-BASED RULE DEVELOPMENT: Not applicable

CONTACT PERSON FOR FOLLOWING CHAPTER: Barry Mower, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7777.

CHAPTER 584: Water Quality Criteria for Toxics
STATUTORY BASIS: 38 MRSA §§ 341-D, 464, 465, 480-C
PURPOSE: Adopt a BAF (bioaccumulation factor).
ANTICIPATED SCHEDULE: Not yet scheduled
AFFECTED PARTIES: Industry, POTWs, fish consumers
CONSENSUS-BASED RULE DEVELOPMENT: Not applicable

CONTACT PERSON FOR FOLLOWING CHAPTERS: Rich Baker, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Tel: 207-287-7730.

CHAPTER [yet to be assigned]: State-imposed Shoreland Zoning Ordinance for Specified Towns (and Amendments to those Ordinances)
STATUTORY BASIS: 38 MRSA §438-A

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PURPOSE: This existing rule will be proposed for amendment to provide or modify shoreland zoning ordinances for those municipalities that fail to adopt suitable ordinances as required by 38 MRSA §438-A(2).

ANTICIPATED SCHEDULE: As needed basis

AFFECTED PARTIES: Shoreland property owners and municipal officials.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER [yet to be assigned]: Repeal of State-imposed Shoreland Zoning Ordinance for Specified Towns

STATUTORY BASIS: 38 MRSA §438-A(4)

PURPOSE: This existing rule will be proposed for amendment to repeal state-imposed shoreland zoning ordinances that are no longer necessary.

ANTICIPATED SCHEDULE: As needed basis

AFFECTED PARTIES: Shoreland property owners, municipal officials.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CONTACT PERSON FOR THE FOLLOWING CHAPTERS: George Seel, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7166

CHAPTER 691: Underground Oil Storage Facilities

STATUTORY BASIS: 38 MRSA § 561 et seq.

PURPOSE: The rule will be amended to: incorporate statutory changes regarding the circumstances under which mothballed tanks may be returned to service; remove siting requirements for re-codification in proposed new chapter 692; update site assessment, cleanup and environmental sampling provisions; and to make other minor revisions and non-substantive corrections as appropriate.

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Owners and operators of oil storage facilities

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

CHAPTER 692: Siting of Oil Storage Facilities

STATUTORY BASIS: 38 MRSA § 341-D(1-B); PL 2001, c. 302, § 3; PL 2007, c. 569, § 7.

PURPOSE: This new rule chapter will combine the existing requirements for siting of underground oil storage facilities with new, largely identical, requirements for siting of aboveground oil storage facilities.

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Owners and operators of oil storage facilities

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

CONTACT PERSON FOR THE FOLLOWING CHAPTER: Jeff Madore, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7848

CHAPTER 693: Operator Training for Oil Storage Facilities

STATUTORY BASIS: 38 MRSA § 564(2)(L)

PURPOSE: This new chapter will establish training requirements for operators of underground oil storage facilities used in the marketing and distribution of oil.

ANTICIPATED SCHEDULE: Spring 2010

AFFECTED PARTIES: Owners and operators of oil storage facilities

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

CONTACT PERSON FOR THE FOLLOWING CHAPTER: George Seel, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7166

CHAPTER 700: Wellhead Protection

STATUTORY BASIS: 38 MRSA § 563-C; PL 2001, c. 302, § 3; PL 2007, c. 569, § 7.

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PURPOSE: This new chapter will establish the rules for compliance with the wellhead protection provisions of 38 MRSA §§1391-1399.

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Persons who propose to develop any of the following types of facilities within 1000 feet of a public drinking water well or within 300 feet of a private well: an oil storage facility; an automobile graveyard; an automobile recycling business; an auto body shop; an automobile maintenance and repair facility; a drying cleaning facility; a metal plating or finishing facility; or a commercial hazardous waste facility.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

CONTACT PERSON FOR THE FOLLOWING CHAPTERS: Jeff Madore, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7848

CHAPTER 800: Identification of Hazardous Matter

STATUTORY AUTHORITY: 38 MRSA § 1319(1)

PURPOSE: This rule will be amended to update the list of substances constituting hazardous matter, incorporate statutory changes since original adoption of the rule in 1981, and clarify the circumstances under which hazardous matter spills must be reported to the department.

ANTICIPATED SCHEDULE: Spring 2010

AFFECTED PARTIES: Persons having care, custody, possession or control of hazardous matter

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CHAPTER 801: Discharge of Hazardous Matter: Removal and Written Reporting Procedures

STATUTORY BASIS: 38 MRSA § 1319(2)

PURPOSE: This rule will be repealed and replaced in conjunction with revisions to chapter 800.

ANTICIPATED SCHEDULE: Spring 2010

AFFECTED PARTIES: Persons having care, custody, possession or control of hazardous matter

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CONTACT PERSON FOR THE FOLLOWING CHAPTERS: Stacy Ladner, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7853

CHAPTERS 850-857: Hazardous Waste Management Rules

STATUTORY BASIS: 38 MRSA § 1319-O(1)

PURPOSE: These rule chapters will be amended to, among other things, incorporate changes in corresponding federal requirements, add requirements for handling waste gas, and update the abbreviated license provisions. Under the latter provisions, license review is streamlined for hazardous waste generators who agree to abide by specified operating standards. The standards vary by facility type.

ANTICIPATED SCHEDULE: Spring 2010

AFFECTED PARTIES: Hazardous waste generators

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable

CHAPTER 860: Waste Oil Management Rules

STATUTORY BASIS: 38 MRSA §§ 341-D(1-B) and 1319-O(2)

PURPOSE: This rule will be amended to adjust the fee on transport of oily water.

ANTICIPATED SCHEDULE: Spring 2010

AFFECTED PARTIES: Waste oil generators

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable

CONTACT PERSON FOR THE FOLLOWING CHAPTER: Jeff Madore, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7848

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CHAPTER 873: Mercury content standards for lamps

STATUTORY BASIS: 38 MRSA § 1672(2)

PURPOSE: This rule will establish limits on the amount of mercury in lamps sold in Maine after January 1, 2012.

ANTICIPATED SCHEDULE: Summer 2010

AFFECTED PARTIES: Manufacturers, retailers and wholesalers of mercury-added lamps

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CONTACT PERSON FOR THE FOLLOWING CHAPTERS: John James, DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Tel: 207-287-7866

CHAPTER 880: Designation and Regulation of Priority Chemicals

STATUTORY BASIS: 38 MRSA § 341-D(1-B); 38 MRSA §1694(2)

PURPOSE: This new rule will set forth the procedure by which the Commissioner will designate and scrutinize priority chemicals as authorized under 38 MRSA §1691 et seq.

ANTICIPATED SCHEDULE: Fall 2009

AFFECTED PARTIES: Manufacturers of products that contain a priority chemical if use or disposal of the product is likely to expose a child or fetus to the chemical

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

CHAPTER 881: Fees; Chemical Use in Children's Products

STATUTORY BASIS: 38 MRSA § 341-D(1-B); 38 MRSA §1695(4)

PURPOSE: This new rule will set forth implement the department's authority to assess fees on manufacturers of products that contain a priority chemical. The fees will be use to cover costs incurred by the department to collect data on the use of priority chemicals in children's products and to assess the availability of safer alternatives.

ANTICIPATED SCHEDULE: Spring 2010

AFFECTED PARTIES: Manufacturers of products that contain a priority chemical if use or disposal of the product is likely to expose a child or fetus to the chemical

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated

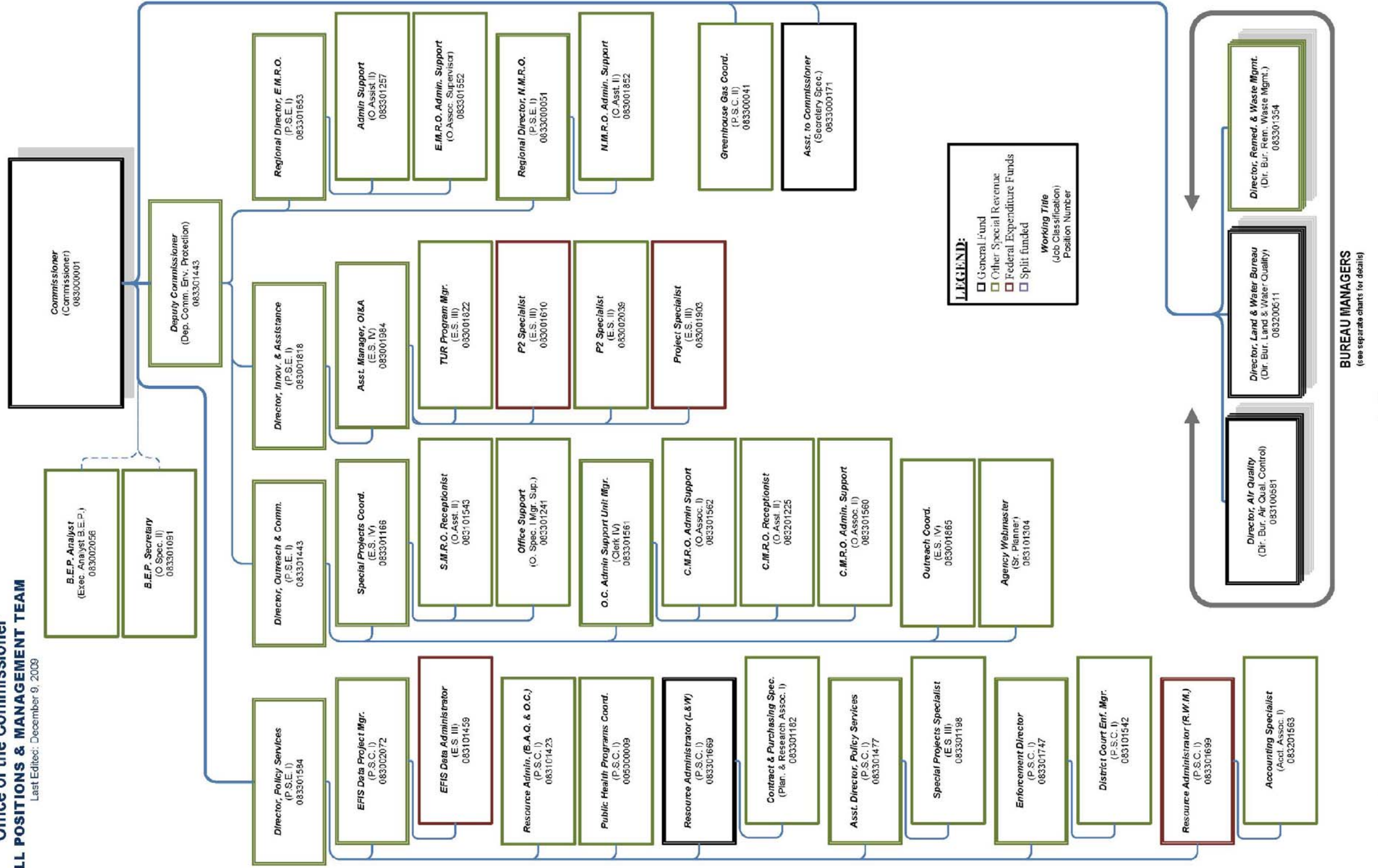
APPENDIX D:
Organizational Charts

The following pages contain charts that show all of DEP's organizational units, including the working title of each position, the official job classification of the position, and the assigned position number. The box surrounding each position is color coded to indicate the source of funding budgeted by the Legislature to pay for the salary and benefits associated with the position. Those colors are: Black=General Fund; Green=Other Special Revenue Funds; Red=Federal Expenditure Funds; and Purple=Split Funding.

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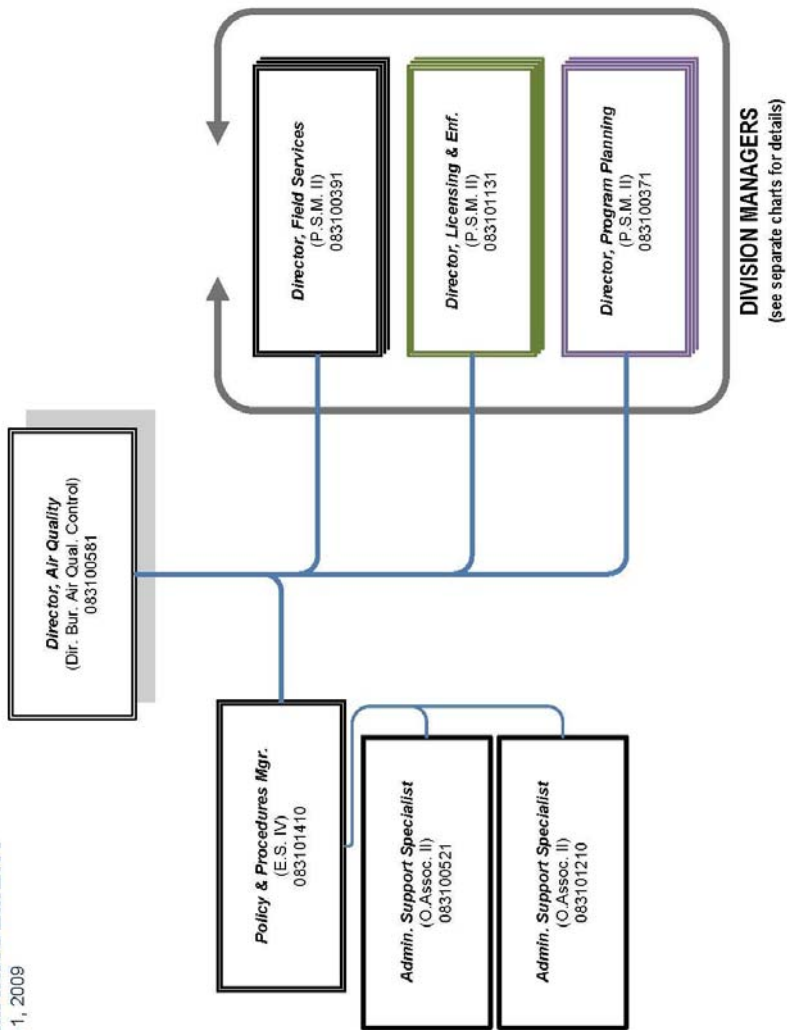
Office of the Commissioner
ALL POSITIONS & MANAGEMENT TEAM

Last Edited: December 9, 2009



STATE GOVERNMENT EVALUATION ACT REPORT 2009

**Bureau of Air Quality
ADMINISTRATION AND MANAGEMENT**
Last Edited: December 1, 2009



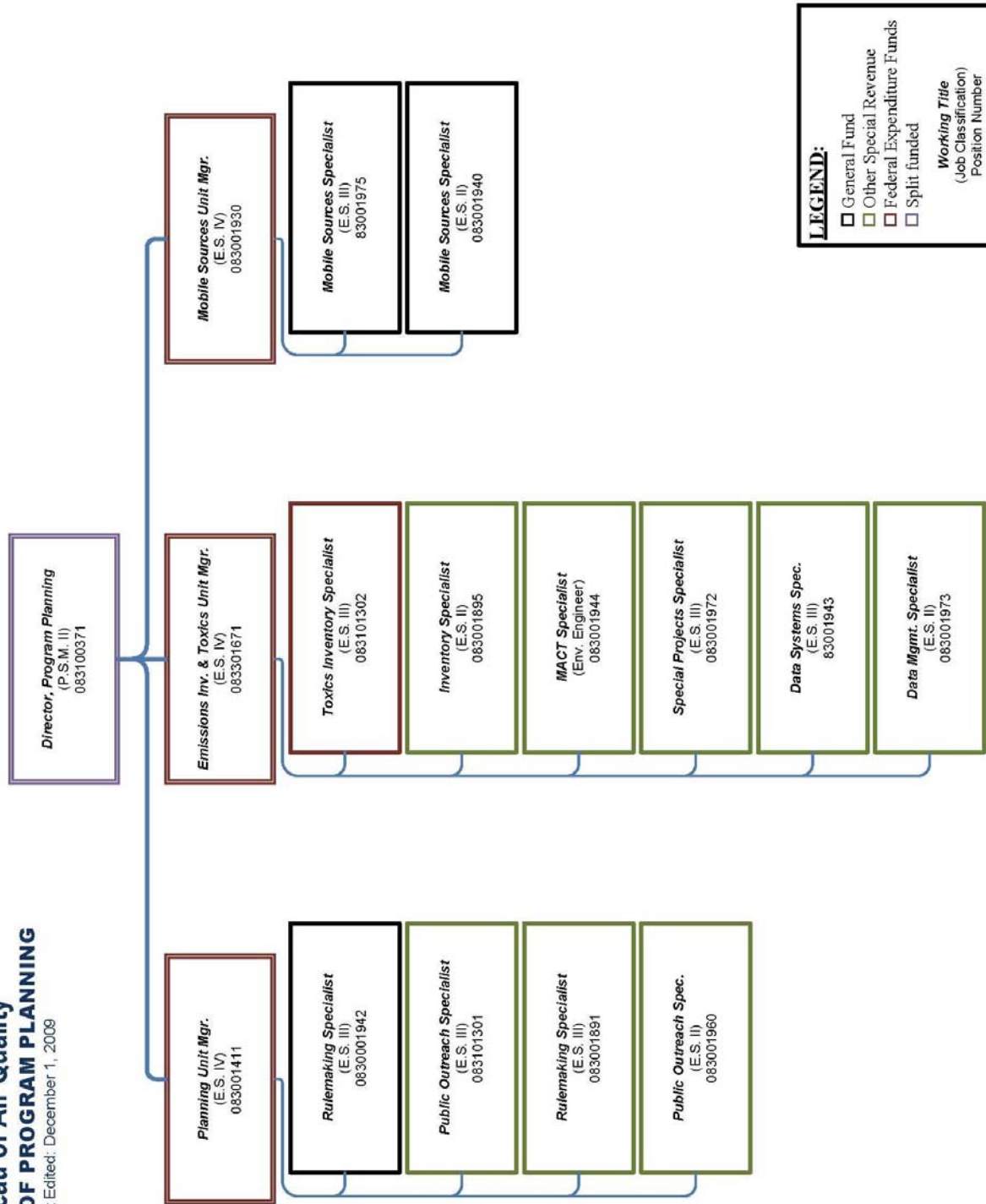
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- General Fund
- Other Special Revenue
- Federal Expenditure Funds
- Split funded

Working Title
(Job Classification)
Position Number

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Bureau of Air Quality
DIVISION OF PROGRAM PLANNING
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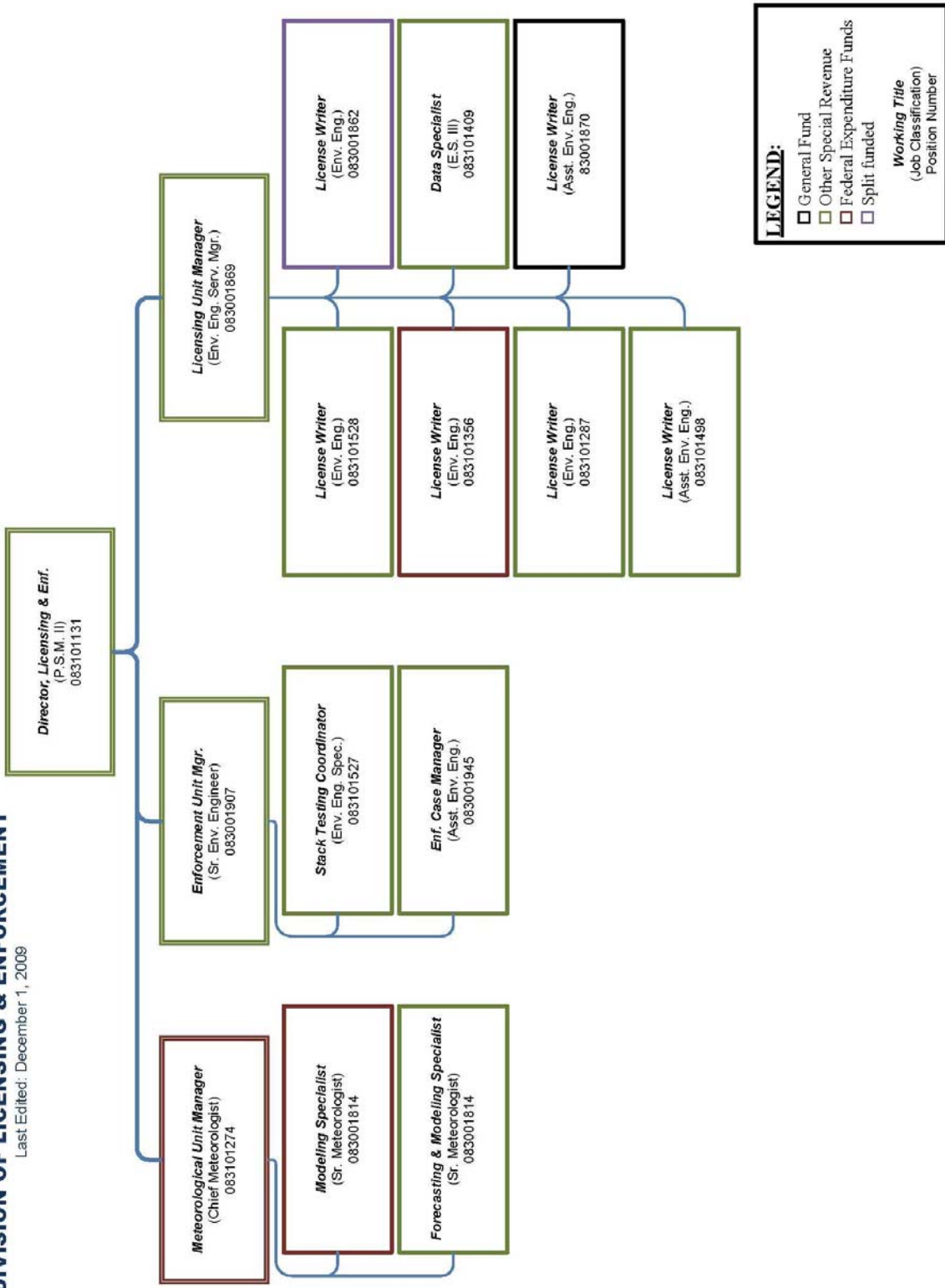
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- Other Special Revenue
- Federal Expenditure Funds
- Split funded

Working Title
(Job Classification)
Position Number

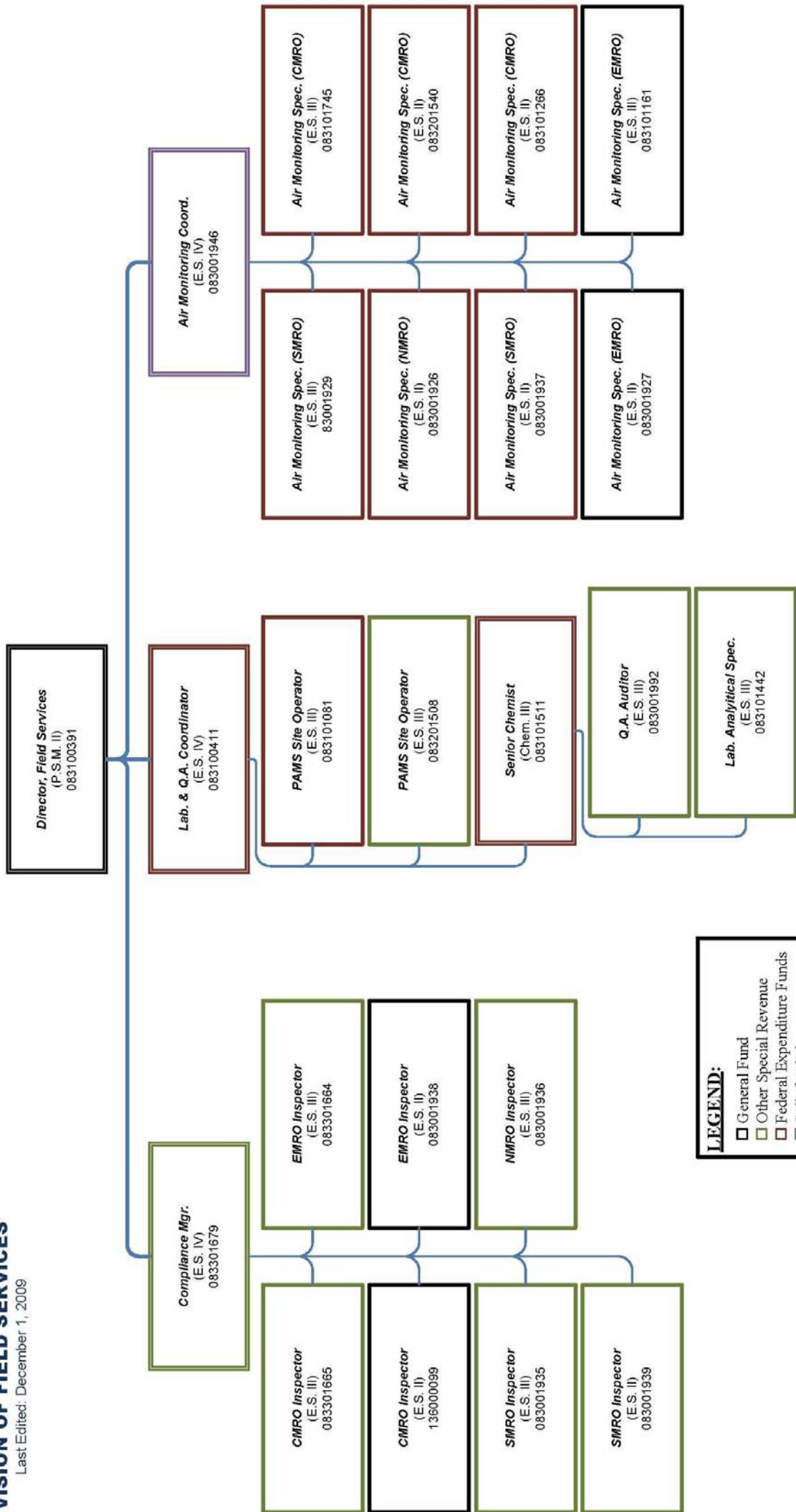
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DIVISION OF LICENSING & ENFORCEMENT
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DIVISION OF FIELD SERVICES
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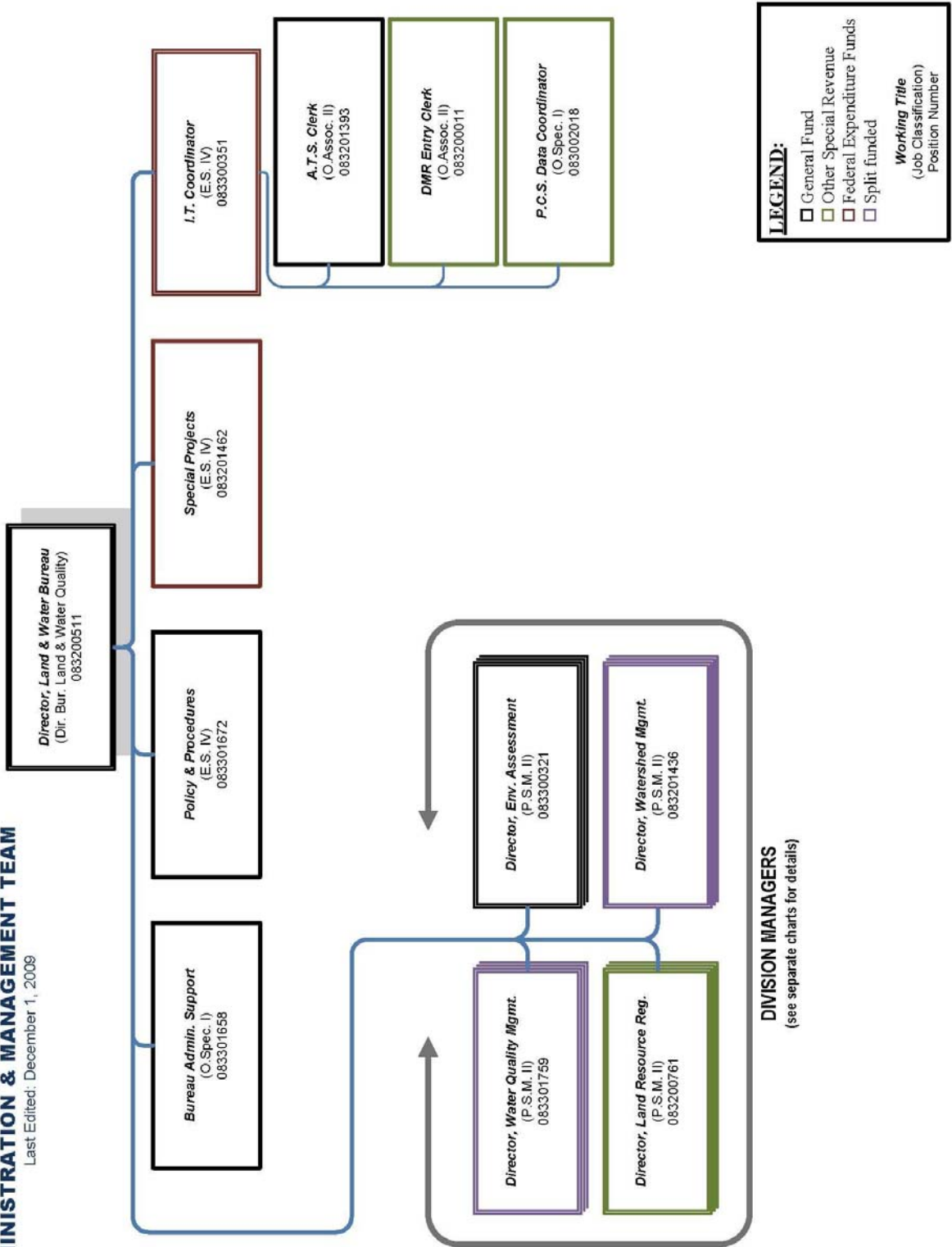
LEGEND:

- General Fund
- Other Special Revenue
- Federal Expenditure Funds
- Split funded

Working Title
 (Job Classification)
 Position Number

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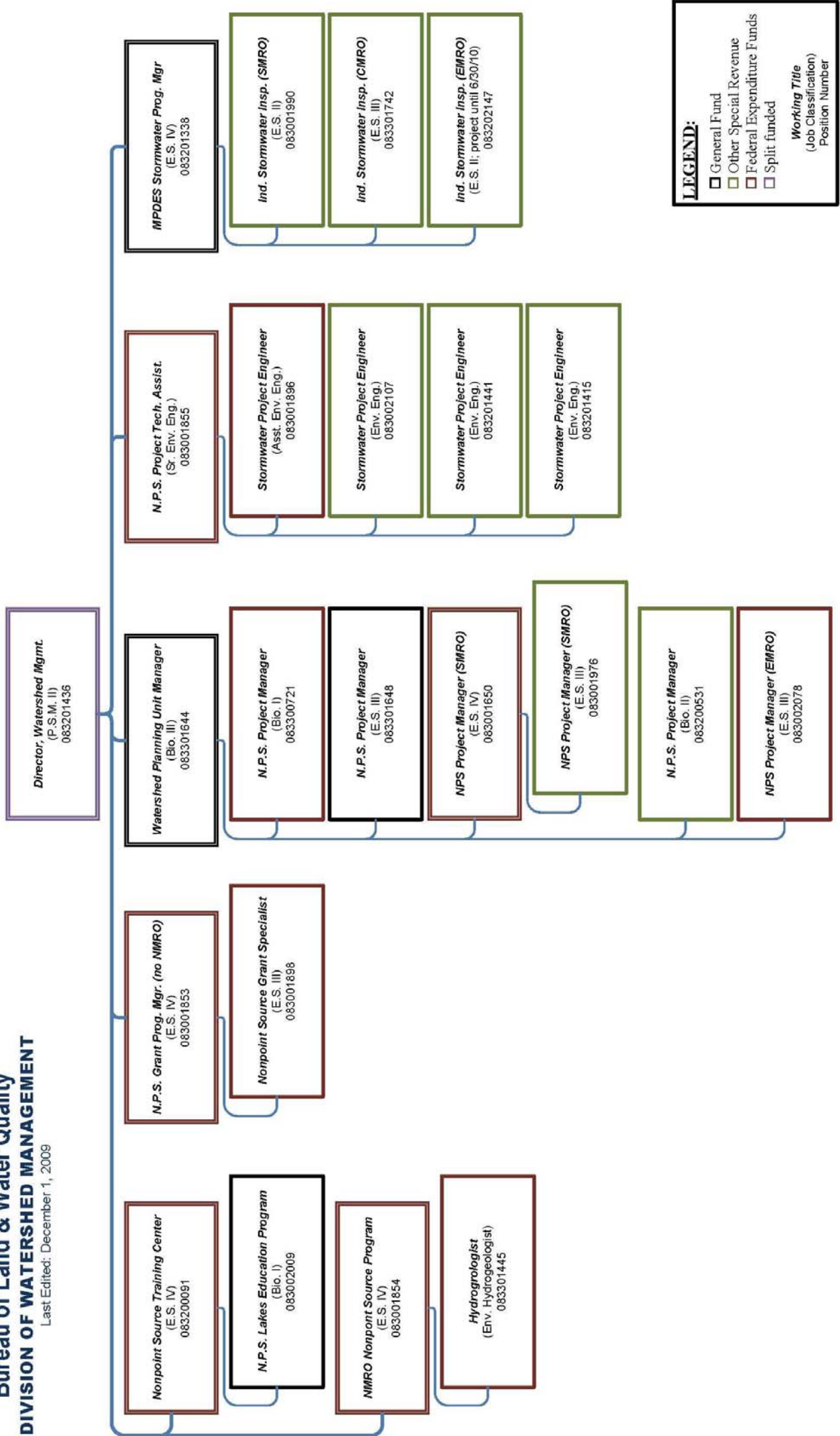
**Bureau of Land & Water Quality
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Last Edited: December 1, 2008



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Bureau of Land & Water Quality
DIVISION OF WATERSHED MANAGEMENT

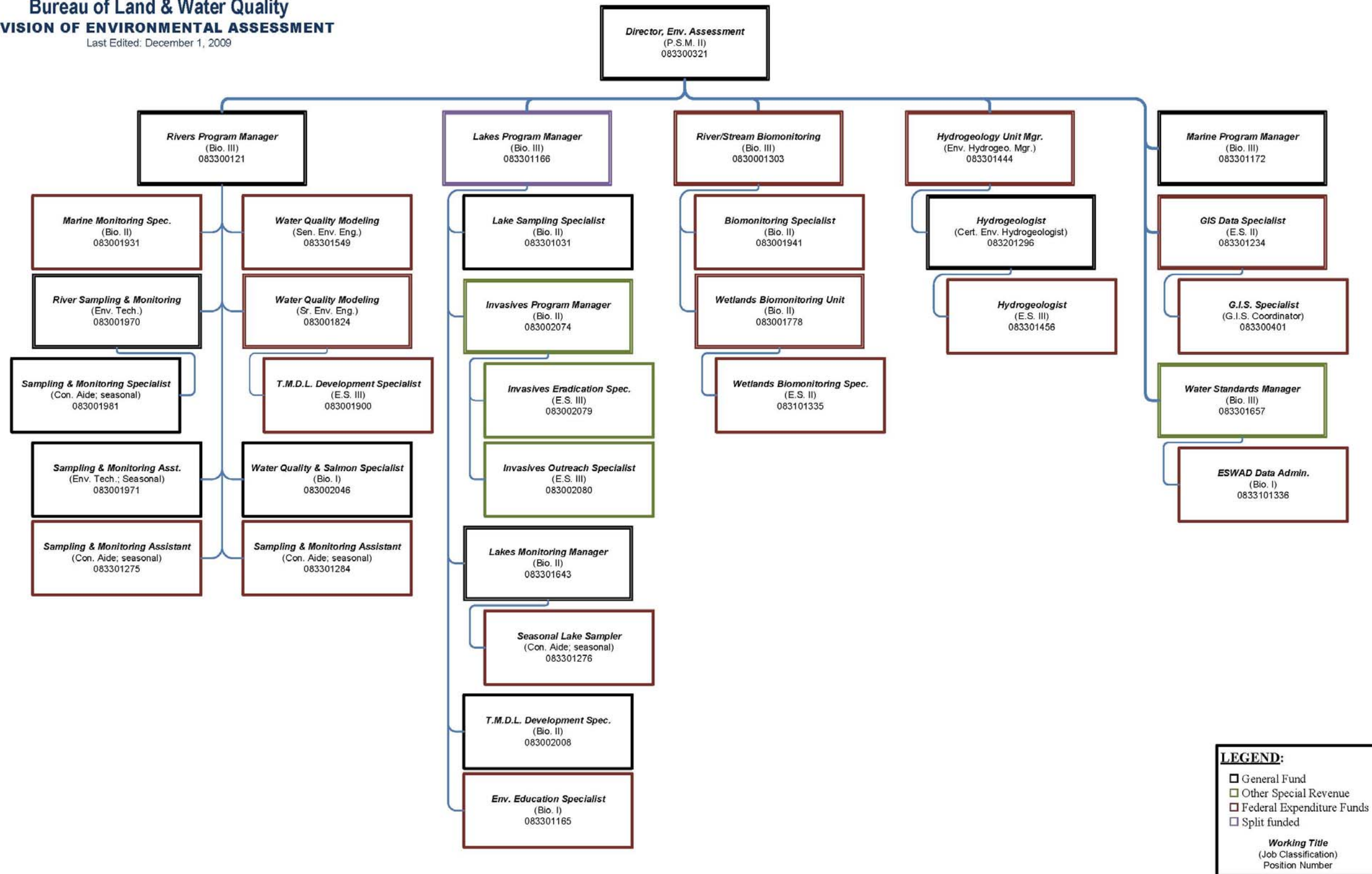
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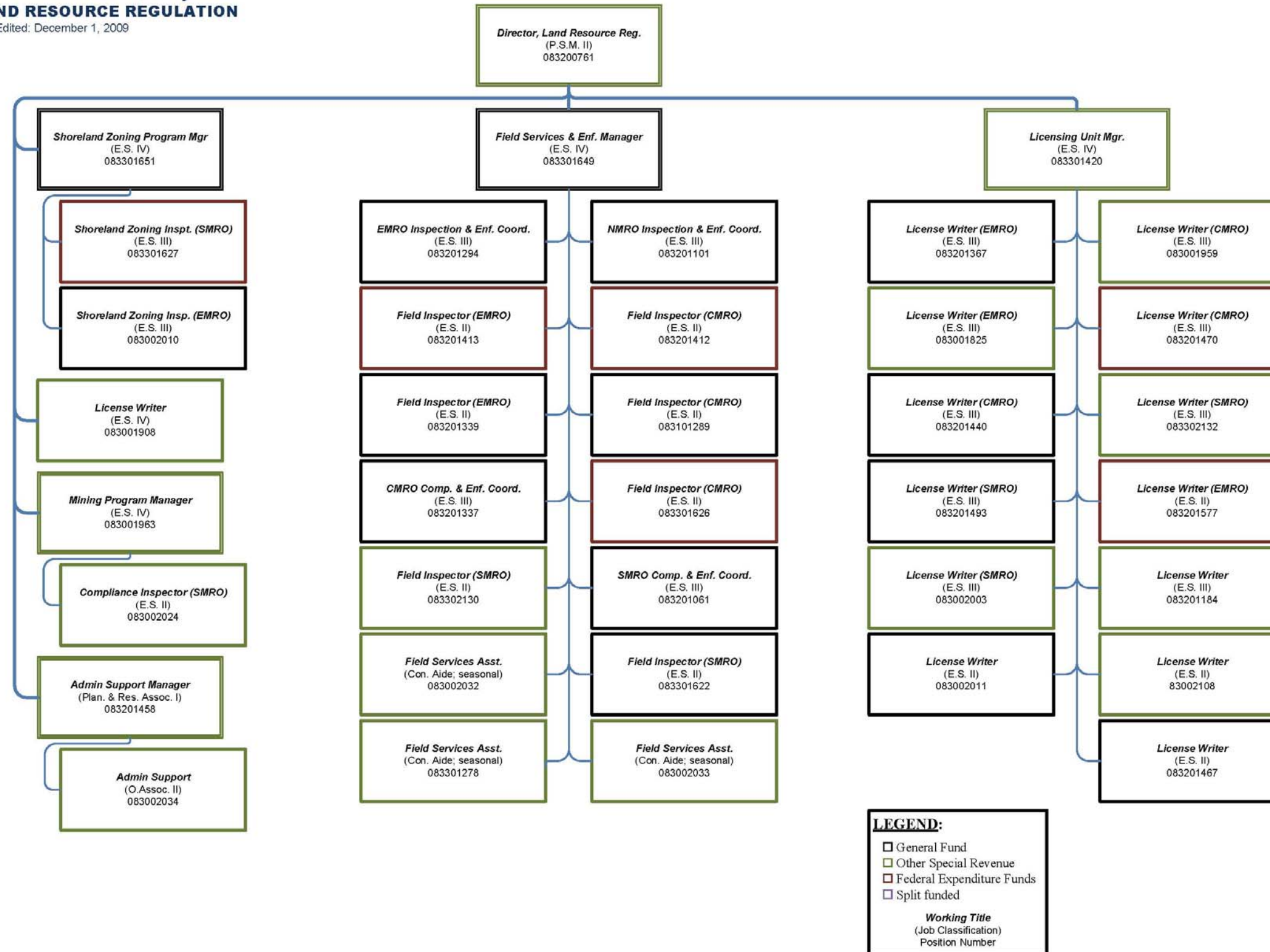
Bureau of Land & Water Quality
DIVISION OF ENVIRONMENTAL ASSESSMENT

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Bureau of Land & Water Quality
DIVISION OF LAND RESOURCE REGULATION

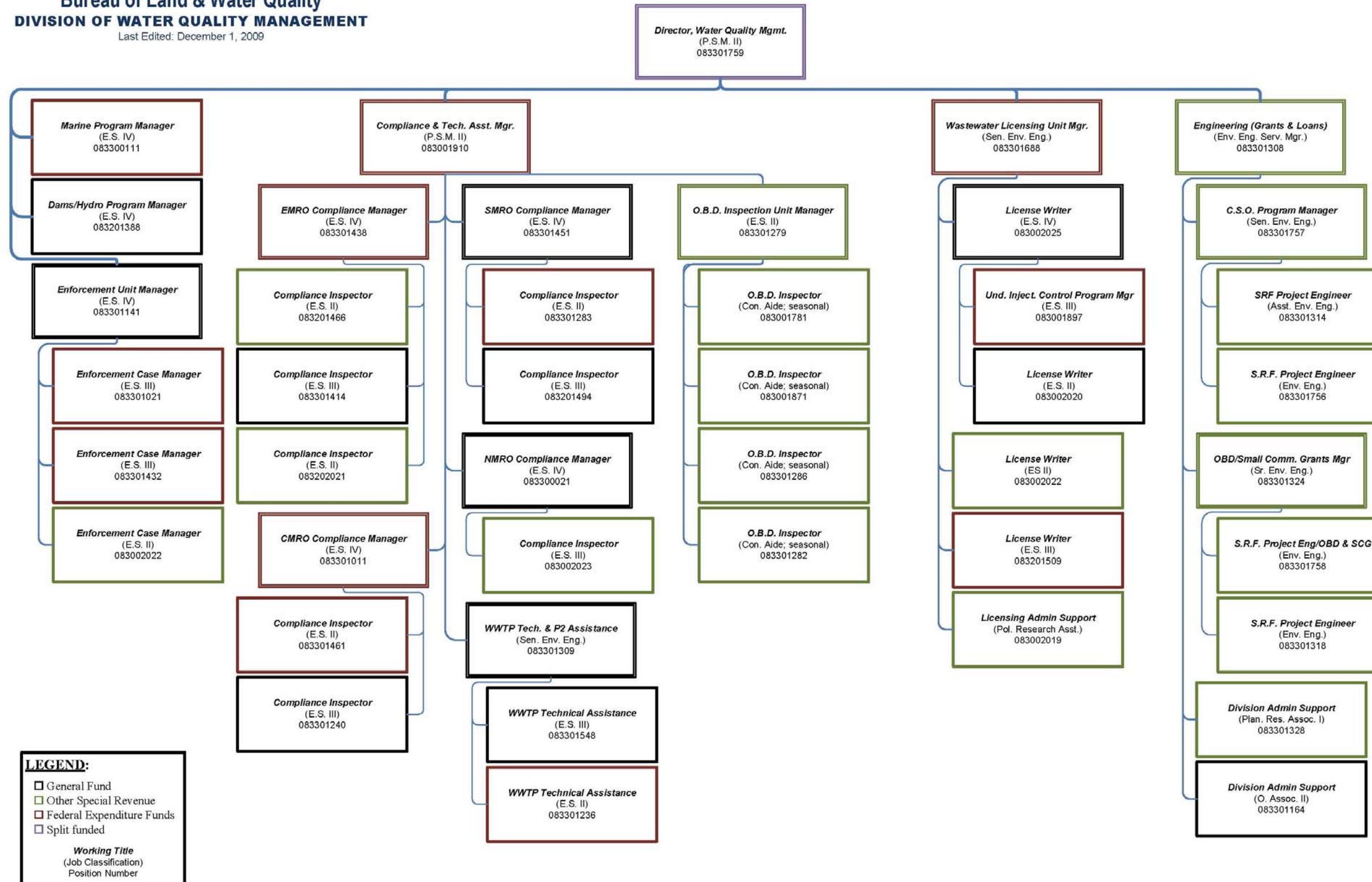
Last Edited: December 1, 2009



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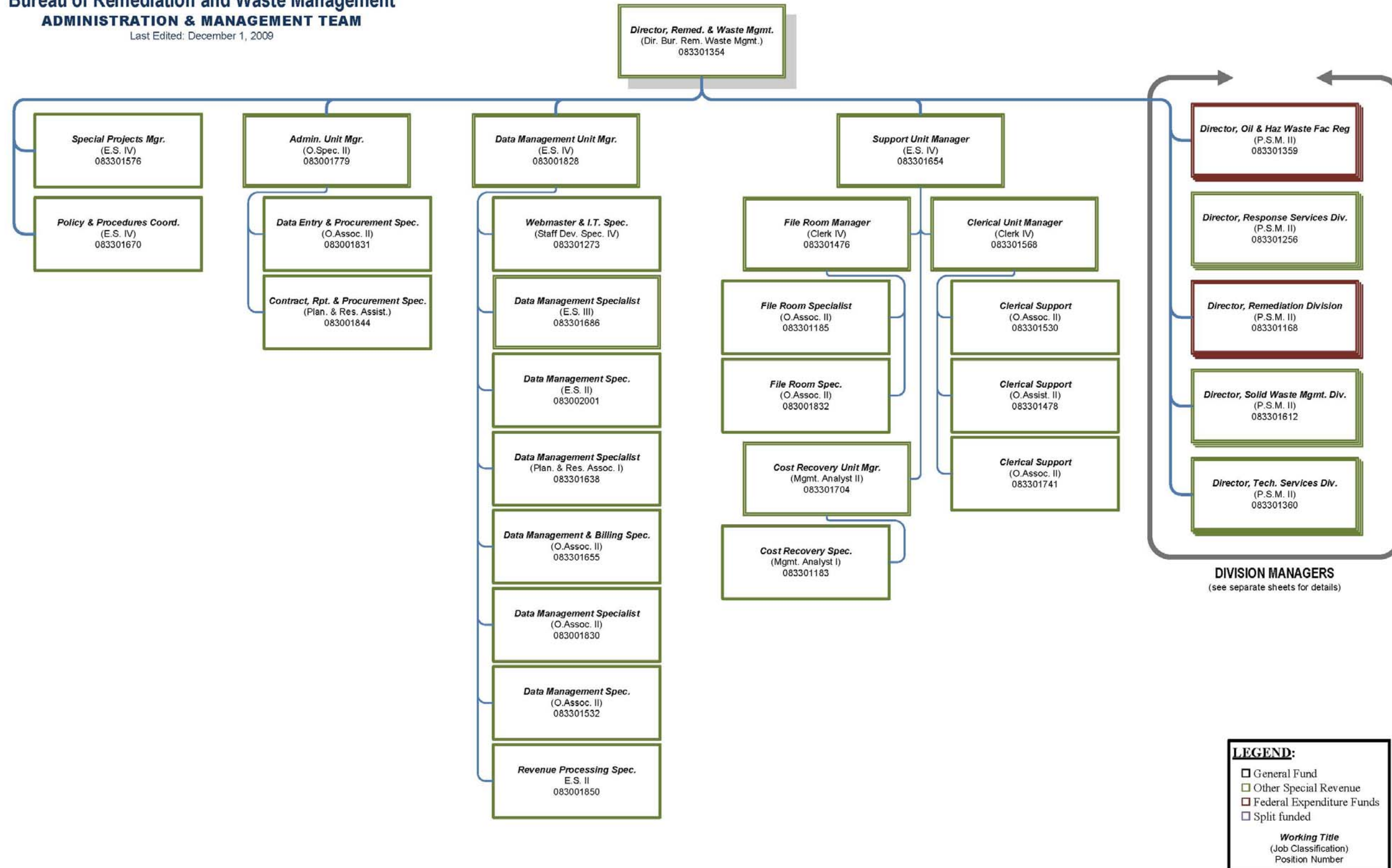
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DIVISION OF WATER QUALITY MANAGEMENT

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**Bureau of Remediation and Waste Management
ADMINISTRATION & MANAGEMENT TEAM**

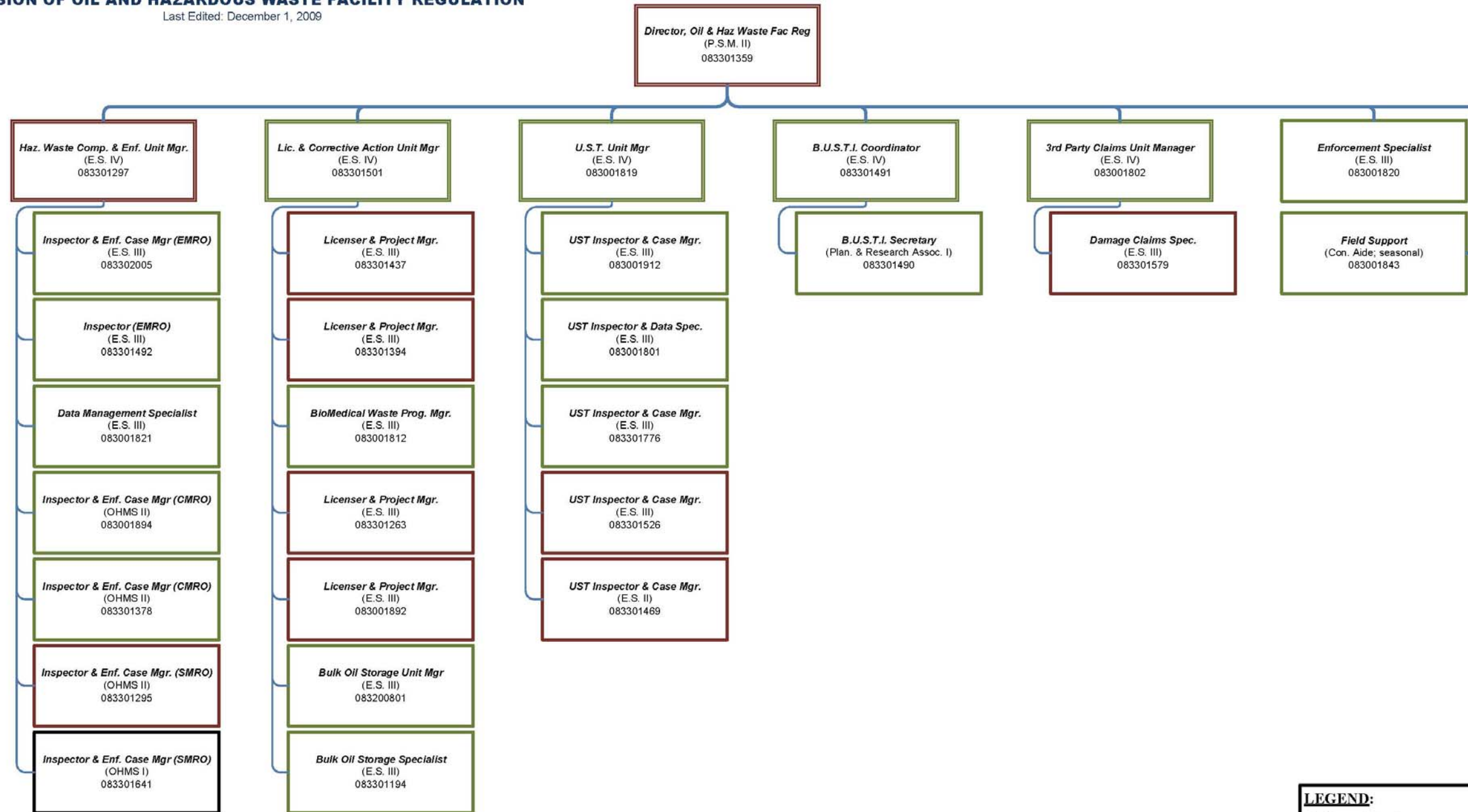
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Bureau of Remediation and Waste Management
DIVISION OF OIL AND HAZARDOUS WASTE FACILITY REGULATION

Last Edited: December 1, 2009



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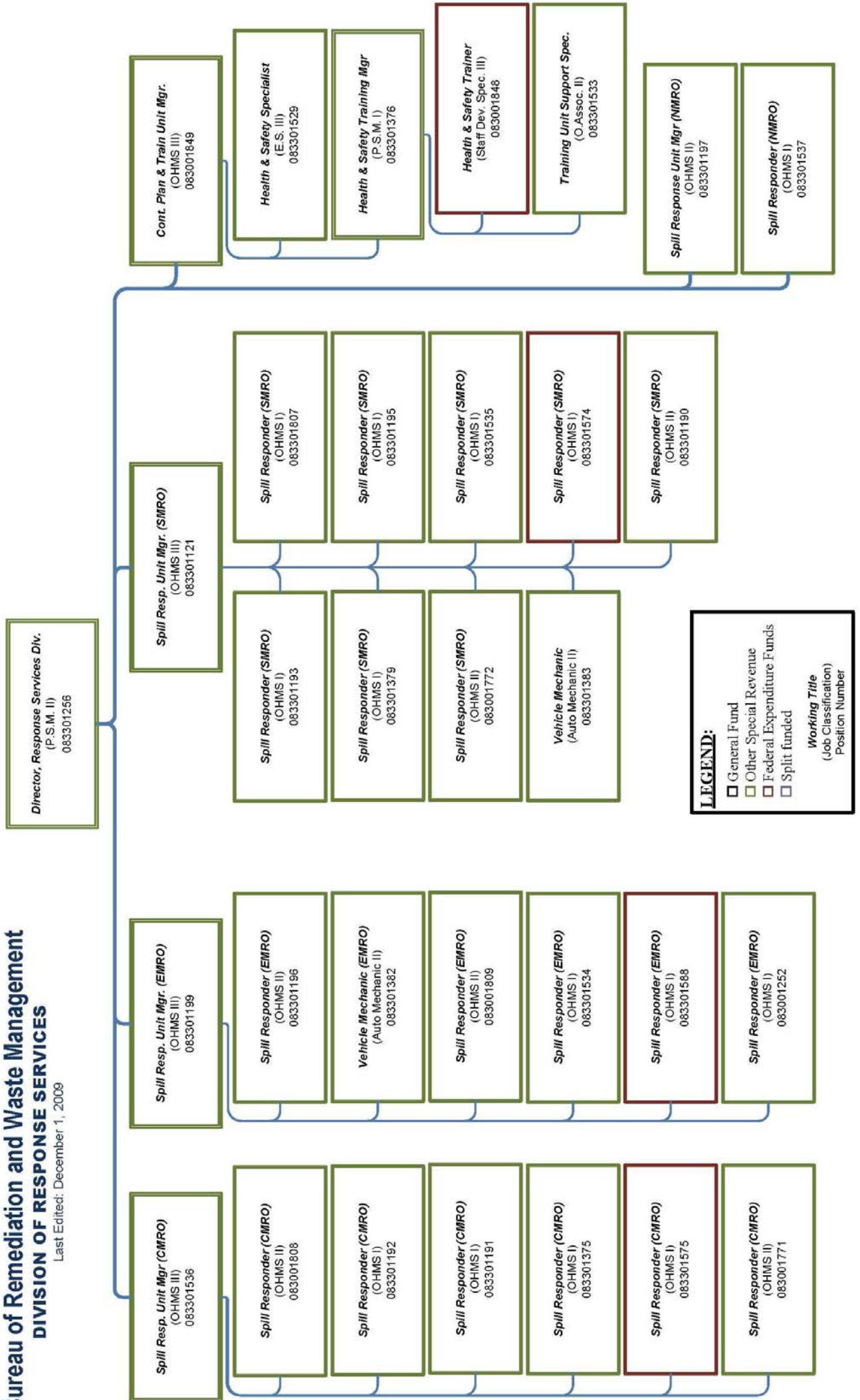
- General Fund
- Other Special Revenue
- Federal Expenditure Funds
- Split funded

Working Title
 (Job Classification)
 Position Number

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Bureau of Remediation and Waste Management
DIVISION OF RESPONSE SERVICES

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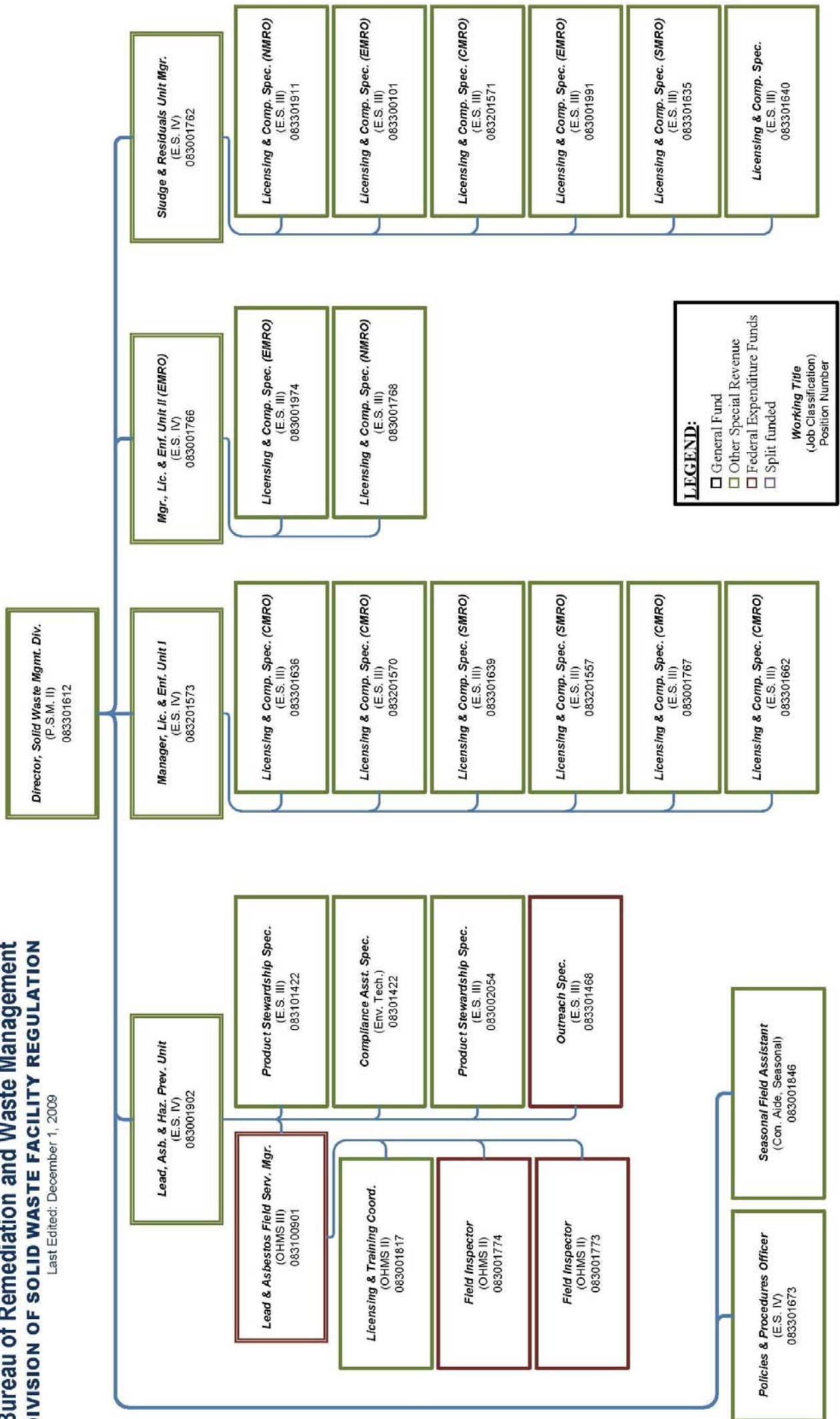
- General Fund
- Other Special Revenue
- Federal Expenditure Funds
- Split funded

Working Title
(Job Classification)
Position Number

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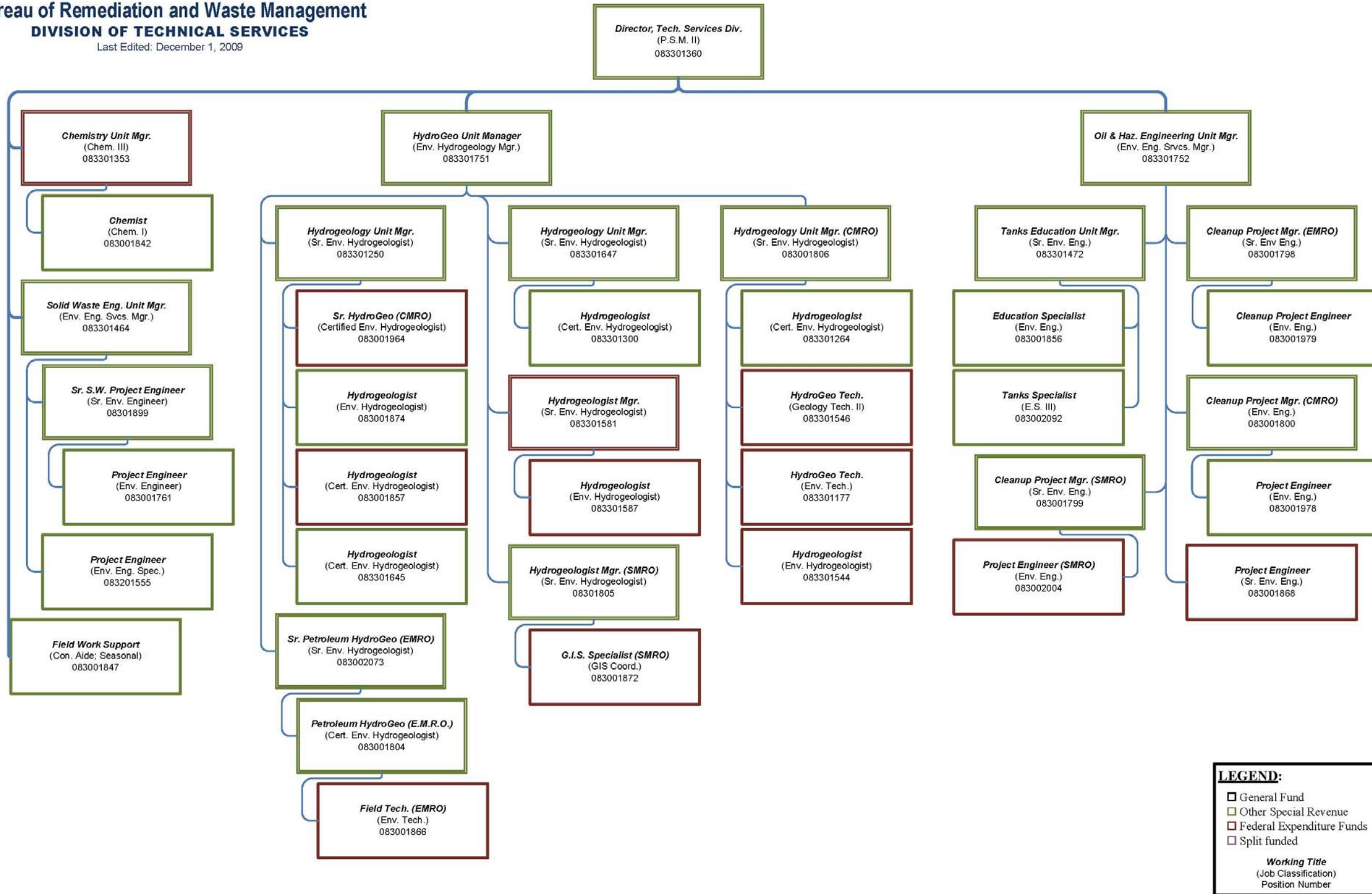
**Bureau of Remediation and Waste Management
DIVISION OF SOLID WASTE FACILITY REGULATION**

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**Bureau of Remediation and Waste Management
DIVISION OF TECHNICAL SERVICES**

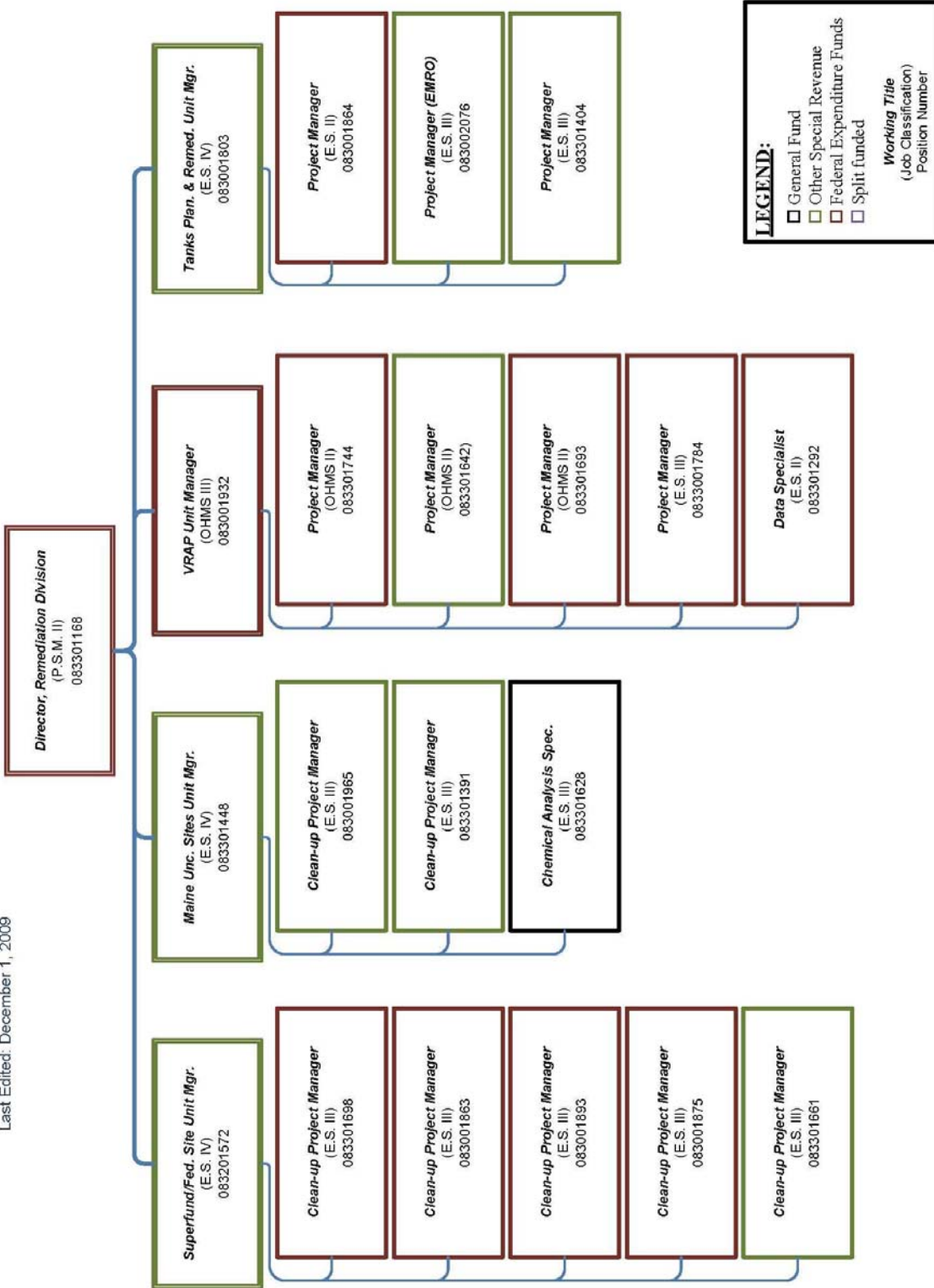
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Bureau of Remediation and Waste Management
 DIVISION OF REMEDIATION

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APPENDIX E:
Budget and Expenditure History

10-YEAR EXPENDITURE HISTORY

ACTIVE BUDGET PROGRAMS										
	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09
Remediation and Waste Management (0247)										
General Fund	\$406,069	\$456,521	\$399,618	\$438,400	\$499,660	\$405,237	\$1,014,574	\$879,776	\$132,288	\$144,458
Other Special Revenue	\$17,132,124	\$24,675,093	\$27,330,387	\$21,964,441	\$23,464,511	\$24,411,550	\$21,940,982	\$22,457,587	\$27,875,080	\$19,811,429
Federal Expenditure Funds	\$1,817,945	\$1,701,288	\$1,705,769	\$1,678,414	\$1,824,881	\$2,444,749	\$2,299,092	\$2,363,082	\$2,576,515	\$2,713,456
<i>Totals</i>	\$19,356,138	\$26,832,902	\$29,455,774	\$24,081,255	\$25,789,052	\$27,261,556	\$25,254,648	\$25,700,445	\$30,583,883	\$22,669,343
Land and Water Quality (0248)										
General Fund	\$3,934,534	\$5,758,946	\$5,969,676	\$4,611,887	\$4,192,477	\$4,274,410	\$4,247,530	\$4,184,022	\$4,381,695	\$4,097,937
Other Special Revenue	\$82,926	\$530,230	\$778,918	\$1,055,069	\$1,235,025	\$1,241,481	\$1,216,374	\$1,194,771	\$1,514,112	\$1,881,174
Federal Expenditure Funds	\$731,012	\$799,327	\$896,674	\$840,388	\$1,129,415	\$889,779	\$726,397	\$679,477	\$722,489	\$781,777
<i>Totals</i>	\$4,748,472	\$7,088,502	\$7,645,268	\$6,507,344	\$6,556,917	\$6,405,670	\$6,190,301	\$6,058,270	\$6,618,296	\$6,760,888
Air Quality (0250)										
General Fund	\$94,325	\$1,440,242	\$1,161,388	\$1,210,904	\$1,213,267	\$1,220,933	\$1,278,367	\$1,325,674	\$1,365,429	\$1,260,746
Highway Fund	\$47,343	\$32,599	\$39,111	\$44,703	\$34,590	\$30,192	\$33,237	\$40,471	\$27,598	\$37,690
Other Special Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$397,918	\$277,719	\$265,420	\$269,236	\$333,577	\$632,774	\$355,950	\$325,511	\$262,680	\$730,345
<i>Totals</i>	\$1,386,586	\$1,750,560	\$1,465,919	\$1,524,843	\$1,581,434	\$1,883,899	\$1,667,754	\$1,691,656	\$1,655,707	\$2,028,781
Administration - Environmental Protection (0251)										
General Fund	\$330,562	\$1,124,718	\$541,072	\$582,906	\$385,657	\$392,326	\$112,453	\$172,456	\$857,426	\$635,232
Other Special Revenue	\$2,703,543	\$2,806,568	\$3,319,650	\$4,128,494	\$3,985,257	\$4,340,314	\$4,792,149	\$4,800,256	\$4,559,464	\$5,359,175
Federal Expenditure Funds	\$545,560	\$594,509	\$749,560	\$65,996	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	\$3,779,665	\$4,525,795	\$4,610,282	\$4,777,396	\$4,370,914	\$4,732,640	\$4,904,602	\$4,972,712	\$5,416,890	\$5,994,407
Maine Environmental Protection Fund (0421)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$3,711,508	\$3,896,097	\$4,979,869	\$4,767,475	\$5,173,746	\$5,327,035	\$4,869,649	\$6,161,272	\$6,541,442	\$7,726,080
Federal Expenditure Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	\$3,711,508	\$3,896,097	\$4,979,869	\$4,767,475	\$5,173,746	\$5,327,035	\$4,869,649	\$6,161,272	\$6,541,442	\$7,726,080
Performance Partnership Grant (0851)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$4,970,310	\$5,309,407	\$5,921,009	\$6,647,457	\$7,211,933	\$7,187,703	\$7,510,081	\$7,022,725	\$7,311,950	\$7,580,999
<i>Totals</i>	\$4,970,310	\$5,309,407	\$5,921,009	\$6,647,457	\$7,211,933	\$7,187,703	\$7,510,081	\$7,022,725	\$7,311,950	\$7,580,999
<i>Active Budget Program Totals:</i>										
	\$37,952,679	\$49,403,264	\$54,078,121	\$48,305,770	\$50,683,996	\$52,798,303	\$50,397,035	\$51,607,080	\$58,128,168	\$52,760,498

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10-YEAR EXPENDITURE HISTORY

INACTIVE BUDGET PROGRAMS										
	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09
The Stockpile Cleanup (0813)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$50,876	\$21,415	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$50,876</i>	<i>\$21,415</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
Solid Waste Landfill Closure (0603)										
General Fund	\$0	\$1,225,678	\$24,320	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$1,318,118	\$107,618	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$1,318,118</i>	<i>\$1,333,296</i>	<i>\$24,320</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
Water Pollution Control Facilities (0252)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$384,837	-8,664	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$10,101	\$68,087	\$24,679	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$394,938</i>	<i>\$67,423</i>	<i>\$24,679</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
Water Quality Control (0249)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$3,047	\$36,938	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$107,135	\$19,911	\$65,457	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$110,182</i>	<i>\$56,849</i>	<i>\$65,457</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
Office of Pollution Prevention (0721)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$46,492	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$46,492</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
<i>Inactive Budget Program Totals: \$1,920,606 \$1,478,983 \$114,456 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0</i>										
EXPENSE GRAND TOTALS: \$39,873,285 \$50,882,247 \$54,192,577 \$-8,305,770 \$50,683,996 \$52,798,503 \$50,397,035 \$51,607,080 \$58,128,168 \$52,760,498										

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ACTIVE BUDGET PROGRAMS										
	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09
Remediation and Waste Management (0247)										
General Fund	\$436,089	\$436,683	\$410,796	\$438,722	\$499,831	\$433,233	\$1,301,797	\$754,917	\$132,290	\$144,460
Other Special Revenue	\$27,247,033	\$37,202,170	\$33,040,778	\$33,693,350	\$35,831,512	\$34,909,301	\$34,941,728	\$35,717,804	\$37,079,759	\$36,602,014
Federal Expenditure Funds	\$3,033,147	\$3,563,511	\$3,390,227	\$3,352,988	\$4,170,210	\$4,633,131	\$4,565,976	\$4,852,368	\$4,752,490	\$4,842,270
<i>Totals</i>	<i>\$30,716,269</i>	<i>\$41,202,364</i>	<i>\$36,841,801</i>	<i>\$37,485,060</i>	<i>\$40,501,553</i>	<i>\$39,975,665</i>	<i>\$40,809,501</i>	<i>\$41,325,089</i>	<i>\$41,964,539</i>	<i>\$41,588,744</i>
Land and Water Quality (0248)										
General Fund	\$4,090,450	\$7,292,367	\$4,489,131	\$4,621,271	\$4,240,628	\$4,338,827	\$4,235,093	\$4,225,863	\$4,298,195	\$4,103,152
Other Special Revenue	\$100,732	\$632,600	\$1,076,682	\$1,859,103	\$1,745,871	\$1,783,426	\$1,825,351	\$1,797,916	\$2,243,766	\$2,237,149
Federal Expenditure Funds	\$1,010,569	\$1,144,940	\$1,172,440	\$1,091,396	\$1,367,277	\$1,277,452	\$1,255,921	\$1,307,501	\$1,059,302	\$1,074,944
<i>Totals</i>	<i>\$5,201,751</i>	<i>\$9,069,907</i>	<i>\$6,738,253</i>	<i>\$7,571,770</i>	<i>\$7,353,776</i>	<i>\$7,399,705</i>	<i>\$7,316,365</i>	<i>\$7,331,280</i>	<i>\$7,601,263</i>	<i>\$7,415,245</i>
Air Quality (0250)										
General Fund	\$951,573	\$1,611,950	\$1,063,582	\$1,211,623	\$1,214,483	\$1,228,629	\$1,278,978	\$1,325,700	\$1,365,455	\$1,260,747
Highway Fund	\$34,905	\$35,851	\$36,007	\$36,167	\$36,296	\$36,427	\$36,578	\$36,749	\$36,749	\$36,727
Other Special Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$462,874	\$327,888	\$296,293	\$406,957	\$683,523	\$875,233	\$572,873	\$773,784	\$483,275	\$1,155,941
<i>Totals</i>	<i>\$1,449,352</i>	<i>\$1,975,689</i>	<i>\$1,395,882</i>	<i>\$1,654,747</i>	<i>\$1,934,302</i>	<i>\$2,140,289</i>	<i>\$1,888,429</i>	<i>\$2,136,233</i>	<i>\$1,885,479</i>	<i>\$2,653,415</i>
Administration - Environmental Protection (0251)										
General Fund	\$530,713	\$1,175,447	\$517,975	\$582,907	\$386,301	\$393,075	\$112,923	\$172,459	\$857,428	\$635,234
Other Special Revenue	\$2,693,905	\$2,944,304	\$3,275,647	\$4,378,346	\$4,686,061	\$4,931,307	\$5,387,037	\$5,468,356	\$5,772,346	\$5,992,879
Federal Expenditure Funds	\$682,250	\$696,165	\$774,849	\$1,717	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$3,906,868</i>	<i>\$4,815,916</i>	<i>\$4,568,471</i>	<i>\$4,962,970</i>	<i>\$5,072,362</i>	<i>\$5,324,382</i>	<i>\$5,499,960</i>	<i>\$5,640,815</i>	<i>\$6,629,774</i>	<i>\$6,628,113</i>
Maine Environmental Protection Fund (0421)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$4,507,614	\$4,784,261	\$5,479,346	\$5,207,790	\$6,010,889	\$6,573,431	\$6,006,241	\$6,774,662	\$7,537,686	\$9,867,313
Federal Expenditure Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$4,507,614</i>	<i>\$4,784,261</i>	<i>\$5,479,346</i>	<i>\$5,207,790</i>	<i>\$6,010,889</i>	<i>\$6,573,431</i>	<i>\$6,006,241</i>	<i>\$6,774,662</i>	<i>\$7,537,686</i>	<i>\$9,867,313</i>
Performance Partnership Grant (0851)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$6,658,484	\$6,105,004	\$6,781,613	\$7,009,483	\$8,497,599	\$8,591,868	\$8,601,961	\$8,773,965	\$8,782,207	\$9,163,562
<i>Totals</i>	<i>\$6,658,484</i>	<i>\$6,105,004</i>	<i>\$6,781,613</i>	<i>\$7,009,483</i>	<i>\$8,497,599</i>	<i>\$8,591,868</i>	<i>\$8,601,961</i>	<i>\$8,773,965</i>	<i>\$8,782,207</i>	<i>\$9,163,562</i>
<i>Active Budget Program Totals:</i>	<i>\$52,440,338</i>	<i>\$67,953,141</i>	<i>\$61,805,366</i>	<i>\$63,891,820</i>	<i>\$69,370,481</i>	<i>\$70,005,340</i>	<i>\$70,122,457</i>	<i>\$71,982,044</i>	<i>\$74,400,948</i>	<i>\$77,316,392</i>

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10-YEAR BUDGET ALLOTMENT/ALLOCATION HISTORY

INACTIVE BUDGET PROGRAMS										
	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09
Tire Stockpile Cleanup (0813)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$84,310	\$21,605	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$84,310</i>	<i>\$21,605</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
Solid Waste Landfill Closure (0603)										
General Fund	\$0	\$1,250,000	\$24,320	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$1,321,140	\$105,395	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$1,321,140</i>	<i>\$1,355,395</i>	<i>\$24,320</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
Water Pollution Control Facilities (0252)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$557,874	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$19,400	\$113,831	\$56,174	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$557,274</i>	<i>\$113,831</i>	<i>\$56,174</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
Water Quality Control (0249)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$10,350	\$32,954	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$78,611	\$80,891	\$61,117	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$88,961</i>	<i>\$113,845</i>	<i>\$61,117</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
Office of Pollution Prevention (0721)										
General Fund	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Special Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Expenditure Funds	\$467,735	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Totals</i>	<i>\$467,735</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>
<i>Inactive Budget Program Totals: \$2,519,420 \$1,604,676 \$141,611 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0</i>										
BUDGET GRAND TOTALS: \$54,959,758 \$69,557,817 \$61,946,977 \$63,891,820 \$69,370,481 \$70,005,340 \$70,122,457 \$71,982,044 \$74,400,948 \$77,316,392										

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