

Gallagher, Dawn R

From: Gallagher, Dawn R
Sent: Wednesday, October 26, 2005 5:03 PM
To: Gallagher, Dawn R
Subject: FW: RCRA and P2 meeting!

Importance: High

Attachments: draftppa1.doc; DRAFTP2RCRA (2).doc

From: Gallagher, Dawn R
Sent: Wednesday, October 26, 2005 5:02 PM
To: Whittier, Scott; Hudson, Michael S; Plummer, Cherrie F; Jenssen, Kevin P; Corr, Mary A; Currie, Richard; Slusarski, Andy; Wright, Tim F; Leighton, Scott F; Ladner, Stacy A; Austin, Scott; McKenzie, Diana M; Jones, Joan M; Vigneault, Edward J; Kaselis, Richard M; Duniap, John M; Dyer, Ron E; Davis, Stephen K; Churchill, Julie M; Rodrigue, James N; Cooke, Peter; Lippert, Sara M; Maxwell, David W; Littell, David P; Dusch, Jim E; Schuler, Karen; Andrew Fisk; Bertocci, Cynthia S; David Littell; David Maxwell; Deborah Garrett; Edward Logue; George Viles; James Brooks; Jim Dusch; Lynn Boutilier; Malcolm Burson; Nelson, Kevin L; Nick Archer; Ron Dyer; Stephen Davis; Terry Hanson
Subject: RCRA and P2 meeting!
Importance: High

All,

A couple of months ago, I sent you a concept paper exploring the notion of integrating the P2 program into RCRA. Since that time, I have met with Steve Davis, Ron Dyer and Scott Whittier on several occasions to further explore this idea. Scott suggested that we clarify the reasons for integration; the objectives and expected outcomes; and a suggested operational framework by putting them in writing, then share the documents with you. That was an excellent idea and I believe we're now ready to take the next step. That step very much involves you.

In the past several weeks, I drafted, and SMT members contributed to two documents, that we believe will provide this clarification. The first document, entitled "draftP2RCRA", begins with the shared goal of RCRA and P2 which is the elimination of hazardous waste, followed by proper management and disposal. The document talks about the history and natural fit between RCRA and P2. It then describes the areas where RCRA and P2 integration will be implemented, focusing on the desired outcomes, *while leaving the implementation to RCRA and P2 staff*. I would anticipate having a facilitator work with folks to come up with an implementation plan.

The second document, entitled "draftPPA", combines our EPA Performance Partnership Agreement (PPA) requirements for RCRA and P2 and describes how the PPA requirements will be enhanced or remain unchanged as a result of integration.

I want to make it clear that the RCRA program has made tremendous strides in the safe managing and disposal of hazardous waste, including taking important and critical enforcement action where needed. I anticipate that these efforts will not only continue, but will be even stronger. Adding an emphasis on elimination and pollution prevention efforts through the P2 program will benefit the environment and provide more opportunity for core RCRA activities.

I know that the minute this email is sent, a lot of people will have a lot of questions, comments, and concerns. For that reason, we would like to meet very soon to get your initial thoughts, comments, and suggestions. We have set aside Friday morning from 10:00 until 12:00 in the

Augusta response training room to meet with all of the RCRA staff (including Portland and Bangor) and P2 staff. I'm sorry for the short notice but I did not want speculation to take over. I do not expect you to have the time to thoroughly read the draft documents; I do not expect you to comment on the specific sections. I am only looking for your view on how the process should work to allow meaningful comments and further discussion--lots of further discussion.

If I were you, I might be tempted to think what good will it do for me to comment? Will I be heard, given that the concept was introduced several months ago and I was not asked to help in the drafting of the documents? I think those are fair questions. I think it took us too long to get the draft documents done. When you read the draft documents, you will see that a lot of thought went into them. We tried to be responsive to the request to have a framework with expected outcomes and to be thorough. But these are just draft documents and the process will be open to all.

I do not anticipate, and am not suggesting, any reductions in staff or resources from this initiative. I cannot emphasize enough that the overall goal of this concept is to attempt to increase resources to meet existing and future RCRA goals. Although it will not be easy, I actually hope to add staff to this effort.

A lot of you will want to see an organizational chart. *The documents do not assume a specific organization. That will be done by working through the process.* Having said that, because of P2's close link with hazardous waste programs, it will be moving to the Bureau, but will continue to work throughout the Department as it has in the past supporting other Bureaus' P2 needs. For now, Ron Dyer will be assuming some of the duties currently performed by David Maxwell (who is expected to move to his new role in early November), as well as the P2 program.

I look forward to seeing you on Friday, and in the meantime, my door and e-mail are open.

Dawn



draftppa1.doc (74 KB)



DRAFTP2RCRA (2).doc (61 KB)

INTEGRATION OF P2 INTO RCRA PERFORMANCE PARTNERSHIP AGREEMENT

OVERVIEW

This document provides the framework for the implementation plan integrating the DEP's Pollution Prevention (P2) program with the Hazardous Waste Management Program (RCRA). The document is based on Maine's Performance Partnership Agreement (PPA) with the federal Environmental Protection Agency (EPA). The document describes the measures and requirements of the PPA and indicates whether or not the integration modifies the existing PPA. This format was chosen because the PPA is used, in part, to determine federal funding for DEP's programs, is used as the Department's strategic planning document, and the PPA is a long-standing method of setting minimum requirements for federal programs that have been delegated to the State. The document parallels the specific categories of the PPA as follows: 1. Performance Measures; 2. Monitoring and Assessment; 3. Standards Setting; 4. Prevention; 5. Regulated Activity Oversight; 6. Site Remediation; and 7. Program Maintenance.

1. **PERFORMANCE MEASURES.** DEP will track and report information needed to indicate the success of DEP's activities in minimizing threats to Maine people and their environment from hazardous waste.
 - A. Volume of waste eliminated as a result of pollution prevention consultations.
 - B. Volume of waste managed properly as a result of each category of compliance activity.
 - C. Annual inspection coverage for each category of regulated facility
 - D. Compliance and enforcement activities
2. **MONITORING AND ASSESSMENT.** DEP will develop the information needed to understand environmental and public health conditions, and support the development of standards that protect them.
 - A. **Data Collection.** The hazardous waste management program gathers data about state contaminated sites, manifested hazardous waste, and annual reports from large quantity generators. P2 inputs toxics information into a web-based system. It is expected that the P2 and RCRA initiative will result in an integration of data collection.
 - B. **Evaluation Methods.** DEP uses standardized methods to evaluate site conditions. Hazardous waste licensing and enforcement program staff operate in accord with the EPA-approved RCRA Quality Assurance Plan (QAP). This plan defines the evaluation methods to be used by the program, and is periodically

revised to keep methods in line with state-of-the-art accepted methods. Following this QAP ensures the highest quality of information used in making decisions in the program. Integration of the P2 program into RCRA is anticipated to assist in this strategy by helping to identify new technologies and methods for information use.

3. **STANDARDS SETTING.** DEP will establish and implement standards that protect environmental and public health in a way appropriate for Maine.
 - A. **Legislation.** RCRA and P2 Program staff have input into all DEP proposed legislative changes related to hazardous materials and waste. Integration of the P2 program into RCRA is not anticipated to change any aspect of this strategy.
 - B. **Rulemaking.** Maine has comprehensive rules pertaining to hazardous waste management that establish siting, design, and operational standards aimed at minimizing risks to public health, safety, welfare, and the environment. All of these rules are at least as stringent as the federal requirements adopted by the EPA; and in many cases are more stringent. During the FFY06-08 planning cycle, an effort is underway to promulgate or update rules, as necessary, for program authorization or program development. P2 Program staff have for years had input into the regulatory provisions proposed regarding hazardous materials and waste. Integration of the P2 program into RCRA, along with legal assistance from the Office of the Commissioner is expected to help keep the rulemaking efforts timely as well as identifying opportunities for rulemaking or modifications including the Environmental Results Program.
 - C. **Applications.** DEP will evaluate all applications filed pursuant to the certification, siting, design and operational requirements existing in Maine Law. A variety of operations associated with hazardous waste management require licensing, including waste recycling and unused product recovery. In FFY05, 187 active licenses existed within the Program's jurisdiction and 25 decisions were issued on pending applications. Integration of the P2 program into RCRA is not anticipated to change major aspects of this strategy.
4. **PREVENTION.** DEP will provide resources to the public and regulated entities to foster an understanding and appreciation of environmental and public health issues that result in support for Maine's environmental protection laws.
 - A. **Education.** Hazardous waste program staff consistently publish written materials, and sponsor, or participate in upon request, speaking engagements to explain management requirements. Approximately five percent (5%) of the program is dedicated toward this activity. The PPA requires RCRA staff to conduct two speaking engagements.

The P2 program provides cross-media training that includes hazardous waste management, currently through the program's Environmental Results Project. ERP sectors currently include auto body and auto repair facilities.

Integration of the P2 program into RCRA is anticipated to change this strategy by having P2 staff help deliver this service, after consultation with regulatory staff. It is anticipated that with P2 involvement, the PPA requirement will be exceeded. This change will result in redirection of RCRA Program staff time to on-site compliance evaluations.

B. Training. Maine's hazardous waste laws do not require individuals managing these wastes to be professionally trained or certified.

The P2 Program provides training on process mapping and environmental management system development.

Integration of the P2 program into RCRA is anticipated to improve awareness and compliance with laws on the safe managing of hazardous wastes.

C. Technical Assistance. Maine law does not require individuals managing waste to seek or receive technical assistance. As a result, the assistance provided by the RCRA Program has traditionally been regulatory (i.e. what the law requires to protect the environment), as detailed in that section, rather than technical (i.e. how operations could change to protect the environment).

The P2 program was established, in large part, to act as a resource for regulated entities on what could be done to modify how they operate in order to better protect the environment. A significant amount of this work has been carried out through P2's Small Business Technical Assistance Program. Current priority areas include: (1) Auto Body and Auto Repair: Environmental Results Project; (2) Dentists: Amalgam Separator Program; (3) Boat Building and Repair: Pollution Prevention/Compliance Assistance; (4) Auto Salvage: Compliance Assistance; (5) Cruise Ships: Pollution Prevention and Compliance Surveys; and (6) Green Hotels/Hospitality Industry.

Integration of the P2 program into RCRA is anticipated to change this strategy by having an increased focus on pollution prevention through source reduction and elimination. It is expected that P2 staff will work side-by-side with RCRA staff so that technical assistance can be provided, as appropriate, to inspected facilities.

D. Regulatory Assistance. The hazardous waste program provides verbal and written interpretations of Maine law to individuals and entities upon their request. The Program receives hundreds of inquiries by telephone, email, and in writing from individuals and entities seeking interpretations so they can understand one or many provisions contained in Maine law. The RCRA Program responds to these requests in an appropriate manner, spending approximately 5% of its time doing so.

The P2 program is often asked questions that require interpretation of the law, and it relies on regulations, advisory opinions and regulatory staff for any guidance it provides.

Integration of the P2 program into RCRA is anticipated to enhance this strategy by having an increase in the number of staff qualified to provide regulatory assistance and advisory opinions on RCRA requirements (see Organizational Development section on training).

5. REGULATED ACTIVITY OVERSIGHT. Take actions that result in an understanding of regulatory compliance rates and the influences thereon, and result in behavior changes needed to protect Maine people's health and their environment.

A. On-site Compliance Evaluations. The hazardous waste program annually inspects a variety of facilities, distributed among a number of regulated areas. These activities include investigations in response to specific complaints as well as routine inspections at Large Quantity Generators (LQG), Non-notifiers, Federal Small Quantity Generators (SQG), Treatment Storage Facilities, Hazardous Waste Transporters, Habitual Violators, and Land Disposal Facility Ground water monitoring locations.

The PPA requires the RCRA program to conduct 59 on-site enforcement inspections per year of the over 800 facilities known to handle hazardous waste. RCRA must inspect 10 of the thousands of small quantity facilities that have not notified the EPA or DEP about its hazardous waste generating activities. (To their credit, the RCRA staff have actually performed more inspections than required under the PPA.)

For non-notifier inspections and complaints, RCRA inspectors may increase the level of inspection (e.g. full RCRA Inspection (CEI)), if waste management practices such as incorrect waste determinations or poor container management observed at the time of inspection warrant an in-depth inspection of all hazardous waste management related activities. Instances where threats to human health and the environment are caused by improper hazardous waste management procedures will also prompt a full RCRA CEI followed by an appropriate enforcement response to the violations observed. Facilities are also targeted geographically in an attempt to provide maximum statewide coverage for each inspection category and maintain a RCRA compliance presence in each region. These inspections include support to DEP's or EPA's voluntary programs, like the Smart Tracks for Exceptional Performers and Upward Performers (STEP-UP), and EPA'S Performance Track Program.

Currently P2 staff conducted 59 baseline multi-media surveys/inspections over a three month period for the Auto Body Environmental Results Program (ERP) and is expected to conduct 59 follow-up certifications in 2006. It is expected that ERP project work will serve as a platform for future ERP type sector outreach and compliance work.

The P2 Program regularly inspects Toxic and Hazardous Waste Reduction Program (THWRP) facilities to determine compliance with P2 Plan requirements. The range of facilities inspected is similar in breadth and approach to the RCRA Program.

Integration of the P2 Program into RCRA is anticipated to result in closer coordination of hazardous waste management inspections with P2 inspections. Currently, the PPA requires RCRA inspections at less than 8% of facilities known to handle hazardous waste, and less than one-tenth of 1% of facilities that handle hazardous waste but do not report it. It is anticipated that the overall number of inspections will increase, and the interaction with many of the inspected facilities will change as a result of routine source reduction assistance from P2 staff. It is expected that ERPs will supplement RCRA inspections, but not at the cost of reduced inspections. It is anticipated that the actual number of inspections will increase.

B. Compliance Record Evaluations. All shipments of hazardous waste in Maine must be documented, with a copy of the document known as a Uniform Hazardous Waste Manifest, sent to DEP. The Hazardous Waste Program routinely monitors shipments by tracking and evaluating these manifests. Approximately ten percent (10%) of the RCRA Program is dedicated toward this activity.

The P2 program receives biennial progress reports which provide hazardous waste reduction numbers, methods and demonstrate successful practices which are used to educate other reporters. P2 evaluates the data based on volume, sector type and toxicity.

Integration of the P2 program into RCRA is anticipated to increase compliance with this strategy since the joint evaluation of all such reports will likely affect the facilities targeted for on-site evaluations. The integrated approach will include evaluating manifest data based on the volume, sector type, and chemical type/toxicity to better understand waste streams and to evaluate and identify priorities.

C. Enforcement. The hazardous waste program primarily operates in accord with the RCRA Enforcement Response Policy (ERP) and enforcement status report criteria established in previous Memorandums of Agreement with EPA as part of the RCRA authorization process. The program identifies Significant Non-Compliers within the RCRIS database and pursues enforcement action at a level of appropriateness and timeliness consistent with the ERP. The program also manages on-going enforcement cases by tracking compliance schedules and

negotiating administrative consent agreements and enforcement orders to resolve cases. The current PPA also requires the RCRA program to follow-up on enforcement cases that are carried over from the previous fiscal year and to attempt to improve the timeliness of enforcement responses. Approximately fifteen percent (15%) of the RCRA Program is dedicated toward this activity.

The P2 program operates its enforcement activities in accord with the department's compliance policy and additional program specific policies, including the use of consent agreements to get compliance with reporting laws.

Integration of the P2 program into RCRA is anticipated to change this strategy by having P2 and RCRA jointly establish State-specific protocols to be their primary reference materials. The P2 programs will follow the conformance policy tightly following the LOW, NOV and consent agreement timelines and guidance. The addition of a new lawyer's position in the Office of the Commissioner has resulted in the capacity for programs to immediately refer matters for prosecution when administrative settlement is not possible. An expectation from the integration process is to substantially reduce the time it takes to resolve non-compliance issues.

6. SITE REMEDIATION. DEP works to eliminate unacceptable threats to human health and the environment from existing groundwater, surface water, and soil contamination resulting from hazardous waste. This objective is to clean-up or contain the existing waste contaminated sites in order to provide clean drinking water, ground water, soils, and surface water and to protect public health and safety. To the extent possible, these sites are returned to productive reuse as industrial, commercial, recreational, or residential properties.

A. Remediation. The Hazardous Waste Enforcement staff work on a variety of enforcement projects that include site investigation and remedial action or corrective action to effect clean-ups of hazardous waste contamination discovered during the course of a compliance inspection or enforcement action. Approximately ten percent (10%) of the RCRA Program is dedicated toward this activity.

Integration of the P2 program into RCRA is not expected to immediately change this strategy. The Department, in looking at organization and funding during the upcoming year, will examine if there are other methods of providing these activities to free hazardous waste enforcement staff's time to perform additional on-site compliance evaluations and enforcement actions as warranted.

B. Financial Responsibility. The hazardous waste program currently ensures that hazardous waste financial responsibility requirements are met at all regulated facilities. Integration of the P2 program into RCRA is not anticipated to change any aspect of this strategy.

C. Information Management. The hazardous waste management program maintains timely and accurate state and national contaminated site databases. RCRA inputs compliance and enforcement data into the national RCRIS database, and all ground water related information into DEP's database.

P2 is implementing an operational web-based toxics information system that will allow the public to access toxics data and to use an EPA model to evaluate the importance of each toxic chemical. It is expected that the P2 and RCRA initiative will result in an integration of data that will assist in the identification of facilities and prioritization for inspections.

7. PROGRAM MAINTENANCE. DEP strives to maintain internal systems that promote continuous improvement in the agency on a program-by-program and department-wide basis.

A. Organizational Development

1) **Training.** Each year compliance staff require 8-hour safety refresher training, first aid training, and technical and regulatory training, as may be necessary and available, to access and appropriately assess sites where hazardous waste is generated or released. This training is provided in-house by DEP's training unit. Otherwise, specialized training in technical and regulatory issues is completed to maintain the high level of expertise required of inspectors.

The P2 program staff are formally trained in accord with OSHA 1910.120 and maintain their annual 8 hours refresher training to work on hazardous waste sites.

Integration of the P2 program into RCRA is anticipated to increase this strategy by having P2 staff use their training and receive further EPA training in Maine's hazardous waste laws to enable wider coverage and opportunities for providing assistance and conducting inspections of regulated facilities.

2) **Staffing.** Maine's Hazardous Waste Program has three primary components - a licensing unit, an enforcement unit, and a corrective action closure unit. Enforcement activities are conducted by the Hazardous Waste Enforcement Unit, which is staffed by four (4) oil and hazardous waste specialists, three (3) environmental specialists, and one (1) enforcement unit supervisor. Each of the seven specialists conduct enforcement inspections. Two (2) of the environmental specialists spend half their time on data management, analysis and compliance issues related to hazardous manifests and annual reports.

Maine is divided into four (4) geographic regions. Staff members are assigned regional coverage responsibilities or are regionally based so that the enforcement unit appropriately serves each region. Two oil and hazardous waste specialists are located in the Portland Office, one

environmental specialist is located in the Bangor Office, one environmental specialist shares time in the Bangor and the Augusta offices, and the other staff members are located in the Augusta office.

The P2 program has three primary units: Toxic use reduction, pollution prevention and small business assistance. Staff focus on sector priorities, small business assistance requests and toxic reduction trends to prioritize work activities through an annual planning process. Each program has 1-2 environmental specialists who are moved among programs as work load dictates. One environmental specialist is located part time in DEP's southern Maine Office due to regional workload. All other staff are located in Augusta.

Integration of the P2 program into RCRA is anticipated to enhance RCRA activities and this strategy by having joint training of staff to increase knowledge of hazardous waste management and prevention opportunities. It is also anticipated that capacity in the integrated program will increase as a result of additional staff resources from outside the program being detailed to perform P2 and RCRA activities as demands within the initiative require.

INTEGRATION OF POLLUTION PREVENTION
INTO
RESOURCE CONSERVATION AND RECOVERY ACT PROGRAM
A MOVE TOWARD REDUCTION AND ELIMINATION OF
HAZARDOUS MATERIALS AND WASTE

A. FRAMING THE ISSUE

Hazardous materials are used by businesses and people in every town in Maine. Threats to the public and the environment from mishandling of waste materials are the most widespread, and in many cases locally damaging, of any overseen by environmental protection agencies. As a result, elimination of hazardous waste is of the highest human and environmental health priority. In many cases, elimination requires changes in behavior and the replacement of hazardous raw materials with equivalent alternatives.

Maine law regulates many aspects related to the handling, transportation, and disposal of hazardous substances, with DEP primarily overseeing these materials at the point when they become waste. This DEP program is often referred to as RCRA because Maine is delegated the authority to implement the early 1980's federal hazardous waste management law which is named the Resource Conservation and Recovery Act.

During the past 20 years, waste management practices have improved greatly, moving from digging a pit in the back lot for the disposal of waste materials to the development of ceramic filter membranes to remove hazardous materials from a waste stream prior to disposal. Across the country as well as here in Maine, municipal solid waste landfills have been upgraded and unlined hazardous waste landfills and lagoons have almost disappeared from our landscape as a direct result of 30 years of the DEP's efforts. Post-consumer recycling rates have risen dramatically here in Maine and many industries have made impressive gains in pollution prevention by eliminating, reducing the amount and toxicity of wastes they generate through Maine initiatives such as the "Step-Up" program where companies enter into agreements with the DEP to move beyond basic compliance.

RCRA, when followed, provides an extremely high level of safety for Maine people and their environment. The system requires those that treat, dispose or store hazardous waste to manage the waste according to strict requirements so it does not enter the environment or endanger people. The system does not require the elimination of hazardous raw materials or reuse of materials that otherwise would be disposed of as waste.

Perhaps the lack of emphasis on source reduction resulted in Congress passing the Pollution Prevention Act of 1990 which required EPA to integrate P2 strategies into its programs. For the past 15 years, the RCRA and P2 programs have run on parallel but distinct tracks.

Similar to this split at the federal level, Maine has hazardous waste management laws and pollution prevention laws. Although the provisions in these laws are significantly different from the feds, programs created by the State Legislature to accomplish the goals they set have operated separately unless work on a specific project put them together.

The purpose of this white paper is to describe an initiative to integrate P2 into RCRA and provide a framework for accomplishing integration of some of the RCRA activities.

B. BUILDING FROM STRENGTH

The RCRA program has worked extremely hard over the past twenty years and has been very successful in creating compliance methods for handling and disposing of hazardous waste. The DEP believes that developing new approaches for conserving resources, eliminating and reducing the amount of toxic materials and the toxicity of materials that remain, and managing wastes properly can be an even stronger part of a RCRA program. Promoting resource conservation through a "cradle to cradle" hazardous materials management program will require a full range of innovative tools, most of which are now primarily used in the P2 program. It is imperative that the DEP continues to enable its staff to examine how waste and materials management should evolve in this state to meet future waste management challenges and opportunities; likewise, it is absolutely essential that we build on the elements of current programs that have been most successful in providing basic protections under RCRA, including licensing, compliance and enforcement programs. The DEP's desire is not only will these core RCRA program elements continue to address those who pose a threat to our environmental and Mainers' health through the inappropriate management of hazardous waste, but that the core RCRA program elements will be enhanced by this initiative.

C. A PLAN FORWARD

The overall plan is to enhance the existing RCRA and P2 systems in a way that maximizes our opportunity to influence behavior in a direction that greatly reduces the generation of hazardous waste, a particularly expensive liability for generators of hazardous materials and wastes and highly threatening substance for Maine people. Our approach expands the focus of the Maine RCRA program to include elimination and reduction of waste generation through pollution prevention, waste minimization, product stewardship, and other efforts that concentrate on "upstream" prevention of waste and chemical hazards through a truly integrated system. The program focuses on "materials use" as well as "waste management" as part of the effort to alter the perception of waste—to give it value as commodities with potential uses. Finally, it confirms the importance of compliance and the need for expanded enforcement for those who repeatedly act to actually harm the environment and threaten public health.

D. GOALS AND DESIRED OUTCOMES

The goal of this integration is to further protect public health, safety, and the environment from pollution by hazardous substances.

The desired outcomes of this initiative are to:

1. Eliminate and Reduce Waste and Increase the Efficient and Sustainable Use of Resources
2. Prevent Exposures to Humans and the Environment from the Use of Hazardous Chemicals
3. Manage Wastes and Clean Up Chemical Releases in a Safe, Environmentally Sound Manner
4. Establish and Ensure Appropriate and Adequate Funding Levels
5. To Further Educate Businesses and Individuals about Alternatives to Hazardous Materials
6. To Increase Compliance Using All Available Tools, Including More Progressive Enforcement Efforts Especially for Repeat Violators

E. JOINT RESPONSIBILITIES/ EXPANDED CAPABILITIES

1. Planning

DEP's Performance Partnership Agreement (PPA) with the Environmental Protection Agency (EPA) will be the guiding document for joint planning and the completion of responsibilities. Each year, RCRA and P2 will develop a joint plan that identifies which facilities will have a RCRA inspection, and decide which sectors P2 will focus on. The purpose of the inspection joint planning is to maximize the presence of the Department in as many facilities as possible, based on when the last time the facility was inspected by RCRA or worked in a comprehensive way with the P2 program. A major purpose of the joint planning of P2 sector work is to use the experience of the RCRA program to identify sectors that can most benefit from pollution prevention measures.

RCRA and P2 will implement the inspection plan by conducting joint inspections, joint meetings with the inspected facility, P2 input into Letters of Warning (LOW's) and Notice of Violation (NOV's), and a P2 follow-up where appropriate. P2 staff will receive EPA RCRA training and RCRA staff will receive P2 training, where appropriate, to help assist in inspections and P2 efforts. RCRA and P2 will implement these efforts jointly by prioritizing sectors with documented compliance issues.

2. Education

The hierarchy is first to eliminate, reduce, reuse and recycle hazardous materials and toxic chemicals; next to safely handle and manage those hazardous materials and toxic chemicals that remain; and finally to ensure proper disposal of the resulting waste. Education is the key to meeting the goals of this hierarchy.

RCRA and P2 will jointly identify trade organizations, sectors, and types of facilities where education can be effective to meet the hierarchical goals, and will conduct training and educational programs. P2 conducts a Small Business Assistance Program to provide focused compliance and pollution prevention assistance to Maine small businesses that use extremely hazardous substances, generate hazardous waste, and/or release Toxic Release Inventory (TRI) chemicals. P2 will coordinate these efforts with RCRA Small Quantity Generator inspection requirements, to assist RCRA with that effort.

3. Compliance and Enforcement

RCRA corrects the violations of law it discovers, which invariably include threats to human health and the environment, through education, assistance, and at times enforcement. Although the threats and damage are not typically part of their cases, DEP's P2 program regularly pursues compliance issues with an enforcement program that operates under similar protocols using progressive actions to resolve problems.

DEP is implementing a standardized compliance and enforcement program designed to ensure documents and documentation used by the Department will withstand court requirements and to accelerate case resolutions. These expectations will be fully integrated into this RCRA/P2 effort by revisiting the policies governing DEP activities to guarantee that consistent and swift results occur in both programs. RCRA and P2 will work to review compliance and enforcement measures for RCRA and THWRP facilities, based on the hierarchy of goals of RCRA, and using an approach based on risk and amount of injury to the environment and citizens. The effort will include progressive compliance and enforcement measures. The effort must result in strict enforcement and penalties for repeat offenders, especially for hazardous chemicals. The effort must also include recommendations for expanding compliance and enforcement to both property owners and contractors, and the ability to cite violations and penalties, if appropriate, on site at the time the violation is noted.

4. STEP-UP Initiative

The Smart Tracks for Exceptional Performers and Upward Performers, or STEP-UP Program, offers recognition and other incentives to businesses and organizations interested in implementing sustainable practices. To be eligible for the STEP-UP program, potential facilities must have a compliance inspection. RCRA and P2 will continue to coordinate inspections which will be conducted and counted as part of RCRA's federal inspection commitments.

5. Mercury Policies

As part of their regular work, RCRA staff monitor regulatory compliance at Hg waste generators, the extent of any contamination, and any pollution prevention and compliance assistance opportunities to reduce or eliminate mercury use or mismanagement. RCRA and P2 staff will coordinate with other Departmental activities to ensure each acts as part of the agency's efforts.

6. Environmental Management Systems

Environmental Management Systems (EMS) represents a proven pollution tool for applying a business systems approach to environmental protection. Whether the internationally recognized ISO 14001 standard or another is applied, Maine companies have proven to be overall better environmental performers and will be able to increase marketing opportunities particularly in European markets. EMSs will be used as a tool for all integrated staff to assist facilities in eliminating and reducing their toxics and hazardous waste generated.

7. Toxic and Hazardous Waste Reduction Program (THWRP)

The purpose of this program is to reduce or eliminate the generation and shipment of hazardous waste, and to reduce and eliminate the use and release of Extremely Hazardous Substances and Toxic Release Inventory (TRI) chemicals. THWRP has voluntary reduction goals. Mandatory pollution prevention planning, biennial reporting and public access to data are primary requirements of the program. P2 currently administers this program that assesses fees based on facility reporting, with the funds going to a THWRP fund. THWRP has voluntary reduction goals. P2 uses DEP's full compliance policy, including entering into consent agreements with non-reporting facilities.

P2 is implementing an operational web-based toxics information system that will allow the public to access toxics data and to use an EPA model to evaluate the importance of each toxic chemical.

In 2006, P2 and RCRA will review the results of the program and examine the current funding mechanism, including moving to a risk-based fee, or a fee system that charges higher fees when less toxic alternatives are available. P2 and RCRA will review current compliance mechanisms including progressive measures for non-reporting and non-compliance. The cumulative goals facilities have met in each toxics reduction category have tracked well with the statewide goals. Integrated staff will review if further aggressive goals or other efforts may be used to meet further reductions. P2 and RCRA will use the THWRP data base to determine its application in planning inspection or other outreach activities.

8. Licensing New Technology/Streamlined Applications

New technology is critical to meeting the goals to eliminate, reduce, reuse and recycle hazardous materials and toxic chemicals. Similarly, streamlined applications are also beneficial. RCRA and P2 will establish a process for using

both of these methods for activities that further help meet the hierarchal goals, and identify and use these methods to implement the activities.

Appropriate electronic tools such as field tablet computers may be used to further enable staff to document situations while in the field.

9. Reducing Paperwork for Inspections

For inspections of facilities that have been inspected before, RCRA and P2 will develop a process for reducing the paperwork for the inspection where activities remain the same as they were under the previous inspection and identify and implement processes that promote the goals of RCRA.

10. Funding

The DEP is alarmed by flat or reduced federal funding for the RCRA program. Inspections, compliance and enforcement are a key component of RCRA, and funding has become an issue in maintaining a viable state program. It is anticipated that P2 efforts will enable more education, RCRA inspections and enforcement to take place through a joint integration of efforts.

This coming year, the Department will conduct a comprehensive review of funding for many of its programs, including RCRA, with an eye toward getting more resources for the RCRA/P2 effort. In the meantime, the DEP has proposed a hazardous waste and waste oil fee adjustment that will help to moderate the shortfall, but only in the short term.

Currently the P2 program is piloting an Environmental Results Program (ERP) that allows facilities to self certify their compliance status and submit this information to the Department for review. Many states have successfully used and implemented this ERP model for small quantity generator sectors (large amount of facilities that each generate small quantities but cumulatively equal many large area sources) and have formalized ERPs into a fee based program in statute. RCRA and P2 will review the piloted ERP and may recommend formalizing such a program, with the understanding that ERPs are intended to supplement the inspection program, and not replace it.

F. CONCLUSION

This initiative takes hazardous waste management to a new level. It better incorporates the goals of RCRA--pollution prevention, waste minimization, and product stewardship—with the inspection, compliance and enforcement aspects of RCRA. By integrating the planning and implementation of RCRA and P2, it is anticipated that more coverage and better compliance will result. It is an opportunity to focus on risks and injury to the environment in a more comprehensive fashion, by jointly using all tools, including enforcement, to achieve compliance. It will create better service to facilities and citizens by having a complete array of efforts to help achieve the goal to further protect public health, safety, and the environment from pollution by hazardous substances.

Gallagher, Dawn R

From: Davis, Stephen K
Sent: Friday, April 08, 2005 9:11 AM
To: Gallagher, Dawn R; Littell, David P
Subject: FW: Minutes from last EDG

This dialogue is important for both of you to read. Ron is on target here. What you see below is exactly why I created EDG. We have a long way to go!

From: Dyer, Ron E
Sent: Thursday, April 07, 2005 12:55 PM
To: Whittier, Scott; Hyland, Mark; Seel, George J; Clark, Paula M; Sait, David C
Cc: Davis, Stephen K; Dusch, Jim E; Edwards, Sherrie M
Subject: RE: Minutes from last EDG

Scott: Unfortunately, you missed the meeting and the message. At the meeting I noted EPA has implemented a policy with Performance Track Participants that places these facilities on a low-priority inspection list, and have suggested that would mean surprise inspections are unlikely, except for complaints, which I support. What I said I would like to begin is a dialogue on what we will do as a related benefit to these facilities who, immediately prior to becoming members, have already undergone a full RCRA and possibly other media inspections. Given that these agreements are limited to 3 years wouldn't that work for RCRA? The other 2 Bureau's already practice this as good customer service, program cooperation and good use of limited resources, calling me when they are planning an inspection. I think this is a legitimate question that we as an agency have never fully resolved and I look forward to working with BRWM and others on this. If you wish to stop by and discuss this further I am available to meet. Ron

From: Whittier, Scott
Sent: Thursday, April 07, 2005 10:10 AM
To: Hyland, Mark; Seel, George J; Clark, Paula M; Sait, David C
Cc: Davis, Stephen K; Dyer, Ron E; Dusch, Jim E; Edwards, Sherrie M
Subject: Minutes from last EDG

I understand that a request was made by Ron Dyer at the April 1, 2005 EDG meeting that no unannounced inspections be performed at companies affiliated with the Step Up Program and possibly at other businesses that Ron is affiliated with. I reviewed all prior step up agreements at the time they were circulated for review and comment. At one time there was discussion about unannounced inspections. After discussion, no provisions were added to any of the step up agreements to prevent routine unannounced compliance inspections. Our first hand experience with announced inspections is that facilities hide things (such as drums of hazardous waste in tractor trailers) from us, authorize overtime pay to employees to help tidy things up (clean up stains indicating unreported spills, arrange for immediate pick up of hazardous wastes that have exceeded their storage time, bring in fresh gravel to cover up disposal locations) before we arrive or stall by indicating they cannot accomodate us on the day of inspection. We learned of these manuevers from employees who called us after these situations occurred. These are real examples that occurred in Maine and not hypothetical concerns. Some of these occurred at well known facilities run by "respectable" business people .We need to be able to inspect facilities and get a real picture of their management of toxic, reactive, ignitable and corrosive hazardous wastes.

We owe the public and the people of Maine, including our employees and the employees of Maine businesses, if we want their trust and support for environmental issues, some assurance that we are doing our jobs in a fair and unbiased manner. Step up companies ought not to be hiding behind their political affiliations or Ron Dyer. They need to be held to the same standards as other companies who are complying with the states environmental requirements. In fact there are many who feel that companies being recognized by the Governor, upon the recommendation of DEP's Commissioner, ought to be held to a higher standard of environmental compliance.

Because I was not at the meeting, I felt it was important to weigh in on this important issue. As you can tell, I am offended by his request .

Scott D. Whittier, Director
Oil and Hazardous Waste Facilities Division
Maine Department of Environmental Protection
Bureau of Remediation and Waste Management
Station #17
Augusta, ME. 04333 -0017
(207) 287 - 7674
Fax (207) 287 - 7826
<http://www.state.me.us/dep>

Gallagher, Dawn R

From: Dyer, Ron E
Sent: Sunday, September 11, 2005 7:21 AM
To: Gallagher, Dawn R; Davis, Stephen K
Subject: RE: To Clear the Air

Dawn and Steve: This is quite heartening, thanks for sending it along. I believe there are more believers and Tom's insight and message makes me want to stay on course with our plans. Ron

-----Original Message-----

From: Gallagher, Dawn R
To: Davis, Stephen K; Dyer, Ron E
Sent: 9/10/05 5:26 PM
Subject: FW: To Clear the Air

Well, we do have a believer!

>
>From: Varney, Thomas W
>Sent: Tuesday, September 06, 2005 10:48 AM
>To: Gallagher, Dawn R
>Subject: RE: To Clear the Air

>
>The problem with the RCRA program has always been one of too zealous
>enforcement, at EPA's insistence. Despite what bureaucrats believe,
>the average small business owner doesn't have time to follow the
>Federal Register and keep up the changes in the RCRA law. They depend
>on compliance visits to inform them what they're doing wrong, then they
>take steps to comply. Further, unannounced visits are not helpful;
>believe it or not, business owners often have better things to do than
>drop everything and produce paperwork for a DEP inspector.

>
>The first visit to a site ought to be a courtesy inspection.
>Follow-ups could be unannounced, but I think we'd accomplish more by
>cooperating more. (This is why I'm not in Enforcement)

> From: Gallagher, Dawn R
> Sent: Friday, September 02, 2005 4:17 PM
> To: DEP-EMRO List; DEP-NMRO List; DEP-RAY List; DEP-RESPONSE List;
>DEP-SMRO List; DEP-TYSON List
> Subject: To Clear the Air

>
>
> All,

>
> The past several weeks, several meetings titled "P2/RCRA" have
>appeared on my calendar and that of Steve Davis and Ron Dyer.
>Yesterday, I met with Scott Whittier, Ron and Steve. I suspect that
>there have been a few hallway conversations about what's going on.
>So, I'm sending this email (after getting comments from Steve and
>Scott).

>
> I'll start with the bottom line and move back from that. I've been
>thinking for some time that RCRA and P2 should be much more closely
>aligned than they are—and yes, this may mean a merger
>of the two. Both programs have the same goal—reduce and eliminate,
>where possible, hazardous and toxic wastes. To me, the RCRA side does
>an amazing job of regulating these wastes. I would like to expand it
>to include even more education and pollution prevention, without
>compromising the importance of compliance and enforcement. If we can
>visit a site with an eye for both RCRA and P2, and it results in less

>H/T wastes, we have been truly successful. We focus on the number of
>inspections and the containment of waste, instead of the elimination of
>hazardous and toxic wastes. That's an underlying problem with EPA that
>needs to be addressed.

>
> RCRA was enacted first and P2 followed years later. Sometimes we
>add programs as time goes on because it's easier than changing the
>original program. I believe this is what happened, in part, with RCRA
>and P2. Now is the time to review these programs.

>
> I guess this notion has been in my subconscious for a while but it
>didn't germinate until I started to read the staff surveys that were
>done last summer. Several folks in RCRA indicated that pollution
>prevention was the most important aspect of their job.
>P2 folks said the same. It's clear that the links are there.

>
> Several months ago, I met with my counterpart from Massachusetts and
>the EPA to discuss how we could better integrate pollution prevention
>into the RCRA process. EPA has circulated information and held
>conferences on what they call the "Resource Conservation Challenge"
>(RCC). It involves integration of P2 with RCRA and other waste
>management programs. At the meeting, the group decided that it would
>be beneficial to also have states working from another angle to select
>individual sectors or further integration of the programs. We also
>decided that this topic would be a timely addition to the Environmental
>Commissioners annual meeting in September.

>
> I am attaching a whitepaper on what will be presented at the meeting
>next week. This paper discusses both a sector
>approach and a unified approach. I am also attaching a paper that I
>drafted on the unified approach, taken in part, from the EPA paper
>being presented next week. The unified approach paper was the subject
>of the meeting that Scott, Steve, Ron and I had yesterday.

>
> The unified paper does not talk about organizational structure in
>any detail. That was intentional. I believe that even the notion of
>reorganization needs a lot of discussion before any final plans are
>made, let alone carried out; and
>I'm committed to moving ahead deliberately, with input from staff. I
>am fully aware that there would be challenges to this approach.

>
> Scott, Ron, Steve and I will meet again in a few weeks to continue
>discussions. Scott mentioned that he has a division meeting next
>Friday and felt it was important to at least tell folks where we are.
>I agree wholeheartedly and hence, this email.

>
> This e-mail probably raises more questions than answers.
>I certainly don't want that. I believe that at least talking
>about where we are is more productive than not, and I don't like
>leaving people wondering. I don't want anyone to be afraid that
>their voice will not be heard. I don't want anyone to be afraid that
>their job will be abolished. In fact, I hope that new opportunities
>will arise from anything that comes out
>of this process.

>
> As always, my door and e-mail are always open.

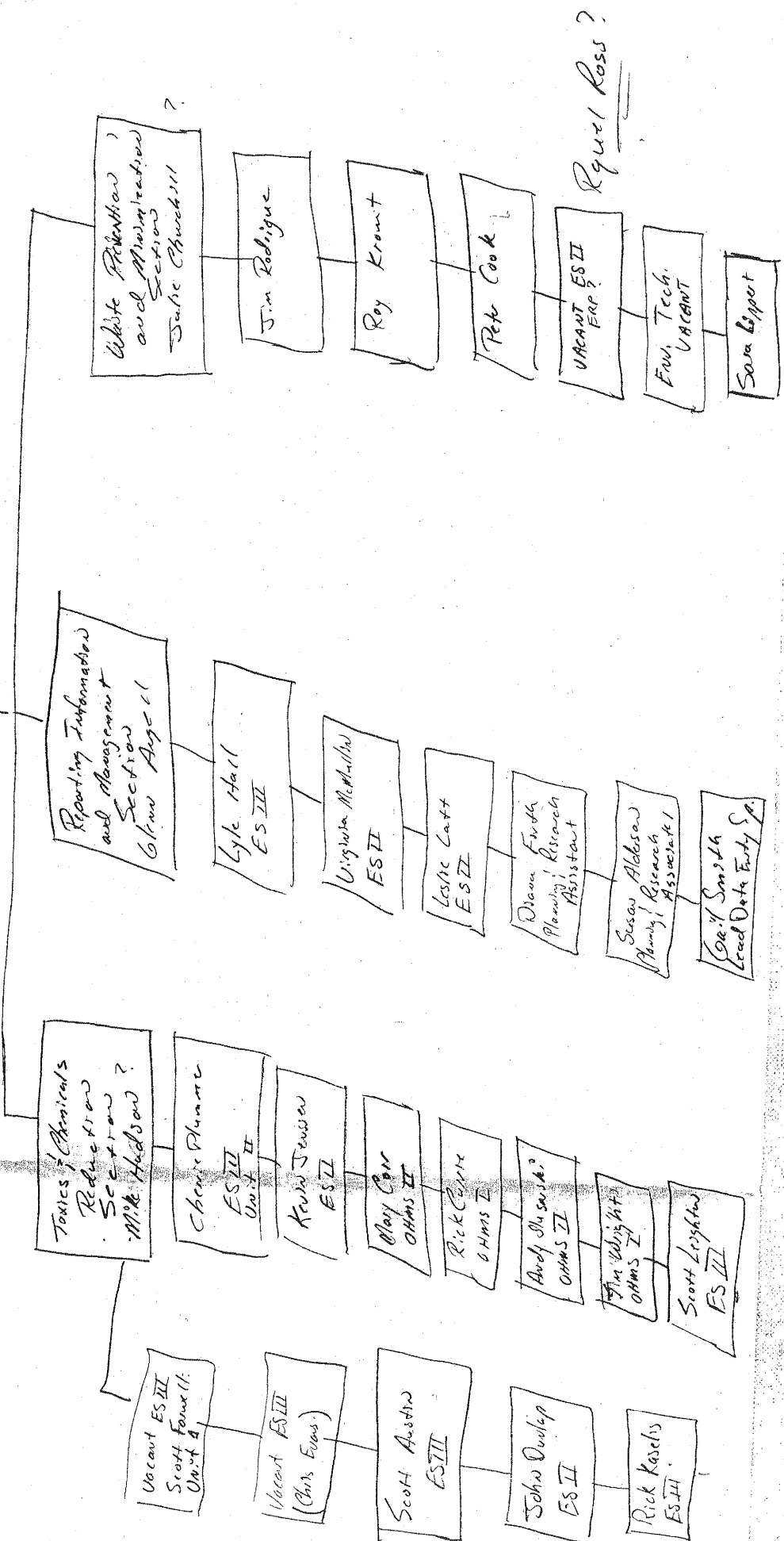
>
> Dawn

>
> << File: mainep2rcra.doc >> << File: P2rcra (2).doc >>

From Steve Davis
FOAM file

DRAFT

Division of Hazardous Waste
Minimization, Prevention, & Remediation
Julie Churchil??



Daw is prep for 10/28 meeting

I know that we can provide more protection to the environment and public health through even greater efforts to help facilities eliminate hazardous materials and waste. We should then place even more emphasis on compliance and increase enforcement efforts against those who repeatedly act to actually harm the environment and threaten public health.

Personally committed to this - right thing to do

Set Stage

Right thing

20K month

no uncollected \$

Not trying to make political but

→ majority = env. issues

→ more cons. in OT?

Saville - ind., involved to H.W./RCRA + even ind. staff

Daigle - Sen. - wants to work on funding

→ new way or send RCRA back to feds or ↓ PPA

Substance

Integrate system for funding + outcomes

RCRA - got low hanging fruit

move to eliminate waste

↑ funding thro risk-based fees (the voluntary?)

- SWAT team

eff ME, engineers, recycle, P2

- Process

facilitator

10-20
RCRA / P2 Mtg.

- Dawn Gallagher
- Div. of Oil / Haz
Waste Facilities Reg.

- use of haz mtl. -
preventing

- P2 DIVISION

RCRA done well at picking "low hanging
fruit"

planning of sectors to go after

fees - some chems more haz - (should be
more expensive)
examine structure.

losing 20K/mo. RCRA

sustainable (how to make)

legislature - dems more emphasis on enviro

last 3 yrs. of bonds US

Wahlman - special appropriations

trend will continue

T. Saville - probs in Dept. - will
work with DE.

don't want to make political - reality

GOP legislative

Bob Daigle - Senate run

Saville
Daigle

3/BB gave names of people not beneficial to

have (DE)

next spring
proposal

risk-based fees
solid waste issues

PZ / Compliance / Enf.

eliminating / managing waste → compliance / enf.

DG.

agree
blatant

D. Hall - fire all DD's

don't understand reg. oversight

" " enviro. harm

tough times

problem issue

RCA - strict components

DG. Think good.

integration

core RCA functions won't change

ERRS - won't replace inspections

J. Hyson

re-structuring & to broader

issues.

MH

more specific info on integration will

reduce h.m. use. strategy?

few statutes (TUR etc.)

DG

- TUR → ^{make} more than voluntary

- pay more for chems where alternatives exist

SW -

TS/BD

strong resistance to "Mission Creep"

SUS
cont. how to enhance program / create resources
beyond Fed. authority

DG vision to have program like ME Energy
"P2/RCA - toxic audit"
ways for savings know pie in the sky
{ Sustain. Forests
certified programs - IP certifies lumber
75/80 - unsure what's in it for them.
if don't do something diff not going to
have what we have now
EPA a Big hits coming (take \$ away)
don't want to reduce

S Davis ATSNOMO Mtg. DC.
how to keep \$ coming in, programs
alive, evolve w/ changing landscape
EPA - will be cuts
openings on HW work groups to effectuate
National policy.
Pilot for how RCA looks in future
RCC (Resource Conservation Challenge)
ME can be a leader

DG RCC \$ - may be attempt to loosen RCA
requirements

TW - Unannounced facility inspections
- commitment OK - yes

RD - working well / step up

SL - Working w/ SQCs, MQCs

SW - education tools in lieu of LQG

(~'96) insp.

specific targets for inspections
sector - PZ to conduct educ.

DG - landowner (go after)

MH - generator / contractor / facility

DG - Andrea LaPointe - capacity to ID
contractors

"early warning system"

education at retail level (products to
buy - safer)

reduce pollution without giving up

MH - instances of going after contractor
whose waste is it?

SL 1) Need to tell you what we do

2) specific examples triggering your mind

- "contractor" must have encountered
want to handle differently

"pre-process mtg."

seem to have good sense of what PZ does.

2-way conversation

DG - OK - part of the process; get the best
chance to have informed discussion coverage we can

RD - what gets measured, gets managed
environmental metrics

2 trained as full RCRA inspectors
Metrics is the underpinning

DG credit for what P2 does in RCRA #5.
Don't want to reduce what RCRA does.

ERP - drive-by inspections (per Scott W.)
level at which ERP can help RCRA process.

BCO - 2 reports / yr.
funded by BAQ program
"rich" data to coordinate efforts

ERP - attractive program to EPA, look at
as many facilities as possible.

adds up to many LQG's

quick initial visit - go back for inspections

check off & certify

workshops
"books"

self-certify

10 sectors, more effective

SW partial insp. have place
how to enhance / do more - can't fill
positions now.

time - issues now we can't deal w/

MB - how to press forward

SW - lost positions / frozen positions

RK - organizational structure?

DG - for you all to work out

If want me to (assign) I will.

Position of authority / not leadership.

Goals - integration

further reduct. / elim.

better compliance / enf.

MB - my space going to be, organ. structure
what will make less ambiguous

RK - Top of unit? 2 heads? Continuity

AS - agree w/ RK
Union issues, job class. / job descr.
mixed message to regulated community
program shifts

Plan for RCLA

T.R. - Not opposed to re-class / re-allocation
of positions? DG - not opposed.

DG - shift some positions into this effort
expand initiative

MH PZ origin → OC (co's. could come to)
if lines blurred, progs. merged

1 co. 2 diff. inspections 1 com audit
concerns/political issues 1 insp. w/ possible penalties

SW Enf. actions tracked (Pierce Atwood / PretiFi)
treating businesses differently

DG How to balance.

Forecasters - advice & enforcement (were doing both)
PZ - Operations more than

D. Maxwell - reduce funding in OC bring PZ
back to programs (closest fit) w/ BRWM.

May want PZ to help insp. / enf.

Decide how to balance

JCD - Most of reg. community don't see me as PZ

MH - inspections very different

DG - unaware of law firms tracking

MH encourage co's when PZ sep. unit
(compliance assistance)

DG - how is contact initiated

SD - right or wrong, part of paradigm shift.

MH - Which inspection am I going to get (from co. perception)

SD - will take long time - has taken us a long time to get here. Same person doing insp.

MH - will result in different actions needs to be dealt w/ may not work -

DG 2 documents

PZ -

RCLA - violations

MH - more voluntary initiatives

how to still maintain core functions

integration (portrayed) as more (inspections, etc)

DG - unfair to ask to do more w/ less.

how to better integrate, funding to get more staff

EV - don't have reg. to mandate reduct. / elim. h.m. (h.w.)

RCLA can't regulate until HW compliance asst. crossing the line into RCLA.

5

compliance asst.

JCD - air/H₂O inspectors with us; haven't had any facilities confused. Helpful to have RCLA inspector.

SL - McCaskill / Moulton to B&WM already no conversation re: their role.

SW - Rulemaking - rebutt. presump., definition HW mission expansion resistance will be formidable

JJ - Schedule?

DG - No set time frame. Funding issue (need to know)

PHONE CALL

FOR <u>Dawn</u>	DATE <u>1/10</u>	TIME <u>3:45</u>	<input checked="" type="radio"/> A.M. <input checked="" type="radio"/> P.M.
M <u>Rep Tom Sawiello</u>			
OF _____			PHONED _____
PHONE <input type="checkbox"/> FAX <input type="checkbox"/> MOBILE	<u>897-1422 or 240-5496 (cell)</u>		RETURNED CALL _____
	AREA CODE	NUMBER	EXTENSION
MESSAGE <u>Re: Support & Suggestions</u>	PLEASE CALL _____		
<u>on the merger of RCR & P2</u>	CALL AGAIN _____		
<u>(voice mail)</u>	CAME TO SEE YOU _____		
SIGNED <u>Dawn</u>	WANTS TO SEE YOU _____		

Gallagher, Dawn R

From: Gallagher, Dawn R
Sent: Tuesday, November 15, 2005 6:02 PM
To: Boutilier, Lynn A
Subject: FW: 10/28 minutes

Attachments: RCRA-P2 10-28minutes.doc

LA,

Can you forward this to Ron D.'s shop, including Ron, and make me a P2 contact list?

Dawn

From: Gallagher, Dawn R
Sent: Tuesday, November 15, 2005 6:02 PM
To: Austin, Scott; Boutilier, Lynn A; Bowie, Butch C; Burson, Malcolm C; Corr, Mary A; Cumming, James; Currie, Richard; Dunlap, John M; Dusch, Jim E; Flint, Andrew; Fournier, Christopher G; Hudson, Michael S; Hynson, James R; Jenssen, Kevin P; Jones, Joan M; Kaselis, Richard M; Ladner, Stacy A; Leighton, Scott F; Littell, David P; Maxwell, David W; McKenzie, Diana M; McLaughlin, Diana M; Plummer, Cherrie F; Rector, Timothy; Scharf, Ted; Scott, Theresa J; Slusarski, Andy; Vigneault, Edward J; Whittier, Scott; Wright, Tim F
Subject: 10/28 minutes

All,

I'm attaching Malcolm's minutes of the 10/28 initial meeting on P2 and RCRA.

Steve, Scott and I met on the hazardous waste fund issue. I expect that we will be able to say more about this by the end of the week, after Scott has a chance to look over the budget figures.

At yesterday's meeting we agreed that you all would get comments to Scott by the end of the week and then he would get those back to me for more discussion.

Thanks for the candid talk yesterday afternoon.

Dawn



RCRA-P2
28minutes.doc (37 I

RCRA / P2 STAFF MEETING

Friday, October 28, 2005

Report of Meeting

Attending: Jim Rodrigue, Butch Bowie, Chris Fournier, Scott Whittier, Tim Wright, Andy Slusarski, Joan Jones, Theresa Scott, Ron Dyer, Julie Churchill, Sarah Lippert, Scott Austin, Mike Hudson, Stacy Ladner, Rick Kaselis, Roy Krout, Mary Corr, Ed Vigneault, John Dunlop, Peter Cooke, Andrew Flint, Cherrie Plummer, Steve Davis, Tim Rector, Jim Hynson, Scott Leighton, Diana McLaughlin, Dawn Gallagher, Malcolm Burson (facilitator)

Dawn called the meeting to get responses to the proposal to integrate the RCRA and P2 programs more fully. She began by explaining that she was personally committed to this initiative and said the following:

"I know that we can provide more protection to the environment and public health through even greater efforts to help facilities eliminate hazardous materials and waste. We should then place even more emphasis on compliance and increase enforcement efforts against those who repeatedly act to actually harm the environment and threaten public health."

At the beginning, Malcolm asked participants to identify any goals they might have for this meeting, beginning with Dawn.

Dawn: That everyone can say, at the meeting's end, "Whether I agree or not, I understand what this is about."

Andy: I'd like Dawn to say more about "what's the problem" that's driving this; and fill in more details on the external political drivers.

Response from Dawn: the problem isn't RCRA, it's shifting the focus upstream toward elimination. We shouldn't replace inspections; rather, we want the regulated community to tighten up its management of chemicals.

Jim H.: I want to understand how we get from re-structuring to the broader issues.

Response: We haven't yet proposed anything for the corrective action side. At the moment, I want to focus on how we do things, and let the new organization emerge.

Mike: More specific information on how integration will reduce hazardous materials use: specific strategies to reach that goal.

Response: Maybe we should make TUR goals more than voluntary, and increase fees according to toxicity. Risk-based fees seems right to me.

Comment from Scott W: is this the right time, if as you say more conservatives may be coming to leadership and accuse us yet again of mission creep?

Response: maybe we could have something like "Efficiency Maine:" a high-end consulting and toxic auditing program to suggest process changes, promote incentives like labeling SFC. In any case, I don't want to reduce our PPA commitments, but business-friendly services may help.

Steve added that at the recent ASTWMO meeting, it appears that EPA funds will be cut further. Maine is getting involved here at the level of national policy, and with this pilot project.

Tim: I'd like to hear a commitment to the continued use of unannounced inspections.

Response: that will happen, and we want to go after both generators and contractors with an outreach / early warning approach.

Dawn also asked participants to identify some longer term goals, as well as their concerns, questions, etc. Dawn's longer term goals include

- All staff affected by the changes will have the opportunity to shape the implementation, organizational plan, ways of doing work, etc.
- All staff will have a chance to choose how they want to work in the program, what they want to do, to accommodate their strengths and wishes.
- Stacy: I'd like there to be an opportunity for Dawn to meet with the RCRA staff, to learn more about what we do. That kind of two-way conversation should inform the move toward integration. **Action: Dawn committed to holding such a meeting.**
- Rick: We need soon to figure out just what the eventual structure will look like. What are the reporting relationships going to be? Who's going to be in charge? If I have to make a decision, I need to trust that there will be continuity as we go forward.
- Andy: building on Rick's concern, I see how a combined structure could be good, but we need some certainty about it so we can provide clear messages to the regulated community. There are also potential issues with job classifications, etc. Tim asked if Dawn was OK with changing job classifications and position responsibilities to account for these changes. **Dawn agreed that she is.**

Response: I'm not suggesting that any sort of complete merger will take place next week. Rather, I'm asking you to take part in a joint planning effort to deal with these kinds of concerns. And again, I want the eventual org chart to emerge from this, not be dictated in advance.

[In response to a question from Malcolm, Rick agreed that if decision-making responsibility was made clear, it would be less difficult for people to cope with not knowing just what the org chart looked like.]

Questions and Concerns

- ❖ Mike: How will P² maintain its visibility to the regulated community, the legislature, etc., if its no longer part of O/C, but rather is a merged part of RWM – RCRA? There are some advantages to there being boundaries between the “friendlies” and the enforcement staff.
Dawn: balancing the black hat / white hat is the biggest challenge in this whole thing.
- ❖ Stacy: working with small and medium quantity generators is important.
Dawn: I want to move ahead with targeted education based on issues you've learned about from inspections in particular sectors.
- ❖ Ron: I think that “what gets measured, gets managed.” We need to develop some new metrics.
Dawn: I don't want to reduce inspections. I think ERP should help, not be a substitute for, compliance work.
Julie noted that there's already a rich store of data from which to build, and suggested that ERP could be mandatory instead of voluntary.
Scott observed that “partials” have place, but how can we do more when we're falling behind as it is?

- ❖ Dawn observed that another challenge will be for individuals to work in a way that balances assistance and regulation. Others agreed, noting that from a business point of view, the program will need to be clear on the protocols, because there will be a need to change the perceptions of the regulated community: they're used to a somewhat clear line of demarcation that may now become blurred.
- ❖ Question: how do we bridge the current regulatory differences between P² and RCRA with regard to the hazardous materials themselves?
- ❖ Observation: the regulatory assistance part of all this involves both groups as a "cross over."
- ❖ Question: what about the P² folks in Tech Services? How will they fit?

Next Steps

1. Dawn noted that there's no fixed time frame. She expects that it will take 3-4 months to create a "publishable product" in terms of organization, protocols, etc.
2. Dawn suggested there should be another full group meeting soon, to dig more deeply into the white paper.
3. Dawn asked whether the group wished to have a continuing facilitator. There was some sense that this would be valuable, but no strong consensus expressed.
4. Dawn observed the importance of having this process run in parallel with the efforts to solve the Haz Waste funding dilemmas. **Action: She promised to provide information on how the HW fund has worked, and its current status.**

McLaughlin, Diana M

From: Burson, Malcolm C
Sent: Wednesday, November 16, 2005 11:06 AM
To: McLaughlin, Diana M
Subject: RE: 10/28 minutes

Thanks.

From: McLaughlin, Diana M
Sent: Wednesday, November 16, 2005 11:04 AM
To: Burson, Malcolm C
Subject: RE: 10/28 minutes

I noticed the following omission from the minutes, which should be included:

Dawn told the group that Representatives Tom Saviello and Bob Daigle have come to her with concerns about the RCRA (haz waste) program and that they "named names" of DEP staff they have problems with. She said they want to see the program reorganized.

From: Gallagher, Dawn R
Sent: Tuesday, November 15, 2005 6:02 PM
To: Austin, Scott; Boutilier, Lynn A; Bowie, Butch C; Burson, Malcolm C; Corr, Mary A; Cumming, James; Currie, Richard; Dunlap, John M; Dusch, Jim E; Flint, Andrew; Fournier, Christopher G; Hudson, Michael S; Hynson, James R; Jenssen, Kevin P; Jones, Joan M; Kaselis, Richard M; Ladner, Stacy A; Leighton, Scott F; Littell, David P; Maxwell, David W; McKenzie, Diana M; McLaughlin, Diana M; Plummer, Cherrie F; Rector, Timothy; Scharf, Ted; Scott, Theresa J; Slusarski, Andy; Vigneault, Edward J; Whittier, Scott; Wright, Tim F
Subject: 10/28 minutes

All,

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At yesterday's meeting we agreed that you all would get comments to Scott by the end of the week and then he would get those back to me for more discussion.

Thanks for the candid talk yesterday afternoon.

Dawn

<< File: RCRA-P2 10-28minutes.doc >>

Hudson, Michael S

From: Wright, Tim F
Sent: Wednesday, November 16, 2005 9:54 AM
To: Burson, Malcolm C
Subject: RCRA P2 meeting minutes 10/28

Attachments: RCRA-P2 10-28minutes.doc



RCRA-P
minutes.doc

Malcolm,

I believe it is almost impossible to chair or facilitate a meeting and take minutes.

My only notes were two quotes from Dawn and my shopping list, but here are my comments.

Tim

RCRA / P2 STAFF MEETING

Friday, October 28, 2005

Report of Meeting

Attending: Jim Rodrigue, Butch Bowie, Chris Fournier, Scott Whittier, Tim Wright, Andy Slusarski, Joan Jones, Theresa Scott, Ron Dyer, Julie Churchill, Sarah Lippert, Scott Austin, Mike Hudson, Stacy Ladner, Rick Kaselis, Roy Krout, Mary Corr, Ed Vigneault, John Dunlop, Peter Cooke, Andrew Flint, Cherrie Plummer, Steve Davis, Tim Rector, Jim Hynson, Scott Leighton, Diana McLaughlin, Dawn Gallagher, Malcolm Burson (facilitator)

Dawn called the meeting to get responses to the proposal to integrate the RCRA and P2 programs more fully. She began by explaining that she was personally committed to this initiative and said the following:

"I know that we can provide more protection to the environment and public health through even greater efforts to help facilities eliminate hazardous materials and waste. We should then place even more emphasis on compliance and increase enforcement efforts against those who repeatedly act to actually harm the environment and threaten public health."

At the beginning, Malcolm asked participants to identify any goals they might have for this meeting, beginning with Dawn.

Dawn: That everyone can say, at the meeting's end, "Whether I agree or not, I understand what this is about."

Andy: I'd like Dawn to say more about "what's the problem" that's driving this; and fill in more details on the external political drivers.

Response from Dawn: the problem isn't RCRA, it's shifting the focus upstream toward elimination. We shouldn't replace inspections; rather, we want the regulated community to tighten up its management of chemicals.

Jim H.: I want to understand how we get from re-structuring to the broader issues.

Response: We haven't yet proposed anything for the corrective action side. At the moment, I want to focus on how we do things, and let the new organization emerge.

Mike: More specific information on how integration will reduce hazardous materials use: specific strategies to reach that goal.

Response: Maybe we should make TUR goals more than voluntary, and increase fees according to toxicity. Risk-based fees seems right to me.

Comment from Scott W: is this the right time, if as you say more conservatives may be coming to leadership and accuse us yet again of mission creep?

Response: maybe we could have something like "Efficiency Maine:" a high-end consulting and toxic auditing program to suggest process changes, promote incentives like labeling SFC. In any case, I don't want to reduce our PPA commitments, but business-friendly services may help.

Steve added that at the recent ASTWMO meeting, it appears that EPA funds will be cut further. Maine is getting involved here at the level of national policy, and with this pilot project.

Comment [TFW1]:

Comment [TFW2]: Dawn began by saying this proposal wasn't "political", but immediately mentioned Senator Saviello and Rep. Daigle and how the Democratic majority in the legislature could be lost in the next election, which would be less favorable to the Department. She also talked about her interview with Dick Hall of National and his statement that if hired as Bureau Director the first thing he would do is fire all the Division Directors.

Comment [TFW3]: Dawn stated that RCRA had taken the "low hanging fruit", a statement that I strongly disagree with.

Tim: I'd like to hear a commitment to the continued use of unannounced inspections.

Response: that will happen, and we want to go after both generators and contractors with an outreach / early warning approach.

Comment [TFW4]: I began with a statement that I had not read the documents because they were provided to staff too soon before the meeting.

Dawn also asked participants to identify some longer term goals, as well as their concerns, questions, etc. Dawn's longer term goals include

- All staff affected by the changes will have the opportunity to shape the implementation, organizational plan, ways of doing work, etc.
- All staff will have a chance to choose how they want to work in the program, what they want to do, to accommodate their strengths and wishes.
- Stacy: I'd like there to be an opportunity for Dawn to meet with the RCRA staff, to learn more about what we do. That kind of two-way conversation should inform the move toward integration. **Action: Dawn committed to holding such a meeting.**
- Rick: We need soon to figure out just what the eventual structure will look like. What are the reporting relationships going to be? Who's going to be in charge? If I have to make a decision, I need to trust that there will be continuity as we go forward.
- Andy: building on Rick's concern, I see how a combined structure could be good, but we need some certainty about it so we can provide clear messages to the regulated community. There are also potential issues with job classifications, etc. Tim asked if Dawn was OK with changing job classifications and position responsibilities to account for these changes. **Dawn agreed that she is.**

Response: I'm not suggesting that any sort of complete merger will take place next week. Rather, I'm asking you to take part in a joint planning effort to deal with these kinds of concerns. And again, I want the eventual org chart to emerge from this, not be dictated in advance.

[In response to a question from Malcolm, Rick agreed that if decision-making responsibility was made clear, it would be less difficult for people to cope with not knowing just what the org chart looked like.]

Comment [TFW5]: I believe someone else asked this question.

Questions and Concerns

- ❖ Mike: How will P² maintain its visibility to the regulated community, the legislature, etc., if its no longer part of O/C, but rather is a merged part of RWM – RCRA? There are some advantages to there being boundaries between the "friendlies" and the enforcement staff.
Dawn: balancing the black hat / white hat is the biggest challenge in this whole thing.
- ❖ Stacy: working with small and medium quantity generators is important.
Dawn: I want to move ahead with targeted education based on issues you've learned about from inspections in particular sectors.
- ❖ Ron: I think that "what gets measured, gets managed." We need to develop some new metrics.
Dawn: I don't want to reduce inspections. I think ERP should help, not be a substitute for, compliance work.
Julie noted that there's already a rich store of data from which to build, and suggested that ERP could be mandatory instead of voluntary.
Scott observed that "partials" have place, but how can we do more when we're falling behind as it is?

- ❖ Dawn observed that another challenge will be for individuals to work in a way that balances assistance and regulation. Others agreed, noting that from a business point of view, the program will need to be clear on the protocols, because there will be a need to change the perceptions of the regulated community: they're used to a somewhat clear line of demarcation that may now become blurred.
- ❖ Question: how do we bridge the current regulatory differences between P² and RCRA with regard to the hazardous materials themselves?
- ❖ Observation: the regulatory assistance part of all this involves both groups as a "cross over."
- ❖ Question: what about the P² folks in Tech Services? How will they fit?

Next Steps

1. Dawn noted that there's no fixed time frame. She expects that it will take 3-4 months to create a "publishable product" in terms of organization, protocols, etc.
2. Dawn suggested there should be another full group meeting soon, to dig more deeply into the white paper.
3. Dawn asked whether the group wished to have a continuing facilitator. There was some sense that this would be valuable, but no strong consensus expressed.
4. Dawn observed the importance of having this process run in parallel with the efforts to solve the Haz Waste funding dilemmas. **Action: She promised to provide information on how the HW fund has worked, and its current status.**

Ladner, Stacy A

From: Burson, Malcolm C
Sent: Monday, November 21, 2005 2:56 PM
To: DEP-BRWM-OHWFR List; Churchill, Julie M; Lippert, Sara M; Rodrigue, James N; Cooke, Peter
Cc: Gallagher, Dawn R; Davis, Stephen K; Dyer, Ron E
Subject: Revised minutes of 10-28 RCRA-P2 meeting

Attachments: RCRA-P2 10-28minutes-rev2.doc

Several RCRA staff asked that the minutes Dawn sent out last week be revised to include items they felt had been mentioned at the meeting, and were important to be included. I took those comments, and revised the minutes accordingly. Then Dawn added her own additional comments to complete the record of things she had said.



RCRA-P2
28minutes-rev2.doc

While no minutes can be perfect without a complete transcript, I hope this revised version better documents the meeting. Thanks to Andy and Tim for sharing their notes with me.

RCRA / P2 STAFF MEETING

Friday, October 28, 2005

Report of Meeting

Attending: Jim Rodrigue, Butch Bowie, Chris Fournier, Scott Whittier, Tim Wright, Andy Slusarski, Joan Jones, Theresa Scott, Ron Dyer, Julie Churchill, Sarah Lippert, Scott Austin, Mike Hudson, Stacy Ladner, Rick Kaselis, Roy Krout, Mary Corr, Ed Vigneault, John Dunlop, Peter Cooke, Andrew Flint, Cherrie Plummer, Steve Davis, Tim Rector, Jim Hynson, Scott Leighton, Diana McLaughlin, Ted Scharf, Dawn Gallagher, Malcolm Burson (facilitator)

Dawn called the meeting to get responses to the proposal to integrate the RCRA and P2 programs more fully. She began by explaining:

"I know that we can provide more protection to the environment and public health through even greater efforts to help facilities eliminate hazardous materials and waste. We should then place even more emphasis on compliance and increase enforcement efforts against those who repeatedly act to actually harm the environment and threaten public health."

"I am personally committed to this because it is the right thing to do."

In addition to being the right thing to do, Dawn noted that RCRA is currently losing \$20 thousand per month, which puts pressure on us to find some new approaches. We can't rely on just asking for increase in fees because even though the administration has put in for bonds each year for uncontrolled sites, we haven't had any for three years. She told the group that she was not trying to make this political, but current majority is generally more favorable to env. issues. We do not know if we will end up with a more conservative legislature in 07. And for example, Rep. Tom Saviello is now an independent and is still on the NR committee. We know that he has been involved in RCRA issues and wants to be involved in even individual staff positions. Rep. Daigle will be running for Senate and he similarly wants to be involved in funding issues. This shows how involved the legislature is with the DEP. If we don't find a new organization and mechanism for funding, we are in a position where we may not meet our PPA commitments and may have to give back the RCRA program to EPA. Some people may want this, but I don't.

At the beginning, Malcolm asked participants to identify any goals they might have for this meeting, beginning with Dawn. Several staff commented that they had not yet been able to review the white paper due to the short time since it was sent out.

Dawn: That everyone can say, at the meeting's end, "Whether I agree or not, I understand what this is about."

Andy: I'd like Dawn to say more about "what's the problem" that's driving this; and fill in more details on the external political drivers.

Response from Dawn: the problem isn't RCRA, it's shifting the focus upstream toward elimination. We shouldn't replace inspections; rather, we want the regulated community to tighten up its management of chemicals. It is important to have an integrated system that provides assistance and education and for facilities that do not comply, we have tough enforcement.

- All staff will have a chance to choose how they want to work in the program, what they want to do, to accommodate their strengths and wishes.
- Stacy: I'd like there to be an opportunity for Dawn to meet with the RCRA staff, to learn more about what we do. That kind of two-way conversation should inform the move toward integration. **Action: Dawn committed to holding such a meeting.**
- Rick: We need soon to figure out just what the eventual structure will look like. What are the reporting relationships going to be? Who's going to be in charge? If I have to make a decision, I need to trust that there will be continuity as we go forward.
- Andy: building on Rick's concern, we need some certainty about it so we can provide clear messages to the regulated community. There are also potential issues with job classifications, etc. A staff member asked if Dawn was OK with changing job classifications and position responsibilities to account for these changes. **Dawn agreed that she is**
Response: I'm not suggesting that any sort of complete merger will take place next week. Rather, I'm asking you to take part in a joint planning effort to deal with these kinds of concerns. And again, I want the eventual org chart to emerge from this, not be dictated in advance. . She added that she'd like to see shifting some positions into this effort, and would try to get funding for additional staff.
 [In response to a question from Malcolm, Rick agreed that if decision-making responsibility was made clear, it would be less difficult for people to cope with not knowing just what the org chart looked like.]

Questions and Concerns

- ❖ Mike: How will P² maintain its visibility to the regulated community, the legislature, etc., if it's no longer part of O/C, but rather is a merged part of RWM – RCRA? There are some advantages to there being boundaries between the “friendlies” and the enforcement staff. If the lines are blurred, and the programs merged, one company could end up with two different inspections. The kinds of inspections are very different between the two programs, resulting in different actions: this may not work.
Dawn: balancing the black hat / white hat is the biggest challenge in this whole thing.
- ❖ Stacy: working with small and medium quantity generators is important.
Dawn: I want to move ahead with targeted education based on issues you've learned about from inspections in particular sectors.
- ❖ Ron: I think that “what gets measured, gets managed.” We need to develop some new metrics.
Dawn: I don't want to reduce inspections. I think ERP should help, not be a substitute for, compliance work. We should get credit for what P2 does in the RCRA PPA, but not reduce the number of RCRA inspections and activities.
- ❖ Ron: We would have two P2 staff trained as full RCRA inspectors. We currently go out to facilities and then return for an inspection under ERP.
 Julie noted that there's already a rich store of data from which to build, and suggested that ERP could be mandatory instead of voluntary.
 Scott observed that “partials” have a place, but how can we do more when we're falling behind as it is, and can't fill positions? Scott noted that some law firms currently track our enforcement actions, and are prepared to complain that we

Jim H.: How will reorganization of the P2 and hazardous waste programs affect the organization of other programs in BRWM?

Response: We haven't yet proposed anything for the corrective action side. At the moment, I want to focus on how we do things, and let the new organization emerge. I want everyone here to participate in this process.

Mike: More specific information on how integration will reduce hazardous materials use: specific strategies to reach that goal.

Response: RCRA has gotten the low hanging fruit in terms of reductions. Now we need to work to eliminate hazardous waste. Maybe we should make some TUR goals more than voluntary, and increase fees according to toxicity. Risk-based fees seems right to me. So, if a company uses chemicals that are particularly hazardous, and there are alternatives available, then the company should pay more for that hazardous material.

Comment from Scott W: is this the right time, if as you say the Republicans may be coming to leadership (Scott's words) and accuse us yet again of mission creep?

Response: I know what will happen if we simply go in and ask for fee increases. We haven't gotten uncontrolled site money, and there will be great reluctance to just approve it without a comprehensive review of the whole system. During 2006 we are being required to do a solid waste funding review. I will tell the NR committee that we would like to use this as an opportunity to review comprehensively, funding mechanisms for SW, HW and other programs.

One of the things that I think about is a kind of "SWAT" team where "Efficiency Maine", recycling, P2, and a high-end consulting and toxic auditing program to suggest process changes, promote incentives like labeling forestry certifications. In any case, I don't want to reduce our PPA commitments, but business-friendly services may help.

Steve: added that at the recent ASTWMO meeting, it appears that EPA funds will be cut further. Maine is getting involved here at the level of national policy, and with this pilot project. RCC money may be available.

Response: Dawn indicated that RCC may be viewed as a program that loosens regulatory requirements and she wants to be careful that Maine takes the P2 part of RCC but does not do anything that reduces RCRA core programs.

Tim: I'd like to hear a commitment to the continued use of unannounced inspections.

Response: Dawn said she is committed to continue unannounced inspections and that that is contemplated in the PPA. In addition to that, Dawn recommended that we not only find business owners liable as generators, but that we cross-refer the violations/letters of warning to see if we find contractors who repeatedly engage in wrong doing. We should do an outreach / early warning approach, and a targeted approach to particular sectors and see what it would take to change our law, if necessary to include contractors as liable parties.

Dawn also asked participants to identify some longer term goals, as well as their concerns, questions, etc. Dawn's longer term goals include

- All staff affected by the changes will have the opportunity to shape the implementation, organizational plan, ways of doing work, etc.

treat some businesses differently than others. Dawn was not aware of this; it had not been brought to her attention before.

- ❖ Dawn observed that another challenge will be for individuals to work in a way that balances assistance and regulation. Others agreed, noting that from a business point of view, the program will need to be clear on the protocols, because there will be a need to change the perceptions of the regulated community: they're used to a somewhat clear line of demarcation that may now become blurred.
- ❖ Question: how do we bridge the current regulatory differences between P² and RCRA with regard to the hazardous materials themselves? Ed noted that we don't have statutory authority to mandate reduction or elimination of hazardous materials, so RCRA can't regulate until they become waste. Compliance assistance is crossing the line into RCRA.
- ❖ Question: How do we maintain core programs and do more voluntary measures?
- ❖ Response: It's not fair for us to be asked to do more. We need a comprehensive strategy to integrate to get sustainable funding.
- ❖ Question: what about the P² folks in Tech Services? How will they fit?

Next Steps

1. Dawn noted that there's no fixed time frame. She expects that it will take 3-4 months to create a "publishable product" in terms of organization, protocols, etc.
2. Dawn suggested there should be another full group meeting soon, to dig more deeply into the white paper.
3. Dawn asked whether the group wished to have a continuing facilitator. There was some sense that this would be valuable, but no strong consensus expressed.
4. Dawn observed the importance of having this process run in parallel with the efforts to solve the Haz Waste funding dilemmas. **Action: She promised to provide information on how the HW fund has worked, and its current status.**

Hazardous Waste CEI of International Paper

TO: Michael S. Hudson, ESIV, HW Compliance Coordinator

FROM: Richard M. Currie

DATE: October 14, 2003

I. GENERAL INFORMATION

A. FACILITY NAME:

International Paper
20 Riley Road
Jay, ME 04239
207-897-1316

B. TYPE:

Maine LQG

C. EPA ID: MED001095470

D. DATE OF INSPECTION:

October 7, 2003

E. PERSONS PARTICIPATING IN INSPECTION:

Richard M. Currie, ME DEP
Mary Corr, ME DEP
Thomas Saviello, International Paper
Peter Chamberlain, International Paper

F. PREVIOUS INSPECTIONS:

CA-1988 (discharge)

II. FACILITY DESCRIPTION

International Paper is a Maine large quantity generator. International Paper Inc. is a manufacturer of paper. The products produced are papers for books, bibles, magazines, labels, pet food bags, pipe wrap and other specialties. The plant consists of five paper

machines, and a wastewater treatment plant. The facility has a license for an aerosol can puncturing unit. The facility generates ignitable (D001, F003), corrosive (D002), and toxic wastes (D007, D008, F001).

III. SOURCE DESCRIPTION

International Paper generates the following:

- D001, waste solvent and gasoline, from painting and cleaning operations.
- D002, waste sulfuric acid, from laboratory tests.
- F003 and F001 waste solvent contaminated rags, from maintenance operations.
- Universal Waste lamps, CRTs, mercury switches, PCB ballasts, batteries.

IV. GENERAL OBSERVATIONS

On October 7, 2003 at approximately 8:30 a.m., Mary Corr, and I arrived at International Paper's facility located in Jay, Maine. The inspection was conducted under the authority of Maine's Hazardous Waste, Septage, and Solid Waste Management Act, 38 M.R.S.A., Section 1301 et seq. and the Department's Hazardous Waste Management Rules (the "Rules"). International Paper was inspected for compliance with Maine Large Quantity generator requirements.

When we arrived, we met with Mr. Thomas Saviello, the Environmental Manager, for International Paper. We informed them that we were there to conduct a Compliance Evaluation Inspection and that we would need to tour the facility and review the company's paperwork concerning hazardous waste management. Mr. Saviello informed us that we were not supposed to be conducting an inspection without getting approval from the EPA. He stated that under the Performance Track program all inspections were required to receive EPA approval. (The EPA was contacted after the visit and it was determined that Mr. Saviello had misstated the program scope. The DEP is not required to notify the EPA or gain permission before an inspection). Mr. Saviello then agreed to the inspection. We conducted an introduction meeting to explain the inspection process and reviewed the facility's paperwork. Then we proceeded with the facility inspection. We began by inspecting the Wastewater Treatment Facility.

Wastewater Treatment Facility (WWTF): Hazardous wastes are generated in the Compliance Lab area of this WWTF. COD vials which are hazardous for corrosivity and mercury are collected in this area. These vials are emptied into a half-gallon container. This container is managed as an SAA. The container was labeled and inspected properly.

We inspected a corrosive storage cabinet, and a flammable storage cabinet, both contained usable products.

HWSA: There were no hazardous wastes in the storage area at the time of our inspection. The facility shipped all HW and UW during the previous week. The HWSA was properly maintained, and had signs, fire control and communications.

Universal Waste Satellite: This area is used to collect UW lamps. The boxes of lamps were not closed and were missing labels and ASD.

Machine Shop: This area had one of 30+ collection containers for aerosol cans. All of these collection containers are unlabeled, open, and uninspected. We observed a product called "Invader Spray Lubricant". This product contains tetrachloroethylene (F001) as a primary ingredient. The product is used on rags, which are disposed of in the regular trash.

Utilities Machine Shop: We observed one of 16 parts washers in this area. The solvent used in the machines has a flash point >140 degrees F. The parts washers have never been tested by IP and there are no records of testing by the servicing company Advanced Liquid Recycling. This company has been shipping the waste as non-hazardous waste. We requested testing of this parts washer and the parts washer in the Yard Garage. Test results for these two (2) part-washers showed no contamination with heavy metals.

We observed two flammable storage cabinets that needed to be cleaned out and waste determinations made on the contents.

We observed a CRT waiting for a determination, outside an office in this area.

Pump Shop: We observed another parts washer in this area. We observed several products that were useful but contained F-listed solvents. The use of these products was unclear to Mr. Saviello. We informed him of the rag contamination issue. All of these products were manufactured by Magnaflux.

Salvage Yard: This area contained a UW storage area. The box trailer was empty at the time of the inspection. All wastes were shipped on 10-2-2003.

We observed the aerosol can depressurizer in a locked cage area. The drum used for collection of wastes from aerosol cans was properly labeled, marked, and inspected. This area is considered a SAA in the license for this unit.

We observed a bulb crusher that is supposed to be used for incandescent bulbs only. The bulbs are crushed and the metal end cap that contains lead is recycled. The company has been asked for documentation of recycling of the lead.

We observed crushed HID lamps in the drum used to collect glass from the bulbs. We asked the operator and Mr. Saviello about them. The operator stated he did not know they contained mercury, and sometimes he receives 55-gallon drums of this type of lamp. We observed approximately twelve (12) large HID lamps in a trash bag waiting for crushing. These were removed from the area and the drum of glass was closed and marked as HW.

Mr. Saviello stated that a sign would be placed showing the types of bulbs that are or are not allowed to be crushed.

We observed two (2) 55-gallon drums of waste oil and a 300-gallon tote in the yard that was half full of waste oil. This will be emptied into the facility's waste oil tank and will be tested before being burned in the boiler.

Lime Recast: Barium titration waste is collected in this area. Waste is only generated when the titration machine malfunctions. No waste was observed during the inspection.

Print Shop: This area is used for printing and uses non-hazardous inks, non hazardous meter roller cleaner. We need to review MSDS information for Varn V-60, and V-120, as well as a product, which is no longer in use called 3M K-11. These products are being transferred to another company. An exchange of letters has been completed.

Paper Lab: This area conducts a test using 1 ml of gum turpentine to test for paper resistance to oily break through. The facility currently treats the paper contaminated with turpentine as F-listed wipers. However the Gum turpentine does not contain F-listed solvents and does not require this waste to be treated as HW.

We inspected or observed the following areas that do not generate HW:

Ring Debarker, Mini Wastewater Treatment, Motor Storage, Phoenix Building, Boiler Tube Storage, Pulp Mills, Pulp Mill Lab, Paper Machines, and the Main Lab.

A Cogen building is located on the facilities property but is not owned by IP. We did not inspect this building.

V. RECORD REVIEW:

We reviewed the company's contingency plan. The plan contained the necessary information and was current. Agreements between the facility and local hospitals police and fire departments was current.

Employee training records were available and current.

Training plans for UW and HW are computer based and adequate.

The 2002 annual report had not been submitted.

Manifest records were complete and accurate.

VI. SUMMARY OF WASTE:

We observed approximately:

20 gallons of waste aerosol paint contents.
50 UW lamps.
30 gallons mercury contaminated crushed lamps.

VII. SUMMARY OF VIOLATIONS:

1. Failure to determine if a waste is hazardous, in violation of the Rules, Chapter 851, Section 5.

International Paper failed to identify the wastes listed in paragraph (1) as hazardous waste.

2. Treating or disposing of hazardous waste on-site without a license to do so, in violation of the Rules, Chapter 850, Section 3(A)(13)(c);

International Paper treated an undeterminable number of universal waste lamps by intentionally breaking the lamps in a bulb crusher.

3. Offering hazardous waste to a transporter who is not licensed to transport hazardous waste and offering a hazardous waste for transport to a waste facility not authorized or licensed to handle hazardous waste, in violation of the Rules, Chapter 851, Section 7.

International Paper offered the hazardous waste wipers listed in paragraph A and the mercury contaminated glass from crushed bulbs in paragraph (2) to transporters that were not authorized to handle hazardous waste in the State of Maine.

4. Failure to submit an annual report on time.
5. Failure to properly complete a UBOL.
6. UW violations. Including treatment.

SIGNED: _____
RICHARD M. CURRIE, OHMS, MEDEP

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JOHN ELIAS BALDACCI
GOVERNOR

DAWN R. GALLAGHER
COMMISSIONER

March 8, 2004

Certified Mail No. _____

Thomas Saviello
International Paper
20 Riley Road
Jay, ME 04239

DRAFT

***** Letter of Warning *****

Dear Mr. Saviello:

This Letter is in reference to the hazardous waste management inspection conducted on October 7, 2003 at International Paper's facility located at the above address in Jay, Maine. The inspection was conducted under the authority of Maine's Hazardous Waste, Septage, and Solid Waste Management Act, 38 M.R.S.A., Section 1301 et seq. and the Department's Hazardous Waste Management Rules (the "Rules"). International Paper was inspected for compliance with the hazardous waste requirements for large quantity generators.

The inspection revealed that International Paper generates the following regulated hazardous waste: D001 ignitable wastes, D002 corrosive wastes, D008 lead contaminated wastes, rags contaminated with F-listed solvents, and universal wastes. During the inspection, the Department identified the following violations of standards for hazardous waste generated by International Paper. Please note that both state and federal regulatory citations are provided as applicable for each violation.

- A) Failure to determine if a waste is hazardous, in violation of the Rules, Chapter 851, Section 5.

International Paper failed to identify the following wastes as hazardous waste:

- 1) Mercury-contaminated glass from bulb crushing operations; and
 - 2) Contaminated wipers which are generated through out the mill as a result of cleaning operations that use Invader Spray Lubricant (>10% Tetrachloroethylene).
- B) Treating or disposing of universal waste on-site without a license to do so, in violation of the Rules, Chapter 850 3(A)(13)(c)(i) and Chapter 851, Section 12(A);

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: 764-1507

As a result of International Paper's failure to identify certain lamps containing mercury as hazardous waste, International Paper treated mercury containing lamps by intentionally breaking them in a bulb crusher. The facility does not have a license to treat universal waste. International Paper has subsequently provided additional training to persons handling waste fluorescent lamps. International Paper shipped the container with hazardous waste mercury containing lamps to a facility licensed to handle this waste on December 17, 2003.

- C) Offering hazardous waste to a transporter who is not licensed to transport hazardous waste and offering a hazardous waste for transport to a waste facility not authorized or licensed to handle hazardous waste, in violation of the Rules, Chapter 851, Section 7.

International Paper offered the hazardous waste wipers listed in paragraph A and the hazardous waste mercury-contaminated glass listed in paragraph B to a transporter that was not authorized to handle hazardous waste in the State of Maine. This waste was transported to a facility that is not authorized to handle hazardous waste.

International Paper has subsequently cooperated with the Department to evaluate alternative management practices for hazardous waste wipers.

- D) Failure to submit an annual report on or before the due date, in violation of the Rules, Chapter 851 Section 9(E)-(F).

International Paper failed to submit its 2002 annual report to the Department on or before July 1, 2003. The report was subsequently filed with the Department on October 17, 2003.

- E) Failure to comply with all the requirements and instructions which are specified on a Manifest or Uniform Bill of Lading, in violation of the Rules, Chapter 857 Section 5(D).

International Paper failed to complete Item (1) of the Generator Section of Uniform Bill of Lading MER007573 dated 10/02/03 with the facilities U.S. Environmental Protection Agency identification number. A corrected copy of this Uniform Bill of Lading was filed with the Department on December 4, 2003.

***** Compliance Schedule *****

International Paper must take the necessary corrective actions to resolve the above violations, gain compliance with the Department's Hazardous Waste Management Rules and prevent these violations from recurring. International Paper must:

- 1) Henceforth, conduct hazardous waste determinations on all waste generated;

- 2) Henceforth, discontinue treating mercury-containing lamps;
- 3) Henceforth, identify, manage, and dispose of all wipers contaminated with F-listed solvents, in accordance with a plan approved by the Department;
- 4) Henceforth, ensure that annual reports are submitted to the Department on or before the due date;
- 5) Additionally, the Department reviewed International Paper's management practices for a category of hazardous waste called universal waste. Universal wastes include fluorescent lamps (due to mercury content), mercury thermostats, cathode ray tubes (CRTs), non-leaking polychlorinated biphenyl (PCBs) lamp ballasts, and certain batteries. The universal waste rules were promulgated on January 23, 2001. The Department identified the following universal waste standards that International Paper did not meet at the time of the inspection and which International Paper must incorporate into its management practices in order to comply with the universal waste standards. International Paper must comply with the universal waste standards, including but not limited to:
 - i. Mark containers of waste lamps with the words "Waste Lamps" and label the designated storage site with a sign which states "Waste Lamp Storage Area" or "Universal Waste Storage Area";
 - ii. Ensure all universal wastes are stored in containers;
 - iii. Ensure containers of universal waste are closed unless waste is being added or removed;
 - iv. Conduct weekly inspections in all Universal Waste Storage Areas;
- 6) During the inspection, numerous storage cabinets for flammable materials were observed to contain products and materials, which were possibly expired unwanted or no longer in use at the facility.

According to the Rules, Chapter 850 Section 3(A)(2) a hazardous waste determination must be made on any substance that is useless, unwanted or discarded.

The Department requests that all storage cabinets be inspected for expired useless, and/or unwanted materials and that a hazardous waste determination be made on all substances identified as waste during these inspections.

- 7) Within thirty (30) days of receipt of this Letter, respond to the Department in writing documenting corrective actions taken to address each of the cited violations as well as actions taken that ensure the violations do not recur.

The Department has chosen to resolve the violations cited in this Letter through the included compliance schedule.

If you have any questions regarding this Letter the requirements or compliance schedule out lined above, please contact me at 287-3163.

Sincerely,

Richard M. Currie, OHMS
Division of Oil and Hazardous Waste Facilities Regulation
Bureau of Remediation and Waste Management

Cc: Stephen Davis, Bureau of Remediation and Waste Management, DEP
Scott Whittier, Director, Oil and Hazardous Waste Facilities Division, DEP

LOW never sent because
of further instruction
from BO Steve Davis to
forgo the enforcement
action. This was subsequent
to the original NOV being
downgraded to a LOW.